New York Municipal Insurance Reciprocal

COMMERCIAL EXCESS LIABILITY INSURANCE POLICY 2026-2027

Authorized Signature

Sponsored by:

Association of Towns

Conference of Mayors

Association of Counties

900 Stewart Avenue, Suite 600
Garden City, New York 11530
(516) 227-2120, FAX 227-2352
1-800-NYMIR05

12 Metro Park Road
Colonie, NY 12205-1139
(518) 437-1171
www.nymir.org

NEW YORK MUNICIPAL INSURANCE RECIPROCAL

COMMON POLICY DECLARATIONS

POLICY NUMBER: MEC-TARK-0000001-26 **PREVIOUS POLICY NUMBER:** MEC-TARK-0000001-25

COMPANY NAME 20690	**PRODUCER NAME** A0UU2
New York Municipal Insurance Reciprocal 900 Stewart Ave, Suite 600 Garden City, NY 11530	Arthur J. Gallagher Risk Management Services, LLC. 285 Delaware Avenue, STE. 4000 Buffalo, NY 14202

NAMED INSURED: Town of Arkwright

MAILING ADDRESS: 9543 Center Road
Fredonia, NY 14063

POLICY PERIOD: **FROM** 09/08/2026 **TO** 09/08/2027
AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

BUSINESS DESCRIPTION	

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

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
COMMERCIAL EXCESS COVERAGE PART	$2,750.00
TOTAL:	$2,750.00

© ISO Properties, Inc., 2007

POLICY NUMBER: MEC-TARK-0000001-26

FORMS APPLICABLE TO ALL COVERAGE PARTS (SHOW NUMBERS):
See Schedule of Forms And Endorsements.

Countersigned	By:
(Date)	(Authorized Representative)

© ISO Properties, Inc., 2007

New York Municipal Insurance Reciprocal

Policy Number: MEC-TARK-0000001-26

NAMED INSURED & MAILING ADDRESS
Town of Arkwright 9543 Center Road Fredonia, NY 14063

COMMERCIAL EXCESS LIABILITY

POLICY DECLARATIONS

POLICY PERIOD: FROM 09/08/2026 to 09/08/2027 12:01 A.M. AT THE MAILING ADDRESS OF THE NAMED INSURED STATED ABOVE

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

EXCESS POLICY - LIMITS OF INSURANCE	
EACH OCCURRENCE	$2,000,000
GENERAL AGGREGATE	$4,000,000

TOTAL PREMIUM:	$2,750

ENDORSEMENTS ATTACHED TO THIS POLICY
See Schedule of Forms and Endorsements.

Authorized Signature

New York Municipal Insurance Reciprocal

Policy Number: MEC-TARK-0000001-26

NAMED INSURED & MAILING ADDRESS

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

COMMERCIAL EXCESS LIABILITY

POLICY DECLARATIONS

POLICY PERIOD: FROM 09/08/2026 to 09/08/2027 12:01 A.M. AT THE MAILING ADDRESS OF THE NAMED INSURED STATED ABOVE

SCHEDULE OF UNDERLYING POLICIES:

TYPE OF POLICY:	**COMMERCIAL GENERAL LIABILITY POLICY**
Company: New York Municipal Insurance Reciprocal **Policy No:** MPK-TARK-0000001-26 **Effective Date:** 09/08/2026 **Expiration Date:** 09/08/2027 **Employee Benefits Liability Retroactive Date:**	
Limits of Liability	
Each Occurrence Limit	$1,000,000
General Aggregate Limits	$3,000,000
Personal and Advertising Injury Limit	$1,000,000
Products/Completed Operations Aggregate Limit	$1,000,000
Damage to Premises Rented to You Limit	$50,000
Sexual Misconduct (MGL 211) Per Occurrence Limit	$1,000,000
Sexual Misconduct (MGL 211) Aggregate Limit	$1,000,000

TYPE OF POLICY:	**COMMERICAL AUTOMOBILE LIABILITY POLICY**
Company: New York Municipal Insurance Reciprocal **Policy No:** MCA-TARK-0000001-26 **Effective Date:** 09/08/2026 **Expiration Date:** 09/08/2027	
Limits of Liability	
Bodily Injury/Property Damage Liability Limit	$1,000,000

New York Municipal Insurance Reciprocal

Policy Number: MEC-TARK-0000001-26

NAMED INSURED & MAILING ADDRESS
Town of Arkwright 9543 Center Road Fredonia, NY 14063

COMMERCIAL EXCESS LIABILITY

POLICY DECLARATIONS

POLICY PERIOD: FROM 09/08/2026 to 09/08/2027 12:01 A.M. AT THE MAILING ADDRESS OF THE NAMED INSURED STATED ABOVE

TYPE OF POLICY: MUNICIPAL PUBLIC OFFICIALS' LIABILITY POLICY	
Company: New York Municipal Insurance Reciprocal **Policy No:** MPK-TARK-0000001-26 **Effective Date:** 09/08/2026 **Expiration Date:** 09/08/2027 **Retroactive Date:** 09/08/2016	
Limits of Liability	
Per Claim Limit	$1,000,000
Annual Aggregate Limit	$2,000,000
Land Use Liability Annual Aggregate Limit	$1,000,000

TYPE OF POLICY: LAW ENFORCEMENT LIABILITY POLICY	
Company: **Policy No:** **Effective Date:** **Expiration Date:**	
Limits of Liability	
Each Person Limit	
Each Occurrence Limit	
Annual Aggregate Limit	

New York Municipal Insurance Reciprocal

Policy Number: MEC-TARK-0000001-26

NAMED INSURED & MAILING ADDRESS
Town of Arkwright 9543 Center Road Fredonia, NY 14063

COMMERCIAL EXCESS LIABILITY

POLICY DECLARATIONS

POLICY PERIOD: FROM 09/08/2026 to 09/08/2027 12:01 A.M. AT THE MAILING ADDRESS OF THE NAMED INSURED STATED ABOVE

TYPE OF POLICY: EMPLOYERS LIABILITY POLICY	
Company: **Policy No:** **Effective Date:** **Expiration Date:**	
Limits of Liability	
Bodily Injury by Accident (Each Accident) Limit	
Bodily Injury by Disease Policy Limit	
Bodily Injury by Disease Each Employee Limit	

NOTICE REQUIRED BY THE NEW YORK INSURANCE LAW

The below disclaimer applies ONLY to any Public Officials Liability coverage and/or any Employee Benefits Liability coverage provided by this policy.

THE PUBLIC OFFICIALS AND EMPLOYEE BENEFITS LIABILITY PORTIONS OF THIS POLICY PROVIDE INSURANCE ON A CLAIMS-MADE BASIS. THIS POLICY DOES NOT PROVIDE COVERAGE FOR CLAIMS ARISING OUT OF INCIDENTS, OCCURRENCES OR ALLEGED WRONGFUL ACTS WHICH TOOK PLACE PRIOR TO THE RETROACTIVE DATE. THE POLICY COVERS ONLY CLAIMS OR INCIDENTS REPORTED TO NYMIR WHILE THE POLICY REMAINS IN EFFECT, AND ALL COVERAGE UNDER THE POLICY, EXCEPT FOR THE 90-DAY EXTENDED REPORTING PERIOD, CEASES UPON THE TERMINATION OF THE POLICY UNLESS THE INSURED PURCHASES OPTIONAL EXTENDED REPORTING ENDORSEMENT COVERAGE. AN OPTIONAL EXTENDED REPORTING PERIOD WILL BE OFFERED FOR ONE (1) YEAR, TWO (2) YEARS, OR THREE (3) YEARS FOR ADDITIONAL PREMIUM ON THE PUBLIC OFFICIALS PORTION OF THIS POLICY. AN OPTIONAL EXTENDED REPORTING PERIOD WILL BE OFFERED FOR FIVE (5) YEARS FOR THE EMPLOYEE BENEFITS LIABILITY PORTION OF THIS POLICY. THE RATES FOR THE OPTIONAL EXTENDED REPORTING ENDORSEMENT COVERAGE WILL BE BASED ON THE RATES IN EFFECT AT THE TERMINATION OF COVERAGE AND THESE RATES MAY BE SUBJECT TO SUBSTANTIAL INCREASE OVER RATES CURRENTLY IN EFFECT.

SCHEDULE OF FORMS AND ENDORSEMENTS

POLICY NUMBER:	EFFECTIVE DATE:
MEC-TARK-0000001-26	09/08/2026

NUMBER	TITLE
	EXCESS
IL DS 00 (09-08)	Common Policy Declarations
MEC 000 (01-26)	Municipal Excess Catastrophe Liability Policy Declarations
CX 00 01 (04-13)	Commercial Excess Liability Coverage Form
CX 01 14 (01-14)	New York Changes
CX 01 15 (01-11)	New York Changes - Transfer of Duties When a Limit of Insurance is Used Up
CX 02 33 (01-14)	New York Changes - Cancellation and Nonrenewal
CX 21 01 (09-08)	Nuclear Energy Liability Exclusion Endorsement
CX 21 03 (04-13)	Total Pollution Exclusion with a Hostile Fire Exception
CX 21 43 (05-14)	Exclusion - Access or Disclosure of Confidential or Personal Information
CX 24 01 (09-08)	Products-Completed Operations Aggregate Limit of Insurance
MEC 01 (01-15)	General Endorsement
MEC 02 (01-15)	Exclusionary Endorsement
MEC 03 (01-15)	Dam, Dike and Levee Exclusion
MEC 111 (03-08)	Employment Practices Endorsement
MEC 27 00 (01-15)	Underlying Claims-Made Coverage

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

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 "controlling underlying insurance".

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

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

There may be more than one "controlling underlying insurance" listed in the Declarations and provisions in those policies conflict, and which are not superseded by the provisions of this Coverage Part. In such a case, the provisions, exclusions and limitations of the "controlling 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 on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "injury or damage" to which insurance provided under this Coverage Part applies.

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 "controlling underlying insurance" have been exhausted in accordance with the provisions of such "controlling underlying insurance".

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.

At our discretion, we may investigate any "event" that may involve this insurance and settle any resultant claim or suit, for which we have the duty to defend.

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 Coverage Part. However, if the policy of "controlling 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 Coverage Part.

b. This insurance applies to "injury or damage" that is subject to an applicable "retained limit". If any other limit, such as, a sublimit, is specified in the "controlling underlying insurance", this insurance does not apply to "injury or damage" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "controlling underlying insurance".

c. If the "controlling 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 Coverage Part. If the "controlling 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 Coverage Part.

 © Insurance Services Office, Inc., 2012

d. Any additional insured under any policy of "controlling 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 "controlling underlying insurance".

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

2. Exclusions

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

Insurance provided under this Coverage Part does not apply to:

a. Medical Payments

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

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. 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.

(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; or

(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.

This exclusion does not apply to the extent that valid "controlling underlying insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of underlying limits for "injury or damage".

d. 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 "controlling underlying insurance".

2. The Limits of Insurance of this Coverage Part will apply as follows:

a. This insurance only applies in excess of the "retained limit".

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 Coverage Part.

However, this Aggregate Limit only applies to "injury or damage" that is subject to an aggregate limit of insurance under the "controlling 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 "controlling 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 "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limit of this Coverage Part applies separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part 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 "controlling underlying insurance" are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. Appeals

If the "controlling underlying insurer" or insured elects not to appeal a judgment in excess of the amount of the "retained limit", we may do so at our own expense. We will also pay for taxable court costs, pre- and postjudgment interest and 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 Coverage Part.

b. Bankruptcy Of Controlling Underlying Insurer

Bankruptcy or insolvency of the "controlling underlying insurer" will not relieve us of our obligations under this Coverage Part.

However, insurance provided under this Coverage Part will not replace any "controlling underlying insurance" in the event of bankruptcy or insolvency of the "controlling underlying insurer". The insurance provided under this Coverage Part will apply as if the "controlling 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, voluntarily make a payment, assume any obligation, or 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 giving and receiving of notice of cancellation or 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 complete copy of any "controlling underlying insurance" and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part.

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 Coverage Part contains all the agreements between you and us concerning the insurance afforded. The first Named Insured is authorized by all other insureds to make changes in the terms of this Coverage Part with our consent. This Coverage Part's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes To Controlling Underlying Insurance

Any "controlling 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 "controlling underlying insurance" that results from "injury or damage" to which this insurance applies.

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

The first Named Insured must notify us in writing, as soon as practicable, if any "controlling underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "controlling 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 condition will not apply to insurance specifically written as excess over this Coverage Part.

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 Coverage Part; 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 Coverage Part in accordance with our rules and rates.

b. If this policy is auditable, the premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and 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.

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 Coverage Part does not apply to a given claim unless and until:

a. The insured or insured's "controlling underlying insurer" has become obligated to pay the "retained limit"; and

b. The obligation of the insured to pay the "ultimate net loss" in excess of the "retained limit" has been determined by a final settlement or judgment or written agreement among the insured, claimant, "controlling underlying insurer" (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 Coverage Part:

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 Coverage Part 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 are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, "controlling underlying insurer" and the claimant or the claimant's legal representative.

12. Transfer Of Defense

a. Defense Transferred To Us

When the limits of "controlling underlying insurance" have been exhausted, in accordance with the provisions of "controlling 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 "controlling 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 Coverage Part of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

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

13. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION IV – DEFINITIONS

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

1. "Controlling underlying insurance" means any policy of insurance or self-insurance listed in the Declarations under the Schedule of "controlling underlying insurance".

2. "Controlling underlying insurer" means any insurer who provides any policy of insurance listed in the Declarations under the Schedule of "controlling underlying insurance".

3. "Event" means an occurrence, offense, accident, act, or other event, to which the applicable "controlling underlying insurance" applies.

4. "Injury or damage" means any injury or damage, covered in the applicable "controlling underlying insurance" arising from an "event".

5. "Retained limit" means the available limits of "controlling underlying insurance" applicable to the claim.

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 "controlling underlying insurance" specifies that limits are reduced by defense expenses.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following is added to Paragraph **1. Insuring Agreement** of **Section I – Coverages:**

When we have a duty to defend, we will defend the insured against any suit seeking those damages even if the allegations of the suit are groundless, false or fraudulent.

B. Paragraph **3.** of **Section II – Limits Of Insurance** is replaced by the following:

3. If any "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by the amount of judgments and settlements made for "injury or damage" covered under this insurance.

C. Section III – Conditions is revised as follows:

1. The following is added to Paragraph **3. Duties In The Event Of An Event, Claim Or Suit:**

e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

2. Paragraph **7. Maintenance Of/Changes To Controlling Underlying Insurance** is replaced by the following:

Any "controlling underlying insurance" must be maintained in full effect throughout the policy period except for the exhaustion of the aggregate limit in accordance with the provisions of "controlling underlying insurance" that results from "injury or damage" to which this insurance applies.

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

The first Named Insured must notify us in writing, as soon as practicable, if any "controlling underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "controlling underlying insurance" is changed.

 © Insurance Services Office, Inc., 2013

3. Paragraph **8.a.** of **Other Insurance** is replaced by the following:

   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 condition will not apply to insurance specifically written as excess over this Coverage Part.

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

4. Paragraph **9.b.** of **Premium Audit** is replaced by the following:

   b. If this policy is auditable, the premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. An audit to determine the final premium due or to be refunded will be completed within 180 days after the expiration date of the policy. But the audit may be waived if the total annual premium attributable to the auditable exposure base is not reasonably expected to exceed $1,500. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

5. Paragraph **10. Loss Payable** is replaced by the following:

   10. Loss Payable

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

   a. The insured or insured's "controlling underlying insurer" has become obligated to pay the "retained limit"; and

   b. The obligation of the insured to pay the "ultimate net loss" in excess of the "retained limit" has been previously determined by a written agreement among the insured, claimant, "controlling underlying insurer" (or a representative of one or more of these) and us.

6. Paragraph **11. Legal Action Against Us** is replaced by the following:

   11. Legal Action Against Us

   a. Except as provided in Paragraph **b.,** no person or organization has a right under this Coverage Part:

   (1) To join us as a party or otherwise bring us into a suit asking for damages from an insured; or

   (2) To sue us on this Coverage Part 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 are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

   b. With respect to a claim arising out of death or injury of any person, or arising out of injury to the economic interest of any person, as a result of the negligence in rendering expert, fiduciary or professional service, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

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

   (1) Brings an action to declare the rights of the parties under the policy; and

   (2) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

7. The following provision is added and supersedes any provision to the contrary:

Failure to give notice to us as required under this Coverage Part shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

D. The following provision is added:

It is hereby understood and agreed that, notwithstanding anything in this policy to the contrary, with respect to such insurance as is afforded by this policy, the terms of this policy, as respects coverage for operations in the State of New York, must conform to the coverage requirements of the applicable insurance laws of the State of New York or the applicable regulations of the New York Department of Financial Services; provided, however, that the company's limits of insurance, as stated in this policy, are excess of the limits of any underlying insurance or self-insurance, as stated in the Declarations, or in any attached endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following condition is added to **Section III – Conditions:**

Transfer Of Duties When A Limit Of Insurance Is Used Up

1. If we conclude that, based on "events", claims or suits which have been reported to us and to which this insurance may apply, the:

a. Aggregate Limit; or

b. Each Occurrence Limit;

is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

2. When a limit of insurance described in Paragraph **a.** above has actually been used up in the payment of judgments or settlements:

a. We will notify the first Named Insured, in writing, as soon as practicable, that:

(1) Such a limit has actually been used up; and

(2) Our duty to defend suits seeking damages subject to that limit has also ended.

b. If we have a duty to defend we will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and suits seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and suits.

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such suits until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or suit seeking damages that would have been subject to that limit, had it not been used up, if the claim or suit is reported to us after that limit of insurance has been used up.

c. The first Named Insured, and any other insured involved in a suit seeking damages subject to that limit, must arrange for the defense of such suit within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such suit must be made as soon as practicable.

3. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph **2.b.** above.

The duty of the first Named Insured to reimburse us will begin on:

a. The date on which the applicable limit of insurance is used up, if we sent notice in accordance with Paragraph **1.** above; or

b. The date on which we sent notice in accordance with Paragraph **2.a.** above, if we did not send notice in accordance with Paragraph **1.** above.

4. The exhaustion of any limit of insurance by the payment of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

 © Insurance Services Office, Inc., 2010 □

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. If you are an individual and a covered auto you own is predominantly used for nonbusiness purposes, Paragraph **5. Cancellation** of **Section III – Conditions** is replaced by the following:

Ending This Policy

1. Cancellation

a. You may cancel the entire policy by returning it to us or by giving us advance notice of the date cancellation is to take effect.

b. When this policy is in effect less than 60 days and is not a renewal or continuation policy, we may cancel the entire policy for any reason provided we mail you notice within this period. If we cancel for nonpayment of premium, we will:

(1) Mail you at least 15 days' notice; and

(2) Inform you of the amount due.

Payment of premium will be considered on time if made within 15 days after we mail you notice of cancellation. If we cancel for any other reason, we will mail you at least 20 days' notice.

c. When this policy is in effect 60 days or more or is a renewal or continuation policy, we may cancel it or any insurance deemed severable only for one or more of the following reasons:

(1) Nonpayment of premium, provided, however, that a notice of cancellation on this ground shall inform you of the amount due. If we cancel for this reason we will mail you at least 15 days' notice. Payment of premium will be considered on time if made within 15 days after we mail you notice of cancellation.

(2) Your driver's license or that of a driver who lives with you or customarily uses the covered auto has been suspended or revoked during the policy period, other than a suspension issued pursuant to Subdivision (1) of Section 510(b) of the Vehicle and Traffic Law, or one or more administrative suspensions arising out of the same incident which has or have been terminated prior to the effective date of cancellation. If we cancel for this reason, we will mail you at least 20 days' notice.

(3) We replace this policy with another one providing similar coverages and the same limits for a covered auto of the private passenger type. The replacement policy will take effect when this policy is cancelled, and will end a year after this policy begins or on this policy's expiration date, whichever is earlier. This paragraph applies only to renewal policies.

(4) This policy was obtained through fraud or material misrepresentation. If we cancel for this reason, we will mail you at least 20 days' notice.

(5) Any insured made a fraudulent claim. If we cancel for this reason, we will mail you at least 20 days' notice.

If one of the reasons listed in this Paragraph **c.** exists, we may cancel the entire policy.

 © Insurance Services Office, Inc., 2013

For policies written for a period of more than one year or without a fixed expiration date, we may cancel for the reasons in Paragraphs **(1)** through **(5)** above, subject to New York Laws, only at an anniversary of its original effective date. If we cancel such a policy, we will mail you at least 45 but not more than 60 days' notice.

d. Instead of cancellation, we may condition continuation of this policy on a change of limits or elimination of any other coverage not required by law. If we do this, we will mail you notice at least 20 days before the date of the change.

e. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

f. If this policy is cancelled, we will send you any premium refund due. The refund will be pro rata.

However, when the premium is advanced under a premium finance agreement, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or $60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

2. Nonrenewal

a. If this policy is written for a period of less than one year and we decide, subject to New York Laws, not to renew or continue it, or to condition renewal or continuation on a reduction of Liability Coverage or elimination of any other coverage, we will mail or deliver to you written notice at least 45 but not more than 60 days before the end of the policy period.

b. We will have the right not to renew or continue a particular coverage, subject to New York Laws, only at the end of each 12-month period following the effective date of the first of the successive policy periods in which the coverage was provided.

c. We do not have to mail notice of non-renewal if you, your agent or broker or another insurance company informs us in writing that you have replaced this policy or that you no longer want it.

3. Mailing Of Notices

We will mail or deliver our notice of cancellation, reduction of limits, elimination of coverage or nonrenewal to the address shown on the policy. However, we may deliver any notice instead of mailing it. If notice is mailed, a United States Postal Service certificate of mailing will be sufficient proof of notice.

B. For all policies other than those specified in Paragraph **A.** of this endorsement, Paragraph **5. Cancellation** of **Section III – Conditions** is revised as follows:

1. Paragraphs **a., b., c.** and **e.** of Paragraph **5. Cancellation** of **Section III – Conditions** are replaced by the following:

a. The first Named Insured shown in the Declarations may cancel this entire policy by mailing or delivering to us advance written notice of cancellation.

b. Cancellation Of Policies In Effect

(1) 60 Days Or Less

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

(a) 30 days before the effective date of cancellation if we cancel for any reason not included in Paragraph **1.b.(1)(c)** or Paragraph **1.b.(2)** below.

(b) 15 days before the effective date of cancellation if we cancel for any of the reasons included in Paragraph **(2)** below.

(c) 20 days before the effective date of cancellation if we cancel because one or more underlying policies providing primary or intermediate coverage were cancelled where:

(i) Such cancellation is based upon Paragraphs **(2)(a)** through **(2)(h)** below; and

(ii) Such policies are not replaced without lapse.

(2) For More Than 60 Days

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy we issued, we may cancel only for any of the reasons listed below, provided we mail the first Named Insured written notice at least 15 days before the effective date of cancellation:

(a) Nonpayment of premium, provided, however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due;

(b) Conviction of a crime arising out of acts increasing the hazard insured against;

(c) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim;

(d) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current policy period;

(e) Material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;

(f) Cancellation is required pursuant to a determination by the Superintendent that continuation of our present premium volume would jeopardize our solvency or be hazardous to the interest of our policyholders, our creditors or the public;

(g) A determination by the Superintendent that the continuation of the policy would violate, or would place us in violation of, any provision of the Insurance Code;

(h) Suspension or revocation during the required policy period of the driver's license of any person who continues to operate a covered auto, other than a suspension issued pursuant to Subdivision (1) of Section 510(b) of the Vehicle and Traffic Law or one or more administrative suspensions arising from the same incident which has or have been terminated prior to the effective date of cancellation; or

(i) Cancellation of one or more of the underlying policies providing primary or intermediate coverage where:

(i) Such cancellation is based upon Paragraphs **(a)** through **(h)** of this Paragraph **(2);** and

(ii) Such policies are not replaced without lapse.

c. We will mail or deliver our notice, including the reason for cancellation, to the first Named Insured at the address shown in the policy and to the authorized agent or broker.

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.

However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or $60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

2. The following is added to Paragraph **5. Cancellation** of **Section III – Conditions:**

a. Regardless of the number of days this policy has been in effect, if:

(1) This policy covers autos subject to the provisions of Section 370 (a) and (b) of the Vehicle and Traffic Law; and

(2) The Commissioner of the Department of Motor Vehicles deems this policy to be insufficient for any reason;

we may cancel this policy by giving you notice of such insufficiency 45 days before the effective date of cancellation to permit you to replace this policy.

b. The effective date of cancellation stated in the notice shall become the end of the policy period.

c. Notice will include the reason for cancellation. We will mail or deliver our notice to the first Named Insured at the address shown in the policy and to the authorized agent or broker. However, we may deliver any notice instead of mailing it. Proof of mailing will be sufficient proof of notice.

3. The following Conditions are added:

a. Nonrenewal

If we decide not to renew this policy, we will send notice as provided in Paragraph **3.c.** below.

b. Conditional Renewal

If we conditionally renew this policy subject to:

(1) A change of limits;

(2) A change in type of coverage;

(3) A reduction of coverage;

(4) An increased deductible;

(5) An addition of exclusion; or

(6) Increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;

we will send notice as provided in Paragraph **3.c.** below.

We may conditionally renew this policy subject to the requirements stipulated by the Maintenance Of Underlying Insurance condition of Section **III** – Conditions. In the event of failure to comply with the aforementioned condition as of the expiration date of the policy, or 60 days after mailing or delivering the notice of conditional renewal, the conditional renewal shall be deemed to be an effective notice of nonrenewal.

c. Notices Of Nonrenewal And Conditional Renewal

(1) If we decide not to renew this policy or to conditionally renew this policy as provided in Paragraphs **3.a.** and **3.b.** above, we will mail or deliver written notice to the first Named Insured shown in the Declarations at least 30 but not more than 120 days before:

(a) The expiration date; or

(b) The anniversary date if this is a continuous policy.

(2) Notice will be mailed or delivered to the first Named Insured at the address shown in the policy and to the authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.

(3) Notice will include the specific reason(s) for nonrenewal or conditional renewal, including the amount of any premium increase for conditional renewal and description of any other changes.

(4) If we violate any of the provisions of Paragraph **3.c.(1), (2)** or **(3)** above by sending the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice:

(a) And if notice is provided prior to the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy at the lower of the current rates or the prior period's rates until 60 days after such notice is mailed or delivered, unless the first Named Insured, during this 60-day period, has replaced the coverage or elects to cancel.

(b) And if the notice is provided on or after the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy for another policy period, at the lower of the current rates or the prior period's rates, unless the first Named Insured, during this additional policy period, has replaced the coverage or elects to cancel.

(5) If you elect to renew on the basis of a late conditional renewal notice, the terms, conditions and rates set forth in such notice shall apply:

(a) Upon expiration of the 60-day period, unless Subparagraph **(b)** below applies; or

(b) Notwithstanding the provisions in Paragraphs **(4)(a)** and **(4)(b),** as of the renewal date of the policy if the conditional renewal notice was sent at least 30 days prior to the expiration or anniversary date of the policy.

(6) We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.

4. The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with Paragraph **B.3.c.(4)** above.

5. The last sentence of Limits Of Insurance does not apply when the policy period is extended because we sent the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice.

C. Paragraph **13. When We Do Not Renew** of **Section III – Conditions** does not apply.

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 COVERAGE PART

The following exclusion is added to Paragraph **2., Exclusions:**

2. Exclusions

NUCLEAR ENERGY LIABILITY

a. Under any Liability Coverage, to "injury or 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 Liability Coverage, to "injury or 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 "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 **(3)** applies only to property damage to such "nuclear facility" and any property thereat.

c. 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".

"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";

 © ISO Properties, Inc., 2007

(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.

© ISO Properties, Inc., 2007

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL POLLUTION EXCLUSION WITH A HOSTILE FIRE EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Exclusion **c.** under Paragraph **2. Exclusions** of **Section I – Coverages** is replaced by the following:

Insurance provided under this Coverage Part does not apply to:

2. Exclusions

c. Pollution

(1) "Injury or damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.

Paragraph **c.(1)** does not apply to "injury or damage" arising out of heat, smoke or fumes from a hostile fire unless that hostile fire occurred or originated:

(a) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or

(b) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, pollutants.

For the purposes of this insurance, hostile fire means one that becomes uncontrollable or breaks out from where it is intended to be.

(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; or

(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.

 © Insurance Services Office, Inc., 2012

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

SCHEDULE

Controlling Underlying Insurance:
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **2. Exclusions** of **Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Injury or damage" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

However, this exclusion does not apply to coverage for "injury or damage" provided under any "controlling underlying insurance" listed in the Schedule above.

 © Insurance Services Office, Inc., 2013

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT OF INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

SCHEDULE

Products-completed Operations Aggregate Limit:	**$** 4,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Limits Of Insurance is replaced by the following:

1. The Limits of Insurance shown in the Declarations, and the Schedule of this endorsement, and the following rules 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 "controlling underlying insurance".

2. The Limits of Insurance will apply as follows:

a. This insurance only applies in excess of the "retained limit".

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 Coverage Part, except "ultimate net loss" because of "injury or damage":

(1) That is not subject to an aggregate limit of insurance under the "controlling underlying insurance"; or

(2) Included in the products-completed operations hazard.

c. The Products-completed Operations Aggregate Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all "ultimate net loss" under this insurance because of all "injury or damage" included in a products-completed operations hazard.

d. Subject to Paragraph **b.** or **c.** of this endorsement, whichever applies, 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".

3. If any "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limits, as described in Paragraphs **b.** and **c.** above, apply separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part 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.

 © ISO Properties, Inc., 2007

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL ENDORSEMENT

In consideration of the premium charged, it is hereby agreed that this endorsement modifies the insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following is added to the policy form:

1. This policy shall not be subject to coverage by the Property/Casualty Insurance Security Fund and the provisions of Article 76 of the New York Insurance Law. The insured shall be contingently liable on a several basis for any assessment which may be unlimited and made in accordance with New York Insurance Law.
2. In accordance with New York Insurance Law, the Attorney-In-Fact, with the approval of the Board of Governors (as the advisory committee), and within such times as the Superintendent of the Department of Financial Services prescribes, may order assessments in a manner determined by the Board of Governors for amounts to provide:
   a. Sufficient funds to make good any impairment, as defined by law;
   b. Sufficient funds to provide any surplus as required by the Superintendent of the Department of Financial Services or authorized by the Board of Governors; or
   c. Sufficient funds to permit the repayment of any surplus loans or other borrowing.
3. Each subscriber (policyholder) shall pay on demand such subscriber's proportionate share of any assessment lawfully ordered or levied by the Board of Governors or the New York State Superintendent of the Department of Financial Services as provided by the New York Insurance Law.
4. The contingent liability assessment of the subscriber shall be in an amount not less than one or more than ten times the annual premium.
5. Any assessment shall be for the exclusive benefit of policyholders that provide for such a contingent liability and such policyholders shall not be liable to assessment in an amount greater than the ratio that the deficiency attributable to the assessable business bears to the total deficiency.

There is no change in premium as a result of this endorsement.

All other terms and conditions of the policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSIONARY ENDORSEMENT

In consideration of the premium charged, it is hereby agreed that this endorsement modifies the insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

1. The following is added to **SECTION I –COVERAGES, 2. Exclusions, b. Auto:**

   (5) Supplemental uninsured or underinsured motorist coverage.

2. Exclusion c. **Pollution** in **SECTION I –COVERAGES, 2. Exclusions,** is replaced with the following:

c. 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.

(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 effect of, pollutants; or

(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.

3. The following exclusions are added to **SECTION I –COVERAGES, 2. Exclusions:**

(e) Any breach of fiduciary duty, responsibility or obligation in connection with workers' compensation, disability benefit, unemployment compensation, employee benefit, retirement or pension plan, including, but not limited to, any pension, retirement, savings or profit sharing plan subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, or any similar federal, state or local law, or any violate of or failure to comply with ERISA or any similar federal, state or local law.

(f) Any liability directly or indirectly occasioned by, happening through or in consequence of:

(i) war, including undeclared or civil war; or

(ii) warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(iii) rebellion, revolution, insurrection, usurped power, or action taken by governmental authority hindering or defending against any of these.

(g) Any liability arising out of any:

(i) discrimination because of race, creed, color, gender, age, handicap, illness, religion, sexual preference or national origin; or

(ii) the failure to integrate or desegregate; or

(iii) consequential "injury or damage" as a result of (i) or (ii) above.

(h) "Injury or damage" to property used by an insured.

(i) "Injury or damage" to property in the care, custody or control of an insured or as to which an insured is exercising physical control for any purpose.

(j) Any claim or suit seeking non-pecuniary relief.

(k) Any claim or suit seeking back wages.

(l) "Injury or damage" arising out of, resulting from, or related to the "asbestos hazard". We have no obligation under this Coverage Part:

(i) to investigate, settle or defend any claim or suit against any insured alleging actual or threatened injury or damage of any nature or kind to persons or property which arises out of or would not have occurred but for the "asbestos hazard"; or

(ii) to pay, contribute to or indemnity another for any damages, judgments, settlements, loss, costs or expenses that may be awarded or incurred by reason of any such claim or suit or any injury or damage, or in complying with any action authorized by law and relating to such injury or damage.

As used in this exclusion, "asbestos hazard" means:

(i) An actual exposure or threat of exposure to the harmful properties of "asbestos"; or

(ii) The presence of "asbestos" in any place, whether or not within a building or structure.

"Asbestos" means the mineral in any form, including but not limited to fibers or dust.

All other terms and conditions of the policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DAM, DIKE AND LEVEE EXCLUSION

In consideration of the premium charged, it is hereby agreed that this endorsement modifies the insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

1. The following exclusion is added to SECTION I –COVERAGES, 2. Exclusions:

The coverage provided under this Coverage Part does not apply to:
(i) “Injury or damage” arising out of, resulting from, or related to the structural failure of a dam, dike, levee or similar structure which you own, maintain and control and where the failure results in water impounded by the structure to be released.
(ii) “Injury or damage” arising out of, resulting from or related to the alleged or actual improper design, engineering or construction of a dam, dike, levee or similar structure.

All other terms and conditions of the policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY PLEASE READ IT CAREFULLY.

EMPLOYMENT PRACTICES ENDORSEMENT

This endorsement modifies insurance provided under the following:

MUNICIPAL EXCESS CATASTROPHE LIABILITY COVERAGE FORM

This insurance has been extended to apply to:

Damages resulting from an error or omission including but not limited to wrongful termination, discrimination, and sexual harassment arising out of employment or application for employment by you.

A. For which coverage is provided in the Public Officials policy listed in the schedule of underlying insurance attached to this policy.

B. Coverage limits provided under this endorsement are:

Per Claim Limit: Equal to the Each Occurrence Limit on the Declaration Page
Aggregate Limit: Equal to the Public Officials Aggregate Limit on the Declaration Page

a) regardless of the number of insureds, claims made or series of related errors or omissions which may give rise to a loss under this endorsement.

b) nothing contained in this endorsement shall increase the limits of liability stated in the policy declarations.

C. This endorsement does not change any other policy terms and conditions except as stated herein.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

UNDERLYING CLAIMS-MADE COVERAGE

In consideration of the premium charged, it is hereby agreed that this endorsement modifies the insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Schedule

RETROACTIVE DATE: See Declarations. (enter Date or "None" if No Retroactive Date applies)
Claims-Made "Controlling Underlying Insurance": See Declarations.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations

The following provisions apply to the insurance provided by this Coverage Part which is excess over that "controlling underlying insurance" listed in the Schedule above.

A. Paragraph **1.c** under **Section I – Coverages** is replaced by the following:

a. This coverage part does not provide coverage for claims arising out of incidents, occurrences, "errors or omissions" or wrongful acts which took place prior to the Retroactive Date listed in the Schedule.

b. A claim for damages for such "injury or damage" must be first made against the insured during this policy period or any extended reporting period provided under this Coverage Part. A claim will be considered first made under this Coverage Part when we first receive written notice from you or a third party of the claim.

B. The following is added to **Section II – Limits of Insurance**

a. The "retained limit" will only be reduced or exhausted by payments of claims that are made during the policy period, or any Extended Reporting Period, of this Coverage Part.

C. The following Section is added:

CLAIMS-MADE EXTENDED REPORTING PERIOD

1. Any provisions under the "controlling underlying insurance" relating to an Extended Reporting Period for which a separate premium charge is made do not apply to this insurance, unless an Extended Reporting Period is purchased under this insurance.

2. An Extended Reporting Period, consistent with the terms, conditions and duration of any Extended Reporting Period available in accordance with the terms of any "controlling underlying insurance", will be available for this Coverage Part by endorsement, for an additional charge if:
a. This policy is "terminated"; or
b. This policy is renewed or replaced with insurance that

 Includes copyrighted material of ISO Insurance Services, Inc., with its permission

(1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or

(2) Does not apply to "injury or damage" on a claims-made basis.

3. a. If you have been insured by us for less than one year and this policy is "terminated" for any reason other than non-payment of premium or fraud on the part of the insured, an automatic ninety (90) day Basic Extended Reporting Period will be provided.

b. If you have been insured by us for more than one year and this policy is "terminated, an automatic ninety (90) day Basic Extended Reporting Period will be provided.

4. If this policy is terminated for any reason other than because of non-payment of premium or fraud on the part of the insured, a Supplemental Extended Reporting Period is available but only by endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph **3.** above, ends.

We will advise you in writing within thirty (30) days of the expiration of this policy of the automatic Basic Extended Reporting Period and the availability of a Supplemental Extended Reporting Periods. At that time, we will also advise you of the premium for the Supplemental Extended Reporting Period. You must give us a written request for the endorsement no later than either (a) sixty (60) days after the end of the policy period, or (b) thirty days from the date of mailing or delivery of the notice advising you of the availability of the automatic Basic Extended Reporting Period and the Supplemental Extended Reporting Period, whichever is latest. The Supplemental Extended Reporting Premium will not go into effect unless you pay the additional premium promptly when due.

Supplemental Extended Reporting Periods of one (1) or two (2) are available. The premium for each of those terms is:

Length of Supplemental Extended Reporting Period	Premium
One (1) Year	75% of expiring annual premium
Two (2) Years	150% of expiring annual premium

NOTE: Potential coverage gaps may exist upon the expiration of any Extended Reporting Period as such coverage is not provided for an unlimited length of time.

During the first several years of a claims-made relationship, claims-made rates are comparatively lower than rates for "occurrence" based coverages. You should expect substantial annual premium increases, independent of overall rate level increases, until the claims-made relationship is matured.

6. This endorsement will not take effect unless the additional premium for it is paid in full. If that premium is paid when due, this endorsement may not be cancelled.

7. If the provision of the Extended Reporting Period in any "underlying controlling insurance" provide for supplemental aggregate limits of insurance when the Extended Reporting Period is purchased, a supplementary aggregate limit of insurance equal to the Aggregate Limit of Insurance shown in the Declarations of this Coverage Part, will apply

to claims first made during the Extended Reporting Period if the Extended Reporting Period is purchased for this insurance.

D. Additional Definition Applicable to this Endorsement:

a. "Terminated" means:
- **(1)** cancelled or non-renewed;
- **(2)** a decrease in limits;
- **(3)** a reduction in coverage;
- **(4)** an increase in deductible or self-insured retention;
- **(5)** addition of a new exclusion; or
- **(6)** any other change in coverage less favorable to the insured.

All other terms and conditions of the policy remain unchanged.