

Business Owner's Umbrella Liability Policy

Utah

This Policy Does Not Provide Any Uninsured/Underinsured Motorists Coverage

Various provisions in this policy may restrict coverage. Read the entire policy carefully to determine **your** rights and duties, and what is and is not covered. **We** will not pay sums or perform acts or services unless specially provided for in this policy.

As used in this policy, the words **you** and **your** mean any person or organization who is shown as the Named Insured on the Business Owner's Umbrella Declarations (hereinafter referred to as the Declarations Page) of this policy. Other persons or organizations may also be **covered persons** within this policy. **We, us, and our** refer to the Insurance company named on the Declarations Page of this policy.

Other words or phrases that are **boldfaced** in this policy or that are **boldfaced** in endorsements to this policy have special meaning. These are explained in the Definitions section of this policy or in the endorsement if one is included.

If **you** have any concerns about this policy, ask **your** agent or broker who will be happy to answer **your** questions.

SAMPLE POLICY
AGREEMENT

We agree to provide the insurance described in this policy in return for the premium paid. **You** agree to comply with all terms and conditions of this policy.

DEFINITIONS

Certain words in **your** policy and its endorsements are printed in **bold** type. This is to let **you** know these words have a defined meaning. Carefully read these definitions below or in the endorsement if one is included.

1. **Covered person** means:
 - a. **Individual.** If this policy is in **your** name as an individual, **you** and **your** spouse if a resident of the same household but only with respect to the conduct of a **business** described on the Declarations Page and Umbrella Schedule of which **you** are a sole proprietor;
 - b. **Partnership or Joint Venture.** If this policy is in the name of a partnership or joint venture: that organization, any individual partners or co-venturers and their spouses, but only for their liability as members of the named organization and with respect to the conduct of such partnership or joint venture;
 - c. **Corporation.** If this policy is in the name of a corporation or other type of **business** organization: the organization, its executive officers, directors and stockholders while acting within the scope of their duties for the named organization;
 - d. **Employees.** **Your** employees while they are acting within the scope of their employment by **you** or while performing duties related to the conduct of **your business**. However, **employees** do not include independent contractors;
 - e. **Limited Liability Company.** **You**, if this policy is in the name of a Limited Liability Company. It also means **your** members but only with respect to the conduct of **your** business and **your** managers but only with respect to their duties as **your** managers;
 - f. **Trust.** **You**, if this policy is in the name of a Trust. It also means **your** trustees but only with respect to their duties as **your** trustees;
 - g. Those covered under **your primary insurance**. Any other person or organization who is covered under **your primary insurance**, subject to the same coverage terms, conditions, limitations and exclusions contained in **your primary insurance**.

2. **Advertising injury** means the following offenses committed in the course of **your** advertising activities and while **your** policy is in effect:
 - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - b. Oral or written publication of material that violates a person's right of privacy;
 - c. Misappropriation of advertising ideas or style of doing **business**;
 - d. Infringement of copyright, title or slogan.
3. **Aircraft** means any contrivance used or designed for flight, except model or hobby aircraft not used for or designed to carry people or cargo.
4. **Auto** means a motorized land vehicle, which requires motor vehicle registration and/or operator licensing, including attached trailers, travel trailers, motor homes and motorcycles.
5. **Bodily Injury** means bodily injury, sickness or disease sustained by a person. This includes resulting death from any of these at any time.
6. **Business** includes any trade, profession or occupation. It does not include any farming activities.
7. **Business property** includes:
 - a. Property on which a **business** is conducted;
 - b. Property, which is rented or held to be rented to others.
8. **Fungi** includes, but is not limited to, any form or type of fungus, including mold, or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.
9. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less than useful because:
 - a. It incorporates **your product** or **your work**, that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. **You** have failed to fulfill the terms of a contract or agreement;If such property can be restored to use by the repair, replacement, adjustment or removal of **your product** or **your work**, or **your** fulfilling the terms of the contract or agreement.
10. **Loss** means:
 - a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in **bodily injury** or **property damage** during the policy period;
 - b. An offense, including a series of similar or related offenses, committed during the policy period, which results in **personal injury** or **advertising injury**.
11. **Net loss** means:
 - a. The amount the **covered person** is legally obligated to pay as damages as a result of a **loss**; and includes any **prejudgment interest** awarded against a **covered person**.
 - b. All reasonable expenses the **covered person** incurs in the investigation, settlement, and defense of any claim or **suit** at **our** request. This does not include expenses covered by **primary insurance** or **other insurance**, expenses **we** incur under the Defense and Settlement section of this policy, or salaries of **employees** of the **covered person**.
12. **Other insurance** means insurance available to any **covered person** that covers a **loss** to which this policy applies, other than either **primary insurance** or insurance specifically purchased by **you** to be excess of the insurance afforded by this policy.
13. **Personal injury** means injury arising out of one or more of the following offenses, but only if the act was committed during the policy period:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. Wrongful entry or eviction;
 - d. Any oral or written publication that slanders, libels, disparages, or violates a person's right of privacy.

14. **Prejudgment interest** means interest added to a settlement, verdict, award or judgment based on the time the **loss** occurred to the time of the settlement, verdict, award or judgment whether or not made part of the settlement, verdict, award or judgment.
15. **Primary insurance** means the policies listed in this policy's Umbrella Schedule (including renewal or replacement policies thereof).
16. **Primary insurer** means any insurer that issues a policy of **primary insurance**.
17. **Property damage** means:
 - a. Physical injury to or destruction of tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
 - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of accident, defined in part a. of the definition of **loss**, that caused it.For the purposes of this insurance, electronic data is not tangible property. As used in this policy, 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.
18. **Recreational vehicle** means a motorized land vehicle, which is designed for recreational use off public roads. A **recreational vehicle** does not include:
 - a. A motor home or travel trailer which requires motor vehicle registration; or
 - b. A motor vehicle not intended for recreational use such as a bulldozer, farm equipment, cranes, forklifts or other construction vehicles, machinery or equipment.
 - c. A golf cart which is not registered for road use and used primarily on and around a golf facility, around a private residence and/or a private community.
19. **Retained limit** means the greater of:
 - a. The sum of the applicable limit of liability of **your primary insurance** as it is shown in this policy's Umbrella Schedule and the actual amount collectible under any **other insurance** which applies; or
 - b. If this policy applies but **your required primary insurance** does not provide coverage for the **loss**, the amount shown on this policy's Declaration Page as the Self Insured Retention.
20. **Suit** means any civil proceeding, which alleges damages because of **loss**. In addition to civil litigation, **suit** includes:
 - a. An arbitration proceeding alleging such damages and to which a **covered person** must submit or submits with **our** consent; or
 - b. Any other alternative dispute resolution proceeding alleging such damages and to which the **covered person** submits with **our** consent.
21. **Your product**:
 - a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) **You**;
 - (b) Others trading under **your** name; or
 - (c) A person or organization whose business or assets **you** have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representation made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or furnished for the use of others but not sold.

22. **Your work:**
- a. Means:
 - (1) Work or operations performed by **you** or on **your** behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representation made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
 - (2) The providing of or failure to provide warnings or instructions.
23. **Watercraft** means a boat or craft principally designed to be propelled on or in the water by wind, engine power or electric motor.

WHAT THIS POLICY COVERS

1. This policy covers a **covered person's** legal obligation to pay damages for a covered **loss** over and above the **retained limit**. If a **covered person** is legally obligated to pay damages for a **loss** to which this policy applies, **we** will pay the **net loss** minus the **retained limit**.
2. The Limit of Liability as shown in this policy's Declarations Page is the most **we** will pay for any one **loss**, regardless of the number of **covered persons**, persons or organizations injured, claims made or **suits** brought or organizations making claims or bringing **suits**.
3. The Policy Total Limit shown in this policy's Declarations Page is the most **we** will pay for all **losses** during each policy period. This policy total limit applies separately to the policy period shown on the Declarations Page and to each subsequent consecutive annual period 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 policy total limit.
4. This insurance applies to a **loss** anywhere in the world.

DEFENSE AND SETTLEMENT

1. If a claim is made or a **suit** is brought against a **covered person** for damages because of a **loss** to which this insurance applies:
 - a. At **our** discretion, **we** may investigate any **loss** and settle any claim or **suit**. **We** have a duty to provide a defense at **our** expense by counsel of **our** choice unless the **loss** is covered by **your primary insurance** or **other insurance**.
 - b. **We** have the right but not the duty to join, at **our** expense, with the **covered person** or any **primary insurer** in the investigation, defense, or settlement of any claim or **suit**, which we believe, may require a payment under this policy. When we have no duty to provide a defense, **we** will not contribute to costs and expenses incurred by the **covered person** or any **primary insurer**, or which any **primary insurer** is obligated to provide.
 - c. **Our** duty to defend any claim or **suit** arising out of a single **loss** ends when the applicable limit of liability is exhausted in the payment of judgments or settlements.
 - d. In any country where **we** are prevented from defending a **covered person** because of laws or other reasons, **we** will pay any expense incurred with **our** written consent for that defense.
2. When **we** have the duty to defend a claim or **suit** under this policy, **we** will:
 - a. Pay premiums on bonds to release attachments up to the limit of this policy. **We** will also pay premiums on appeal bonds and the cost of bail bonds but **we** will not apply for or furnish such bonds.
 - b. Pay interest, which accrues after the date of judgment and before **we** pay or tender, or deposit in court, that part of any judgment within this policy's applicable limit of liability.

- c. Pay all reasonable expenses incurred at **our** request. **We** will pay the **covered person** up to \$200 per day, but not to exceed \$10,000 in total for loss of earnings for attending hearings or trials at **our** request.
 - d. Pay all expenses we incur and costs taxed against a **covered person** in any **suit** we defend.
3. When **we** settle a claim, **we** will pay all settlement expenses **we** have agreed to pay.

EXCLUSIONS

1. **WE DO NOT PROVIDE COVERAGE UNLESS COVERED BY YOUR PRIMARY INSURANCE LISTED IN THE UMBRELLA SCHEDULE AND DESCRIBED IN THE UMBRELLA SCHEDULE FOR:**
 - a. **Loss** arising out of **business** operations or **business property**.
 - b. **Loss** arising out of any **Autos** which are owned by, leased to, rented to, or provided for the regular use of a **covered person**. However, this exclusion does not apply if any **auto** is newly acquired, leased or rented by **you** during the policy period and is covered by the **primary insurance** listed in the Umbrella Schedule.
2. **WE DO NOT PROVIDE COVERAGE UNLESS COVERED BY YOUR PRIMARY INSURANCE LISTED IN THE UMBRELLA SCHEDULE FOR:**
 - a. **Personal Injury** or **Advertising injury**. However, this insurance will not provide coverage under any circumstances for any **personal injury** or **advertising injury**:
 - i. Caused by or at the direction of a **covered person** with the knowledge that the act would violate the rights of another and would inflict **personal injury** or **advertising injury**;
 - ii. Arising out of oral or written publication of material, if done by or at the direction of a **covered person** with knowledge of its falsity;
 - iii. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
 - iv. Arising out of a criminal act committed by or at the direction of a **covered person**;
 - v. Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights;
 - vi. Committed by a **covered person** whose business is:
 - a) Advertising, broadcasting, publishing or telecasting;
 - b) Designing or determining content of web-sites for others; or
 - c) An Internet search, access, content or service provider;
 - vii. Arising out of an electronic chatroom or bulletin board a **covered person** hosts, owns, or over which a **covered person** exercises control;
 - viii. Arising out of a breach of contract;
 - ix. Arising out of the failure of goods, products or services to conform with any statements of quality or performance or any wrong description of prices, made in **your** advertisement; or
 - x. Arising out of the unauthorized use of another's name or product to mislead another's potential customers.
 - b. Employers' liability. If an **employee** of any **covered person** suffers a **loss** arising out of and in the course of their employment, **we** will not cover or defend against:
 - i. Claims made against a **covered person** as an employer or in any other capacity; or
 - ii. Claims made against a **covered person** by a spouse, child, parent, brother or sister of a **covered person's employee** as a consequence of a **loss** sustained by the **employee**; or
 - iii. Any obligation to share damages with or indemnify someone else for damages that arise from the **loss**; or
 - iv. Any damages claimed for care or loss of services.

- c. **Loss** that results because **you** or any **covered person** is engaged in the **business** of manufacturing, distributing, selling, or serving alcoholic beverages if liability is imposed by reason of:
 - i. Causing or contributing to the intoxication of any person; or
 - ii. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - iii. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
 - d. **Loss** by reason of the assumption of liability in any contract or agreement. This exclusion does not apply to liability for damages, which would have been covered in the absence of the contract or agreement.
 - e. **Loss** arising out of, resulting from, caused by or contributed to by any animal.
 - f. **Loss** to **your product, your work**, and to **impaired property** resulting from, caused by, contributed to by, or arising out of it or any part of it.
3. **WE DO NOT PROVIDE COVERAGE EXCEPT UNDER EXPLICITLY STATED CONDITIONS FOR:**
- a. **Loss** or resulting damage either expected or intended by the **covered person**. This exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property.
 - b. **Loss** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants or any **loss**, cost or expense arising out of any:
 - i. Request, demand or order that any **covered person** 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
 - ii. Claim or **suit** by or on behalf of a governmental authority or others 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.

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

This exclusion does not apply to **loss** arising out of heat, smoke, or fumes from a hostile fire if such **loss** is covered by **your primary insurance**. Hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.
 - c. **Loss** arising out of the use, sale, manufacture, delivery, transfer or possession of a controlled substance(s) as defined by the Federal Food and Drug Law at 21 U.S.C.A. sections 811 and 812. Controlled substances include, but are not limited to, cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.
 - d. **Watercraft** which are owned by, leased to, rented to, or provided for the regular use of a **covered person**. However, this exclusion does not apply to the following **watercraft** as long as coverage is provided in **your primary insurance**:
 - Less than 26 feet long; and
 - Not being used to carry persons or property for a charge.
4. **WE NEVER PROVIDE COVERAGE OR DEFENSE FOR:**
- a. Liability that is payable or must be provided under:
 - i. Any workers or unemployment compensation, disability benefits or similar law; or
 - ii. The Employees Retirement Income Security Act (ERISA) of 1974 as now written or as it may be amended in the future.
 - b. Claims for **personal injury** or **bodily injury** to a **covered person**.

- c. Any person or organization for their liability arising from membership in a **partnership, joint venture, limited liability company** or **trust** which is not a **covered person**.
- d. **Property damage** to any:
 - i. Property owned by, rented to or occupied by any **covered person**, or
 - ii. Property which a **covered person** uses, has custody of, controls or manages; or
 - iii. Premises any **covered person** sells, gives away, or abandons if the **property damage** arises out of any part of those premises.
- e. Ownership, chartering, renting or leasing, maintenance, use, operation (including loading or unloading), entrustment or supervision of any **aircraft**.
- f. Providing or failing to provide any professional service by or on behalf of any **covered person**.
- g. **Loss** which is covered by a nuclear energy liability policy issued by a group such as one of those listed below, or would have been covered by such a policy, if such policy had been acquired or if its limits had not been exhausted:
 - i. The American Nuclear Insurers;
 - ii. The Mutual Atomic Energy Liability Underwriters; or
 - iii. The Nuclear Insurance Association of Canada.
- h. **Loss** arising out of:
 - i. The toxic or pathological properties of lead, lead compounds or lead contained in any materials;
 - ii. Any cost of expense to abate, mitigate, remove or dispose of lead, lead compounds or materials containing lead;
 - iii. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with i or ii above; or
 - iv. Any obligation to share damages with or repay someone else who must pay damages in connection with i, ii or iii above.
- i. **Loss** arising out of:
 - i. The toxic or pathological properties of asbestos, asbestos compounds or asbestos contained in any materials;
 - ii. Any cost of expense to abate, mitigate, remove or dispose of asbestos, asbestos compounds or materials containing asbestos;
 - iii. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with i or ii above; or
 - iv. Any obligation to share damages with or repay someone else who must pay damages in connection with i, ii or iii above.
- j. **Loss** arising out of discrimination including, but not limited to sexual preference, pregnancy, marital status, color, race, sex, age, disability, religion or national origin.
- k. **Loss** arising out of employment related practices, policies, acts or omissions, such as coercion, demotion, termination, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination.
- l. Transmission or alleged transmission by any **covered person** of a communicable sickness or disease.
- m. Actual or threatened abuse or molestation including, but not limited to mental, physical or sexual abuse or molestation of any person while in the care, custody or control of any **covered person**.
- n. Ownership or operation of a farm.
- o. Any **covered person's** share of any loss assessments charged against all members of an association, corporation, or community of property owners.
- p. **Loss** arising out of any contracting or property development operations by or on behalf of any **covered person**.

- q. Fines, penalties, punitive or exemplary damages of any kind.
- r. **Loss** arising out of any:
 - i. First party automobile personal injury protection or no-fault automobile coverage or any similar coverage;
 - ii. Medical payments as provided under any **primary insurance**; or
 - iii. Uninsured or underinsured motorists coverage or any similar coverage.
- s. **Loss** sustained by an **employee**, prospective **employee**, former **employee** (or the beneficiaries or legal representatives of any of them) of any **covered person** caused by or arising out of improperly administering or failing to administer any **employee** benefit program.
- t. **Loss** arising out of any **covered person's** act, error or omission as a member of an organization's board of directors or as an officer of an organization.
- u. **Loss** arising from **Fungi** or Bacteria:
 - i. To any liability which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, contact with, exposure to, 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.
 - ii. 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 **covered person** or by any other person or entity.

This exclusion does not apply to any **fungi** or bacteria that are, are on, or are contained in, a good or product intended for consumption.
- v. Any **loss** or claim for damages arising out of or related to **bodily injury** or **property damage**, whether known or unknown by any **covered person**, any claimant or **us** if:
 - i. Such **bodily injury** or **property damage** first occurred prior to the inception date of this policy; or
 - ii. Such **bodily injury** or **property damage** is, or is alleged to be, in the process of occurring as of the inception date of this policy.
- w. Any **loss** or claim for damages arising out of or related to **bodily injury** or **property damage**, whether known or unknown by any **covered person**, any claimant or **us**, which is in the process of settlement, adjustment or a civil proceeding in which damages because of **bodily injury** or **property damage** to which this policy applies are alleged.
- x. **Loss** for **bodily injury**, **property damage**, **personal injury** and/or **advertising injury** arising directly or indirectly out of any action or omission that violates or is alleged to violate:
 - i. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
 - ii. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
 - iii. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.
- y. **Loss** arising out of racing activities, involving the use of **autos**, **recreational vehicles** or **watercraft** while they are being operated in, or practicing for, any prearranged or organized race, speed contest or other similar competition. However, this exclusion does not apply to sailboats.

- z. **Loss** arising, directly or indirectly, out of:
 - i. War, including undeclared or civil war;
 - 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. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- aa. Any **loss**, cost or expenses incurred by a **covered person** or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of **your product, your work or impaired property**, if withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.
- bb. Any **loss** arising out of any **recreational vehicles** which are owned by, leased to, rented to, or provided for the regular use of a **covered person**.
- cc. Any **loss** arising out of ownership, renting or leasing, maintenance, use or operation of golf carts.

YOUR RESPONSIBILITIES

1. **Primary insurance** requirements:
 - a. **You** agree that all **primary insurance** described in this Policy or Umbrella Schedule, is in force for any:
 - i. **Business** operations or **business property** owned, rented or leased by **you** or any **covered person**; and
 - ii. **Auto** owned, leased, rented or provided for the regular use of any **covered person**.
 - b. **You** agree that all **your primary insurance** will be maintained with the coverage and at the limits declared and described in the Umbrella Schedule. If **your primary insurance** does not provide the limits indicated, the **covered person** will be responsible for the amount of the **net loss** up to the indicated limits of the **primary insurance** as described in the Umbrella Schedule.
 - c. In the event of bankruptcy or insolvency of any **primary insurer**, the insurance afforded by this policy shall not replace such **primary insurance**, but shall apply as if the **primary insurance** was valid and collectible.
2. After a **loss**:
 - a. If a **loss** seems likely to involve this policy, **you** and any involved **covered person** must:
 - i. Notify **your** broker, **your** agent or **us** as soon as possible. **We** may subsequently require a detailed written notice of **loss**. **We** should be given a full description of the **loss**, including the names and addresses of any persons injured and any witnesses.
 - ii. Promptly send **us** copies of any notices, legal papers or other documents received or sent in connection with the **loss**.
 - iii. Cooperate with **us** in the investigation, settlement and defense of any claim or **suit**. **We** do not have to provide coverage if **you** or any **covered person** involved refuses to assist **us**.
 - iv. Obtain **our** written consent before making any payments, assuming any obligations or incurring any expenses with respect to a **loss** covered by this policy. Any **covered person** who makes any payment, assumes any obligation or incurs any expense with respect to a **loss** covered by this policy without **our** prior written consent undertakes such actions voluntarily and at such **covered person's** own cost.
 - v. Assist **us** in the enforcement of any right against any person or organization who may be liable to **you** in connection with the **loss**.

- b. If the insurer of any **primary insurance** denies coverage for any reason, the **covered person** must immediately notify **us** in writing and tell **us** the reason for such denial as stated by the **primary insurer**. Before making a claim under this policy, if **we** request it, the **covered person** must start legal proceedings at **our** expense against the **primary insurer** to determine, by final judgment, the legality of its position.
- c. If the **covered person** breaches a **primary insurance** policy condition, and if such breach is not a breach of a condition of this policy, the insurance afforded by this policy shall apply as if the **primary insurance** had not been breached.

GENERAL CONDITIONS

1. Changing **Your** Policy.

Any change to this policy must be made by endorsement issued by **us**. **We** will adjust the premium if necessary. If **we** broaden the coverage in **our** umbrella liability program without increasing the premium, **we** will also apply the broadened coverage to **your** policy. The broadened coverage will apply only to **loss** that occurs after the date the coverage is added.

2. Premium.

The premium for this policy is a flat charge determined in advance and is based on the exposures declared in the application. Changes in driving records or the number of drivers, **autos**, **recreational vehicles** or **watercraft** covered by the policy will not affect the premium.

3. Cancelling **Your** Policy.

We can cancel this policy by giving **you** not less than 30 days advance written notice that states when the policy coverage will end. If **we** cancel for non-payment of premium or **your** material misrepresentation of facts in obtaining this policy or in presenting a claim, **we** will give **you** 10 days advance written notice that states when the policy coverage will end. **We** will give **you our** reason for canceling **your** policy at the same time **we** send **you** notice of cancellation.

- i. **You** can cancel this policy at any time by returning it to **us** or **your** agent or broker telling **us**, in writing, at what future time **you** want coverage to end.
- ii. If **we** cancel this policy, **we** will compute unearned premium due **you** as soon as possible following cancellation of **your** policy. If **you** cancel this policy, **we** will compute unearned premium at 90% of pro-rata and return any premium due to **you** as soon as possible following cancellation of **your** policy. If the result of computing unearned premium shows that **you** owe **us** unpaid premium, **you** agree to pay **us** as soon as **you** receive **our** bill for premium due.

4. Non-Renewal of **Your** Policy.

We may choose not to renew **your** policy for another year. **We** will give **you** not less than 60 days advance written notice before **your** policy coverage is due to end. **We** will give **you our** reason for non-renewal of **your** policy at the same time **we** send **you our** notice of non-renewal.

5. Transferring **Your** Policy.

You agree not to transfer or assign any of **your** rights under this policy without **our** written approval.

6. Bankruptcy, Insolvency or Death.

This policy's coverage is not affected by **your** bankruptcy or insolvency. If **you** die or are declared bankrupt or insolvent, **your** estate and **your** legal representatives will be covered until the end of the policy period.

7. Legal Action Against **Us**.

No **covered person** may bring legal action against **us** concerning this policy unless such **covered person** has fully complied with all of its terms and conditions. No legal action may be brought against **us** until judgment against such **covered person** has been finally determined after trial or by agreement between the claimant or the claimant's legal representative and **us**. This policy does not give anyone the right to make **us** a party to any action to determine the liability of a **covered person**. **We** are not liable for damages that are not payable under this policy or that are in excess of the applicable limits of insurance.

8. **Our Right to Recover from Others.**

After **we** have made payment under this policy, **we** have the right to recover the payment from anyone, other than **you** who may be held responsible for the **loss**. A **covered person** will be required to sign any papers and do whatever else is necessary to transfer this right to **us**. Neither **you** nor anyone else **we** insure in this policy has the right to do anything after a **loss** to prejudice **our** right.

9. **Sole Agent.**

The named insured first shown on the Declarations Page is authorized to act on behalf of all **covered persons** with respect to giving notice of cancellation or non-renewal, receiving refunds and agreeing to any changes in this policy.

10. **Other Insurance.**

If **other insurance** applies to a **loss** covered by this policy, the insurance under this policy is excess and **we** will not make any payments until such **other insurance** is used up. This condition does not apply if the **other insurance** is specifically written to be excess over this policy.

11. **Representations.**

By accepting this policy, **you** agree that the statements in the Declarations Page and Umbrella Schedule are accurate and complete and those statements are based upon representations **you** made to **us** through **your** agent or broker whose name appears on **our** Declarations Page, and **we** have issued this policy in reliance upon **your** representations. This policy is void in any case of material misrepresentation by **you** as it relates to this policy or any claim under this policy.

12. **Fraud.**

We do not provide coverage for any **covered person** who has made fraudulent statements or engaged in fraudulent conduct in connection with any **loss** for which coverage is sought under this policy.

13. **Appeals.**

If a **covered person** or any insurer providing **primary insurance** elects not to appeal a judgment which exceeds the **retained limit**, **we** may do so at **our** own expense. **We** will pay all costs, taxes, expenses and interest that may be incurred. **We** will not be held liable to **our** limit of liability.

SAMPLE POLICY

THIS ENDORSEMENT CHANGES THE POLICY - PLEASE READ IT CAREFULLY
UTAH - CHANGES

This endorsement modifies insurance provided under the following:
BUSINESS OWNER'S UMBRELLA LIABILITY POLICY

I. Paragraphs 3. Cancelling **Your** Policy and 4. Non-Renewal of **Your** Policy under **GENERAL CONDITIONS** are deleted and replaced by the following:

3. Cancelling **Your** Policy:

- a. **We** may cancel this policy by first class mail or by delivering written notice stating the reason for cancellation to **you** at **your** last address known to **us**. This notice will be mailed or delivered:
 1. At least 10 days prior to the effective date when cancellation is for nonpayment of premium. Notice of cancellation will state the reason for cancellation; or
 2. When cancellation is for other than nonpayment of premium:
 - (a) At least 10 days prior to the effective date when this policy has been in effect less than 60 days and is not a renewal; or
 - (b) At least 30 days prior to the effective date when this policy has been in effect 60 days or more or is a renewal.
- b. If this policy has been in effect for less than 60 days and is not a renewal, **we** may cancel for any reason. If this policy has been in effect for 60 days or more or is a renewal, **we** may cancel for only one or more of the following reasons:
 1. Nonpayment of premium. Notice of cancellation will state the reason for cancellation;
 2. Material misrepresentation;
 3. Substantial change in the risk assumed, unless **we** should have contemplated the risk when entering into the contract;
 4. Substantial breaches of contractual duties, conditions or warranties; or
 5. Reinstatement of a policy by a reinsurer's policy with the policyholder's customary drives and a policyholder's insurance.
- c. **You** can cancel this policy at any time by returning it to **us** or **your** agent or broker, telling **us**, in writing at what future time **you** want coverage to end.
- d. If **we** cancel this policy, **we** will compute unearned premium due to **you** as soon as possible following cancellation of **your** policy. If **you** cancel this policy, **we** will compute unearned premium at 90% of pro-rata and return any premium due to **you** as soon as possible following cancellation of **your** policy. If the result of computing unearned premium shows that **you** owe **us** unpaid premium, **you** agree to pay **us** as soon as **you** receive **our** bill for premium due.

4. Non-Renewal of **Your** Policy:

- a. **We** may choose not to renew **your** policy for another year. In that case, **we** will give **you** not less than 30 days advance written notice, by first class mail at **your** last address known to **us**, before **your** policy coverage is due to end.
- b. **We** need not mail this notice if:
 1. **You** have accepted replacement coverage;
 2. **You** have requested or agreed to non renewal; or
 3. This policy is expressly designated as non-renewable.

II. The following is added to Paragraph 8. **Our** Right to Recover from Others under **GENERAL CONDITIONS**:

We shall be entitled to a recovery only after **you** have been fully compensated for damages. If **we** make any payment and **you** recover from another party, **you** shall hold the proceeds in trust for **us** and pay **us** back the amount we have paid.

NOTICE

American Alternative Insurance Corporation's Privacy Policy

Dear Policyholder:

The nature of our insurance business at American Alternative Insurance Corporation ("AAIC") requires that we gather and maintain a variety of information about our current and potential customers and consumers, including nonpublic personal information about individuals. We are committed to keeping confidential and secure any such nonpublic personal information. We will disclose nonpublic personal information obtained in the course of our business only as permitted by law.

Categories of Personal Information We May Obtain

We may obtain nonpublic personal information from the following sources:

- **Applications or other underwriting forms.** These forms provide us with information we need as part of the underwriting process; this can include such nonpublic personal information as individuals' names, addresses, social security numbers and any other information about individuals that we are authorized to obtain in order to underwrite and administer policies and claims.
- **Information we obtain from third parties.** The kind of information we may gather from third parties depends on the type of insurance policy or coverage, but may include such nonpublic personal information as motor vehicle reports, claims reports, credit reports, property inspection reports, and medical records or reports.
- **Information about transactions and experiences with us or with our affiliates.** We develop and maintain individuals' personal information, such as policy numbers, premium payments and claims history, obtained on the basis of AAIC's or its affiliates transactions and experiences.

1. How We May Use and Share Personal Information

We may use and share all of the information that we obtain as described below:

- **Within AAIC**

Within AAIC we only use nonpublic personal information received to service or maintain policies, to effect, process, administer or enforce requested or authorized transactions, or for other purposes as permitted by law. We restrict access to nonpublic personal information to those employees who have a business reason to know that information to provide products and services. We also use nonpublic personal information to protect against unauthorized use of AAIC's nonpublic personal information.
- **With Affiliates and Non-Affiliated Third Parties**

We may disclose information about AAIC's customers and consumers to others, including our affiliates (i.e. companies that are related to us by common ownership or control), in order to offer insurance products or services that may be of value.

We may also disclose nonpublic personal information without prior permission to nonaffiliated third parties (i.e., persons or companies that are not related to us by common ownership or control) as necessary to effect, process, administer or enforce a requested or authorized transaction, or for other purposes as permitted by law.

When we provide nonpublic personal information to a nonaffiliated third party who performs services for us, we require that provider to agree to safeguard any nonpublic personal information, to use the information only for the intended purpose, and to abide by applicable law.

Confidentiality of Health and Medical Information

It is often necessary for us to obtain personal health information in order to underwrite and process claims for various types of insurance coverages. We recognize concerns about the security of that information and want to provide assurance that any personal health data provided to us or that we otherwise obtain will be held in strict confidence. We will not disclose or share personal medical information for marketing or any other unauthorized purpose. We may disclose or share personal medical information as permitted by law; for example, in order to underwrite policies or administer policies or claims.

Purpose of and Updates to This Notice

We recognize and respect the privacy concerns of our potential and current customers and consumers. We may amend our privacy policy from time to time. We send this notice of our privacy policy at this time as required for informational purposes, and we will update and distribute it as required by law.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

THIS ENDORSEMENT CHANGES THE POLICY- PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

BUSINESS OWNER'S UMBRELLA LIABILITY POLICY

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

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and **we** have met **our** insurer deductible under the Terrorism Risk Insurance Act, **we** shall not be liable for the payment of any portion of the amount of such losses in excess of \$100 billion and such losses in excess of that amount are subject to the provisions of the Terrorism Risk Insurance Act, as amended, and the provisions of the Terrorism Risk Insurance Act, as amended, shall apply to such losses. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

"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.

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

All other terms and conditions remain the same.

FOR USE WITH: CUE T 01 Cap On Losses From Certified Acts Of Terrorism
POLICYHOLDER DISCLOSURE NOTICE OF TERRORISM INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, **you** now have a right to purchase insurance coverage for losses resulting from acts of terrorism, *as defined in Section 102(1) of the Act*: The term **act of terrorism** means any act or acts that are certified by the Secretary of the Treasury--in consultation with the Secretary of Homeland Security, and the Attorney General of the United States--to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Coverage for "**certified acts of terrorism**" has been included in **your** policy. No additional premium has been charged under this policy for such terrorism coverage.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM "CERTIFIED ACTS OF TERRORISM", SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 AND 80% BEGINNING ON JANUARY 1, 2020 OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE, IF ANY, IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT. YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM "CERTIFIED ACTS OF TERRORISM" WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION, IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

HOW DOES THE ACT AFFECT YOUR INSURANCE COVERAGE?

You have a policy of insurance issued by **us** which has no terrorism exclusion attached to it.

- This policy will remain in effect as written for the remainder of the policy period shown in the Declarations of the policy.
- The decision not to include a terrorism exclusion to **your** policy when it was issued or last renewed was based on a number of reasons, and the continuation or importance of these reasons may or may not have been altered by the passage of the Act.
- In the time between now and the next renewal **we** will examine and refine **our** treatment of terrorism under **your** policy. This means that **you** may or may not have the same terms offered to **you** upon renewal and that the premium charged may or may not reflect alteration based upon the terrorism exposure.

WHAT IS THE TERRORISM RISK INSURANCE ACT ?

Below is a partial summary of the Terrorism Risk Insurance Act (referred to as the Act), as amended. The provisions of the Act determine the scope of the insurance protection available for losses covered under the Act. The Act has been extended through 12/31/2020, and provides coverage for property and casualty insurance for **insured losses** as a result of an **act of terrorism**. As stated in the Act:

- A. **Insured loss** means any loss resulting from an **act of terrorism** (including an act of war, in the case of worker's compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss: occurs within the United States; or occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which US income tax is paid and whose

insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

- B. **Act of terrorism** means any act or acts that are certified by the Secretary of Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States: to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside of the United States in the case of an air carrier or vessel described in paragraph (5)(B) of Section 102 of the Act or the premises of a United States mission; and to have been committed by an individual or individuals, as part of an effort to coerce the civilian populations of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- C. Section 102 (1)(B) of the Act states “no act shall be certified by the Secretary as an act of terrorism if: the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000.”
- D. The Act also contains a “program trigger” in Section 103(e)(1)(B), pursuant to which the federal government does not pay compensation for losses resulting from a certified act occurring after December 31, 2007, unless aggregate industry insured losses from such a certified act exceed a certain amount, or “trigger.” For insured losses occurring in 2008 and for all additional calendar years, the program trigger is \$100,000,000 through 2015; \$120,000,000 beginning on January 1, 2016; \$140,000,000 beginning on January 1, 2017; \$160,000,000 beginning on January 1, 2018; \$180,000,000 beginning on January 1, 2019; and \$200,000,000 beginning on January 1, 2020, of aggregate industry insured losses.
- E. The Act does not apply to: crop or livestock insurance; private mortgage insurance or title insurance; financial guaranty insurance issued by monoline financial guaranty insurance corporations; insurance for medical malpractice; health or life insurance; flood insurance provided under the National Flood Insurance Act of 1968; commercial automobile insurance; burglary and theft insurance; surety insurance; professional liability insurance (except Directors and Officers Liability); or farm owners multiple peril insurance.

F. Under the Act for calendar years through December 31, 2020, the federal government will reimburse the insurance company for 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020 of its insured losses in excess of a deductible, until aggregate insured losses in any calendar year exceed \$100 billion. Each insurer's deductible will be 20% of its direct earned premium for property and casualty insurance (as reported on Page 14 of the company's Annual Statement), over the immediately preceding calendar year. For the purposes of determining such deductibles, direct earned premium means only the premiums earned on the commercial lines property and casualty insurance covered by the Act for U.S. risks or vessels, aircraft and foreign missions outside the U.S. covered by the Act. Neither the insurance company (having met its statutorily mandated share as described above) nor the federal government will be liable for payment of any portion of insured losses under the Act that exceeds \$100 billion in the aggregate during any calendar year.