

COMMERCIAL LIABILITY UMBRELLA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**UNDERLYING CLAIMS-MADE COVERAGE
(NORTH CAROLINA)**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

If any "underlying insurance" is written on a claims-made basis, the following applies to the insurance provided by this policy which is excess over that underlying insurance:

A. Paragraph 1.a., 1.b.(2), 1.b.(3), 1.c., 1.d. and 1.e. of Section I – Coverage A – Bodily Injury And Property Damage Liability are replaced by the following:

1. Insuring Agreement

a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "bodily injury, wrongful act or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages for such "bodily injury" wrongful act, or "property damage" when the "underlying insurance" does not provide coverage or the limits of "underlying insurance" have been exhausted. 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 to which this insurance may apply. However, we will have no duty to defend an insured against any "suit" to which this insurance does not apply. At our discretion, we may investigate any allegation of "bodily injury", wrongful act or "property damage" and settle any resultant claim or "suit", for which we have the duty to defend. But:

(1) The amount we will pay for the "ultimate net loss" is limited as described in Section II – Limits Of Insurance;

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in payment of judgments or settlements under Coverages **A** and **B**.

No other obligations or liability to pay sums or perform acts or services is covered unless explicitly provided under Supplementary Payments – Coverages **A** and **B**.

b. This insurance applies to "bodily injury", wrongful act or "property damage" only if:

(1) The "bodily injury", wrongful act or "property damage" is caused by an "occurrence" or claim that takes place in the "coverage territory".

(2) The "bodily injury", wrongful act or "property damage" did not occur before the Retroactive Date, if any, shown in the Declarations of the "underlying insurance" or after the end of the policy period; and

(3) A claim for damages because of the "bodily injury", wrongful act or "property damage" is first made against any insured, in accordance with Paragraph **c.** below, during the policy period or any Extended Reporting Period we provide under Extended Reporting Periods.

c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by the "underlying insurer" or us, whichever comes first; or

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(2) When we make settlement in accordance with Paragraph 1.a. above, or settlement is made by the "underlying insurer" with our agreement.

d. "Bodily injury", wrongful act or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1.a. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence", wrongful act or claim:

(1) Reports all, or any part, of the "bodily injury", wrongful act or "property damage"; to us or any other insurer;

(2) Receives written or verbal demand or claim for damages because of the "bodily injury", wrongful act or "property damage"; or

(3) Become aware by any other means that "bodily injury", wrongful act or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" or wrongful act includes damages claimed by any person or organization for care, loss of service or death resulting at any time from the "bodily injury" or wrongful act.

f. All claims for damages because of a wrongful act or "property damage" causing loss to the same person or organization will be deemed to have been made at the time the first of those claims is made against any insured.

B. Paragraph 1.c. of Section I – Coverage B – Personal And Advertising Injury Liability is replaced by the following:

1. Insuring Agreement

c. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business, but only if:

(1) The offense was committed in the "coverage territory";

(2) The offense was not committed before the Retroactive Date, if any, shown in the Declarations of the "underlying insurance" or after the end of the policy period; and

(3) A claim for damages because of the "personal and advertising injury" is first made against any insured, in accordance with Paragraph d. below, during the policy period or any Extended Reporting Period we provide under Extended Reporting Periods.

C. The following is added to Paragraph 1. of Section I - Coverage B – Personal And Advertising Injury Liability:

1. Insuring Agreement

d. A claim made by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

(1) When notice of such claim is received and recorded by any insured or by the "underlying insurer" or us, whichever comes first; or

(2) When we make settlement in accordance with Paragraph 1.a. above or settlement is made by the "underlying insurer" with our agreement.

All claims for damages because of "personal and advertising injury" to the same person or organization as a result of an offense will be deemed to have been made at the time the first of those claims is made against any insured.

D. Exclusion 2.a.(3) Material Published Prior To Policy Period, of Section I – Coverage B - Personal And Advertising Injury Liability is replaced by the following:

2. Exclusions

This insurance does not apply to;

a. "Personal and advertising injury"

(3) Material Published Prior To The Policy Period

Arising out of oral or written publication, in any manner, of material whose first publication took place before the Retroactive Date, if any, shown in the Declarations of the "underlying insurance".

E. Paragraph 1.d. is added to SECTION III – Limits Of Insurance;

d. Wrongful acts.

F. Paragraph 5. Is added to SECTION III – Limits Of Insurance;

5. Our obligation to pay damages on behalf of the insured applies only to the amount of “ultimate net loss” in excess of the “retained limit” shown in the Declarations. If there is “underlying insurance” with a policy period that is non-concurrent with the policy period of this endorsement, the “retained limit” will only be reduced or exhausted by claims for that insurance that are made during the policy period or the Extended Reporting Period.

G. Paragraph 3.a.(1) and Paragraph 3.a.(3) of SECTION IV – CONDITIONS are replaced with the following:

Duties In The Event Of Occurrence, Offense, Claim Or Suit

- (1) How, when and where the occurrence, offense or wrongful act took place;
- (3) The nature and location of any injury or damage arising out of the occurrence, offense or wrongful act.

H. The following Section is added:

Extended Reporting Periods

1. With respect to any “underlying insurance” written on a claims-made basis, if the “underlying insurance” provides an Extended Reporting Period, then we will provide one or more Extended Reporting Periods, as described below, if:
- a. This Coverage Part is canceled or not renewed and the “underlying insurance” written on a claims-made basis is also canceled or not renewed;
- b. “Underlying insurance” written on a claims-made basis is renewed or replaced with insurance that:
- (1) Has a Retroactive Date later than the date shown in the Declarations of the “underlying insurance”; or
- (2) Does not apply to wrongful act, “bodily injury”, “property damage” or “personal and advertising injury” on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for:
- a. Wrongful act, “bodily injury” or “property damage” that occurs; or
- b. “Personal and advertising injury” caused by an offense committed

before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations of the “underlying insurance”.

Once in effect, Extended Reporting Periods may not be canceled.

3. A Basic Extended Reporting Period is automatically provided without additional charge and is subject to the same terms and conditions of the Extended Reporting Period that is provided by the “underlying insurance”. This period starts with the end of the policy period and lasts for:
- a. Five years, or the duration of the Extended Reporting Period offered by the “underlying insurer”, whichever is less, with respect to claims:
- (1) Because of “bodily injury” and “property damage” arising out of an “occurrence”;
- (2) Because of “personal and advertising injury” arising out of an offense; or
- (3) First made during the policy period provided the claim is for a loss from wrongful acts, which took place before the end of the policy period, but not before the Retroactive Date of the “underlying insurance”.

and were reported to us not later than 60 days after the end of the policy period, in accordance with the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition and

- b. Sixty days with respect to claims arising from wrongful acts, “occurrences” or offenses not previously reported to us.

The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

4. The Basic Extended Reporting Period does not reinstate or increase the Limit of Insurance.
5. A Supplemental Extended Reporting Period will be offered, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph 3. Above, ends.

If the “underlying insurance” requires a written request from you for an Extended Reporting Period to apply to a claim, then for a Supplemental Extended Reporting Period to apply under this policy:



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- (1) we must also receive a written request within 60 days of the end of the policy period; and
- (2) you must pay the additional premium to us when due.

The duration of the Supplemental Extended Reporting period will be the period of time specified on the Supplemental Extended Reporting Period Endorsement Schedule. The Supplemental Extended Reporting Period will be subject to the same terms and conditions of the Extended Reporting Period that is provided by the "underlying insurance".

The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured on a claims-made basis;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this Coverage Part for future payment of damages; and
- d. Other related factors.

- 6. If the Supplemental Extended Reporting Period is in effect, we will provide a supplemental aggregate limit of insurance specified on the Supplemental Extended Reporting Period Endorsement Schedule, but only for claims first received and recorded during the Supplemental Extended Reporting Period.

I. The following is added to **Section IV - Conditions:**

15. Your Right To Claim And "Occurrence" Information

We will provide the first Named Insured shown in the Declarations the following information relating to this and any preceding commercial liability umbrella claims-made coverage form we have issued to you during the previous three years:

- a. A list or other record of each "occurrence", not previously reported to any other insurer, of which we were notified in accordance with Paragraph 3.a. of Section IV- Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition. We will include the date and brief description of the "occurrence" if that information was in the notice we received.

- b. A summary by policy year, of payments made and amounts reserved, stated separately, under any applicable Aggregate Limit.

Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values.

You must not disclose this information to any claimant or any claimant's representative without our consent.

If we cancel or elect not to renew this Coverage Part, we will provide such information no later than 30 days before the date of the policy termination. In other circumstances, we will provide this information only if we receive a written request from the first Named Insured within 60 days after the end of the policy period. In this case, we will provide this information within 45 days of receipt of the request.

We compile claim and "occurrence" information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first Named Insured, we make no representations or warranties to insureds, insurers or others to whom this information is furnished by or on behalf of any insured. Cancellation or nonrenewal will be effective even if we inadvertently provide inaccurate information.