

The insurance hereby evidenced is written by  
an approved non-licensed insurer in the State  
of Ohio and is not covered in case of insolvency  
by the Ohio Insurance Guaranty Association.

## COMMERCIAL EXCESS LIABILITY POLICY DECLARATIONS

**JAMES RIVER CASUALTY COMPANY**  
6641 WEST BROAD STREET, SUITE 300,  
RICHMOND, VA 23230

**POLICY NUMBER:**  
00059423-2

**ITEM 1. NAMED INSURED AND MAILING ADDRESS:**      **PRODUCER:**      20630  
Phi Delta Theta Fraternity  
(An Ohio Not For Profit Corp)  
2 South Campus Avenue  
Oxford, OH 45056  
R-T Specialty, LLC (Chicago)  
500 West Monroe, 28th Floor  
Chicago, IL 60661

**ITEM 2. POLICY PERIOD:**      **From:** 10/01/2015      **To:** 10/01/2016  
12:01 A.M. Standard Time at your mailing address

**ITEM 3. BUSINESS DESCRIPTION:** Non-Profit Entity  
National College Men's Fraternity

**ITEM 4. LIMITS OF INSURANCE:**

A. Each Occurrence ..... \$ 5,000,000  
B. Annual Aggregate ..... \$15,000,000

**ITEM 5. SCHEDULE OF UNDERLYING INSURANCE:**  
See attached Schedule B – Schedule of Underlying Insurance

**ITEM 6. PREMIUM COMPUTATION:**  
Advance Minimum and Deposit..... \$198,000.00

**ITEM 7. ENDORSEMENTS ATTACHED TO THE POLICY AT INCEPTION:**  
See attached Schedule A – Schedule of Forms      Surplus Lines Tax: \$9,900

**ITEM 8. RETROACTIVE DATE:**      N/A

**ITEM 9. COMPANY FEE:**      \$0

**ITEM 10. TOTAL AMOUNT DUE AT INCEPTION:**      

# SCHEDULE A

FORMS AND ENDORSEMENTS THAT APPLY TO THIS POLICY:

**POLICY NO. 00059423-2**

<b>FORM NUMBER</b>	<b>DESCRIPTION</b>
XC0001US-0306	Commercial Excess Liability Policy Declarations
AP0001US-0403	Schedule A
XC0003US-0114	Schedule of Underlying Insurance
XC0004US-0403	Schedule of Insureds
XC0002US-0607	Commercial Excess Liability Policy
AP2103US-0607	Minimum Policy Premium
XC2250US-0403	Unimpaired Aggregate Limit Endorsement (Non-Concurrency)
XC2259US-0104	Sublimited Coverages Exclusion
XC5068US-0915	Fraternity/Sorority Hired and Non-Owned Auto Liability - Limitation Endorsement
AP2104US-1012	Common Policy Conditions
AP2107US-0403	Binding Arbitration
AP2031US-0411	Exclusion - Cross Suits
XC2100US-0403	Nuclear Energy Liability Exclusion Endorsement (Broad Form)
XC2102US-0403	Fungi or Bacteria Exclusion
XC2106US-0703	Real and Personal Property Care, Custody or Control Exclusion
XC2119US-1010	Combined Policy Exclusions
XC2123US-1105	Absolute Pollution and Pollution Related Liability - Exclusion
XC2238US-0106	Exclusion - Occupational Disease
XC5045US-1211	Exclusions - E-mails, Fax, Phone Calls for Other Methods of Sending, Recording and Distributing Material or Information
AP5027R-0115	Rejection of Coverage for Certified Acts of Terrorism Coverage
XC5055US-0115	Exclusion of Certified Acts of Terrorism and Exclusion of Other Acts of Terrorism Committed Outside the US and Excl
IL1201-0403	Specific Insureds Excluded and No Prejudice to Remaining Insureds
IL1201-0403	Policy Provision Amendatory
AP0100US-0403	Privacy Policy

# SCHEDULE OF UNDERLYING INSURANCE

## SCHEDULE B

### COMMERCIAL EXCESS LIABILITY COVERAGE

This schedule forms a part of Policy No. 00059423-2

TYPE OF POLICY	LIMITS OF LIABILITY
<b>A. COMMERCIAL GENERAL LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Occurrence: \$1,000,000
	General Aggregate: \$2,000,000
	Products-Completed Operations Aggregate: \$2,000,000
Policy No.: 15JRFCO-06-L	Personal & Advertising Limit: \$1,000,000
Policy Dates: 10/01/2015 to 10/01/2016	Retroactive Date:
Occurrence <input checked="" type="checkbox"/> Claims Made <input type="checkbox"/>	
<b>B. EMPLOYEE BENEFITS LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Employee Limit: \$1,000,000
	Annual Aggregate: \$2,000,000
Policy No.: 15JRFCO-06-L	
Policy Dates: 10/01/2015 to 10/01/2016	
Occurrence <input type="checkbox"/> Claims Made <input checked="" type="checkbox"/>	Retroactive Date: 10/01/2015
<b>C. HIRED AND NON OWNED - AUTO LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Accident Bodily Injury & Property Damage Combined Single Limit:
Policy No.: 15JRFCO-06-L	
Policy Dates: 10/01/2015 to 10/01/2016	Hired & Non-Owned Limit Each Accident: \$1,000,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

Policy Change  
Number 1

POLICY NUMBER  00059423-2	POLICY CHANGES EFFECTIVE  10/1/2015 12:01 AM Standard Time at the address of the Named Insured	COMPANY  JAMES RIVER CASUALTY COMPANY
NAMED INSURED Phi Delta Theta Fraternity (An Ohio Not For Profit Corp)		AUTHORIZED REPRESENTATIVE Richard J. Schmitzer
COVERAGE PARTS AFFECTED ALL COVERAGE PARTS		
CHANGES <b>SCHEDULE OF UNDERLYING INSURANCE-NEW POLICY ADDITIONS</b>		
In consideration of the premium charged it is hereby understood and agreed that the following policy is added to form XC0003US, Schedule of Underlying Insurance, effective 10/01/2015 12:01 AM Standard Time at the address of the Named Insured.		
<b>ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.</b>		



Authorized Representative Signature

# SCHEDULE OF UNDERLYING INSURANCE

## SCHEDULE B

### COMMERCIAL EXCESS LIABILITY COVERAGE

This schedule forms a part of Policy No. 00059423-2

TYPE OF POLICY	LIMITS OF LIABILITY
<b>A. COMMERCIAL GENERAL LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Occurrence: \$1,000,000  General Aggregate: \$2,000,000 Products-Completed Operations Aggregate: \$2,000,000
Policy No.: 15JRFCO-06-L Policy	Personal & Advertising Limit: \$1,000,000  Retroactive Date:
Dates: 10/01/2015 to 10/01/2016  Occurrence <input checked="" type="checkbox"/> Claims Made <input type="checkbox"/>	
<b>B. HIRED &amp; NON OWNED AUTOMOBILE LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Accident Bodily Injury & Property Damage Combined Single Limit:
Policy No.: 15JRFCO-06-L  Policy	Hired & Non-Owned Limit Each Accident: \$1,000,000
Dates: 10/01/2015 to 10/01/2016	
<b>C. EMPLOYERS OVERHEAD LIABILITY</b>	
Company: Certain Underwriters At Lloyds, London	Each Accident: \$1,000,000
Policy No.: 15JRFCO-06-L	General Aggregate: \$2,000,000
Policy Dates: 10/01/2015 to 10/01/2016	Each Employee Limit: \$1,000,000

# SCHEDULE OF UNDERLYING INSURANCE

## SCHEDULE B

### D. EMPLOYEE BENEFITS LIABILITY

Company:	Certain Underwriters At Lloyds, London	Each Employee Limit:	\$1,000,000
		Annual Aggregate:	\$2,000,000
Policy No.:	15JRFCO-06-L		
Policy Dates:	10/01/2015 to 10/01/2016		
	Occurrence <input type="checkbox"/>	Claims Made <input checked="" type="checkbox"/>	Retroactive Date: None

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## SCHEDULE OF INSUREDS

COMMERCIAL EXCESS LIABILITY COVERAGE

Policy No. 00059423-2

**First Named Insured: Phi Delta Theta Fraternity**

**All other scheduled entities:**

The Phi Delta Theta Foundation  
The Canadian Phi Delta Theta Scholarship Foundation  
The Walter B. Palmer Foundation, Inc.  
The Frank J.R. Mitchell Scroll Endowment Fund (An Illinois Corp)

The Inclusion or addition of more than one Named Insured shall not increase the Company's Limit of Insurance. The person or organization designated as the First Named Insured shall be deemed to be the agent for all Named Insured.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

# COMMERCIAL EXCESS LIABILITY POLICY

## PROVISIONS

Various provisions in this policy restrict coverage. Read the entire policy and any underlying insurance(s) carefully to determine rights, duties and what is covered and not covered. 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 an Insured under the “underlying insurance”. The words “we” and “us” refer to the COMPANY shown in the DECLARATIONS. Other words and phrases that appear in quotation marks or bold print have special meanings. Refer to the Definitions – Section V.

## SECTION I – EXCESS LIABILITY INSURANCE

### INSURING AGREEMENT:

We will pay those sums in excess of the scheduled “underlying insurance(s)” that you become legally obligated to pay as damages because of injury or property damage to which this insurance applies, provided that the damages would be covered by the scheduled “underlying insurance(s)”, or would apply but for the exhaustion of the applicable Limits of Insurance.

This policy shall follow the terms, definitions, conditions and exclusions of the scheduled “underlying insurance(s)”, subject to the policy period, policy limits, premiums and all other terms, definitions, conditions and exclusions of this policy. If any provisions of the scheduled “underlying insurance(s)” conflict with any provisions of this policy, the provisions of this policy will apply.

This policy will not in any event provide broader coverage than those provided by the scheduled “underlying insurance(s)”.

The amount we will pay for damages shall not exceed the Limits of Insurance stated in **Item 4** of the Declarations.

## SECTION II – LIMITS OF INSURANCE

Regardless of the number of (1) Insureds under this policy, (2) persons or organizations who sustain injury or damage or (3) claims made or suits brought, the Company’s liability is limited as follows:

1. The Limits of Insurance under this policy apply only when the total applicable limits of the scheduled “underlying insurance(s)” have been exhausted by the payment of claims for damages.
2. The Limit of Insurance shown in **Item 4** of the Declarations as Each Occurrence is the most we will pay for damages because of bodily injury, property damage, personal and advertising injury arising out of any one occurrence or offense.
3. The Limit of Insurance shown in **Item 4** of the Declarations as the Annual Aggregate is the most we will pay for all damages.



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

### **SECTION III –DEFENSE, INVESTIGATION AND SETTLEMENT**

The Company will have the right and be given the opportunity to participate in the investigation, defense and settlement of claims or suits against you seeking damages because of injury to which this insurance may apply. We will have a duty to defend such claims or suits when the applicable limits of insurance in the schedule of “underlying insurance(s)” has been exhausted by payments of judgments, settlements and any costs or expenses subject to such limit. We may, at our discretion, investigate and settle any claims or suits.

Subject to the above provisions, costs incurred by you shall be paid as follows:

- a) All costs incurred by you without written consent of the Company shall be paid by you.
- b) If a claim or suit is settled within the limits of insurance of the scheduled “underlying insurance(s)”, no costs will be payable by the Company.
- c) When we assume the defense of any claim or suit against you that seeks damages covered by this policy, we will pay all costs to the extent that such payments are not covered elsewhere.
- d) If the scheduled “underlying insurance(s)” include defense costs and expenses within the limits of insurance of those policy(ies), then any such payments we make are included and will reduce the Limits of Insurance as shown in **Item 4** of the Declarations.

In the event you or the underlying insurer(s) elect not to appeal a judgment in excess of the limits of the scheduled “underlying insurance(s)” we may elect to make such an appeal. If we so elect, we shall incur and pay, in addition to the applicable Limits of Insurance all costs or expenses we incur.

The amount we will pay for damages shall not exceed the Limits of Insurance stated under **Item 4** of the policy Declarations.

We will have no duty to investigate, defend or settle claims or suits brought against you once the Limits of Insurance of this policy as stated in **Item 4** of the Declarations are exhausted, or if claims or suits brought against you are excluded from coverage under this policy.

### **SECTION IV –EXCLUSIONS**

In addition to the exclusions included in the scheduled “underlying insurance(s)”, any endorsed exclusions, or listed herein will also apply to the Limits of Insurance and coverages available under this policy. If there are conflicts in the exclusions of the scheduled “underlying insurance(s)” with any of the exclusions of this policy, the exclusions of this policy will apply.

1) **Uninsured/Underinsured Motorists** – this policy does not apply to:

Any liability, loss and/or damage, expense, costs, or defense arising out of any:

- a) Uninsured or Underinsured Motorist law; or
- b) No Fault Law or similar act or law; or
- c) Any automobile accident reparation law.

## **SECTION V –DEFINITIONS**

1. “underlying Insurance(s)” – means:

The policy or policies or self insurance listed in the Schedule of Underlying Insurance forming a part of this policy, any replacements or renewals thereof, provided that such replacement or renewal policy(ies) provide coverage equivalent to and afford limits of insurance equal to or greater than the policy(ies) being renewed or replaced.

- a) Policies purchased or issued for newly acquired or newly formed organizations shall not be more restrictive than any of the policies included in the Schedule of Underlying Insurance.
- b) The limits of the policies included in the Schedule of Underlying Insurance shall be deemed to be applicable regardless of
  - I. Any defense which the underlying insurer may assert; or
  - II. The insured’s failure to comply with any condition of any such policy; or
  - III. The insolvency of the underlying insurer.

## **SECTION VI –CONDITIONS**

If any conditions of the scheduled “underlying insurance(s)” conflict with any conditions of this policy, the conditions of this policy will apply.

1) **Maintenance of Underlying Insurance(s):**

You will maintain the “underlying insurance(s)” in full force and effect during the term of this policy, and to inform us within 30 days of any replacement or material change to that “underlying insurance(s)” by the same or any other company.

If you do not maintain the “underlying insurance(s)” in full force and effect or fail to meet all conditions, terms and warranties of such “underlying insurance(s)”, this policy will apply as if those policies were available and collectible.

The aggregate limits of the “underlying insurance(s)” shall be unimpaired at the effective date of this policy and, for the purpose of the insurance provided by this policy, only occurrences taking place during the term of this policy shall be considered in determining the extent of any exhaustion of the underlying aggregate limits.

If replacement policies provide coverage that is broader or limits of insurance that are less those indicated in the scheduled “underlying insurance(s)” then this policy will apply as if the terms, conditions and limits of the original scheduled “underlying insurance(s)” were still available and collectible, except insofar as this policy has been endorsed in writing to reflect such changes in the “underlying insurance(s)”.

Your failure to comply with the foregoing shall not invalidate this policy, but in the event of such failure, we shall be liable under this policy only to the extent that we would have been liable if you had complied.

For the purposes of this policy, if any "underlying insurance(s)" is not available or collectible because of:

- a. The bankruptcy or insolvency of the underlying insurer(s) providing such "underlying insurance(s)"; or
- b. The inability or failure for any other reason of such underlying insurer(s) to comply with any of the obligations of its policy;

then this policy shall apply (and amounts payable hereunder shall be determined) as if such "underlying insurance(s)" were available and collectible.

No statement contained in this condition limits our right to cancel or not renew this policy.

**2) Other Insurance:**

This insurance is excess over any other valid and collectible insurance whether primary, excess, contingent, or any other basis, except any other insurance written specifically to be excess over this policy.

**3) Duties in the Event of an Occurrence, Claim, or Suit:**

You must see to it that we are notified as soon as practicable of an occurrence that may result in a claim for damages or suit under this policy. To the extent possible, notice should include:

- a) How, when and where the occurrence took place;
- b) The names, addresses of any injured persons and any witnesses; and
- c) The nature and location of any injury or damage arising out of the occurrence.

If a claim is made, or suit is brought against you, which is reasonably likely to involve this policy, you must notify us in writing. Written notice should be mailed to the Company at the address shown on the Declarations page of this policy.

You and any other "insured" must immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the claim or suit. In addition, you must authorize us to obtain records and other information, cooperate with us in the investigation, settlement and defense of the claim or suit and assist us upon our request, in the enforcement of any right against any person or organization that may be liable to you because of injury or damage to which this policy may apply.

You, except at your own cost, will not voluntarily make payment, assume any obligation or incur any expense without our consent.

**4) Transfer of Your Rights and Duties Under this Policy:**

Your rights and duties under this policy may not be transferred without our written consent.

If you die or are legally incapacitated, bankrupt or insolvent, your rights and duties will be transferred to your legal representative, but only while acting within the scope of duties as your legal representative. In any event, Notice of Cancellation sent to the first Named

Insured as shown in **Item 1** of the Declarations, and mailed to the address shown in this policy will be sufficient notice to effect cancellation of this policy.

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

## **MINIMUM POLICY PREMIUM**

This endorsement modifies and amends insurance provided under the following:

### **ALL COVERAGE PARTS**

This endorsement sets forth the minimum earned premium for the policy. The minimum earned premium for this policy is calculated in accordance with the following:

1. The minimum premium for the policy period is 100% of the total policy premium as shown on the policy declarations page plus any premium adjustment by endorsements and any additional premium developed by audit.
2. Audits that indicate a return premium will not reduce the minimum as stated in paragraph 1.
3. If the insured cancels this policy and the policy is not subject to audit, the return premium will be 90% of the unearned policy premium; however in no event will the Company retain less than **25%** of the minimum premium shown in paragraph 1. above.
4. If the insured cancels this policy and the policy is subject to audit, the earned premium will be determined by final audit, however in no event will it be less than **25%** of the minimum premium as described in paragraph 1. above.
5. If the Company cancels the policy for any reason, other than for non-payment of premium, then the insured will be returned the full amount of the unearned premium without any minimum premium restrictions.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **UNIMPAIRED AGGREGATE LIMIT ENDORSEMENT (Non-Concurrency)**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following;

You agree that the aggregate limits of the scheduled "underlying insurance" as shown in the Schedule of Underlying Insurance shall be unimpaired at the effective date of this policy and, for the purpose of the insurance provided by this policy, only occurrences taking place during the term of this policy shall be considered in determining the extent of any exhaustion of the underlying aggregate limits.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **SUBLIMITED COVERAGES EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE

This insurance does not apply to liability arising out of:

Any coverages included in the policies shown on the Schedule of Underlying Insurance (Form XC0003US) that have limits less than the per occurrence or per claim limit, or the aggregate limits shown for that particular scheduled underlying policy.

This exclusion applies regardless of the limits of insurance of the underlying policy and whether or not those limits of insurance are part of, in addition to, or, separate from the limits of insurance of the underlying policy.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## FRATERNITY/SORORITY HIRED AND NON-OWNED AUTO LIABILITY- LIMITATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL EXCESS LIABILITY COVERAGE

**“Hired Auto”:** This insurance applies to “bodily injury” or “property damage” arising out of the use of a “hired auto” in the course and scope of your business. The Limits of Insurance shown on the Declarations page are the most we will pay for those sums that the Insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” arising out of the use of the “hired auto” in the course and scope of your business.

**“Non-Owned Auto”:** This insurance applies to “bodily injury” or “property damage” arising out of the use of a “non-owned auto” in the course and scope of your business. The Limits of Insurance shown on the Declarations page are the most we will pay for those sums that the insured becomes legally obligated to pay as damages because of “bodily injury” or “property damage” arising out of the use of a “non-owned auto” in the course and scope of your business.

Nothing in this endorsement shall increase the Limits of Insurance shown in the Declarations.

### Exclusions:

This insurance does not apply to:

“Bodily injury” or “property damage” arising out of any:

- (1) Uninsured or Underinsured Motorist law; or
- (2) No Fault Law or similar act or law.

“Property damage” to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or
- (2) Property in the care, custody or control of the insured.

**For the purposes of this endorsement only, this policy is amended as follows:**

### SECTION V – DEFINITIONS

2. Hired auto” means any “auto” you lease, hire or borrow. This does not include any “auto” you borrow from any of your “Employee” or members of their households or from any partner or “Executive Officer” of yours.

3. “Non-Owned Auto” means any “auto” you do not own, lease, hire or borrow which is used in connection with your business. However, if you are a partnership, a “non-owned auto” does not include any “auto” owned by any partner.

4. “Employee” means employed staff, “leased worker”, or volunteers of the Insured.

5. “Executive Officer” means a person employed by the National Fraternity or Sorority Organizations, or their Associated Educational or Philanthropic Foundations, or their Property Owning or Managing Entities, holding any of the officer or director positions created by your charter, constitution, by-laws or any other similar governing document and includes officers, directors, trustees, and partners.



## **SECTION VII – WHO IS AN INSURED**

Each of the following is an insured under this endorsement to the extent set forth below:

- a. An “Employee” or “Executive Officer” of Item **b.**, **c.**, **d.** or **e.** listed below;
- b. The National Fraternity or Sorority entity;
- c. The National Educational Foundation entity;
- d. Any Philanthropic Foundation entity in existence at the time of the loss operating on a national level and directly associated with the National Fraternity or Sorority entity or National Educational Foundation entity; and
- e. Any Property Owning or Managing entities in existence at the time of the loss operating on a national level and directly associated with the National Fraternity or Sorority entity or National Educational Foundation entity.

**For the purposes of this endorsement only, none of the following is an insured:**

- (1) Fraternity or Sorority Undergraduate Members, Member Candidates (pledges); or Alumni/Alumnae unless they meet the definition of “Employee” or “Executive Officer” above;
- (2) Chapters, Colonies, Alumni Associations & Chapters, House or Alumni Corporations and any of their related control or advisory Boards;
- (3) Any person engaged in the business of his or her employer for “bodily injury” to any co-“employee” of such person injured in the course of employment, or to the spouse, child, parent, brother or sister of that co-“employee” as a consequence of such “bodily injury”, or for any obligation to share damages with or repay someone else who must pay damages because of the injury;
- (4) Any person while employed in or otherwise engaged in duties in connection with an “auto business”, other than an “auto business” you operate; or
- (5) Any individual while acting in the course or scope of their duties as an “Employee” or “Executive Officer” while renting, leasing, driving, operating, or owning a “hired” or “non-owned” auto.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **COMMON POLICY CONDITIONS**

All Coverage Parts in this policy are subject to the following Conditions.

### **1. CANCELLATION AND NON-RENEWAL**

- A. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- B. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- C. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- D. Notice of cancellation will state the effective date of cancellation. The policy will end on that date.
- E. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata unless cancellation is due to non payment of premium, in which case the refund may be less than pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- F. If notice is mailed, proof of mailing will be sufficient proof of notice.

If we elect not to renew this policy, we shall mail written notice to the First Named Insured at the address shown in the Declarations. Such written notice of non-renewal shall be mailed at least 30 days prior to the end of the policy term.

### **2. CHANGES**

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### **3. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

If the 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 them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

### **4. REPRESENTATIONS**

By accepting this policy, you agree:

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

### **5. SERVICE OF SUIT**

It is agreed that in the event of the failure of this Company to pay any amount claimed to be due hereunder, this Company will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such Court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

It is further agreed that service of process in such suit may be made upon the Company's President, or his nominee, at the address shown on the Declarations page of this policy, and that in any suit instituted against any one of them upon this policy, this Company will abide by the final decision of

such Court or of any Appellate Court in the event of an appeal.

The above-named is authorized and directed to accept service of process on behalf of this Company in any such suit and/or upon the request of the insured to give a written undertaking to the insured that it or they will enter a general appearance upon this Company's behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States of America, which makes provision therefore, this Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their 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 as the person to whom the said officer is authorized to mail such process or a true copy thereof.

**6. TERMS, CONDITIONS AND PREMIUM**

On each renewal, continuation, anniversary of the effective date of the policy or on an annual basis, the Company will determine the rate and premium and/or amend the terms and conditions in accordance with the rates and rules then in effect.

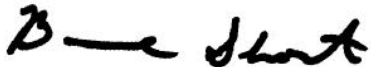
**7. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

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

In Witness Whereof, this Company has executed and attested these presents; but this policy shall not be valid unless signed by duly authorized representatives of this Company.

**VICE PRESIDENT**



**PRESIDENT**



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

## **BINDING ARBITRATION**

This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

Should we and the insured disagree as to the rights and obligations owed by us under this policy, including the effect of any applicable statutes or common law upon the contractual obligations otherwise owed, either party may make a written demand that the dispute be subjected to binding arbitration.

When such a request is made, The American Arbitration Association shall be used, with each party selecting an arbitrator from the list of qualified arbitrators for insurance coverage disputes provided by that Association. The two chosen arbitrators shall select a third arbitrator from the same list; if they cannot agree to a selection, The American Arbitration Association shall make the selection for them. Each party shall bear the costs of its arbitrator and shall share equally the costs of the third arbitrator and of the arbitration process. A decision agreed to by two of the arbitrators will be binding.

In the event you prevail in the arbitration and we promptly offer to you arbitration costs and reasonable attorney fees incurred in connection therewith, in addition to the disputed contract benefit, you shall have no right to sue us for breach of implied covenants or unreasonable withholding of contract benefits.

To the extent that we prevail in the arbitration, the arbitrators may award us any expenses and/or damages incurred or paid under reservation of rights in excess of our contract obligations as determined by the arbitrators.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **EXCLUSION – CROSS SUITS**

This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS**

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” or any other claim for damages brought by any insured covered by this policy, against any other insured that has an ownership interest in, is operated, controlled, or managed by or is a parent, subsidiary or affiliate of any such insured.

This exclusion does not apply to any additional insured added to this policy by endorsement if such additional insured is:

1. specifically named in the Schedule of such endorsement, or
2. an indemnitee in a written contract or written agreement between any Named Insured and any additional insured signed before the date of the first “occurrence” or first offense and requiring the Named Insured to add such indemnitee as an additional insured;

Provided such additional insured:

- a. is not a parent, subsidiary or affiliate of the Named insured;
- b. does not have any ownership interest in the Named insured;
- c. is not owned, operated, controlled or managed by the Named insured.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

### COMMERCIAL EXCESS LIABILITY

1. The insurance does not apply:

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

(1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or

(3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes 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".

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

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

"Nuclear facility" means:

**(a)** Any "nuclear reactor";

**(b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or 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.

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

## **FUNGI OR BACTERIA EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY**

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

- A.** Bodily Injury, Property Damage which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any “fungi” or bacteria on or within a building or structure, including it’s contents, regardless of whether any other cause, event, material, or product contributed concurrently or in any sequence to such injury or damage.
- B.** Personal and Advertising Injury which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any “fungi” or bacteria on or within a building or structure, including it’s contents, regardless of whether any other cause, event, material, or product contributed concurrently or in any sequence to such injury.
- C.** Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of, or in any way responding to, or assessing the effects of “fungi” or bacteria, by any Insured or by any other person or entity.

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

The following definition is added to Section V – Definitions of this policy:

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

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**



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

## **REAL AND PERSONAL PROPERTY CARE, CUSTODY OR CONTROL EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY COVERAGE**

This insurance does not apply to liability arising out of:

1. Property you use, own, rent or occupy, including any costs or expenses incurred by you or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
2. Property loaned to you;
3. Property in the care, custody or control of any insured;
4. Property transported by the insured; or
5. Premises you sell, give away or abandon, if the property damage arises out of any part of those premises, and occurred from hazards that were known by you, or should have reasonably been known by you, at the time the property was transferred or abandoned.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **COMBINED POLICY EXCLUSIONS**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL EXCESS LIABILITY COVERAGE**

The following exclusions are added to this policy:

#### **ABSOLUTE ASBESTOS, LEAD OR SILICA EXCLUSION**

Injury or damages, including any claim or suit, arising out of, resulting from, caused or contributed to by Asbestos, Lead or Silica is not covered under this policy, nor are any expenses nor any obligation to share damages with or repay anyone else who must pay damages from same in conjunction with occurrences arising or alleged to have arisen out of same, including but not limited to any:

- a. Bodily Injury, Personal and Advertising Injury, Property Damage or damages of any type, arising out of the inhalation, ingestion, physical exposure to, absorption of, or toxic substances of or from Asbestos, Lead or Silica in any form, or from any goods, products or structures containing same, or Property Damage or devaluation of property arising from any form of same; or
- b. Existence of Asbestos, Lead, or Silica, in any form, in occupancy or construction, or the manufacture, sale, transportation, handling, storage, disposal, or removal of same, or goods or products containing same; or
- c. Loss, cost, expense, fines and/or penalties arising out of any (1) request, demand, order, governmental authority or directive or that of any private party or citizen action that any insured, or others, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of Asbestos, Lead, or Silica, or (2) any litigation or administrative procedure in which any insured or others may be involved as a party in response to the effects or alleged effects of Asbestos, Lead, or Silica; or
- d. Supervision, instructions, recommendations, requests, warnings or advice given or which should have been given, as well as any costs, including but not limited to abatement, mitigation, removal, containment, treatment, detoxification, neutralization, or disposal of same or in any way responding to or assessing the effects of same; or
- e. Actual or alleged Asbestosis, Lead poisoning, Silicosis or any other similar condition.

This exclusion applies regardless of whether:

- a. Injury or damage claimed is included within the Products/Completed Operations Hazard of the "underlying insurance"; or
- b. An alleged cause for the injury or damage is the insured's negligent hiring, placement, training, supervision, retention, act, error or omission.

#### **CLAIM(S) IN PROGRESS EXCLUSION**

- a. This Policy does not apply to Bodily Injury, Personal and Advertising Injury or Property Damage which begins or takes place before the inception date of coverage, whether such Bodily Injury, Personal and Advertising Injury or Property Damage is known to an insured, even though the nature and extent of such damage or injury may change and even though the damage may be continuous, progressive, cumulative, changing or evolving, and even though the occurrence causing such Bodily Injury, Personal and Advertising Injury or Property Damage may be or may involve a continuous or repeated exposure to substantially the same general harm.

- b. All Property Damage to units of or within a single project or development, and arising from the same general type of harm, shall be deemed to occur at the time of damage to the first such unit, even though the existence, nature and extent of such damage or injury may change and even though the occurrence causing such Property Damage may be or involve a continuous or repeated exposure to substantially the same general harm which also continues or takes place (in the case of repeated exposure to the substantially the same general harm) during the policy term.

#### **DISCRIMINATION EXCLUSION**

Discrimination charges, of any kind, actual and alleged, are not covered under this policy, nor are any expenses or obligation to share damages with or repay another who must pay damages from same.

#### **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

Employment-Related Practices, regardless of allegations, are not covered under this policy nor are any expenses nor any obligation to share damages with or repay anyone else who must pay damages from same, including but not limited to:

- a. Refusal to employ any person or termination of employment of any person; or
- b. Any employment-related practices, policies, acts or omissions, including but not limited to coercion, demotion, evaluation, reassignment, discipline, defamation, harassment in any form, humiliation, or discrimination; or
- c. Consequential Bodily Injury or Personal and Advertising Injury as a result of a. or b.

#### **DAMAGES LIMITATION EXCLUSION**

Damages mean a monetary judgment, award, or settlement. Damages do not include:

- a. Civil or criminal fines, sanctions or penalties, whether imposed pursuant to statute or otherwise; or
- b. Judgments or awards arising from acts or omissions deemed uninsurable by law; or
- c. The restitution of consideration or expense paid to you for professional services rendered or which should have been rendered; or
- d. Disputed fees or any actual or alleged personal profit or advantage to which you are not legally entitled; or
- e. Equitable or non-pecuniary relief.

#### **DUTY TO DEFEND EXCLUSION**

Where there is no coverage under this policy, there is no duty to defend.

#### **PROFESSIONAL LIABILITY EXCLUSION**

Professional liability, malpractice, errors, omissions, or acts of any type including rendering or failure to render any type of professional service is not covered under this policy nor are any expenses nor any obligation to share damages with or repay anyone else who must pay damages from same, unless such coverage is specifically endorsed onto this policy.

#### **WAR RISK EXCLUSION**

This Company shall not be liable for loss caused directly or indirectly by:

- a. Hostile or warlike action in time of peace or war, including any action in hindering, combating or defending against an actual, impending or expected attack by:

- (1) Any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or
  - (2) Military, naval or air forces; or
  - (3) An agent of such government, power, authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such hostile or warlike action by such a government, power, authority or forces.
- b. Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **ABSOLUTE POLLUTION AND POLLUTION RELATED LIABILITY – EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE

The following exclusion is added to this policy:

Pollution/environmental impairment/contamination is not covered under this policy, nor are any expenses nor any obligation to share damages with or repay anyone else who must pay damages from same in conjunction with occurrences arising out of or alleged to have arisen out of same. All liability and expense arising out of or related to any form of pollution, whether intentional or otherwise and whether or not any resulting injury, damage, devaluation, cost or expense is expected by any insured or any other person or entity is excluded throughout this policy.

This insurance does not apply to any liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” including but not limited to any:

- a. Injury or damages for the devaluation of property, or for taking, use or acquisition or interference with the rights of others in or on property or air space, or any other type injury or expense; or
- b. Any loss, cost, expense, fines and/or penalties arising out of any (1) request, demand, order, governmental authority or directive or that of any private party or citizen action that any insured, or others, test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to, or assess same, the effects of “pollutants”, environmental impairments, contaminants or (2) any litigation or administrative procedure in which any insured or others may be involved as a party as a result of actual, alleged or threatened discharge, dispersal, seepage, migration, release, escape or placement of “pollutants”, environmental impairments, or contaminants into or upon land, premises, buildings, the atmosphere, any water course, body of water, aquifer or ground water, whether sudden, accidental or gradual in nature or not, and regardless of when.

“Pollutants” mean any solid, liquid, gaseous, fuel, lubricant, thermal, acoustic, electrical, or magnetic irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, fibers, radiation, acid, alkalis, petroleums, chemicals or “waste”. “Waste” includes medical waste, biological infectants, and all other materials to be disposed of, recycled, stored, reconditioned or reclaimed.

This exclusion applies regardless of whether:

- a. Injury or damage claimed is included within the Products/Completed Operations Hazard of the underlying policy; or
- b. An alleged cause for the injury or damage is the insured’s negligent hiring, placement, training, supervision, retention, act, error or omission.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

## **EXCLUSION – OCCUPATIONAL DISEASE**

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE

This insurance does not apply to:

- 1) any liability arising from an “occupational disease”; or
- 2) any liability arising from the fear of sustaining injury or illness resulting from an “occupational disease”.

“Occupational disease(s)” means any physical or mental disease, condition or disability of any employee(s) of any insured arising out of the insured’s operations or conditions of employment, including any disease, condition or disability from a repetitive operation or any contact with, handling of, or exposure to any environmental, chemical, or, toxic agent or substance including any dust or fumes there from arising out of the insured’s operations.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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

**EXCLUSION - E-MAILS, FAX, PHONE CALLS OR  
OTHER METHODS OF SENDING, RECORDING  
AND DISTRIBUTING MATERIAL OR  
INFORMATION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL EXCESS LIABILITY**

This insurance does not apply to:

Any claim or suit for damages or expenses due to bodily injury, property damage, personal and advertising injury arising directly or indirectly out of any action or omission that violates or is alleged to violate:

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

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**

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**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

**REJECTION OF COVERAGE  
FOR CERTIFIED ACTS OF TERRORISM COVERAGE  
(PURSUANT TO TERRORISM RISK INSURANCE ACT)**

**SCHEDULE**

**THE INSURED WAS OFFERED AND**

**HAS DECLINED TERRORISM COVERAGE ON THIS POLICY**

In accordance with the federal Terrorism Risk Insurance Act, this notice confirms that you were offered and have rejected coverage for terrorist acts certified under that Act.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES AND EXCLUSION – TERRORISM (TRIA EXEMPT COVERAGES)

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY POLICY

**A.** The following exclusion is added:

This insurance does not apply to:

**TERRORISM**

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism", or out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico), but within the "coverage territory". However, with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25 million (valued in US dollars). In determining whether the \$25 million threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ; or
3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

**B.** The following definitions are added:

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
  - a. 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;
  - b. The act resulted in damage:
    - (1) Within the United States (including its territories and possessions and Puerto Rico); or
    - (2) Outside of the United States in the case of:
      - (a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
      - (b) The premises of any United States mission; and
  - c. 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.
3. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

- C. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.
- D. When this Policy applies to commercial property-casualty insurance which is exempt from the federal Terrorism Risk Insurance Act, the following exclusion is added and applies to those exempt coverages:

**EXCLUSION OF TERRORISM**

We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or

5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs **A.5.** or **A.6.** are exceeded.

With respect to this Exclusion, Paragraphs **A.5.** and **A.6.** describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Part.

In the event of any incident of "terrorism" that is not subject to this Exclusion, coverage does not apply to "any injury or damage" that is otherwise excluded under this Coverage Part.

- E. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury or damage, are enclosed in quotation marks:
  1. "Terrorism" means activities against persons, organizations or property of any nature:
    - a. That involve the following or preparation for the following:
      - (1) Use or threat of force or violence; or
      - (2) Commission or threat of a dangerous act; or
      - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
    - b. When one or both of the following applies:
      - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
      - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
  2. "Any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

POLICY NUMBER  00059423-2	POLICY CHANGES EFFECTIVE  10/1/2015 12:01 AM Standard Time at the address of the Named Insured	COMPANY  JAMES RIVER CASUALTY COMPANY
NAMED INSURED Phi Delta Theta Fraternity (An Ohio Not For Profit Corp)		AUTHORIZED REPRESENTATIVE Richard J. Schmitzer
COVERAGE PARTS AFFECTED ALL COVERAGE PARTS		

### EXCLUSION - SPECIFIC INSUREDS EXCLUDED – AND NO PREJUDICE TO REMAINING INSUREDS

This exclusion applies to all coverage afforded by this Policy and supersedes all other similar terms and conditions.

#### Exclusion of Specific Insureds

This insurance does not apply to any liability arising out of or related to any "Chapter", "Colony" or "Undergraduate Insureds" as those terms are defined in the "underlying insurance".

#### No Prejudice or Impairment of Coverage For Other Insureds

The coverage afforded by this Policy to any person or organization not excluded above shall not be impaired or prejudiced by the payment of claims or erosion of the Limits of Insurance of the "underlying insurance" by claims against any "Chapters", "Colonies" or "Undergraduate Insureds".

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**



Authorized Representative Signature

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## POLICY CHANGES

POLICY NUMBER 00059423-2	POLICY CHANGES EFFECTIVE 10/1/2015 12:01 AM Standard Time at the address of the Named Insured	COMPANY JAMES RIVER CASUALTY COMPANY
NAMED INSURED Phi Delta Theta Fraternity (An Ohio Not For Profit Corp)		AUTHORIZED REPRESENTATIVE Richard J. Schmitzer
COVERAGE PARTS AFFECTED ALL COVERAGE PARTS		

### POLICY PROVISIONS AMENDATORY

For no change in premium, it is agreed that Commercial Excess Policy Form:

XC0002US-0607 Paragraph titled PROVISIONS is deleted in it's entirety and replaced by the following:

Various provisions in this policy restrict coverage. Read the entire policy and any underlying insurance(s) carefully to determine rights, duties, and what is covered and not covered. Throughout this policy the words "you" and "your" refer to the Named Insured in the Declarations. The words "we" and "us" refer to the COMPANY shown in the DECLARATIONS. Other words and phrases that appear in quotation marks or bold print have special meanings.

Refer to the Definitions – Section V.

**ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.**



Authorized Representative Signature

# JAMES RIVER CASUALTY COMPANY

## Privacy Policy

**We do not sell customer information to nonaffiliated third parties, and we do not share customer information with nonaffiliated third parties except those parties who perform contractual services for us, and parties to which we are authorized to provide information by law.** In addition, when we provide information to affiliates or non-affiliates, we limit those disclosures to information about your transactions and experiences with us and to disclosures otherwise permitted by law. You do not need to take any action to prevent us from selling or sharing information we obtain about you.

**We use security measures and training in our effort to protect the customer information we collect.** We protect the information we obtain about you by maintaining physical, electronic and procedural safeguards.

**We collect the following types of information about you when you purchase or use our products and services.** Most of the information that we obtain about you comes directly from you, such as through the insurance applications you submit when requesting insurance products. These applications and other inquiries we make of you allow us to learn information that we may use to contact you in the future, such as your name, address, telephone number and e-mail address. In addition, insurance applications and other information you provide enables us to determine the type and value of your insured property, the types of insurance coverages you have or in which you might be interested, and similar information.

If you visit an Internet site that we maintain, we might request or obtain information that will enable us to identify you as a registered user, such as your name, a user identification name, a password, password reminders, and your Internet service provider. We might use a "cookie" to retain some of this information. We also might obtain information about your operating system, web browser and similar information to enable us to improve the operation of our site.

When we consider products and services in which you may be interested, we often review information that we have about your past transactions with us or our affiliates, such as your existing or former policy coverages, premiums and payment history. In addition, we may learn information about your transactions with nonaffiliated third parties, including the types of products or services you obtained from them and your experiences with them. Finally, we may obtain other information from third parties that has a bearing upon your eligibility for the products or services you seek from us. This information may include your credit report or information about your creditworthiness, or other information maintained by consumer reporting agencies.

**We provide customer information only to our affiliates and to nonaffiliates that must protect your customer information.**

**We also may provide information as mentioned in this notice to nonaffiliated third parties that perform services for us or perform functions on our behalf, such as marketing and research, or to other financial institutions with which we have joint agreements for activities such as marketing. By law, our contracts with these parties must prevent them from using the information they receive about you except as described in this notice.**

Finally, we may share customer information as permitted by applicable law. This means that we will share information with parties as necessary to affect, administer, or enforce transactions that you request. For example, we might provide information to a company that processes, prints and mails our insurance policies to you, or to a company that adjusts claims under your policies. We also might disclose customer information to other entities specified by law, such as insurance advisory organizations, our attorneys and accountants, consumer reporting agencies, or civil and regulatory authorities. Federal law sets the limitations on these types of disclosures.

**We strive to keep our records as accurate as possible.** We attempt to maintain accurate records about you and we will gladly make appropriate corrections when you notify us. Of course, we do not control the accuracy of information gathered and provided by third parties, and you may need to notify third parties directly if you believe that any information we received from them is inaccurate. You may request the name and address of any consumer-reporting agency from which we obtain a report on you. You then may contact that consumer-reporting agency to request a copy of the report it makes or to advise of any changes to the information they maintain and report.

We will provide one copy of this Privacy Policy to joint contract holders. Please share this information with everyone covered under your policy or contract.