

LIBERTY SURPLUS INSURANCE CORPORATION

(A member of Liberty Mutual Group and hereinafter "the Company")

POLICY TERMS

Relying upon the completeness and accuracy of the statements and disclosures in the application for this Policy and upon all other information provided to the Insurer, in consideration of the payment of the premium of this Policy, the Insurer agrees as follows:

1. **Incorporation of Primary Policy:** This Policy incorporates by reference the insuring clauses, warranties, definitions, terms, conditions, exclusions and other provisions contained in the Primary Policy and as described in the materials submitted to the Insurer in connection with the application for this Policy except as regards the premium, the limit of liability, the policy period, and except as otherwise provided herein. Any changes to the Primary Policy shall not be binding on the Insurer unless specifically endorsed hereon.
2. **Definitions:** The following terms, whenever printed in boldface type in this Policy, shall have the meanings indicated below.
 - 2.1. **"Insurer"** means the entity issuing this Policy as named on the Declarations.
 - 2.2. **"Named Insured"** means the entity identified in Item 1 of the Declarations.
 - 2.3. **"Primary Policy"** means the policy identified in Item 4.(A) of the Declarations.
 - 2.4. **"Underlying Limit of Liability"** means the combined limits of liability of the Underlying Policies, less any reduction or exhaustion of the limits of liability due to payment of loss under those policies.
 - 2.5. **"Underlying Policies"** means the policies identified in Items 4.(A) and 4.(B) of the Declarations.
3. **Limit of Liability:** The Insurer will pay all of loss in excess of both the Underlying Limit of Liability plus the applicable retention or deductible under the Primary Policy, up to the Limit of Liability stated in Item 3 of the Declarations. The Insurer's maximum liability under this Policy for loss shall be the amount shown in Item 3 of the Declarations. In the event the Limit of Liability stated in Item 3 of the Declarations is exhausted by payment of loss, any and all obligations of the Insurer hereunder shall be deemed to be completely fulfilled and extinguished.
4. **Maintenance of Underlying Policies:** It is a condition precedent to the coverage afforded under this Policy that the insureds maintain the Underlying Policies with retentions/deductibles, participation/co-insurance and limits of liability (subject to reduction or exhaustion as a result of loss payments), as set forth in Items 4.(A) and 4.(B) of the Declarations. Except as provided in paragraph 4.1., this Policy only provides coverage when the Underlying Limit of Liability is exhausted by reason of the insurers of the Underlying Policies paying or being held liable to pay in legal currency the full amount of the Underlying Limit of Liability as loss.
 - 4.1. In the event one or more of the insurers under the Underlying Policies fails to pay loss in connection with any claim covered under the Underlying Policies as a result of the insolvency, bankruptcy or liquidation of said insurer, then the insureds shall be deemed self-insured for the amount of the limit of liability of said insurer which is not paid as a result of such insolvency, bankruptcy or liquidation.
5. **Reduction or Exhaustion:** In the event of reduction of the Underlying Limits of Liability by reason of payment of loss, this Policy shall pay excess of the reduced limits. In the event of exhaustion of the Underlying Policies, this Policy shall continue in force as primary insurance; provided, however, this Policy shall only pay excess of the

retention or deductible applicable to the Primary Policy, which shall be applied to any subsequent loss in the same manner as specified in the Primary Policy.

5.1 If any Underlying Policies bear an effective date which is prior to the Policy inception date, and any such insurance becomes exhausted or impaired by payment of loss, with respect to any claim which shall be deemed to be made prior to the Policy inception date, then with respect to any claim made after the Policy inception date, the insureds shall be deemed to be self-insured for the amount of any such Underlying Policies which are exhausted or impaired by payment of such loss with respect to such claim made prior to the Policy inception date.

6. **Defense and Settlement:** The insureds shall not admit liability for, offer to settle or settle any claim or incur costs of defense, where the liability, settlement and/or costs of defense are reasonably likely to involve the limit of liability of this Policy, without the Insurer's prior written consent, which consent shall not be unreasonably withheld.

7. **Notice of Claim:** The insureds shall give the Insurer notice of any claim in the same manner required by the terms and conditions of the Primary Policy and shall give the Insurer such information and cooperation as it may reasonably require. Notices to the Insurer shall be sent via express mail to:

Liberty International Underwriters
55 Water Street
18th Floor
New York, NY 10041

Such notice shall be effective on the date of receipt by the Insurer at the above address.

8. **Policy Termination:** This Policy may be cancelled in the same manner as provided by the terms and conditions of the Primary Policy.

9. **Subrogation:** If any payment is made hereunder, the Insurer will act in concert with all other interests concerned (including those of the insureds) in the exercise of rights of recovery against any person or other entity. If any amounts are recovered, they shall be apportioned as follows:

a. Any interests (including those of the insureds) that paid an amount by or on behalf of the insureds over and above any payment made by the Insurer under this Policy shall be reimbursed first up to the amount paid by them;

b. then, the Insurer shall be reimbursed out of any balance then remaining up to the amount paid, and


c. then, the interests (including those of the insureds) of which this coverage is in excess are entitled to claim the residue, if any.

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


11. **Conformity to Statute:** Any terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy are hereby amended to conform to such laws.

12. **Entire Agreement:** By acceptance of this Policy, the insureds and the Insurer agree that this Policy, including the Declarations, the application and any written endorsements attached hereto, constitute the entire agreement between the parties.

13. **Representation by the Named Insured:** The Named Insured shall act on behalf of all the insureds for all purposes including, but not limited to, the negotiation and purchase of this Policy, the giving and receiving of all notices and correspondence, the cancellation or non-renewal of this Policy, the payment of premiums, and the receipt of any return premiums that may be due under this Policy.
14. **Mutual Policy Conditions:** This Policy is nonassessable. The Named Insured is a member of the Insurer's company and shall participate to the extent and upon the conditions fixed and determined by the board of directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.



President



Secretary