

## COMMERCIAL EXCESS FOLLOW FORM

**CERTAIN PROVISIONS IN THIS POLICY RESTRICT COVERAGE. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS AND DUTIES, AND WHAT IS AND IS NOT COVERED.**

**NOTICE: THE DESCRIPTIONS IN ANY HEADINGS OR SUB-HEADINGS OF THIS POLICY ARE INSERTED SOLELY FOR CONVENIENCE AND DO NOT CONSTITUTE ANY PART OF THE TERMS OR CONDITIONS HEREOF.**

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

The word "insured" means any person or organization qualifying as such in **underlying insurance**.

Defined terms, other than headings, appear in bold face type. Refer to **SECTION VII – DEFINITIONS**.

This Policy is issued in reliance upon the statements in the Application, deemed to be annexed hereto. In consideration of the payment of the premium and pursuant to all of the terms and conditions of this Policy, we agree to provide coverage as follows:

### **SECTION I – INSURING AGREEMENTS**

#### **COVERAGE A – EXCESS FOLLOWING FORM LIABILITY**

A. We will pay on behalf of the insured, when the total applicable limits of **underlying insurance** have been exhausted by payment of losses thereunder, those sums that the insured becomes legally obligated to pay as damages by reason of exhaustion of all applicable **underlying insurance** limits because of **bodily injury, property damage, personal injury, advertising injury, environmental damage, emergency response costs, cleanup costs** or loss to which this insurance applies, due to:

1. Liability imposed upon the insured by law; or
2. Liability assumed by the insured under an **insured contract**.

B. The amount we will pay for damages is limited as described in **SECTION IV – LIMITS OF INSURANCE**.

C. This Policy applies to **bodily injury, property damage, personal injury, advertising injury, environmental damages, emergency response costs, cleanup costs** or loss only if and to the extent covered by **underlying insurance**. The insurance afforded under this Policy is subject to the insuring agreements, exclusions, definitions and conditions contained in the **underlying insurance** in effect on the inception date of this Policy, except as to premium, duty to defend, limits of liability and notice, and except as to any other provisions in this Policy inconsistent with those in the **underlying insurance**. To the extent such provisions alter or conflict, the provisions of this Policy will control.

#### **COVERAGE B – CRISISRESPONSE® AND CRISIS MANAGEMENT**

A. **Advancement of CrisisResponse® Costs during a Crisis Management Event**

NOTICE: THIS INSURER IS NOT LICENSED IN THE STATE OF NEW YORK AND IS NOT SUBJECT TO ITS SUPERVISION  
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We will pay **CrisisResponse® costs** on your behalf that may be associated with damages covered by this Policy arising from a **crisis management event** first commencing during the policy period, up to the amount of the **CrisisResponse® limit of insurance**.

We will advance **CrisisResponse® costs** that may be associated with damages covered by this Policy directly to third parties.

## B. Crisis Management Insurance

We will pay **crisis management loss** on your behalf arising from a **crisis management event** first commencing during the policy period, up to the amount of the **crisis management limit of insurance**.

A **crisis management event** shall first commence at the time during the policy period when a **key executive** first becomes aware of an **occurrence** that gives rise to a **crisis management event** and shall end at the earliest of the time when we determine that a crisis no longer exists or when the **CrisisResponse® limit of insurance** and/or the **crisis management limit of insurance**, whichever applies, has been exhausted.

- C. Any advancement of **CrisisResponse® costs** or payment of **crisis management loss** that we make under the coverage provided by this coverage section will not be a determination of our obligations under this Policy, nor create any duty to defend any **suit** under any other part of this Policy.

## SECTION II – DEFENSE

- A. We will have the right and duty to defend any **claim** or **suit** against the insured that seeks damages covered by this Policy, even if such **claim** or **suit** is groundless, false or fraudulent, when the total applicable limits of **underlying insurance** have been exhausted by payment of losses thereunder. We will have no duty to defend any insured against any **claim** or **suit** seeking damages to which this insurance does not apply.
- B. We shall have the right and shall be given the opportunity to associate with the insured or the **underlying insurer**, or both, in the defense and control of any **claim** or **suit** which involves, or appears reasonably likely to involve this Policy by reason of exhaustion of all applicable underlying limits. In such event, the insured, the **underlying insurer** and we shall cooperate in all things in the defense of such **claim** or **suit**.
- C. We shall not pay any defense costs or expenses unless a **claim** or **suit** otherwise covered by the **underlying insurance** will not be defended by the **underlying insurer** due to the exhaustion of the underlying limits paid thereunder.
- D. We shall not be obligated to defend any **claim** or **suit**, or pay any defense costs and expenses, after our applicable limit of liability has been exhausted by payments pursuant to this Policy.
- E. We will pay the following supplementary payments to the extent that such payments are not covered by the **underlying insurance** due to the exhaustion of any aggregate limits of the **underlying insurance**:
1. All premiums on any bond to release any attachment for an amount not in excess of the applicable limits of insurance of this Policy, but without any obligation to apply for or furnish such bond;

2. All premiums on any appeal bond required in any defended **suit**, but without any obligation to apply for or furnish such bond;
  3. Court costs taxed against the insured in any **claim** or **suit** we defend;
  4. All expenses incurred by us;
  5. Pre-judgment interest awarded against the insured on that part of any judgment within the applicable limits of insurance of this Policy. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest accruing after we make such offer;
  6. All post-judgment interest accruing after entry of any judgment which does not exceed our limit of insurance, and before we have paid, offered to pay, or deposited in court that part of the judgment that is within the applicable limit of insurance of this Policy; and
  7. The insured's expenses incurred at our request or with our consent.
- F. When we have a duty to defend, in the event the insured is entitled by law to select independent counsel to oversee our defense of a **claim** or **suit** at our expense, the attorney fees and all other litigation expenses we must pay to that counsel are limited to the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar **claims** or **suits** in the community where the **claim** or **suit** arose or is being defended.

Additionally, we may exercise the right to require that such counsel have certain minimum qualifications with respect to their competency including experience in defending **claims** or **suits** similar to the one pending against the insured and to require such counsel to have errors and omissions insurance coverage. As respects any such counsel, the insured agrees that counsel will timely respond to our requests for information regarding the **claim** or **suit**.

Furthermore, the insured may at any time, by the insured's signed consent, freely and fully waive these rights to select independent counsel.

- G. Expenses incurred to defend any **suit** or to investigate any **claim** will be in addition to the applicable limits of insurance of this Policy. However, if in the provisions of the **underlying insurance**, any portion of any such expenses reduce the applicable limits of the **underlying insurance**, then all such expenses will reduce the applicable limits of insurance of this Policy.

### SECTION III – EXCLUSIONS

All exclusions in the **underlying insurance** are applicable to and incorporated into this Policy. In addition to those exclusions, this Policy does not apply to:

- A. Any obligation of the insured or the insured's insurer under the Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Reconciliation Act of 1985), or amendments or revisions thereto or any similar law.
- B. Any obligation of the insured under any worker's compensation, disability benefits or unemployment compensation law, or any similar law.
- C. Any obligation of the insured under any uninsured motorists, underinsured motorists, automobile no-fault or first party law(s) or any similar law.

D. 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. However, this Exclusion shall not apply to **CrisisResponse® recall expense** covered under Section I. **INSURING AGREEMENTS, COVERAGE B – CrisisResponse® and Crisis Management.** The coverage provided for such **CrisisResponse® recall expense** shall be subject to the **CrisisResponse® limit of insurance.**

E. Property damage to:

1. Property you own, rent, or occupy;
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.

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.

F. Any **CrisisResponse® costs** or **crisis management loss** in connection with a **crisis management event**:

1. Arising out of, based upon or attributable to the facts alleged, or to the same or related acts alleged or contained, in any crisis or **claim** that has been reported, or in any circumstances where notice has been given, under any policy of which (i) this Policy is a renewal or replacement or which it may succeed in time, or (ii) any **underlying insurance**, which is listed in the Schedule of Underlying Insurance, is a renewal or replacement or which it may succeed in time;

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2. Arising out of, based upon or attributable to any pending or prior crisis, **claim**, or **suit** as of the inception date of this Policy.

#### SECTION IV – LIMITS OF INSURANCE

A. The Limits of Insurance shown in **ITEM 3. LIMITS OF INSURANCE** of the Declarations and the rules below fix the most we will pay regardless of the number of:

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

B. Subject to Paragraphs **C.** and **D.** below, the total limit of our liability for each **occurrence**, offense or **loss**, or any combination thereof, shall not exceed the amount specified in Item 3. (a) of the Declarations as applicable to Each Occurrence, Offense or Loss.

For the purpose of determining the limit of our liability:

1. All **bodily injury** or **property damage** under the **underlying insurance** arising out of continuous or repeated exposure to substantially the same general conditions shall be deemed to arise out of one **occurrence**;
2. With respect to **personal injury** or **advertising injury** under the **underlying insurance**, all damages involving the same, related or continuous injurious material, act or offense (regardless of the frequency or repetition thereof, the number or kind of media used, or the number of claimants) shall be deemed to arise out of one offense;
3. All **bodily injury**, **property damage**, **environmental damage** or **cleanup costs** under any Pollution Legal Liability Coverage under the **underlying insurance** arising out of the same, related or continuous **pollution conditions** shall be deemed to arise out of one **loss**;
4. All **loss** under any Professional Liability Coverage under the **underlying insurance** arising out of the same, related or continuous negligent acts, errors or omissions shall be deemed to arise out of one **loss**.

C. This Policy is subject to the aggregate limit of insurance specified in Item 3(b) of the Declarations. Subject to Section II. G., an aggregate limit of insurance is the maximum amount we will pay under this Policy for all damages and **loss** covered hereunder. When an amount is indicated in Item 3(b) of the Declarations, such aggregate limits of insurance so indicated shall apply separately to:

1. The **products - completed operations hazard**;
2. All other coverages combined other than **CrisisResponse® costs** or **crisis management loss** (except automobile liability, which is not subject to an aggregate limit).

- D. This Policy shall not apply to any coverage provided in the **underlying insurance** to which this Policy would otherwise respond that has a sub-limit of less than \$1,000,000.
- E. The **CrisisResponse® limit of insurance** is the most we will pay for all **CrisisResponse® costs** under this Policy, regardless of the number of **crisis management events** first commencing during the policy period.
- F. The **crisis management limit of insurance** is the most we will pay for all **crisis management loss** under this Policy, regardless of the number of **crisis management events** first commencing during the policy period.
- G. We will have no obligation to advance **CrisisResponse® costs** or to pay **crisis management loss** from the earliest of the time when we determine that a **crisis management event** has ended or when the **CrisisResponse® limit of insurance** and/or the **crisis management limit of insurance**, whichever applies, has been exhausted.
- H. The limits of insurance of this Policy apply to the entire policy period. If the policy period is extended after issuance for an additional period, the additional period will be deemed part of the last preceding period for purposes of determining the limits of insurance.
- I. This Policy shall cease to apply once the applicable limits of insurance have been exhausted.

#### **SECTION V – EXTENDED REPORTING PERIODS**

Any automatic **extended reporting period** or renewal **extended reporting period** applicable in **underlying insurance** shall also apply to this Policy in the same manner. Any optional **extended reporting period** that is available and purchased under the **underlying insurance** will be made available under this Policy for the same duration subject to the same terms and conditions in the **underlying insurance**, provided:

- A. You make a written request for the optional **extended reporting period** to us which is received within thirty (30) days after termination of coverage as defined in the **underlying insurance**; and
- B. You pay the additional premium when due. If that additional premium is paid when due, the **extended reporting period** may not be cancelled, provided that all other terms and conditions of the Policy are met.
- C. When an optional **extended reporting period** is available for purchase under this Policy, the premium will not exceed 200% of the annual premium for this Policy and will be fully earned when the coverage is purchased.
- D. No applicable **extended reporting period** shall reinstate or increase any of the limits of insurance of this Policy.

#### **SECTION VI – CONDITIONS**

In addition to any applicable Conditions in the **underlying insurance**, which are incorporated herein, the following conditions apply to this Policy:

##### **A. Appeals**

In the event the insured or any **underlying insurer** elect not to appeal a judgment in excess of the total applicable limits of the **underlying insurance**, we may elect to make such appeal at our own cost and expense. If we appeal, we shall be liable for, in addition to the applicable limits of insurance of this Policy, all court costs and expenses incurred incidental to such an appeal and interest on that amount of judgment which does not exceed the applicable limits of insurance of this Policy.

**B. Application**

The statements in the insured's application for this Policy are the insured's representations and are hereby deemed material. This Policy is issued based upon the truth and accuracy of such representations. Upon the binding of coverage, the application shall be deemed to be attached to and shall become part of this Policy. This Policy embodies all of the agreements existing between the insured and us or any of our agents relating to this Policy.

**C. Bankruptcy, Insolvency or Financial Impairment of Underlying Insurer**

Our liability under this Policy shall in no way be increased or expanded as a result of your bankruptcy, insolvency or inability to pay or the bankruptcy, insolvency, inability or refusal to pay of any of your **underlying insurers** with respect to both our duty to indemnify and our duty to defend.

**D. Cancellation**

1. You may cancel this Policy by surrender thereof to us or any of our authorized agents or by mailing to us written notice stating when thereafter the cancellation shall be effective.
2. We may cancel this Policy by mailing to you at the address shown in the Policy, written notice stating when not less than sixty (60) days (10 days for nonpayment of premium) thereafter such cancellation shall be effective. Proof of mailing of such notice shall be sufficient proof of notice.
3. The time of surrender of the Policy or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by you or by us shall be equivalent to mailing.
4. If you cancel because you no longer have a financial or insurable interest in the business operation, the final premium will be calculated on a pro rata basis; provided, however, that the final premium shall not be less than the minimum earned premium, if any, designated by endorsement to this Policy.
5. If you cancel for any other reason, the final premium will be calculated on a pro rata basis and then increased by 10%; provided, however, that the final premium shall not be less than the minimum earned premium, if any, designated by endorsement to this Policy.
6. If we cancel, the final premium will be calculated on a pro rata basis; provided, however that the final premium shall not be less than the minimum earned premium, if any, designated by endorsement to this Policy.
7. Premium adjustment may be either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

**E. Duties in the Event of Occurrence, Offense, Claim or Suit:**

**Applicable to all coverage included in the underlying insurance other than any Pollution Legal Liability or Professional Liability Coverage:**

1. You must see to it that we are notified as soon as possible of an **occurrence** or offense, which may reasonably be expected to result in a **claim** against this Policy. To the extent possible, notice should include:
  - a. How, when and where the **occurrence** or offense took place;
  - b. The names and addresses of any injured persons and witnesses; and
  - c. The nature and location of any injury or damage arising out of the **occurrence** or offense.
2. If a **claim** is made or **suit** is brought against any insured which is reasonably expected to involve this Policy you must:
  - a. Immediately record the specifics of the **claim** or **suit** and the date received; and
  - b. Notify us in writing as soon as possible.
3. You and any other involved insured must:
  - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with a **claim** or **suit**;
  - b. Authorize us to obtain records and other information;
  - c. Cooperate with us in the investigation, settlement or defense of the **claim** or **suit**; and
  - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
4. No insured will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense covered under this Policy, other than for first aid, without our consent.

**Applicable to any Pollution Legal Liability or Professional Liability Coverage included in the underlying insurance:**

1. In the event of an error or omission, or **pollution conditions** which may result in a **claim** or **suit**, the insured shall notify us in writing as soon as practicable, but in any event during the policy period or **extended reporting period** if applicable or within any specified period in the **underlying insurance** following the discovery of **pollution conditions**. To the extent possible, notice should include:
  - a. How, when and where the error or omission or **pollution condition** took place;
  - b. The names and addresses of any injured persons and witnesses; and

- c. The nature and location of any injury or damage arising out of the error or omission or **pollution condition**.
2. The insured shall furnish information at our request. When a **claim** or **suit** has been made, the insured shall forward the following to us as soon as practicable:
    - a. All reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the claimant(s) and available witnesses;
    - b. All demands, summonses, notices or other processes or papers filed with a court of law, administrative agency or an investigative body; and
    - c. All other information in the possession of the insured or its hired experts which we reasonably deem necessary.

**Applicable to CrisisResponse® and Crisis Management Coverage:**

1. You must report any **crisis management event** to us within twenty-four (24) hours of the time that a **key executive** first becomes aware of an **occurrence** that gives rise to a **crisis management event** or as soon as practicable to be eligible for the advancement of **CrisisResponse® costs** and the payment of **crisis management loss**.

Notice of a **crisis management event** may be given by calling 1-877-244-3100. If notice is given by telephone, written notice will be given as soon as practicable thereafter. Written notice should include:

- a. How, when and where the **crisis management event** is taking or took place;
  - b. The names and addresses of any injured persons and any witnesses; and
  - c. The nature and location of any injury or damage arising out of the **crisis management event**.
2. There shall be no requirement that you obtain prior written approval from us before incurring any **crisis management loss**, provided that the **crisis management firm** selected by you to perform the **crisis management services** has been approved by us. If you choose to retain a firm that does not appear in the Schedule attached to and forming a part of this Policy, you must obtain our consent, which shall remain in our sole discretion, prior to retaining the services of such firm.
3. Any payments for **crisis management loss** or advancement of **CrisisResponse® costs** that we make under this Policy:
    - a. Shall not be deemed to be a determination of the insured's liability with respect to any **claim** or **suit** that results from a **crisis management event**; and
    - b. Shall not create any duty to defend any **suit** or to investigate any **claim** arising from a **crisis management event**, nor any coverage obligations under this Policy.
  4. If the Crisis Management Insurance provided by this Policy and any other insurance issued to you by us or any of our affiliated companies shall apply to the same crisis or **claim**, the maximum limit of insurance under all insurance available shall not exceed the highest applicable limit of insurance available under any one policy or endorsement. This condition does not apply to any

other insurance issued by us or any of our affiliated companies specifically to apply as excess insurance over this Policy.

5. In the event of a dispute between you and us as to whether a Crisis Management Event has occurred, you may, at your own cost, retain the services of an approved **crisis management firm** and/or advance **CrisisResponse® costs**. Provided, however, if you elect to retain an approved **crisis management firm** or to advance **CrisisResponse® costs**, we shall have no obligation to reimburse you under this Policy for such costs or expenses. The right to reimbursement shall be arbitrated pursuant to the rules of the American Arbitration Association in New York, New York or in the state indicated in Item 1. of the Declarations of this Policy as your principal place of business.

**Applicable to All Coverage Parts:**

1. All notices should be mailed, delivered, faxed or emailed to:

Manager, Pollution Insurance Products Unit  
Chartis Claims, Inc.  
Attn: CID  
101 Hudson Street, 31<sup>st</sup> Floor  
Jersey City, NJ 07302  
Fax: 866-260-0104  
Email: severityfnol@chartisinsurance.com

or other address we substitute in writing.

Failure to timely notify us of an **occurrence** or an offense which may result in a **claim** or to timely notify us of a **claim** or **suit**, shall not automatically invalidate coverage under this Policy; provided, however, that all of the following conditions are met:

- a. Timely notice must have been inadvertently provided to another insurer; and
- b. Notice must be provided to us as soon as possible once you become aware that such notice was inadvertently provided to another insurer; and
- c. Such subsequent notice to us must not, in our sole discretion: (i) materially prejudice our defense or claims handling of any **claim** or **suit**; or (ii) materially increase our costs for any **claim** or **suit**.

**F. First Named Insured**

The first Named Insured in Item 1. of the Declarations shall be responsible for payment of all premiums, and shall act on behalf of all other insureds with respect to the giving and receiving of notice of cancellation, receipt and acceptance of any endorsement issued to form a part of this Policy, and the receipt of any return premium that may become payable under this Policy.

**G. Maintenance of Underlying Insurance**

The policy or policies referred to in the Schedule of Underlying Insurance or renewals or replacements thereof not more restrictive, shall be maintained as insurance in full force and effect

during the term of this Policy without alteration in their terms or conditions; except for any reduction of the aggregate limits of liability contained therein solely by payment of **claims**.

Failure to comply with the foregoing shall not invalidate this Policy but, in the event of such failure, we will only be liable to the same extent as we would have been had you so maintained such policy or policies.

If during the policy period, the terms, conditions, exclusions or limitations of the **underlying insurance** are changed in any manner, the insured shall as a condition precedent to its rights under this Policy give to us as soon practicable written notice of the full particulars thereof. This Policy shall become subject to any such changes upon the effective date of the changes in the **underlying insurance** but only upon the condition that we agree to follow such changes by written endorsement attached hereto and the insured pays when due any additional premium required by us relating to such changes and/or agrees to any amendment of the provisions of this Policy required by us relating to such changes.

#### **H. Other Insurance**

If other valid and collectible umbrella or excess insurance is available to the insured covering damages that are also covered by this Policy, this Policy shall apply excess of, and shall not contribute with, such other insurance. Excess insurance specifically purchased to apply over the limits of insurance expressed in this Policy is permitted without prejudice to this insurance and the existence of such specific excess insurance shall not reduce our liability under this Policy.

However, in the event that a written contract, written agreement or permit requires this insurance to be primary for any person or organization with whom you agreed to insure and such person or organization is an insured under scheduled **underlying insurance**, we will not seek contributions from any such other insurance issued to such person or organization.

#### **I. Service of Suit**

It is agreed that in the event of failure of us to pay any amount claimed to be due hereunder, we, at the request of the insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon General Counsel, Law Department, 175 Water Street, New York, New York 10038, or his or her representative, and that in any suit instituted against us upon this contract, we will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named General Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

#### **J. Transfer of Rights of Recovery**

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1. If any insured has rights to recover all or part of any payment we have made under this Policy those rights are transferred to us. The insured must do nothing after loss to impair these rights and must help us to enforce them
2. Any recoveries will be applied as follows:
  - a. Any person or organization, including the insured, that has paid an amount in excess of the applicable limits of insurance of this Policy will be reimbursed first;
  - b. We then will be reimbursed up to amount we have paid; and
  - c. Lastly, any person or organization, including the insured that has paid an amount over which this Policy is excess is entitled to claim the remainder.

Expenses incurred in the exercise of rights of recovery will be apportioned among the persons or organizations, including the insured, in the ratio of their respective recoveries as finally settled.

#### K. Unimpaired Aggregate

In the event any **underlying insurance** aggregate limit is not in full effect as of the inception date of this Policy, the amount by which the **underlying insurance** aggregate limit has been impaired shall be borne by the insured.

#### L. When We Do Not Renew

If we decide not to renew this Policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than sixty (60) days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

### SECTION VII - DEFINITIONS

In addition to any applicable definitions in the **underlying insurance** which, when used in this Policy, have the same meaning as in the **underlying insurance**, the following definitions apply to this Policy.

**A. Crisis management event** means an **occurrence** that in the good faith opinion of a **key executive** of yours, in the absence of **crisis management services**, has been associated with or may reasonably be associated with:

1. damages covered by this Policy; and
2. significant adverse regional or national news media coverage.

**Crisis management event** shall include, without limitation, man-made disasters such as explosions, major crashes, multiple deaths, burns, dismemberment, traumatic brain injury, permanent paralysis, or contamination of food, drink or pharmaceuticals, provided that any damages arising out of any of the aforementioned must be covered under this Policy.

**B. Crisis management firm** means any public relations firm or crisis management firm approved by us that is hired by you to perform **crisis management services** in connection with a **crisis management**

**event.** Attached to and forming a part of this Policy is a Schedule of firms that have been pre-approved by us and may be hired by you without further approval by us.

**C. Crisis management limits of insurance** means the crisis management limit of insurance shown in Item 3.(d) Limits of Insurance of the Declarations.

**D. Crisis management loss** means the following amounts incurred during a **crisis management event**:

1. Amounts for the reasonable and necessary fees and expenses incurred by a **crisis management firm** in the performance of **crisis management services** for you solely arising from a covered **crisis management event**; and
2. Amounts for reasonable and necessary printing, advertising, mailing of materials, or travel by your directors, officers, employees or agents or a **crisis management firm** incurred at the direction of a **crisis management firm**, solely arising from a covered **crisis management event**.

**E. Crisis management services** means those services performed by a **crisis management firm** in advising you on minimizing potential harm to you from a covered **crisis management event** by maintaining and restoring public confidence in you.

**F. CrisisResponse® costs** means the following reasonable and necessary expenses incurred during a **crisis management event** directly caused by a **crisis management event**, provided that such expenses have been pre-approved by us and may be associated with damages that would be covered by this Policy:

1. Medical expenses;
2. Funeral expenses;
3. Psychological counseling;
4. Travel expenses;
5. Temporary living expenses;
6. Expenses to secure the scene of a **crisis management event**;
7. **CrisisResponse® recall expense**; and
8. Any other expenses pre-approved by the Company.

**CrisisResponse® costs** does not include defense costs or **crisis management loss**.

**G. CrisisResponse® limit of insurance** means the **CrisisResponse®** limit of insurance shown in Item 3.(c) of the Declarations.

**H. CrisisResponse® recall expense** means the cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of **your product, your work, or 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.

- I. **Key executive** means the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, General Counsel or general partner (if you are a partnership) of the Named Insured or sole proprietor (if you are a sole proprietorship). A **Key executive** also means any other person designated as such and scheduled by written endorsement.
- J. **Underlying insurance** means the insurance policies designated on the Schedule of Underlying Insurance to this Policy and any renewals or replacements of such policies, provided that such renewal or replacement provides the equivalent coverage to and affords limits of insurance equal to or greater than the policy being renewed or replaced.
- K. **Underlying insurer** means any company issuing any policy of **underlying insurance**.

The remainder of this page has been intentionally left blank. Policy Signature Page shall immediately follow.

Specimen