

Endorsement

This endorsement effective 12:01 a.m. forms a part of

Policy No. issued to

By:

Commercial Umbrella Liability Policy with CrisisResponse®

XSEnhancedSM Grocers Coverage Enhancement Endorsement

TO THE EXTENT ANY PROVISION OF THIS ENDORSEMENT CONFLICTS WITH ANY PROVISION OF THE POLICY OR ANY OF ITS OTHER ENDORSEMENTS, THE PROVISIONS OF THIS ENDORSEMENT WILL SUPERSEDE.

This policy is amended as follows:

The **DECLARATIONS** are amended to add the following Designated Coverage Self Insured Retention:

\$ _____ Each Occurrence

\$ _____ General Aggregate

\$ _____ Products-Completed Operations Aggregate

as respects all coverages designated in the XSEnhancedSM Grocers Coverage Enhancement Endorsement as being subject to the Designated Coverage Self Insured Retention.

The Designated Coverage Self-Insured Retention will not be reduced by **Defense Expenses**.

When applicable, the Designated Coverage Self Insured Retention applies whether or not there is any available **Other Insurance**. If there is **Other Insurance** applicable to a **Loss**, amounts received through such **Other Insurance** for payment of the **Loss** may be applied to reduce or exhaust the above Self-Insured Retention if such policies were purchased by the **Named Insured** to specifically apply as underlying insurance to this policy. However, in no event will amounts received through such **Other Insurance** for the payment of **Defense Expenses** reduce the above Self-Insured Retention.

Solely with respect to the coverage provided by this policy subject to the applicable Designated Coverage Self Insured Retentions set forth above, **Section III. DEFENSE PROVISIONS** Paragraphs A. and D. are deleted in their entirety and Paragraph A. is replaced by the following:

- A. We will have the right and duty to defend any **Suit** against the **Insured** that seeks damages for **Bodily Injury, Property Damage, Personal Injury and Advertising Injury**, or a **Wrongful Act** (as applicable) arising out of coverage subject to the applicable Designated Coverage Self Insured Retention, once such Designated Coverage Self Insured Retention has been exhausted by **Loss** to which this policy applies and the total applicable limits of **Other Insurance** have been exhausted.

If we are prevented by law or statute from assuming the obligations specified under this provision, we will pay any expenses incurred with our consent.

Section VII. DEFINITIONS, Paragraph U. is amended to add the following to the definition of **Personal Injury and Advertising Injury**:

Discrimination or humiliation on account of age, gender, race, color, national origin, creed, religion, sexual orientation, marital status, veterans status, pregnancy, sickness, disease, disability, physical capabilities, physical characteristics, physical condition, mental capabilities, mental condition, or any other similar category or class, but only if such discrimination or humiliation is:

- a. not committed by, at the direction of, or with the knowledge of you and or any of your executive officers or directors; and
- b. not directly or indirectly related to the employment of any person or persons by you.

If coverage for such discrimination or humiliation is not provided by any applicable **Scheduled Underlying Insurance**, the coverage shall be provided excess of the Designated Coverage Self Insured Retention listed in the Declarations (as amended by the XSEnhancedSM Grocers Coverage Enhancement Endorsement).

Section I. INSURING AGREEMENT - COMMERCIAL UMBRELLA LIABILITY, is amended to include the following additional provisions:

Professional Liability

This policy shall provide coverage for liability for those sums in excess of the **Retained Limit** or the Designated Coverage Self Insured Retention (where applicable) that the **Insured** becomes legally obligated to pay as damages by reason of liability imposed by law because of any act, error, omission, malpractice or mistake of a professional nature committed by the **Insured** or any person for whom the **Insured** is legally responsible, for:

1. security guard or investigation services by or on behalf of the **Insured**, or any act, error or omission in performing security guard or investigation services by or on behalf of the **Insured**; and
2. any other resultant **Bodily Injury** or **Property Damage** arising out of the professional services performed by or on behalf of the **Insured**; and

3. **Professional Legal Services** because of a **Wrongful Act** by any attorney-at-law who is an employee of or a salaried officer of the **Named Insured**. For the purpose of this coverage, the term **Occurrence** shall be deemed to include a **Wrongful Act**.

The amount we will pay for damages is limited as described in Section IV. Limits of Insurance.

The coverage provided by this section is subject to all other terms and conditions of this policy. Nevertheless, it is understood and agreed that any exclusion contained within this policy or any of its endorsements for liability arising out of any act, error, omission, malpractice or mistake of a professional nature committed by the **Insured** or any person for whom the **Insured** is legally responsible described in paragraphs 1. 2. or 3. above, except for any exclusion pertaining to druggist professional liability or in store clinics, shall be superseded by the terms of this endorsement and shall not apply.

Where the coverage provided by this policy for liability arising out of any act, error, omission, malpractice or mistake of a professional nature is not provided by any applicable **Scheduled Underlying Insurance**, the coverage for such liability shall be provided excess of the Designated Coverage Self Insured Retention.

Section I. INSURING AGREEMENT - COMMERCIAL UMBRELLA LIABILITY, is amended to include the following additional provisions:

Fungus, Molds, Spores, Bacteria, Mildew and Yeast

This policy shall provide coverage for liability for those sums in excess of the **Retained Limit** or the Designated Coverage Self Insured Retention (where applicable) that the **Insured** becomes legally obligated to pay as damages by reason of liability imposed by law for **Bodily Injury** or **Property Damage** arising out of:

- a. Any **Fungus, Mold**, bacteria, mildew or yeast; or
- b. Any **Spore** or toxin created or produced by or emanating from such **Fungus, Mold**, bacteria, mildew or yeast; or
- c. Any substance, vapor, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **Fungus, Mold**, bacteria, mildew or yeast

where such **Fungus** comprises, or such **Fungus, Spore**, bacteria (including but not limited to E. coli, salmonella, C. botulinum and listeria monocytogenes), viruses (including but not limited hepatitis A, hepatitis C, norovirus, rotavirus) that are found on, or contained in, an edible good or edible product intended for human or animal consumption. If coverage for such **Bodily Injury** or **Property Damage** is not provided by any applicable **Scheduled Underlying Insurance**, the coverage for such **Bodily Injury** or **Property Damage** shall be provided

excess of the applicable Designated Coverage Self Insured Retention (as amended by the XSEnhancedSM Grocers Coverage Enhancement Endorsement).

The coverage provided by this section is subject to all other terms and conditions of this policy. Nevertheless, it is understood and agreed that any exclusion contained within this policy or any of its endorsements for liability arising from or associated with the substances identified in paragraphs a. b. or c. above shall not apply with respect to the coverage provided by this endorsement.

Pesticide, Herbicide or Fungicide Application

This policy shall provide coverage for liability for those sums in excess of the **Retained Limit** or the Designated Coverage Self Insured Retention (where applicable) that the **Insured** becomes legally obligated to pay as damages by reason of liability imposed by law for **Bodily Injury** or **Property Damage** arising out of any **Pesticide, Herbicide, or Fungicide Application**.

The coverage provided by this section is subject to all other terms and conditions of this policy. Nevertheless, it is understood and agreed that any pollution exclusion attached to this policy shall not apply to liability for **Bodily Injury** or **Property Damage** arising out of any **Pesticide, Herbicide, or Fungicide Application**.

If coverage for such **Bodily Injury** or **Property Damage** arising out of any **Pesticide, Herbicide, or Fungicide Application** is not provided by any applicable **Scheduled Underlying Insurance**, the coverage for such **Bodily Injury** or **Property Damage** shall be provided excess of the applicable Designated Coverage Self Insured Retention (as amended by the XSEnhancedSM Grocers Coverage Enhancement Endorsement).

Section VII. DEFINITIONS, Paragraph M. Insured, is amended to include the following additional provision:

Insured includes any **Vendor** to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that **Vendor** of the type provided by this policy, but only with respect to **Bodily Injury** or **Property Damage** arising out of **Your Product(s)** distributed or sold in the regular course of the **Vendor's** business, subject to the following additional exclusions and conditions:

1. The insurance afforded the **Vendor** under this policy does not apply to:
 - a. **Bodily Injury** or **Property Damage** for which the **Vendor** is obligated to pay damages by reason of assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the **Vendor** would have in the absences of the contract or agreement;
 - b. any express warranty unauthorized by you;

- c. any physical or chemical change in the product made intentionally by the **Vendor**;
- d. repackaging, unless packed solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. any failure to make such inspections, adjustments, tests or servicing as the **Vendor** has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of products;
- f. demonstration, installation, servicing or repair operations, except such operations performed at the **Vendor's** premises in connection with the sale of the product; or
- g. products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the **Vendor**.

Section VII. DEFINITIONS is amended to include the following additional definitions:

Defense Expenses means a payment allocated to defend a specific **Suit**, including but not limited to:

1. Attorneys' fees and all other investigation, loss adjustment and litigation expenses;
2. Premiums on bonds to release attachments;
3. Premiums on appeal bonds required by law to appeal any claim or **Suit**;
4. Court costs taxed against the **Insured** in any **Suit**;
5. Pre-judgment interest awarded against the **Insured**; and
6. Interest that accrues after entry of judgment.

Fungus(i) includes, but is not limited to, any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts and mushrooms.

Mold(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce molds.

Pesticide, Herbicide, or Fungicide Application means application of any toxic substance designed to destroy animal, plant, or fungal pests, but only if such application meets all of the following preconditions:

1. the contractor or subcontractor applying the pesticide, herbicide or fungicide satisfies all applicable federal, state or local licensing or registration requirements for such applicators; and
2. the application operations, including the use of the pesticides, herbicides or fungicides applied, meet all standards of any statute, ordinance, regulation, licensing or registration requirement of any federal, state or local government which apply to those operations.

Professional Legal Services means the following legal services and activities while performed by or on behalf of the **Named Insured** or any person for whom the **Named Insured** is legally responsible:

- 1) performed as a lawyer, notary public, arbitrator, mediator, title insurance agent, designated issuing lawyer to a title insurance company, fiduciary, or speaker or author of legal treatises; or
- 2) provided by a lawyer in connection with any bar association, its governing board, or any of its committees.

Spore(s) means any dormant or reproductive body produced by or arising or emanating out of any **Fungus(i), Mold(s)**, bacteria, mildew, plants, organisms or microorganisms.

Vendor means any person or organization while acting as distributor or seller of **Your Product(s)** in the regular course of his business.

Wrongful Act means any actual or alleged negligent act, error or omission, misstatement or misleading statement committed by or on behalf of the **Named Insured** or any person for whom the **Named Insured** is legally responsible in the performance of **Professional Legal Services**.

Section IV. LIMITS OF INSURANCE, Paragraph E. is deleted in its entirety.

All other terms, definitions, conditions and exclusions of this policy remain unchanged.

Authorized Representative or
Countersignature (Where Applicable)