



Philadelphia Insurance Companies
One Bala Plaza, Suite 100, Bala Cynwyd, Pennsylvania 19004

EXCESS INSURANCE POLICY

In consideration of the payment of the premium and in reliance on all statements made and information furnished to the Insurer designated in the Declarations, a stock insurance corporation, hereinafter called the "Insurer", and/or to the insurers of the **Underlying Insurance**, including the statements made in the **Primary Policy** application and any materials submitted therewith, made a part hereof, and subject to the provisions of this Policy, the Insurer agrees that:

I. INSURING AGREEMENT

The Insurer shall provide the **Insureds** with excess coverage over the **Underlying Insurance** during the **Policy Period** with respect to claims made against the **Insureds**. Coverage hereunder shall attach only after **Underlying Insurance** has been exhausted by payments for losses and shall then apply in conformance with the provisions of the **Primary Policy**, together with the provisions of the **Underlying Excess Policies**, except for premium, Limit of Liability, and as otherwise specifically set forth in the provisions of this Policy. In no event shall this Policy provide broader coverage than is provided by the most restrictive terms of the **Underlying Insurance**.

II. POLICY DEFINITIONS

- A. "**Insureds**" means those persons or entities insured under the **Underlying Insurance**.
- B. "**Policy Period**" means the period from the effective date of this Policy to the Policy expiration date, as set forth in Item 2. of the Declarations, or its earlier cancellation date or termination date, if any. If the Extended Reporting Period is purchased, then such period shall be part of and not in addition to the **Policy Period**.
- C. "**Primary Policy**" means the policy scheduled in Item 4. A. of the Declarations.
- D. "**Underlying Excess Policies**" means all policies scheduled in Item 4. B. of the Declarations.
- E. "**Underlying Insurance**" means all policies scheduled in Item 4. of the Declarations.

III. EXTENDED REPORTING PERIOD

If the **Insureds** have the right to purchase, and exercise their right to purchase a discovery period under the **Primary Policy**, the **Insureds** shall have the right to purchase, upon payment of an additional premium at the percent of the total premium applicable to the **Primary Policy**, to an extension of this Policy in conformance with the terms, conditions and limitations of the discovery period purchased under the **Primary Policy** together with all the terms, conditions and limitations of the discovery periods purchased under the **Underlying Excess Policies**. This period shall be referred to herein as the "Extended Reporting Period." There is no separate or additional Limit of Liability for the Extended Reporting Period.

IV. MAINTENANCE OF UNDERLYING INSURANCE

The **Underlying Insurance** shall be maintained during the **Policy Period** in full effect, except for any reduction of the aggregate limit(s) of liability available under the **Underlying Insurance** solely by reason of payment of losses thereunder. Failure to comply with the foregoing shall not invalidate this Policy but the Insurer shall not be liable to a greater extent than if this condition had been complied with. To the extent that any **Underlying Insurance** is not maintained in full effect during the currency of the **Policy Period**, including any Extended Reporting Period, then the **Insureds** shall be deemed to be self-insured for the amount of the limit of liability of any **Underlying Insurance** which is not maintained as set forth above.

It is further a condition of this Policy that the Insurer shall be notified in writing, as soon as practicable but in no event later than 30 days, after the cancellation and/or alteration of any provisions of any of the **Underlying Insurance**.

V. LIMIT OF LIABILITY

The amount set forth in Item 3. of the Declarations shall be the maximum aggregate Limit of Liability of the Insurer for all loss under this Policy, regardless of the number of claims made against the **Insureds**.

VI. DEPLETION OF UNDERLYING LIMIT(S)

In the event of the depletion of the limit(s) of liability of the **Underlying Insurance** solely as the result of actual payment of losses thereunder by the applicable insurers, this Policy shall, subject to the Insurer's Limit of Liability and to the other terms of this Policy, continue to apply to losses as excess insurance over the amount of insurance remaining under the **Underlying Insurance**. In the event of the exhaustion of all the limit(s) of liability of the **Underlying Insurance** solely as a result of payment of losses thereunder, subject to the provisions of this Policy the remaining Limit of Liability available under this Policy shall continue for subsequent losses as primary insurance and any retention specified in the **Primary Policy** shall be imposed under this Policy as to each claim made; otherwise no retention shall be imposed under this Policy. Notwithstanding any provisions of the **Primary Policy**, for the purpose of the coverage afforded under this Policy any exhaustion of any sub-limit of liability within the **Primary Policy** shall not be deemed to exhaust the **Primary Policy** and the **Insureds** shall be deemed to be self-insured for the amount of any loss in excess of such sub-limit up to the amount of the total aggregate limit of liability of the **Primary Policy**.

This Policy only provides coverage excess of the **Underlying Insurance**. This Policy does not provide coverage for any loss not covered by the **Underlying Insurance** except and to the extent that such loss is not paid under the **Underlying Insurance** solely by reason of the reduction or exhaustion of the available **Underlying Insurance** through payment of loss thereunder. In the event the insurer issuing any of the **Underlying Insurance** fails to pay loss in connection with any claim covered under the **Underlying Insurance** as a result of the insolvency, bankruptcy, or liquidation of such insurer, then the **Insureds** shall be deemed to be self-insured for the amount of the limit of liability of such **Underlying Insurance** issued by such insurer which is not paid as a result of such insolvency, bankruptcy or liquidation. In the event any of the **Underlying Excess Policies** is rescinded wholly or in part, then the **Insureds** shall be deemed to be self-insured for the amount of the limit of liability of such of the **Underlying Excess Policies** which is not paid as a result of rescission.

VII. CLAIM PARTICIPATION

The **Insureds** shall not admit liability, consent to any judgment against them or agree to any settlement which is reasonably likely to involve the Limit of Liability of this Policy without the Insurer's prior written consent, such consent not to be unreasonably withheld.

The Insurer may, at its sole discretion, elect to participate in the investigation, settlement or defense of any claim against any of the **Insureds** even if the **Underlying Insurance** has not been exhausted.

VIII. TERMINATION OF UNDERLYING INSURANCE

This Policy shall terminate immediately upon the termination of any of the **Underlying Insurance**, whether such termination is automatic or by cancellation by the **Insureds** or the insurer of any of the **Underlying Insurance**. Notice of cancellation or non-renewal of any of the **Underlying Insurance** duly given by any insurer of any of the **Underlying Insurance** shall serve as notice of cancellation or non-renewal of this Policy by the Insurer.

IX. SUBROGATION-RECOVERIES

As this Policy provides only “excess coverage,” the **Insureds**’ and the Insurer’s right of recovery against any person or other entity may not be exclusively subrogated. Despite the foregoing, in the event of any payment under this Policy, the Insurer shall be subrogated to all the **Insureds**’ rights of recovery against any person or organization, and the **Insureds** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

Any amounts recovered after payment of loss hereunder shall be apportioned so that any interests (including those of the **Insureds**) that have paid an amount over and above any payment hereunder shall first be reimbursed up to the amount paid by them; the Insurer shall then be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interests (including those of the **Insureds**) of which this coverage is in excess shall then be reimbursed for the amount of the residue, if any. Expenses necessary to the recovery of any such amounts shall be apportioned between the interests concerned (including those of the **Insureds**) in the ratio of their respective recoveries as finally settled.

X. NOTICES TO THE INSURER

- A. The **Insureds** shall, as a condition precedent to their rights under this Policy, give the Insurer notice of any claim made against the **Insureds** in the same manner required by the terms and conditions of the **Primary Policy** and shall give the Insurer such information and cooperation as it may reasonably require.
- B. Any notice to the Insurer shall be given as specified in Item 6. of the Declarations.

XI. COMPANY AUTHORIZATION CLAUSE

The **Insureds** agree that the Named Entity identified in Item 1. of the Declarations will act on behalf of the **Insureds** with respect to the giving of all notices to the Insurer, the receipt of notices from the Insurer, the payment of premiums, and the receipt of any return premiums that may become due under this Policy.

XII. APPLICATION

It is represented by the **Insureds** and it is agreed by and among the **Insureds** and the Insurer as follows:

1. the Insurer will accept the application for the **Primary Policy** and any materials submitted or required therewith as the application for this Policy and will not require a separate application for this Policy; provided, however, that if this Policy is one of a series of policies issued by the Insurer providing continuous coverage to the **Insureds**, the Insurer will accept the application (and the materials submitted or required therewith) for the first such policy issued by the Insurer to the **Insureds** as the application for this Policy;
2. the particulars and statements contained in such application, a copy of which is attached hereto, and any materials submitted or required (which shall be maintained on file by the Insurer and be deemed attached as if physically attached), are true and are the basis of this Policy and are to be considered as incorporated into and constituting a part of this Policy;
3. the statements in such application and in any materials submitted or required are the **Insureds**’ representations and shall be deemed material to the acceptance of this risk or the hazard assumed by the Insurer under this Policy and this Policy is issued in reliance upon the truth of such representations; and
4. to the extent that the **Primary Policy** is rescinded wholly or in part this Policy shall be deemed rescinded.

XIII. EXCLUSIONS

Notwithstanding any provisions of the **Primary Policy**, the Insurer shall not be liable under this Policy in connection with any claim made against the **Insureds** based upon, directly or indirectly arising out of, or in any way involving:

- A. any wrongful act of the **Insureds** or any matter, fact, circumstance, situation, transaction or event which has been the subject of any claim made prior to the effective date of this Policy or of any notice given during any prior policy of which this Policy is a successor; or any other wrongful act of the **Insureds** whenever occurring, which, together with a wrongful act of the **Insureds** which has been the subject of such claim or notice, are logically or causally connected by reason of any common fact, circumstance, situation, transaction or event; or
- B. any civil, criminal or administrative proceeding prior to or pending on the date set forth in Item 7. of the Declarations, or any fact, circumstance situation, transaction or event underlying or alleged in such proceeding.

XIV. CHANGES

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Insurer shall not effect a waiver or a change in any part of this Policy or estop the Insurer from asserting any right under the provision of this Policy, nor shall the provisions be waived or changed except by written endorsement issued to form a part of this Policy.

XV. NO ACTION AGAINST INSURER

No action shall be taken against the Insurer unless, as a condition precedent, there shall have been full compliance with all the provisions of this Policy, not until the amount of the **Insureds** obligation to pay shall have been finally determined either by final and nonappealable judgment against the **Insureds** after trial, or by written agreement of the **Insureds**, the claimant and the insurer.

No person or organization shall have the right under this Policy to join the Insurer as a party to any claim against the **Insureds** to determine the **Insureds**' liability, nor shall the Insurer be impleaded by the **Insureds** or their legal representatives in any such claim.

XVI. ASSIGNMENT OF INTEREST

Assignment of interest under this Policy shall not bind the Insurer unless its consent is endorsed.

XVII. TERRITORY

Coverage shall apply worldwide

Secretary

Chairman of the Board