

# COMMERCIAL UMBRELLA LIABILITY POLICY

MOGUL PARK INC  
C/O MAUREEN BOSSIO  
1644 MOGUL PARK DR  
MOHEGAN LAKE, NY 10547-1848

This Policy Jacket with the Commercial Umbrella Liability Form, Declarations Page and Endorsements, if any, issued to form a part thereof, completes this Policy.

## VERMONT MUTUAL INSURANCE COMPANY

MONTPELIER, VERMONT

ORGANIZED 1828



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### INTRODUCTION

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Various provisions in this policy restrict coverage. Read the entire policy and any **primary policy(ies)** carefully to determine rights, duties and what is covered and not covered.

Throughout this policy the words **you** and **yours** refer to the **Named Insured** shown in the declarations. The words **we**, **us** and **our** refer to the Company providing this insurance.

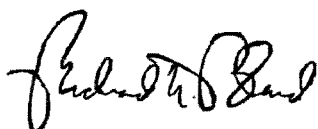
The word **insured** means any person or organization qualifying as such under PART II - WHO IS AN INSURED.

Other words and phrases that appear in **bold print** have special meaning. Refer to PART III - DEFINITIONS of this policy.

**MUTUALS - VOTING NOTICE:** The Policyholder is notified that each recorded Policyholder of the VERMONT MUTUAL INSURANCE COMPANY may attend any meeting of the Policyholders of the Company and is entitled to vote either in person or by proxy. The Annual Meeting of the Policyholders of the Company is held on the first Wednesday after the second Thursday in April at such place and time as shall be designated in the notice therefor. Appointments of proxies must be filed with the Secretary of the Company at least sixty days before the Annual Meeting.

**MUTUALS - PARTICIPATION WITHOUT CONTINGENT LIABILITY:** No Contingent Liability: This policy is nonassessable. Upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, the Policyholder shall participate in the distribution of dividends so fixed and determined.

In Witness Whereof, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly constituted and licensed agent of the Company. A duly constituted and licensed agent of the Company does not have to countersign this policy, however, if such countersignature is not required under state law.



Secretary



President



**VERMONT MUTUAL INSURANCE COMPANY**  
89 State Street, PO Box 188  
Montpelier, VT 05601-0188

**COMMERCIAL UMBRELLA LIABILITY POLICY DECLARATIONS**  
**SCHEDULE A - Schedule Of Primary Insurance (continued):**

**Policy Number:** CU11000142

**Named Insured:** MOGUL PARK INC

Type of Policy or Coverage	Primary Insurer, Policy Number, Term	Limits Of Liability
Employers Liability	NEW YORK STATE INSURANCE FUND W1393842-8 07/22/2011 - 07/22/2012	Bodily Injury by Accident \$ 100,000 each accident Bodily Injury by Disease \$ 100,000 each employee \$ 500,000 policy limit



VERMONT MUTUAL INSURANCE COMPANY  
89 State Street, PO Box 188  
Montpelier, VT 05601-0188

**COMMERCIAL UMBRELLA LIABILITY POLICY DECLARATIONS  
SCHEDULE OF FORMS AND ENDORSEMENTS**

**Policy Number:** CU11000142

**Named Insured:** MOGUL PARK INC

CULFRMA	(06/03)	COMM UMBRELLA LIABILITY FORM A
CULJ	(06/03)	CUP JACKET
CUL101	(05/88)	ASBESTOS EXCLUSION
CUL107	(05/88)	D&O LIABILITY EXCLUSION
CUL112	(05/88)	LIMIT COVERAGE DESIGNATED PREM
CUL113	(05/88)	LIQUOR LIABILITY EXCLUSION
CUL116	(05/88)	NUCLEAR ENERGY LIABILITY EXCL
CUL119	(03/94)	PERSONAL INJURY-FOLLOWING FORM
CUL121	(05/88)	PRODUCTS COMP OPER-FOLLOW FORM
CU0062	(02/03)	WAR LIABILITY EXCLUSION
TRIADIS2	(07/11)	TERRORISM DISCLOSURE
VU2130	(01/08)	CAP LOSSES CERT ACTS OF TERR

THE FOLLOWING FORMS APPLY TO NY

CUL103	(06/03)	AUTO LIABILITY-FOLLOWING FORM
VU2800	(01/09)	NY AMENDATORY ENDORSEMENT
VU2801	(07/93)	NY CHANGES-TRANSFER OF DUTIES

## COMMERCIAL UMBRELLA LIABILITY FORM - PART A

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### AGREEMENT

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We provide the insurance in this policy in return for the premium and in compliance with the policy provisions.

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### PART I - COVERAGE

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We will pay on behalf of the **insured** all sums which the **insured** becomes legally obligated to pay as **loss** in excess of the **primary** limit or the **retained limit**, whichever is greater, because of

Coverage A - **Bodily Injury** or

Coverage B - **Property Damage**

which occurs during the policy period, or

Coverage C - **Personal Injury**, or

Coverage D - **Advertising Injury**

to which this policy applies, caused by an **occurrence** which takes place anywhere during the policy period.

In any jurisdiction where we may be prevented by law or otherwise from carrying out this agreement to pay on behalf of the **insured**, we will indemnify the **insured** in accordance with this agreement.

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### PART II - WHO IS AN INSURED

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1. **You** (the person or organization named in the declarations) and
2. Each of the following is an **insured** under this policy to the extent set forth below.
  - A. If **you** are shown in the declarations as an individual, **you** and **your** spouse are an **insured**, but only with respect to conduct of a business of which **you** are the sole owner.
  - B. If **you** are shown in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member of such partnership, but only with respect to the conduct of **your** business. However, this policy does not apply to any liability arising out of the conduct of any partnership or joint venture to which **you** are or were a partner or member that is not shown in the declarations.
  - C. Any person, organization, trustee or estate to whom or to which **you** are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect:
    - (1) to operations done by or on behalf of **you**, or
    - (2) to facilities owned or used by **you**.
  - D. Any additional **insured** (other than **you**) included in any **primary policy** issued to **you** except as restricted elsewhere in this **Part II - Who Is An Insured**.
  - E. Except with regard to **autos, mobile equipment or watercraft**:
    - (1) Any executive officer, other employee, director or stockholder of **yours** while acting within the scope of their duties as such;
    - (2) Any person or organization while acting as real estate manager for **you**.
  - F. With regard to **autos, mobile equipment or watercraft**:
    - (1) Anyone using an **auto, mobile equipment or watercraft**, (with **your** permission) owned by, loaned to, or hired for use by **you** or on **your** behalf except:
      - a. The owner of an **auto, mobile equipment or watercraft** you hire or borrow from one of **your** employees or a member of his household.
      - b. Someone using an **auto, mobile equipment or watercraft** while he or she is working in a business of selling, servicing, repairing, parking, docking, mooring or storing any **auto, mobile equipment or watercraft**.

- c. Anyone other than **your** employees, a lessee or borrower or any of their employees, while moving property to or from an **auto, mobile equipment** or **watercraft**.
- d. Those users of such **autos** who are considered insureds on the **primary** policy but only for a lower limit of liability than what is described in **Schedule A** of this policy.

(2) Anyone liable for the conduct of an **insured** in F.(1) above but only to the extent of that liability.

However, the owner or anyone else from whom **you** hire or borrow an **auto** is an **insured** only if that **auto** is a trailer connected to an **auto you** own.

G. Any organization that **you** newly acquire or form, other than a partnership or joint venture, and over which **you** maintain ownership or majority interest, if there is no other similar insurance available to that organization.

However:

- (1) Coverage under this provision is afforded only until the 90<sup>th</sup> day after **you** acquire or form the organization or the end of the policy period, whichever is earlier.
- (2) Coverage A and Coverage B does not apply to **bodily injury** or **property damage** that occurred before **you** acquired or formed the organization; and
- (3) Coverage C and Coverage D does not apply to **personal injury** or **advertising injury** arising out of an offense committed before **you** acquired or formed the organization.

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.

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### PART III - DEFINITIONS

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In this policy, **you, your,** and **yours** mean a person or organization shown as the **named insured** on the declarations. **We, us, our,** and **ours** mean the Company listed in the declarations as providing this insurance.

Other words and phrases are defined below:

- 1. **Advertising injury** means injury arising out of **your** advertising activities of **your** own goods, products or services and involving one or more of the following offenses committed during the policy period:
  - A. Oral or written publication of material that defames, slanders, or libels a person or organization or disparages a person's or organization's goods, products or services;
  - B. Oral or written publication of material that violates a person's right of privacy;
  - C. Piracy, unfair competition, or misappropriation of ideas or style of doing business; or
  - D. Infringement of copyright, title or slogan.
- 2. **Aircraft** means any heavier than air or lighter than air vehicle designed to transport persons or property in the air.
- 3. **Auto** means a land motor vehicle, trailer or semi-trailer designed for use on public roads, including any attached machinery or equipment. But **auto** does not include **mobile equipment**.
- 4. **Bodily injury** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
- 5. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:
  - A. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
  - B. **You** have failed to fulfill the terms of a contract or agreement;
 

if such property can be restored to use by:

    - A. The repair, replacement, adjustment or removal of **your product** or **your work**, or
    - B. **Your** fulfilling the terms of the contract or agreement.
- 6. **Insured** means any person or organization qualifying as an **insured in Part II** of this policy, **Who is an Insured**, but only to the extent as is stated in that section.

7. **Insured contract** means a contract or agreement for which assumed liability coverage is provided by a **primary policy** described in **Schedule A**.
8. **Loss** means sums which **you** and **your** insurer become legally obligated to pay as compensatory damages for settlement or satisfaction of a claim or judgment after making deductions for all other recoveries, salvages and other insurance.

**Loss** does not include:

- A. Salaries of **your** employees and office expenses incurred by **you**.
  - B. Any costs or expenses incurred by **us**, an **insured**, or a **primary insurer** related to investigation, litigation, settlement, adjustment or appeal of any claim or suit.
9. **Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment.
    - A. Bulldozers, farm machinery, forklifts, **recreational vehicles** and other vehicles designed for use principally off public roads;
    - B. Vehicles maintained for use solely on or next to premises **you** own or rent;
    - C. Vehicles that travel on crawler treads;
    - D. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
      - (1) Power cranes, shovels, loaders, diggers or drills; or
      - (2) Cherry pickers and similar devices used to raise or lower workers;
    - E. Vehicles not described in A., B., C. or D. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
      - (1) Air compressors, pumps, and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
      - (2) Cherry pickers and similar devices used to raise or lower workers.
    - F. Vehicles not described in A., B., C. or D. above that are not self-propelled and are maintained primarily for purposes other than the transportation of persons or cargo.

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

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

10. **Named Insured** means the person or organization named in the declarations.

11. **Occurrence:**

- A. With respect to Coverage A - **Bodily Injury** and Coverage B - **Property Damage**, **occurrence** means an accident including continuous or repeated exposure to substantially the same general harmful conditions.
  - B. With respect to Coverage C - **Personal Injury** or Coverage D - **Advertising Injury**, **occurrence** means an accident, happening, or event described as injury in the definitions of those terms in this policy.
12. **Personal injury** means injury, other than **bodily injury**, arising out of one or more of the following offenses committed during the policy period:
- A. False arrest, detention or imprisonment;
  - B. Malicious prosecution;
  - C. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;

- D. 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; or
- E. Oral or written publication of material that violates a person's right of privacy;
13. **Primary policy or policies** means a **policy** or **policies** (including renewals or replacements), listed in **Schedule A** of this policy, which provide(s) liability coverage for losses.
14. **Products-completed operation hazard:**
- 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
  - (2) Work that has not yet been completed or abandoned.
- Products-completed operations hazard** also includes **bodily injury** and **property damage** that arises out of **your products** if the **bodily injury** and **property damage** occurs after you have relinquished possession of those products and **products-completed operations hazard** has been redefined as such in the **primary policy(ies)** described in **Schedule A**.
- 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 site has been completed if **your** contract calls for work at more than one 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. This 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 created by the loading or unloading of it.
  - (2) The existence of tools, uninstalled equipment or abandoned or unused materials;
  - (3) Products or operations for which the classification in any **primary policy** includes products or completed operations.
15. **Professional liability** means liability arising out of the rendering of a service relating to a profession in a manner which is reasonable and in keeping with the standards of that profession and formal accreditation or failure to render a service.
- This includes but is not necessarily limited to professions such as:
- A. The practice of medicine, i.e., physician, surgeon, osteopath, chiropractor, anesthesiologist, dentist, psychiatrist, psychologist, nurse, paramedic, EMT, pharmacist, etc.
  - B. The practice of law
  - C. The practice of accounting
  - D. Insurance sales or consulting
  - E. Real estate sales or management
  - F. Architects, engineers, surveyors, or draftsmen
  - G. Stockbrokers
16. **Excluded occupations liability** means liability arising out of the rendering of a service relating to an occupation listed below or the failure to render a service:
- A. A director or officer of an organization
  - B. Data processing or computer software development
  - C. Law enforcement
  - D. Travel agents



- E. Publishers, printers, or broadcasters
17. **Property damage** means:
- A. Physical injury to tangible property, including all resulting loss of use of that property; or
  - B. Loss of use of tangible property that is not physically injured.
18. **Recreational vehicle** means a mini-bike, dune buggy, snowmobile, all-terrain vehicle or other motor vehicle designed for recreational use principally off public roads.
19. **Retained limit** is the dollar amount shown in the declarations as the **Retained Limit**. This is the amount **you** are responsible for as part of any settlement or judgment not covered by any **primary** insurance (as described in **Schedule A**) but otherwise covered by this policy. It does not include defense cost, or supplementary payments expenditures as described in **Part VI, Defense and Supplementary Payments**, paragraph 4.
20. **Schedule A** is the list of **your primary** coverages shown in the declarations. This policy is expected to provide excess coverage after the **primary** limits shown in **Schedule A** have been exhausted.
21. **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 an arbitration proceeding alleging such damages to which an **insured** must submit with **our** consent.
22. **Watercraft** means a vehicle designed to transport persons or property in or on water.
23. **Your product** means:
- A. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
    - (1) **You**;
    - (2) Others trading under **your** name; or
    - (3) A person or organization whose business or assets **you** have acquired; and
  - B. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- Your product** includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in A. and B. above.
- Your product** does not include vending machines or other property rented to or located for the use of others but not sold.
24. **Your work** means:
- A. Work or operations performed by **you** or on **your** behalf; and
  - B. Materials, parts or equipment furnished in connection with such work or operations.
- Your work** includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in A. or B. above.

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## PART IV - EXCLUSIONS

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This policy does not apply to:

1. **Personal injury or advertising injury:**
- A. Arising out of oral or written publication of material, if done by or at the direction of the **insured** with knowledge of its falsity;
  - B. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.
  - C. Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the **insured**;
  - D. For which the **insured** has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the **insured** would have in the absence of the contract or agreement.
  - E. For an offense committed by an **insured** if **your** business is advertising, broadcasting, publishing or telecasting.

2. **Advertising injury** arising out of:
  - A. Breach of contract, other than misappropriation of advertising ideas under an implied contract;
  - B. The failure of goods, products or services to conform with advertised quality or performance;
  - C. The wrong description of the price of goods, products or services.
3. A. Any obligation an **insured** may have under a workers compensation, disability benefits or unemployment compensation law, or any similar law;
  - B. **Bodily injury** to:
    - (1) a. An employee of the **insured** arising out of and in the course of employment by the **insured**; or  
b. The spouse, child, parent, brother or sister of that employee as a consequence of (a) above.
    - (2) This exclusion applies:
      - a. Whether the **insured** may be liable as an employer or in any other capacity; and
      - b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.
    - (3) This exclusion does not apply:
      - a. To liability assumed by the **insured** under an **insured contract**;
      - b. To the extent **primary** Employers Liability coverage is available to **you** as described in **Schedule A**. Our coverage will not be broader than such **primary** coverage.
  - C. Any liability imposed on an **insured**:
    - (1) under the Employees' Retirement Income Security Act (ERISA) of 1974 or subsequent amendments;
    - (2) arising out of the administration of any employee benefit plan.
4. Any employee of **yours** as an **insured** with respect to any liability arising from another employee of **yours** unless such coverage is provided by a **primary policy** described in **Schedule A**.
5. **Bodily injury** or **property damage** arising from the ownership, maintenance, use (including loading or unloading), or entrustment to others of:
  - A. Any **aircraft** owned or operated by any **insured** or chartered without crew by the **insured** or on the **insured's** behalf.
  - B. Any **recreational vehicle** or **watercraft** owned or operated by or loaned to any **insured**.  
Paragraph B. does not apply to:
    - (1) A **watercraft** while ashore on premises **you** own or rent;
    - (2) A **watercraft** **you** do not own that is:
      - a. Less than 26 feet long; and
      - b. Not being used to carry persons or property for a charge.
6. **Property damage** to:
  - A. Property **you** own.
  - B. Property rented to, occupied, or used by **you** or in **your** care, custody or control.
  - C. Property loaned to **you**;
  - D. That particular part of real property on which **you** or any contractor or subcontractor working directly or indirectly on **your** behalf is performing operations, if the **property damage** arises out of those operations, or
  - E. That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs B., C., D. and E. of this exclusion do not apply to liability assumed under a written sidetrack agreement.  
Paragraph E. of this exclusion does not apply to **property damage** included in the **products-completed operation hazard**.

7. A. **Property damage to your property** arising out of it or any part of it.
- B. **Property damage to your work** arising out of it or any part of it and included in the **products-completed operations hazard**.
- C. **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.

Exclusion 7.C. 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.

8. Damages claimed for any **loss**, cost or expense incurred by **you** or others for the **loss** of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:
  - A. **Your product**;
  - B. **Your work**; or
  - C. Impaired property;

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

9. A. **Bodily injury, property damage or personal injury** arising out of the actual, alleged or threatened discharge, dispersal, release or escape of **pollutants**;
  - (1) That are, or that are contained in any property that is:
    - a. Being moved from the place where such property or **pollutants** are accepted by the **insured** for movement into or onto an **auto**;
    - b. Being transported or towed by an **auto**;
    - c. Otherwise in the course of transit by the **insured**;
    - d. Being stored, disposed of, treated or processed in or upon an **auto**, or
    - e. Being moved from an **auto** to the place where such property or **pollutants** are finally delivered, disposed of or abandoned by the **insured**;
  - (2) Which are at any time transported, handled, stored, treated, disposed of, or processed as waste by or for **you** or any person or organization for whom **you** may be legally responsible;
  - (3) At or from premises **you** own, rent or occupy;
  - (4) At or from any site or location used by or for **you** or others for the handling, storage, disposal, processing or treatment of waste;
  - (5) At or from any site or location on which **you** or any contractors or subcontractors working directly or indirectly on **your** behalf are performing operations:
    - a. if the **pollutants** are brought on or to the site or location in connection with such operations; or
    - b. if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the **pollutants**.
- B. Any **loss**, cost, or expense arising out of any governmental direction or request that **you** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **pollutants**.

However, paragraphs A.(1)(d) and A.(2) through A.(5) of this exclusion do not apply to fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of an **auto** or its parts, if the **pollutants** escape or are discharged, dispersed or released directly from an **auto** part designed by its manufacturer to hold, store, receive or dispose of such **pollutants**.

Paragraphs A.(2) through A.(5) of this exclusion do not apply to **pollutants** not in or upon an **auto** if:

- (1) The **pollutants** or any property in which the **pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of an **auto**.

(2) The discharge, dispersal, release, or escape of the **pollutants** is caused directly by such upset, overturn or damage: and

(3) The **bodily injury** or **property damage** is not otherwise excluded under paragraph A.(1) of this exclusion.

Also, paragraphs A.(3) and A.(5)(a) of this exclusion do not apply to **bodily injury**, or **property damage** caused by 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.

**Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, asbestos or any substance containing asbestos fibers, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

10. **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.
11. **Bodily injury** or **property damage** due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.
12. Any **loss** for which liability is imposed by law under any automobile no-fault, uninsured motorist, underinsured motorist, first party personal injury law or any similar law.
13. Any liability arising out of **your professional liability** or **excluded occupations liability** or for such liability for which one of **your** employees or any person **you** are responsible for is liable.
14. Any injury or damage brought by an **insured** under this policy against another **insured** under this policy.
15. Any liability covered under a personal umbrella liability policy issued by **us**.
16. Any liability arising out of employment practices of the **insured** including:
  - A. Wrongful dismissal or termination, or
  - B. Improper hiring or promotion practicesof any past or present officer, director or employee of the **insured**.
17. Liability excluded by the Nuclear Energy Liability Exclusion Endorsement attached to this policy.

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## PART V - LIMITS OF LIABILITY

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1. Regardless of the number of
  - A. **insureds** under this policy,
  - B. persons or organizations who sustain **bodily injury, property damage, personal injury** or **advertising injury**.
  - C. claims made or suits brought on account of **bodily injury, property damage, personal injury** or **advertising injury**,
  - D. coverages under which **loss** is insured in this policy,**we** shall only be liable for **loss** in excess of:
  - A. the **primary** limit as listed in **Schedule A**, for **loss** covered by a **primary** policy(ies) and this policy, or
  - B. the **retained limit**, for **loss** not covered by a **primary policy(ies)** but otherwise covered by this policy.**We** will pay **loss** only up to the limit of liability shown in the declarations; however, if an aggregate limit applies on this policy with respect to such **loss**, **we** will pay only to the extent the aggregate limit has not been used up due to previous payment of **losses**.
2. Drop down coverage:

If the **primary** limit is reduced by payment of claims for injury or damage occurring after the inception date of this policy, this policy will drop down and cover excess of the reduced **primary** insurance or if the **primary** aggregate is totally used up, this policy will apply as **primary**. This drop down feature:

  - A. Will not increase **our** limit of liability as stated in the declarations and
  - B. Will not apply to the extent the **primary** aggregate limit has been used up prior to the inception date of this policy. See **Part VII Condition 10** (Maintenance of **Primary** Coverages).

3. Policy aggregate limit:

If an aggregate limit applies in the **primary** insurance shown in **Schedule A**, the aggregate limit stated in the declarations of this policy applies also. The aggregate limit in this policy is the most **we** will pay for **loss(es)** occurring during the policy term and:

- A. Shall apply separately to each **primary policy** listed in **Schedule A**.
- B. Shall apply separately to the general aggregate and the **products-completed operations** aggregate in **your** general liability policy.

If this policy is extended for a period of less than 12 months, the extended period will be deemed to be part of the last preceding period for purposes of determining the limits of liability.

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## PART VI - DEFENSE AND SUPPLEMENTARY PAYMENTS

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1. **Losses covered by primary policies:**

This policy will not apply to defense, investigation, settlement or legal expenses which are covered by **your primary policies** but **we** have the right at any time to join **you** or any **primary** insurance company in the investigation, defense and settlement of a claim or **suit**.

2. **Losses where primary policy(ies) coverage has been exhausted:**

If **your primary** insurance has been exhausted by expenses or payments in settlement of **loss(es)**, this policy will undertake such expenses associated with investigation, defense and settlement of a claim or **suit**.

If **you** have elected when **you** purchased your **primary policy** to participate or self insure part of the defense, investigation, settlement, and legal expenses, this policy will not cover such obligations.

3. **Losses not covered by primary policies:**

If **you** have a **loss** which is covered by this policy but not covered by any of **your primary policies**, **we** will defend **you** at **our** expense. **We** may investigate and settle any claim at **our** discretion. If **we** make any payment which falls within **your retained limit**, **you** agree to reimburse **us**.

**Our** right and/or duty to defend under paragraphs 1., 2., and 3. above ends when **we** have used up the applicable limit of liability in the payment of **loss(es)**.

4. **We** will pay, in addition to **our** limit of liability, with respect to any claim or **suit** we defend:

- A. All expense **we** incur.
- B. Premiums on bonds required of an **insured** to release attachments because of the **suit**, but the bond amounts shall not exceed **our** liability limit. **We** will pay the cost of bail bonds required of **you** because of an accident or traffic violation up to \$250. **We** are not required to apply for or furnish any bonds.
- C. Costs taxed against an **insured** because of the **suit**.
- D. Pre-judgment interest awarded against the **insured** on that part of the judgment **we** pay. If **we** make an offer to pay the applicable limit of liability, **we** will not pay any pre-judgment interest based on that period of time after the offer.
- E. Interest which accumulates after a judgment is entered. **Our** duty to pay interest ends when **we** pay, offer to pay or deposit in court that part of the judgment which this policy covers.
- F. Reasonable expenses an **insured** incurs at **our** request, other than loss of earnings.

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## PART VII - CONDITIONS

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This policy is subject to the following conditions:

**1. Changes:**

This policy contains all the agreements between **you** and **us** concerning the insurance afforded. It may be changed only by an endorsement issued to form a part of the policy, signed by **our** duly authorized representative. Notice to **you** or to **our** agent or knowledge possessed by **us**, by **our** agent or by any other person shall not affect a waiver or a change in any part of this policy nor prevent **us** from asserting any right under the terms of this policy.

**2. Assignment:**

**Your** interest in this policy may not be transferred to another, except by an endorsement issued by **us** which gives **our** consent. If **you** die, this policy shall apply (1) to **your** legal representative, but only while acting within the scope of their duties as such, and (2) with respect to **your** property, to the person having proper temporary custody as an **insured**, but only until the appointment and qualification of the legal representative.

**3. Premium Determination:**

- A. Premiums for this policy shall be stated in the declarations and computed in accordance with **our** rules, rates, rating plans, premiums, and minimum premiums applicable to this insurance. **Your** premium may be flat or adjustable.
- B. If **your** premium is flat, no additional premium is normally collected during the policy period unless there is a substantial change in type and/or scope of **your** operations. If there is a substantial change in **your** operations and if there is an additional charge for **your primary** insurance, **we** have the right to charge an additional premium also.
- C. If **your** premium is adjustable, **we** charge **you** the total advance premium as shown on the policy declarations and then at the end of the policy period, **we** look over **your** books and determine final premium based upon the predetermined rate and exposure basis shown in the declarations. Regardless of whether **your** premium is flat or adjustable, the premium amount shown in the declarations is the minimum amount that will be charged for the policy unless the policy is cancelled.

**You** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to **us** at the end of this policy period and at such times during the policy period as **we** may direct.

**4. Inspection and Audit:**

**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. And **we** do not warrant that conditions:

- A. Are safe and healthful; or
- B. Comply with laws, regulations, codes or standards.

This condition applies not only to **us**, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

**We** may examine and audit **your** books and records as they relate to this policy at any time during the policy period and up to three years afterward.

**5. Your Duties in the Event of Loss:**

- A. **We** or **our** agent must have prompt written notice from **you** or someone on **your** behalf of any **loss** that may involve this policy. The notice should identify this policy and give **us** the facts of the **loss** including names and addresses of claimants and witnesses.

- B. If **you** receive **suit** papers, **you** agree to immediately furnish **us** with a copy as well as copies of any other papers pertinent to the **loss**.
- C. **You** must authorize **us** to obtain needed records and other information.
- D. **You** further agree to cooperate with the **primary** insurance companies and with **us** in the defense of any **loss** likely to involve this policy. **You** shall not, except at **your** own expense, voluntarily make any payment, assume any obligation, or incur any expense unless **we** provide written consent to do so. However, this provision does not apply with respect to money spent or expenses incurred for emergency first aid at the time of an accident.
- E. **You** must assist **us**, upon our request, in the enforcement of any right against any person or organization which may be liable to **you** because of injury or damage to which this insurance may also apply.

**6. Appeals:**

If **you** or **your primary** insurance company choose not to appeal a judgment which exceeds **your retained limit** or **primary** insurance limit, **we** may do so, but **our** liability for any **loss** will not exceed **our** limit of liability stated on the declaration page. If **we** appeal, **we** will pay all costs and expenses of the appeal **ourselves**.

**7. A. Recovery:**

If an **insured** has rights to recover all or part of any payment **we** have made under this policy, **we** shall participate with the **insured** and **primary** company in exercise of all the **insured's** rights of recovery. Any recovery obtained will be divided as follows:

**B. Recovery division:**

First, anyone (including the **insured**) who has paid amounts over the limits of this agreement will be reimbursed. Secondly, **we** will be reimbursed for payments **we** have actually made under this policy. Finally, if any recovery remains, the **primary** insurer and/or the **insured** divide the balance of any remaining recovery.

**C. Recovery expenses:**

Expenses of recovery procedures will be divided in the same proportion as the recovery is shared. However, if **we** bring procedures on **our** own and fail to obtain any recovery, **we** will pay all the expenses for those proceedings **ourselves**.

**8. Action Against Us:**

No legal action may be brought against **us** unless:

- A. **You** have complied with all the terms of the policy; and
- B. The amount for which **you** are legally liable has been determined by court judgment; or
- C. An agreement has been signed by **you, us** and the claimant.

**9. Bankruptcy:**

If **you** become bankrupt or insolvent, **we** will still be responsible for **our** obligations under this policy.

In the event of bankruptcy or insolvency of **your primary** insurer, **you** will still be responsible for the coverages and limits shown on **Schedule A**. Under no circumstances will **we** be required to drop down and replace the limits of liability, or assume any other obligations of a financially impaired insurer.

**10. Maintenance of Primary Coverages:**

**You** must maintain **your primary policies** in full force during the term of this policy. This includes having the aggregate limits totally unused at the inception of this policy. The reduction of aggregate **primary** limits that occurs during the currency of this policy due to payment of claims or legal expenses shall not be deemed a failure to maintain **your primary** coverage.

**You** must not change the terms, conditions or limits of coverage (unless **you** broaden the coverage or increase the limits) without **our** written consent. If **we** do give **our** written consent, **we** have the right to charge an appropriate additional premium for the more restricted **primary** coverage.

**You** may replace a policy listed in **Schedule A** with another replacement policy with a different **primary** insurer, but **you** must inform **us** of such change within 30 days.

### 11. Separation of Insured:

The insurance afforded applies separately to each **insured** against whom claim is made or suit is brought, but the inclusion of more than one **insured** shall not operate to increase the limits of **our** liability.

### 12. Cancellation:

- A. **You** may cancel this policy by returning it to **us** or by notifying **us** in writing of the cancellation date.
- B. **We** may cancel this policy by notifying **you** in writing at least:
  - 1. 10 days before the cancellation date if **we** cancel for non-payment of premium;
  - 2. 30 days before the cancellation date, if **we** cancel for any other reason.
- C. **Our** notice may be delivered or mailed to **you** at **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 policy is cancelled, **we** will send **you** any premium refund due. If **we** cancel, the refund will be pro rata. If **you** cancel, the refund may be less than pro rata. The cancellation will be effective even if **we** have not made or offered a refund.
- F. Proof of mailing is sufficient proof of notice.

### 13. Nonrenewal:

- A. If **we** choose not to renew this policy, **we** will notify **you** in writing at least 30 days before the end of the policy period.
- B. Proof of mailing is sufficient proof of notice.

### 14. Representations:

By accepting this policy, **you** agree:

- A. The statements in the application are accurate and complete;
- B. The information in **Schedule A** is accurate and complete;
- C. Those statements are based upon representations **you** made to **us**; and
- D. **We** have issued this policy in reliance upon **your** representations.

### 15. Other Insurance:

The coverage provided under this policy is excess over any other **loss** insurance or self insurance which covers any part of the **loss** except insurance written specifically as excess coverage over the limits of this policy.

### 16. State Law:

If this policy conflicts with **your** state or local laws, it is changed to conform with the laws.





## POLICYHOLDER DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

### DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2007, the definition of terrorism has changed. As defined in Section 102(1) of the Act: The term "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 - 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. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% of covered terrorism losses exceeding the statutorily established deductible paid by us. The Terrorism Risk Insurance Act, as amended, contains a \$100 billion cap that limits the U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds \$100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed \$100 billion, your coverage may be reduced.

### DISCLOSURE OF PREMIUM

If you choose to accept this offer of coverage, there will be **no** additional premium charge for coverage for acts of terrorism during the current term of your policy, nor does your annual premium include any charges for the portion of losses covered by the United States Government under the Act. Should we decide to make a premium charge at any renewal of your policy, for coverage for acts of terrorism, you will be given the opportunity to reject this coverage.

You may choose to reject the offer by signing the **REJECTION STATEMENT** shown on the reverse side of this notice and returning it to us or your agent, and your policy will be written to exclude the described coverage. Please understand that since we are not making a premium charge for this coverage, there will be no return premium should you elect to reject this offer. **Important Note: Connecticut law prohibits the exclusion of coverage for loss by fire or other perils insured against in Condominium Association policies, caused directly or indirectly by terrorism. Therefore, this coverage cannot be rejected on Connecticut Condominium Association policies.**

In Maine, New York and Rhode Island, a terrorism exclusion makes an exception for (and thereby provides coverage for) fire losses resulting from an act of terrorism. Therefore, if your policy is governed by the law of one of these states and you reject the offer of terrorism coverage, that rejection does not apply to fire losses resulting from an act of terrorism - in other words, coverage for such fire losses will be provided in your policy (if this is a renewal policy, coverage for such fire losses will continue to be provided in your policy).

Should you have any questions concerning this notice, please contact your local Independent Insurance Agent.

VERMONT MUTUAL INSURANCE CO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **ASBESTOS EXCLUSION**

This policy does not apply to bodily injury, property damage, or personal injury arising at any time out of:

1. the inhaling, ingesting or prolonged physical exposure to asbestos, asbestos fibers, asbestos dust, or goods or products containing asbestos; or
2. the use of asbestos in constructing or manufacturing any good, product or structure; or
3. the installation or removal of asbestos from any good, product or structure, or
4. the manufacture, storage, sale, transporting, distribution, or disposal of asbestos or goods or products containing asbestos.

The coverage afforded by the policy does not apply to any obligation:

1. To investigate, settle, or defend any claim or suit alleging actual or threatened bodily injury, property damage, or personal injury of any kind arising at any time out of any of the above, or
2. to pay, contribute to, or indemnify any party for any losses, damages, judgments, settlements, costs, fines, penalties, or expenses that may be awarded or incurred by reason of any such claim or suit or any such bodily injury, property damage, or personal injury, or in complying with any action authorized by law and relating to such injury or damage.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DIRECTORS AND OFFICERS LIABILITY EXCLUSION**

This policy does not apply to:

- A. Any claim made against any insured and/or any executive officer or director resulting from any act, error or omission, or breach of duty while acting in the capacity of executive officer or director.
- B. Any claim made solely because of being an executive officer or director.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### LIMITATION OF COVERAGE TO DESIGNATED PREMISES EXCLUSION

This policy does not apply to any liability arising out of:

- A. the ownership, maintenance or use of any premises or any property located on those premises;
- B. operations on those premises or elsewhere which are necessary or incidental to the ownership, maintenance or use of those premises; or
- C. goods or products manufactured at or distributed from those premises,

other than the premises designated in this endorsement, unless coverage is provided by a primary policy described in **Schedule A**. The coverage provided by this policy will not be broader than the coverage provided by the **primary** insurance policy.

#### Description and location of premises:

1680 MOGUL DR MOHEGAN LAKE NY 10547  
1670 MOGUL DR MOHEGAN LAKE NY 10547  
1668 MOGUL DR MOHEGAN LAKE NY 10547  
1660-1662 MOGUL DR MOHEGAN LAKE NY 10547  
1658 MOGUL DR MOHEGAN LAKE NY 10547  
1656 MOGUL DR MOHEGAN LAKE NY 10547  
1651 MOGUL DR MOHEGAN LAKE NY 10547  
1639 MOGUL DR MOHEGAN LAKE NY 10547  
3055 MOGUL DR MOHEGAN LAKE NY 10547  
1625 MOGUL DR MOHEGAN LAKE NY 10547  
1623 MOGUL DR MOHEGAN LAKE NY 10547  
1619 MOGUL DR MOHEGAN LAKE NY 10547  
1611 MOGUL DR MOHEGAN LAKE NY 10547  
1613 MOGUL DR MOHEGAN LAKE NY 10547  
1615 MOGUL DR MOHEGAN LAKE NY 10547  
3046 GRANT AVE MOHEGAN LAKE NY 10547  
3044 GRANT AVE MOHEGAN LAKE NY 10547  
1645 AMAZON RD MOHEGAN LAKE NY 10547  
1641 MOGUL DR MOHEGAN LAKE NY 10547  
1644 MOGUL DR MOHEGAN LAKE NY 10547  
1634 MOGUL DR MOHEGAN LAKE NY 10547  
1626-1628 MOGUL DR MOHEGAN LAKE NY 10547  
1624 MOGUL DR MOHEGAN LAKE NY 10547  
1622 MOGUL DR MOHEGAN LAKE NY 10547  
1617 MOGUL DR MOHEGAN LAKE NY 10547  
1619 AMAZON RD MOHEGAN LAKE NY 10547  
1621 AMAZON RD MOHEGAN LAKE NY 10547  
1625 AMAZON RD MOHEGAN LAKE NY 10547  
1627 AMAZON RD MOHEGAN LAKE NY 10547  
1623 AMAZON RD MOHEGAN LAKE NY 10547  
1631 AMAZON RD MOHEGAN LAKE NY 10547  
3005 - 3007 GRANT AVE MOHEGAN LAKE NY 10547  
MOGUL RD MOHEGAN LAKE NY 10547

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **LIQUOR LIABILITY EXCLUSION**

This policy does not apply to liability for which any insured may be held liable by reason of:

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

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

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

**NUCLEAR ENERGY LIABILITY EXCLUSION**

(Broad Form)

1. This policy does not apply:
  - A. Under any Liability coverage, to bodily injury, personal injury, 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 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, or under any Supplementary Payments provision relating to immediate medical or surgical relief, 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, personal 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, personal 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 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 or uranium or plutonium; (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.

**PERSONAL INJURY - FOLLOWING FORM**

This policy does not apply to any **loss** for Coverage C - **Personal Injury** unless coverage is provided by a **primary policy** described in **Schedule A**. The coverage provided by this policy will not be broader than the coverage provided by the **primary** policy.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRODUCTS - COMPLETED OPERATIONS - FOLLOWING FORM**

This policy does not apply to any liability for bodily injury or property damage arising out of the insured's products-completed operations hazard nor does this policy apply to any personal injury arising out of your work or your product unless coverage is provided by a primary policy described in Schedule A. The coverage provided by this policy will not be broader than the coverage provided by the primary insurance policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## WAR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL UMBRELLA LIABILITY FORM - PART A

Exclusion 11. under **PART IV - EXCLUSIONS** is replaced by the following:

11. **Bodily injury, property damage, personal injury, or advertising injury**, however caused 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

**COMMERCIAL UMBRELLA LIABILITY FORM – PART A**

If aggregate insured losses attributable to terrorist acts certified under the 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 pursuant to the federal Terrorism Risk Insurance Act. The federal Terrorism Risk Insurance Act sets forth the following criteria for a **certified act of terrorism**:

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 YOUR POLICY. PLEASE READ IT CAREFULLY

**NEW YORK AMENDATORY ENDORSEMENT**

- I. In **PART II - WHO IS AN INSURED**, paragraph F. (1) d. is deleted.
- II. In **PART IV - EXCLUSIONS**, paragraph B. (3) b. of exclusion 3. is replaced by the following:
  - b. To the extent **primary** Employers Liability coverage is available to **you** as described in **Schedule A**. **Our** coverage will not be broader than such primary coverage, nor will it apply to any damage or **loss** where an employee is subject to the New York Workers' Compensation law.
- III. In **PART IV - EXCLUSIONS**, the last paragraph of exclusion 9. is replaced by the following:

**Pollutants** means any 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.
- IV. The following Exclusion is added to this policy:
  18. Any damages, loss or liability arising out of discrimination because of race, creed, color or national origin.
- V. In **PART VI - DEFENSE AND SUPPLEMENTARY PAYMENTS**, paragraph 3. is replaced by the following:
  3. **Losses not covered by primary policies:**

If **you** have a **loss** which is covered by this policy but is not covered by **your primary policies**, **we** have the right and duty to defend any **suit** against **you** at **our** expense, even if the allegations of the suit are groundless, false or fraudulent. **We** will not settle a claim or suit until **you** have given **us** consent to settle. If however, **you:**

    - A. refuse to consent to any settlement mutually agreed upon and recommended in writing by **us** and the plaintiff, and
    - B. elect to contest or continue any legal proceedings,

**our** liability shall not exceed the amount for which the claim or **suit** could have been settled plus the costs and expenses incurred up to the date of such refusal.
- VI. In **PART VII - CONDITIONS**, the first paragraph of item C. of Condition 3. Premium Determination is replaced by the following:
  - C. If **your** premium is adjustable, **we** charge **you** the total advance premium as shown in the policy declarations and then at the end of the policy period, **we** look over **your** books and determine the final premium based upon the predetermined rate and exposure basis shown in the declarations.

**You** shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to **us** at the end of this policy period and at such times during the policy period as **we** may direct.
- VII. In **PART VII - CONDITIONS**, the last paragraph of Condition 4. Inspection and Audit is replaced by the following:

We may examine and audit **your** books and records as they relate to this policy at any time during the policy period and up to one-hundred eighty days (180) afterward.
- VIII. In **PART VII - CONDITIONS**, paragraph A. of Condition 5. Your Duties in the Event of Loss is replaced by the following:
  - A. **We** or **our** agent must have written notice as soon as reasonably possible from **you**, or someone on **your** behalf, of any **loss** that may involve this policy. The notice should identify this policy and give **us** the facts of the loss including the names and addresses of claimants and witnesses.
- IX. In **PART VII - CONDITIONS**, the following paragraphs are added to Condition 5. Your Duties in the Event of Loss:
  - F. Notice given by **you** or on **your** behalf; or written notice by or on behalf of any claimant; to any of **our** agents in New York State, which adequately identifies **you**, will be the same as notice to **us**.
  - G. Failure to give notice to **us** as required under this policy shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced **us**. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.
- X. In **PART VII - CONDITIONS**, Condition 8. Action Against Us is replaced by the following:
  8. **Action Against Us:**
    - A. Except as provided in paragraph B., no legal action may be brought against **us** unless:
      - (1) **You** have complied with all the terms of the policy; and
      - (2) The amount for which **you** are legally liable, as determined by judgment, has not been paid by **us** within thirty days of the serving of notice to **us** of the entry of judgment; or
      - (3) An agreement has been signed by **you**, **us** and the claimant.

- B. With respect to **bodily injury** claims, if **we** deny coverage or do not admit liability because an **insured** or the injured person, someone acting for the injured person or other claimant fails to give **us** written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against **us**, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after **we** deny coverage or do not admit liability, **we** or an **insured**:

- (a) Brings an action to declare the rights of the parties under the policy; and
- (b) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

XI. In **PART VII - CONDITIONS**, Condition 9. Bankruptcy the first paragraph is replaced by the following:

If **you** or **your** estate become bankrupt or insolvent, **we** will still be responsible for our obligations under this policy.

XII. In **PART VII - CONDITIONS**, the second paragraph of Condition 10. Maintenance of Primary Coverages is replaced by the following two paragraphs:

**You** must not change the terms, conditions or limits of coverage (unless **you** broaden the coverage or increase the limits) without **our** written consent. If **you** fail to maintain insurance as described in **Schedule A**, or change to more restrictive **primary** coverage, coverage under this policy will still apply, but **you** will be responsible for payment of any **loss**, defense expenses or supplementary payments that would have been provided by such **primary** coverage had that coverage been in effect.

XIII. In **PART VII - CONDITIONS**, paragraphs B. and C. of Condition 12. Cancellation are replaced by the following:

B. (1) **CANCELLATION OF POLICIES IN EFFECT 60 DAYS OR LESS AND NOT A RENEWAL**

**We** may cancel this policy by mailing or delivering to **you** written notice of cancellation at least:

- (a) 30 days before the effective date of cancellation if **we** cancel for any reason not included in paragraph (b) below.
- (b) 15 days before the effective date of cancellation if **we** cancel for any of the following reasons:
  - (1) Nonpayment of premium, provided, however, that a notice of cancellation on this ground shall inform **you** of the amount due;
  - (2) Conviction of a crime arising out of acts increasing the hazard insured against;
  - (3) Discovery of fraud or material misrepresentation in the obtaining of a policy or in the presentation of a claim;
  - (4) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current policy period;
  - (5) Material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;
  - (6) Required pursuant to a determination by the Superintendent that the continuation of **our** present premium volume would jeopardize **our** solvency or be hazardous to the interest of **our** policyholders, **our** creditors, or the public;
  - (7) A determination by the Superintendent that the continuation of the policy would violate, or would place **us** in violation of, any provision of the Insurance Code.

(2) **CANCELLATION OF POLICIES IN EFFECT FOR MORE THAN 60 DAYS**

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy **we** issued, **we** may cancel this policy only for any of the reasons listed in paragraph 1.(b) above provided **we** mail **you** written notice at least 15 days before the effective date of cancellation.

C. **We** will mail or deliver **our** notice, including the reason for cancellation, to **you** at **your** address shown in the policy, and the authorized agent or broker.

XIV. In **PART VII - CONDITIONS**, Condition 13. Nonrenewal is replaced by the following:

13. Nonrenewal and Conditional Renewal

- A. If **we** decide not to renew this policy, **we** will send notice as provided in paragraph C. below along with the reason for nonrenewal.
- B. If **we** condition renewal of this policy upon:
  - (1) change in limits;
  - (2) change in type of coverage;

- (3) reduction of coverage;
- (4) increased deductible;
- (5) addition of exclusion; or
- (6) increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added; or as a result of experience rating, retrospective rating, or audit;

We will send notice as provided in paragraph C. below.

- C. (1) If we decide not to renew this policy or to conditionally renew this policy as provided in paragraphs A. and B. above, we will mail or deliver written notice to you at least 60 days but not more than 120 days before the expiration date.
- (2) Notice will be mailed or delivered to you at your address shown in the policy and the authorized agent or broker.
- (3) If notice is mailed, proof of mailing will be sufficient proof of notice.
- (4) We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker, or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.
- D. (1) If we send you an incomplete or late conditional renewal notice or a late nonrenewal notice as provided for in paragraph C. above,
- (a) prior to the expiration date of the policy, coverage will remain in effect at the same terms and conditions of this policy and at the lower of the current rates or the expiring policy's rate, until sixty days after such notice is mailed or delivered, unless you replace coverage or elect to cancel sooner. However, if you elect to renew on the basis of a late conditional renewal notice, then such terms, conditions and rates shall govern the policy upon expiration of such sixty day period unless such notice was provided at least thirty days prior to the expiration date of the policy, in which event the terms, conditions and rates set forth in the conditional renewal notice shall apply as of the renewal date.
- (b) on or after the expiration date of the policy, coverage will remain in effect at the same terms and conditions of this policy for another policy period, and at the lower of the current rates or the prior period's rates, unless you replace coverage or elect to cancel sooner.
- (2) The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with paragraph D.(1) above.
- (3) The last sentence of **PART V - LIMITS OF LIABILITY** does not apply when the policy period is extended because we sent you an incomplete or late conditional renewal notice or a late nonrenewal notice.

If any cancellation or nonrenewal provision in this policy conflicts with the laws of your state, we will comply with that law.

**All other terms and conditions of this policy apply.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK AUTO LIABILITY - FOLLOWING FORM**

This endorsement modifies insurance provided under the following:

**COMMERCIAL UMBRELLA LIABILITY**

This policy includes Auto Liability coverage, but only to the extent that coverage is provided for by the automobile liability insurance listed in the schedule of underlying insurance.

This endorsement is subject to Condition 10., Maintenance of Primary Coverages.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES - TRANSFER OF  
DUTIES WHEN A LIMIT OF INSURANCE IS USED UP**

In **PART VII - CONDITIONS**, the following Condition is added:

17. Transfer of Duties When a Limit of Insurance is Used Up.

- A. If **we** conclude that, based on **occurrences**, claims or **suits** which have been reported to **us** and to which this insurance may apply, the:
- (1) Each Occurrence Limit; or
  - (2) Aggregate Each Annual Period Limit
- is likely to be used up in the payment of judgments or settlements, **we** will notify **you**, in writing, to that effect.
- B. When a limit of insurance described in paragraph A. above has actually been used up in the payment of claims or settlements:
- (1) **We** will notify **you**, in writing, as soon as practicable, that:
    - (a) Such a limit has actually been used up; and
    - (b) **our** duty to defend **suits** seeking damages subject to that limit has also ended.
  - (2) **We** will initiate, and cooperate in, the transfer of control, to any appropriate **insured**, of all claims and **suits** seeking damages which are subject to that limit and which are reported to **us** before that limit is used up. That **insured** must cooperate in the transfer of control of said claims and **suits**.  
**We** agree to take such steps, as **we** deem appropriate, to avoid a default in, or continue the defense of, such **suits** until such transfer is completed, provided the appropriate **insured** is cooperating on completing such transfer.  
**We** will take no action whatsoever with respect to any claim or **suit** seeking damages that would have been subject to that limit, had it not been used up, if the claim or **suit** is reported to **us** after that limit of insurance has been used up.
  - (3) **You** and any other **insured** involved in a **suit** seeking damages subject to that limit, must arrange for the defense of such **suit** within such time period as agreed to between the appropriate **insured** and **us**. Absent any such agreement, arrangements for the defense of such **suit** must be made as soon as practicable.
- C. **You** will reimburse **us** for expenses **we** incur in taking those steps **we** deem appropriate in accordance with paragraph B.2. above.  
**Your** duty to reimburse **us** will begin on:
- (1) The date on which the applicable limit of insurance is used up, if **we** sent notice in accordance with paragraph A. above; or
  - (2) The date on which **we** sent notice in accordance with paragraph B. 1. above, if **we** did not send notice in accordance with paragraph A. above.
- D. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of **our** duty to defend, will not be affected by **our** failure to comply with any of the provisions of this condition.
- All other terms and conditions of this policy apply.