

Nautilus Insurance Company®

An Arizona Corporation

COMMERCIAL EXCESS LIABILITY POLICY

THIS POLICY IS NOT OBTAINED PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

THIS POLICY CONSISTS OF:

- Declarations;
- Commercial Excess Liability Policy Form;
- Schedule of Underlying Insurance; and
- Applicable Forms and Endorsements

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



W. Robert Berkley, Jr.
President



Philip S. Welt
Secretary

Administrative Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 509-6627

Policy Issuing Office: 7233 East Butherus Drive, Scottsdale, Arizona 85260 (480) 951-0905

Nautilus Insurance Company®

An Arizona Stock Corporation

COMMERCIAL EXCESS LIABILITY DECLARATIONS

Policy Number: AN1298602

Renewal/Rewrite of: AN1271985

Named Insured and Mailing Address
Park East Square HOA
C/O: C/O GOODWIN & COMPANY
14901 E HAMPDEN AVE
Aurora, CO 80014

"This contract is delivered as a surplus line coverage under the 'Nonadmitted Insurance Act'. The insurer issuing this contract is not licensed in Colorado but is an eligible nonadmitted insurer. There is no protection under the provisions of the 'Colorado Insurance Guaranty Association Act'." American Family Brokerage Inc. 440615 JB

Producer's Name and Mailing Address
B&A INSURANCE SOLUTIONS
6000 American Parkway
Madison, WI 53783

POLICY PERIOD: From 11/05/2023 to 11/05/2024 At 12:01 A.M. Standard Time at your mailing address shown above

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE TO PROVIDE YOU WITH THE INSURANCE AS STATED IN THIS POLICY.

THE NAMED INSURED IS: Individual Partnership Corporation Joint Venture Other
 Trust Limited Liability Company

Item I: Limits of Insurance:
Each Occurrence Limit \$ 5,000,000
Aggregate Limit \$ 5,000,000

Item II: Premium:
Deposit Premium \$ 5,357.00
Terrorism Premium \$ 0.00
Total Premium \$ 5,357.00
Policy Fee \$450.00
Surplus Lines Tax \$174.21
Total \$5,981.21

Item III: Minimum Retained Premium:
If the insured cancels this policy, we will retain no less than \$250 or 25% of the Total Premium, whichever is greater.

Item IV: Forms attached at inception:
See Schedule of Forms EU 00 05



Authorized Representative

SCHEDULE OF UNDERLYING INSURANCE

This Schedule of "underlying insurance" is incorporated into and made part of the Declarations to which it is attached.

Commercial General Liability (01)

Company: Nautilus Insurance Company ,
NN1621292

Policy Period: From: 11/5/2023 To: 11/5/2024

Coverage: Occurrence

Limits of Insurance

Each Occurrence	\$	1,000,000	
General Aggregate	\$	2,000,000	
Products-Completed Operations Aggregate	\$	1,000,000	
Personal And Advertising Injury	\$	1,000,000	Any one person or organization

SCHEDULE OF FORMS

Named Insured: Park East Square HOA

Policy No.: AN1298602

FORM NUMBER		TITLE
JNE0944	(07/20)	NIC Commercial Excess Liability Policy Jacket
DNE2110	(01/19)	Nautilus Excess Liability Policy Declarations
DE2510	(10/21)	Schedule Of Underlying Insurance
EU0005	(10/14)	Schedule of Forms
NE0031	(01/19)	Commercial Excess Liability Policy
E609	(09/21)	Economic or Trade Sanctions Endorsement
E906CO	(07/22)	Service of Suit - Colorado
E915	(09/21)	U.S. Treasury Department's Office of Foreign Assets Control (OFAC) Advisory Notice to Policyholders
E919	(01/23)	Privacy Notice
NE0062	(01/19)	Exclusion - Employee Benefits Liability
NE0072	(01/19)	Exclusion - All Autos
NE0074	(03/22)	Exclusion - Employer's Liability
NE0082	(01/19)	Exclusion of Certified Acts of Terrorism
NE0095	(03/22)	Exclusion – Cyber Incident
NE0100	(01/19)	Exclusion - Unmanned Aircraft
NE0101	(01/19)	Exclusion - Professional Services
NE0134	(10/21)	Exclusion - Communicable or Infectious Disease
NE0142	(12/22)	Exclusion - Perfluoroalkyl And Polyfluoroalkyl Substances (PFAS)
NE0144	(04/23)	Exclusion - Biometric Information

COMMERCIAL EXCESS LIABILITY POLICY

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance. The word "insured" means any person or organization qualifying as such under the "underlying insurance".

Other words and phrases that appear in quotation marks in this policy have special meaning. Refer to Section **IV** – Definitions. Other words and phrases that are not defined under this policy but defined in the "underlying insurance" will have the meaning described in the policy of "underlying insurance".

The insurance provided under this policy will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance", unless otherwise directed by this insurance. To the extent such provisions differ or conflict, the provisions of this policy will apply. However, the coverage provided under this policy will not be broader than that provided by the applicable "underlying insurance".

There may be more than one "underlying insurance" policy listed in the Schedule of "underlying insurance" and provisions in those policies conflict, and which are not superseded by the provisions of this policy. In such a case, the provisions, exclusions and limitations of the "underlying insurance" applicable to the particular "event" for which a claim is made or suit is brought will apply.

SECTION I – COVERAGES

1. Insuring Agreement

- a. We will pay the "ultimate net loss" in excess of the limits shown in the Schedule of "underlying insurance" because of "injury or damage" to which this insurance applies, provided that the "underlying insurance" also applies, or would apply but for the exhaustion of its applicable limits of insurance.

We will have the right and duty to defend the insured against any suit seeking damages for such "injury or damage" when the applicable limits of "underlying insurance" have been exhausted in accordance with the provisions of such "underlying insurance" by actual payment of the "underlying insurance" limits. An offer to pay or a tender of limits of "underlying insurance" are not considered to be exhaustion of such "underlying insurance" limits.

When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other suit seeking damages for "injury or damage".

However, we will have no duty to defend the insured against any suit seeking damages for which insurance under this policy does not apply.

But:

- (1) The amount we will pay for "ultimate net loss" is limited as described in Section **II** – Limits Of Insurance; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this policy. However, if the policy of "underlying insurance" specifies that limits are reduced by defense expenses, our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of defense expenses, judgments or settlements under this policy.
- b. This insurance applies to "injury or damage" that is subject to the applicable Limits Of Insurance shown on the Schedule of "underlying insurance". If any other limit, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "injury or damage" arising out of that coverage.

- c. If the "underlying insurance" requires, for a particular claim, that the "injury or damage" occur during its policy period in order for that coverage to apply, then this insurance will only apply to that "injury or damage" if it occurs during the policy period of this policy. If the "underlying insurance" requires that the "event" causing the particular "injury or damage" takes place during its policy period in order for that coverage to apply, then this insurance will apply to the claim only if the "event" causing that "injury or damage" takes place during the policy period of this policy.
- d. Any additional insured under any policy of "underlying insurance" will automatically be an additional insured under this insurance. If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance required by the contract, less any amounts payable by any "underlying insurance".

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "underlying insurance".

2. Exclusions

The following exclusions, and any other exclusions added by endorsement, apply to this policy. In addition, the exclusions applicable to any "underlying insurance" apply to this insurance unless superseded by the following exclusions, or superseded by any other exclusions added by endorsement to this policy.

Insurance provided under this policy does not apply to:

a. Asbestos

- (1) "Injury or damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, asbestos or products containing asbestos.
- (2) Any loss, cost or expense arising, in whole or in part, 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, asbestos or products containing asbestos, by any insured or by any other person or entity.
- (3) The cost or expense of compliance with any law or regulation regarding asbestos or products containing asbestos.
- (4) Any obligation to share damages with or repay someone else in connection with (1), (2), or (3) of this exclusion.

b. Auto

Any loss, cost or expense payable under or resulting from any of the following auto coverages:

- (1) First-party physical damage coverage;
- (2) No-fault coverage;
- (3) Personal injury protection or auto medical payments coverage; or
- (4) Uninsured or underinsured motorists' coverage.

c. Employee Retirement Income Security Act (ERISA)

Any obligation of the insured under the Employee Retirement Income Security Act of 1974 (ERISA), and any amendments thereto or any similar federal, state or local statute.

d. Employment-Related Practices

"Injury or damage" to:

- (1) A person arising out of and in the course of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination, or malicious prosecution directed at that person.

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "injury or damage" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies whether the injury-causing event described in Paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person.

This exclusion applies whether the insured may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

e. Fungi Or Bacteria

- (1) "Injury or damage" which would not have occurred, in whole or in part, but for actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such "injury or damage".
- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.
- (3) The cost or expense of compliance with any law or regulation regarding "fungi" or bacteria.
- (4) Any obligation to share damages with or repay someone else in connection with (1), (2) or (3) of this exclusion.

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

f. Lead

- (1) "Injury or damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, lead or products containing lead.
- (2) Any loss, cost or expense arising, in whole or in part, 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, lead or products containing lead, by any insured or by any other person or entity.
- (3) The cost or expense of compliance with any law or regulation regarding lead or products containing lead.
- (4) Any obligation to share damages with or repay someone else in connection with (1), (2), or (3) of this exclusion.

g. Medical Payments

Medical payments coverage or expenses that are provided without regard to fault, whether or not provided by the applicable "underlying insurance".

h. Named Insured Versus Named Insured

Any "injury or damage" for which any Named Insured or its employees is legally liable and costs or expenses of any Named Insured or its employees arising out of, caused, or contributed to by any "injury or damage" claimed by any other Named Insured or its employees.

i. Nuclear Energy Liability

- (1) Under any Liability Coverage, to "injury or damage":
 - (a) 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
 - (b) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:

- (i) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (ii) 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.
- (2) Under any Liability Coverage, to "injury or damage" resulting from "hazardous properties" of "nuclear material", if:
 - (a) The "nuclear material":
 - (i) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (ii) Has been discharged or dispersed therefrom;
 - (b) 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
 - (c) The "injury or 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 (c) applies only to property damage to such "nuclear facility" and any property thereat.

(3) As used in this exclusion:

"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".

"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:
 - (i) Separating the isotopes of uranium or plutonium;
 - (ii) Processing or utilizing "spent fuel"; or
 - (iii) 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.

"Injury or damage" includes all forms of radioactive contamination of property.

j. Pollution

- (1) "Injury or damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release, or escape of pollutants at any time; or
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement 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, pollutants;
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, pollutants; or
 - (c) Requirements by Environmental Protection Agency (EPA) 40 CFR Parts 280 and 281 for underground storage tanks, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or any similar State or Federal environmental act(s).

k. Recording And Distribution of Material Or Information In Violation Of Law

"Injury or damage" 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 Transactions 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.

l. Silica

- (1) "Injury or damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- (2) Any loss, cost or expense arising, in whole or in part, 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, "silica" or "silica-related dust", by any insured or by any other person or entity.
- (3) The cost or expense of compliance with any law or regulation regarding "silica" or "silica-related dust".
- (4) Any obligation to share damages with or repay someone else in connection with (1), (2), or (3) of this exclusion.

m. Sublimited Coverage

"Injury or damage" arising out of any coverage that is subject to a limit of insurance that is less than the limit for "underlying insurance" shown in the Schedule of "underlying insurance".

n. War

"Injury or damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion, or revolution.

o. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

SECTION II – LIMITS OF INSURANCE

1. The Limits Of Insurance shown in the Declarations, and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or suits brought, or number of vehicles involved;
 - c. Persons or organizations making claims or bringing suits; or
 - d. Limits available under any "underlying insurance".
2. The Limits Of Insurance of this policy will apply as follows:
 - a. This insurance only applies in excess of the limits shown in the Schedule of "underlying insurance".
 - b. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss", for all "injury or damage" covered under this policy.

However, this Aggregate Limit only applies to "injury or damage" that is subject to an aggregate limit of insurance under the "underlying insurance".
 - c. Subject to Paragraph **2.b.** above, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under this insurance because of all "injury or damage" arising out of any one "event".
 - d. If the Limits Of Insurance of the "underlying insurance" are reduced by defense expenses by the terms of that policy, any payments for defense expenses we make will reduce our applicable Limits Of Insurance in the same manner.
3. If any "underlying insurance" has a policy period that is different from the policy period of this policy then, for the purposes of this insurance, the limits shown in the Schedule of "underlying insurance" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limit of this policy applies separately to each consecutive annual period of this policy and to any remaining period of this policy of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period 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 period for purposes of determining the Limits Of Insurance.

SECTION III – CONDITIONS

The following conditions apply. In addition, the conditions applicable to any "underlying insurance" are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. Appeals

If the "underlying insurance" carrier(s) or insured elects not to appeal a judgment in excess of the amount of the limits shown in the Schedule of "underlying insurance", we may do so at our own expense. If we elect to appeal we may also pay for:

- a. Taxable court costs;
- b. Pre- and post-judgment interest; and
- c. Disbursements associated with such appeal.

In no event will this provision increase our liability beyond the applicable Limits Of Insurance described in Section II – Limits Of Insurance.

2. Bankruptcy

a. Bankruptcy Of Insured

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

b. Bankruptcy Of Underlying Insurer

Bankruptcy or insolvency of the "underlying insurance" carrier(s) will not relieve us of our obligations under this policy.

However, insurance provided under this policy will not replace any "underlying insurance" in the event of:

- a. Bankruptcy or insolvency of the insured; or
- b. Its "underlying insurance" carrier(s).

The insurance provided under this policy will apply as if the "underlying insurance" were in full effect and recoverable.

3. Duties In The Event Of An Event, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "event", regardless of the amount, which may result in a claim under this insurance. To the extent possible, notice should include:

- (1) How, when and where the "event" took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any "injury or damage" arising out of the "event".

- b. If a claim is made or suit is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or suit and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or suit as soon as practicable.

- c. You and any other insured involved must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the suit; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury or damage" to which this insurance may also apply.

- d. No insured will, except at that insured's own cost:

- (1) Voluntarily make a payment;
 - (2) Assume any obligation; or
 - (3) Incur any expense, other than for first aid;
- without our consent.

4. First Named Insured Duties

The first Named Insured is the person or organization first named in the Declarations and is responsible for the payment of all premiums. The first Named Insured will act on behalf of all other Named Insureds for:

- a. Giving and receiving of notice of cancellation; or
- b. The receipt of any return premium that may become payable.

At our request, the first Named Insured will furnish us, as soon as practicable, with:

- a. A complete copy of any "underlying insurance"; and
- b. Any subsequently issued endorsements or policies which may in any way affect the insurance provided under this policy.

5. Cancellation

- 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 period 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. 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.

6. 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 by all other insureds to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes To Underlying Insurance

Any "underlying insurance" must be maintained in full effect without reduction of coverage or limits except for the reduction of aggregate limits in accordance with the provisions of such "underlying insurance" that results from "injury or damage" to which this insurance applies.

Such exhaustion or reduction is not a failure to maintain "underlying insurance". Failure to maintain "underlying insurance" will not invalidate insurance provided under this policy, but insurance provided under this policy will apply as if the "underlying insurance" were in full effect.

The first Named Insured must notify us in writing, as soon as practicable, if:

- a. Any "underlying insurance" is:
 - (1) Cancelled;
 - (2) Not renewed;
 - (3) Replaced; or
 - (4) Otherwise terminated; or
- b. The limits or scope of coverage of any "underlying insurance" is changed.

8. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This insurance is also excess over any other insurance available to an additional insured.

This condition will not apply to insurance specifically written as excess over this policy.

When this insurance is excess, if no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of the insurance provided under this policy; and
 - (2) The total of all deductible and self-insured amounts under all that other insurance.

9. Premium Audit

- a. We will compute all premiums for this policy in accordance with our rules and rates.
- b. If this policy is auditable, the premium shown in this policy is a deposit premium only. At the close of each audit period, we will:

- (1) Compute the earned premium for that period; and
- (2) Send notice to the first Named Insured.

The due date for audit premium is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured, but not if such audit premium is less than the Minimum Premium shown in the Declarations.

- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

10. Loss Payable

Liability under this policy does not apply to a given claim unless and until:

- a. The insured or insured's "underlying insurance" carrier(s) has become obligated to pay the limits shown in the Schedule of "underlying insurance"; and
- b. The obligation of the insured to pay the "ultimate net loss" in excess of the limits shown in the Schedule of "underlying insurance" has been determined by a:

- (1) Final settlement or judgment; or
- (2) Written agreement;

among the insured, claimant, "underlying insurance" carrier(s) (or a representative of one or more of these) and us.

11. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a suit asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that:

- a. Are not payable under the terms of this policy; or
- b. Are in excess of the applicable limit of insurance.

An agreed settlement means a settlement and release of liability signed by us, the insured, "underlying insurance" carrier(s) and the claimant or the claimant's legal representative.

12. Transfer Of Defense

a. Defense Transferred To Us

When the limits of "underlying insurance" have been exhausted in accordance with the provisions of "underlying insurance", we may elect to have the defense transferred to us. We will cooperate in the transfer of control to us of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "underlying insurance" had the applicable limit not been exhausted.

b. Defense Transferred By Us

When our Limits Of Insurance have been exhausted, our duty to provide a defense will cease.

We will cooperate in the transfer of control of defense to any insurer specifically written as excess over this policy of any outstanding claims or suits seeking damages:

- (1) To which this insurance applies; and
- (2) Which would have been covered by the "underlying insurance" had the applicable limit not been exhausted.

In the event that there is no insurance written as excess over this policy, we will cooperate in the transfer of control to the insured and its designated representative.

13. No Duty To Notify If We Do Not Renew

If we decide not to renew this policy, we are under no obligation to mail or deliver notice of nonrenewal to any insured.

SECTION IV – DEFINITIONS

The definitions applicable to any "underlying insurance" also apply to this insurance. In addition, the following definitions apply.

1. "Event" means an occurrence, offense, accident, act, or other event, to which the applicable "underlying insurance" applies.
2. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, wet or dry rot, scents or byproducts produced or released by fungi.
3. "Injury or damage" means any injury or damage, covered in the applicable "underlying insurance" arising from an "event".
4. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
5. "Silica-related dust" means a mixture or combination of silica and other dust or particles.
6. "Ultimate net loss" means the total sum, after reduction for recoveries, or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of:
 - a. Settlements, judgments, binding arbitration; or
 - b. Other binding alternate dispute resolution proceeding entered into with our consent."Ultimate net loss" includes defense expenses if the "underlying insurance" specifies that limits are reduced by defense expenses.
7. "Underlying insurance" means any policy of insurance or self-insurance listed in the Schedule of "underlying insurance". Claims-made policies or endorsements will not be considered as "underlying insurance".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ECONOMIC OR TRADE SANCTIONS ENDORSEMENT

No insurer shall be deemed to provide cover and no insurer shall be liable to defend any claim, pay any claim or provide any benefit under this policy to the extent that the provision of such cover, defense, payment or benefit would expose that insurer to any sanction, prohibition or restriction under any economic or trade sanctions laws or regulations of the United States of America, Canada, United Kingdom or European Union. Affected policy provisions also include, but are not limited to, those relating to cancellation, nonrenewal, premium or payments.

Economic or trade sanctions laws or regulations shall include, but not be limited to, those laws or regulations administered and enforced by the United States Department of Treasury's Office of Foreign Assets Control ("OFAC").

All other terms and conditions remain unchanged.

SERVICE OF SUIT – COLORADO

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Company providing this insurance 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 its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of you 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.

It is further agreed that service of process in such suit may be made upon CT Corporation System at 7700 E Arapahoe Road, Suite 220, Centennial, CO 80112 and that in any suit instituted against the Company upon this policy, it will abide by the final decision of such Court or of any Appellate Court in the event of an appeal. Nothing herein shall constitute a selection or designation of forum, or a waiver of any of the Company's rights to select a forum or court, including any of the federal courts of the United States. This includes any right to commence an action in or remove or transfer an action to the United States District Court or any other court of competent jurisdiction, as permitted by law.

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC) ADVISORY NOTICE TO POLICYHOLDERS

PLEASE READ THIS NOTICE CAREFULLY.

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to economic or trade sanctions laws or regulations of the United States of America that are administered and enforced by the Office of Foreign Assets Control ("OFAC").

OFAC administers and enforces sanctions policy under federal law and/or Presidential declarations of national emergency. Based on economic and trade sanctions laws and regulations of the United States, Canada, United Kingdom, European Union, and other governments, OFAC maintains and publishes a list of foreign governments and agents, front organizations, terrorists, terrorist organizations and narcotics traffickers as Specially Designated Nationals. This list can be located on the United States Treasury's web site: <http://www.treasury.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments or premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply, including payments of policy benefits to third parties.

PRIVACY NOTICE

W. R. Berkley Corporation Notice of Privacy Policies

For additional information about our Privacy Policies and how we collect, use, and share personal information, and to make a consumer request, please see our online Privacy Policy at: <https://www.berkley.com/privacy>.

If you would like to receive a paper copy of this Notice and/or our Privacy Policies, please contact us at either nic_regulatory@nautilus-ins.com or 480-509-6627.

Notice of Personal Information Collected (Pursuant to the California Consumer Privacy Act, as revised by the California Privacy Rights Act (collectively, the CCPA))

This notice applies only to information received and collected by W. R. Berkley Corporation ("Berkley") from residents of the state of California. Berkley's insurance business is conducted through more than 50 operating units that underwrite on behalf of the various insurance company subsidiaries. Most operating units are not legal entities.

In this notice, when we refer to "we", "us", "our" or "operating unit(s)" it means one or more of Berkley and/or its operating units and insurance company subsidiaries.

When we refer to "you" or "your" in this notice, we mean a resident of the state of California who is a potential customer, customer, contractor, claimant or other person related to an insurance policy or claim, and whose personal information we may collect. More information about W. R. Berkley Corporation operating unit subsidiaries can be found on <https://www.berkley.com/businesses>.

Below is a table showing the categories of personal information that we may collect in the course of performing insurance services and how it is used. Not every operating unit collects every category of personal information or uses it in all the ways listed below.

For additional information about how we collect, use, and share and disclose personal information about California consumers' rights under the CCPA, and to make a consumer request, please see our California Consumer Privacy Policy at: <https://www.berkley.com/privacy#californiaCollectionAtNotice>.

[continued on next page]

Personal Information Category	How it is Used
<p style="text-align: center;">Identifiers</p> <p>(such as real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, social security #, driver's license #, passport #, or other similar identifiers.)</p> <p>Any categories of personal information described in subdivision (e) of Section 1798.80 of the California Civil Code</p> <p>(such as signature, telephone #, insurance policy #, bank account number, credit card number, etc.)</p> <p>Other Sensitive Information under California Law (Examples: physical description, financial information, medical information, etc.)</p> <p>Characteristics of protected classifications under California or federal law (Examples: race, sex, color, religion, national origin, marital status, etc.)</p> <p>Biometric information (Examples: fingerprints, keystroke patterns, gait patterns, sleep/health data, etc.)</p> <p>Geolocation Data (Information to identify physical location)</p> <p>Audio, electronic, visual, thermal, olfactory, or similar information (Examples: audio and video recordings)</p> <p>Professional or employment-related information (Examples: job history, education history, etc.)</p> <p>Education information (information not publicly available as defined as information that is not publicly available personally identifiable information as defined in the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99))</p>	<p>To perform insurance services for policyholders/beneficiaries/claimants; maintain and improve quality of services; security; prevent fraud and improper use; internal research; identify and repair errors; comply with laws and regulations.</p>
<p>Commercial information (Examples: records of personal property, products, and services purchased or obtained, etc.)</p>	<p>To perform insurance services for policyholders/beneficiaries/claimants; security; prevent fraud and improper use; internal research; collections; comply with laws and regulations.</p>
<p>Internet or other electronic network activity information (Examples: browsing/search history, visitor's interaction with a website, etc.)</p>	<p>To perform insurance services for policyholders/beneficiaries/claimants; maintain and improve quality of services; security; prevent fraud and improper use; internal research; identify and repair errors; comply with laws and regulations.</p>
<p>Inferences drawn from any of the other information identified in this subdivision (use of any of the above categories to create a profile about a consumer)</p>	<p>To perform insurance services for policyholders/beneficiaries/claimants; maintain and improve quality of services; security; prevent fraud and improper use; internal research; identify and repair errors; comply with laws and regulations.</p>

This notice was updated on January 1, 2023

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – EMPLOYEE BENEFITS LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to any act, error or omission of any insured or of any other person committed in the "administration" of an "employee benefit program".

As used in this exclusion:

a. "Administration" includes but is not limited to:

- (1) Providing information to employees, including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
- (2) Handling records in connection with the "employee benefit program"; or
- (3) Effecting, continuing or terminating any employee's participation in any benefit included in the "employee benefit program".

b. "Employee benefit program" means a program providing some or all of the following benefits to employees:

- (1) Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts;
- (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans;
- (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits;
- (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
- (5) Any other similar benefits.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ALL AUTOS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

The following exclusion is **added** to Paragraph **2. Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to “injury or damage” arising out of the ownership, maintenance, use, loading or unloading of any auto.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – EMPLOYER’S LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to “injury or damage” to:

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

This exclusion applies whether any insured may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

To the extent coverage is provided by "underlying insurance" for liability assumed by the insured under an insured contract, this exclusion does not apply to liability assumed by an insured.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

Any endorsement addressing acts of terrorism (however defined) in any "underlying insurance" does not apply to this excess insurance. The following provisions addressing acts of terrorism apply with respect to this excess insurance:

A. The following exclusion is **added** to Paragraph **2. Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to:

"Injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

B. The following definition is **added** to **SECTION IV - DEFINITIONS**:

"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:

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.

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 policy.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CYBER INCIDENT

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

A. The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

Insurance provided under this policy does not apply to:

Cyber Incident

"Injury or damage", costs or expenses, either directly or indirectly because of, caused by or arising out of:

1. Any:

- a.** Access to, acquisition, use, collection, copying, processing, storage, dissemination, publication or disclosure of;
- b.** Theft, alteration, misuse, loss, misappropriation, disruption of, or damage to; or
- c.** Failure to provide access to, remove, rectify, destroy, protect or secure, including, but not limited to, failure to encrypt;

any person's or organization's "confidential information", whether it is "electronic data" or in any other form or media.

2. The loss of, loss of use of, corruption or impairment of, damage to, disruption or destruction of, or inability to access, alter or manipulate "electronic data".

3. Any of the following:

- a.** Denial of service attack on;
- b.** Misappropriation, diversion, loss or misuse of; or
- c.** Denial of access to or service of, interruption of service, degradation, loss of use, alteration, failure, destruction, corruption, or impairment of;

any "computer system", including any insured's or other person's or organization's "computer system".

4. Malicious code, virus or any other harmful code that:

- a.** Is directed at, enacted upon or introduced into "electronic data" or any "computer system"; or
- b.** Is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, exploit, use, prevent or restrict access to, or otherwise disrupt the normal functioning or operation of "electronic data" or any "computer system".

5. Transfer, payment or delivery of money or any form of currency, including virtual currency, in response to a fraudulent instruction or demand.

6. Demand for a ransom payment (in money, or any form of currency, including virtual currency, or property or services), made in connection with the actual or threatened perpetuation of that which is described in paragraphs 1. through 5. above.

Such "injury or damage", costs or expenses are excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "injury or damage", costs or expenses.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, payment card replacement costs, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraphs 1. through 6. above.

This exclusion applies to any liability, "injury or damage", costs or expenses either directly or indirectly because of, caused by or arising out of any failure (including, but not limited to, failure to timely or properly act) to notify of, disclose, prepare for, respond to, protect against, remediate, mitigate or comply with any statutory, regulatory, contractual, common law or other legal obligation relating to that described in paragraphs 1. through 6. above.

This exclusion applies regardless of culpability or intent, or whether the claim alleges negligence or other wrongdoing, in whole or in part, arising out of hiring, placing, managing, supervising, employing, training or monitoring of others, or the maintenance or security of any premises.

If there is any duty or obligation to defend or pay for a defense in the policy to which this endorsement is attached, the duty or obligation will not apply to any claim, suit or proceeding that alleges or is, directly or indirectly, in whole or in part, caused by, resulting from or relating to any of the above.

B. With respect to this endorsement, the following definitions are added under SECTION IV – DEFINITIONS:

1. "Computer system" means:
 - a. Any computer hardware, including but not limited to:
 - (1) Computers;
 - (2) Transportable, mobile or handheld devices;
 - (3) Data storage and data processing devices;
 - (4) Networking equipment and backup facilities, including cloud computing devices and facilities;
 - (5) Associated input and output devices (including, but not limited to, wireless and mobile devices);
 - (6) Any related peripheral components; or
 - (7) Communication networks, connected to or used in connection with such computers, equipment, facilities or devices.
 - b. Firmware and electronic instructions that direct the operation and function of a computer or devices connected to it, which enables the computer or devices to receive, process, store or send "electronic data".
2. "Confidential information" means nonpublic information, confidential information, personal information or personal data, including, but not limited to:
 - a. Non-public information about a person that allows such person to be uniquely and reliably identified or allows access to the person's financial account or medical records information;
 - b. Patents, trade secrets, processing methods, customer or customer-related information (including, but not limited to, customer lists); or
 - c. Business plans or records, financial information, personally identifiable information, credit or payment card information (including, but not limited to, credit, debit or stored value cards), medical or health information or any type or combination of types of the foregoing.
3. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

A. The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I –COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to:

“Injury or damage” arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and loading or unloading.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “event” which caused the “injury or damage” involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

As used in this exclusion, loading or unloading means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an "unmanned aircraft";
- b. While it is in or on an "unmanned aircraft"; or
- c. While it is being moved from an "unmanned aircraft" to the place where it is finally delivered;

but loading or unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the "unmanned aircraft".

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

"Unmanned aircraft" means an aircraft that is not:

1. Designed;
2. Manufactured; or
3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PROFESSIONAL SERVICES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

SCHEDULE

Designated Professional Services: **Professional services:**
1. Covered by “underlying insurance”; and
2. Shown in the Schedule of “underlying insurance”

The following exclusion is **added** to Paragraph **2. Exclusions** of **SECTION I –COVERAGES**:

2. Exclusions

Insurance provided under this policy does not apply to “injury or damage” arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- a. Accounting, advertising or legal services;
- b. Body piercing services;
- c. Engineering services, including related supervisory or inspection services;
- d. Financial planning, banking, investing, retirement planning or benefits advice, services or instruction, or stock, bond or fund brokering or trading services;
- e. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies;
- f. Health or therapeutic service treatment, advice or instruction;
- g. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- h. Insurance advice, sales or services;
- i. Law enforcement or firefighting services;
- j. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- k. Optometry, optical, audiology or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- l. Pastoral care, services, advice or instruction;
- m. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- n. Psychiatric, psychological, social work, or addiction counseling, treatment, advice or instruction;
- o. Service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- p. Service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- q. Services in the practice of pharmacy;
- r. Teaching or tutoring activities or services; and
- s. Veterinary services, treatment, advice or instruction.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "event" which caused the "injury or damage" involved the rendering of or failure to render any professional service.

This exclusion does not apply to professional services shown in the Schedule above if valid “underlying insurance” exists or would have existed but for the exhaustion of “underlying limits” for such injury or damage.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – COMMUNICABLE OR INFECTIOUS DISEASE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

A. The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

- a. Insurance provided under this policy does not apply to "injury or damage" arising directly or indirectly from any actual or alleged transmission of or exposure to a "communicable or infectious disease".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- (1) Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a "communicable or infectious disease";
- (2) Testing for a "communicable or infectious disease";
- (3) Failure to suppress or prevent the spread of the "communicable or infectious disease"; or
- (4) Failure to report the "communicable or infectious disease" to authorities.

- b. This exclusion also applies to any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement 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 any "communicable or infectious disease"; or
- (2) "Injury or damage" alleged by or on behalf of any authority, governmental or otherwise, because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of any "communicable or infectious disease".

- c. This exclusion does not apply to any claim of "injury or damage" arising out of the actual or alleged consumption of food that is sold for human consumption and that contains:

- (1) *Campylobacter*, *Clostridium perfringens*, *E. coli*, *Listeria monocytogenes*, *Salmonella*, *Staphylococcus aureus*, *Vibrio alginolyticus*, *Vibrio parahaemolyticus*, or *Vibrio vulnificus*;
- (2) *Cryptosporidium parvum*, *Giardia duodenalis*, *Taenia saginata*, *Taenia solium*, *Toxoplasma gondii*, or *Trichinella spiralis*;
- (3) Hepatitis A; or
- (4) Norovirus, Astrovirus, Sapovirus, Rotavirus or variants or mutations thereof which were known, identified and generally accepted by the United States Centers for Disease Control and Prevention as of the effective date of this policy.

- d. Except with respect to Paragraph c. above, we will have no duty to defend or indemnify any insured in any action or proceeding alleging "injury or damage" arising out of any "communicable or infectious disease".

B. For the purposes of this endorsement the following definition is **added** to **SECTION IV – DEFINITIONS**:

"Communicable or infectious disease" means any disease, illness or condition contracted through direct or indirect contact with or exposure to any form of pathogens such as, but not limited to, bacterium, fungus, marker, microbial agent, microorganism, organism, protozoa, virus or any other source that induces or is capable of inducing the disease, illness or condition.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES (PFAS)

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

A. The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

- a. Insurance provided under this policy does not apply to "injury or damage" which would not have occurred, in whole or in part, but for the actual, alleged, threatened or suspected inhalation, ingestion, absorption, consumption, discharge, dispersal, seepage, migration, release or escape of, contact with, exposure to, existence of, or presence of, any "perfluoroalkyl or polyfluoroalkyl substances".
- b. Any loss, cost or expense arising, in whole or in part, 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, "perfluoroalkyl or polyfluoroalkyl substances", by any insured or by any other person or entity.

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

"Perfluoroalkyl or polyfluoroalkyl substances" means any:

1. Chemical or substance that contains one or more alkyl carbons on which hydrogen atoms have been partially or completely replaced by fluorine atoms, including but not limited to:
 - a. Polymer, oligomer, monomer or nonpolymer chemicals and their homologues, isomers, telomers, salts, derivatives, precursor chemicals, degradation products or by-products;
 - b. Perfluoroalkyl acids (PFAA), such as perfluorooctanoic acid (PFOA) and its salts, or perfluorooctane sulfonic acid (PFOS) and its salts;
 - c. Perfluoropolyethers (PFPE);
 - d. Fluorotelomer-based substances; or
 - e. Side-chain fluorinated polymers; or
2. Good or product, including containers, materials, parts or equipment furnished in connection with such goods or products, that consists of or contains any chemical or substance described in Paragraph **B.1**.

The addition of this endorsement does not imply that other policy provisions, including but not limited to any pollution exclusion, do not exclude coverage for "perfluoroalkyl or polyfluoroalkyl substances" related "injury or damage", expense, loss, demand, claim, liability or legal obligation

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – BIOMETRIC INFORMATION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY POLICY

A. The following exclusion is **added** to Paragraph 2. **Exclusions** of **SECTION I – COVERAGES**:

2. Exclusions

This insurance does not apply to:

Biometric Information

"Injury or damage", costs, or expenses, either directly or indirectly because of, caused by or arising out of:

- a. Any actual or alleged collection, use, access, safeguarding, sharing, storage, retention, conversion, disclosure, printing, recording, sale, disposal, transmitting, distributing, or destruction of any "biometric identifiers" or "biometric information", or failure to obtain consent for any of the foregoing; or
- b. A claim, investigation, demand, suit or proceeding involving an actual or alleged invasion of privacy or violation of a right to privacy involving or related to "biometric identifiers" or "biometric information"; or
- c. An actual or alleged violation of any privacy law, including the Illinois Biometric Information Privacy Act (BIPA), the California Consumer Privacy Act (CCPA), the California Privacy Rights Act (CPR), European Union General Data Protection Regulation (GDPR) or any other similar law, ordinance, regulation, or statute anywhere in the world that governs or relates to the collection, use, access, safeguarding, sharing, storage, retention, conversion, disclosure, printing, recording, sale, disposal, transmitting, distributing, or destruction of any "biometric identifiers" or "biometric information" or obtaining consent for any of the foregoing.

This exclusion applies regardless of any insured's culpability or intent and regardless of whether the claim, investigation, demand, suit, proceeding or allegation against any insured alleges negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by any insured.

We will have no duty to investigate, defend or indemnify any insured against any loss, claim, suit, demand, fine, or proceeding alleging damages of any kind arising out of any of the above.

B. The following definitions are **added** to **Section IV – Definitions**:

1. "Biometric identifiers" means any physical, genetic, physiological, biological, or behavioral characteristic or attribute that allows an individual to be identified. Without limiting the foregoing, "biometric identifiers" includes but is not limited to the following:
 - a. Retina or iris scan;
 - b. Fingerprint;
 - c. Voiceprint;
 - d. DNA;
 - e. Finger, hand, or palm scan;
 - f. Scan of hand or face geometry;
 - g. Vein patterns;
 - h. Voice recordings;
 - i. Keystroke patterns or rhythms;
 - j. Gait patterns or rhythms;

- k.** Sleep, health, or exercise data that contain identifying information; or
 - l.** Any other biometric algorithm or measurement of **a.** through **k.** or any other physical, genetic, physiological, biological or behavioral characteristic or attribute which allows an individual to be identified.
- 2.** "Biometric information" means any information, regardless of how it is captured, converted, stored, or shared, that is based on, or includes, any "biometric identifiers".

All other terms and conditions remain unchanged.