

Scottsdale Indemnity Company

A Stock Insurance Company, herein called the Company

EXCESS INSURANCE POLICY

UNLESS OTHERWISE PROVIDED IN THE FOLLOWED POLICY, THIS POLICY APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY SHALL BE REDUCED AND MAY BE EXHAUSTED BY PAYMENT OF DEFENSE COSTS.

In consideration of the payment of the premium and in reliance upon the statements in the **Application**, which is made a part hereof and subject to the Declarations, terms and conditions of this Policy, the insurance company indicated in the Declarations (herein called the **Company**) and the **Insured** agree as follows:

I. INSURING AGREEMENT

The **Company** shall provide the **Insureds** with insurance coverage excess of the **Underlying Policies**. This Policy is subject to the same representations as are contained in the applications for the **Underlying Policies** and, except with respect to the premium, the limit of liability and as otherwise provided herein, the insurance coverage provided by this Policy shall apply in accordance with the same terms, definitions, conditions, exclusions and limitations as are contained in the **Followed Policy** and, to the extent coverage is further limited or restricted thereby, in any other of the **Underlying Policies**. This Policy shall not grant broader coverage than the most restrictive of the **Underlying Policies**.

II. DEFINITIONS

- A. **Application** means all signed applications and any information submitted therewith for this Policy.
- B. **Claim** has the same meaning in this Policy as in the **Followed Policy**.
- C. **Insured** means any persons or entities entitled to coverage under the **Followed Policy**.
- D. **Named Insured** means the entity named in Item 1. of the Declarations.
- E. **Policy Period** means the period from the effective date to the expiration date of this Policy as set forth in Item 3. of the Declarations, or any earlier termination date.
- F. **Followed Policy** means the policy, as constituted at its inception, named in Item 4. of the Declarations.
- G. **Underlying Policies** mean all policies, as constituted at their inception, listed in Item 5. of the Declarations.
- H. **Underlying Limits** means an amount equal to the total of all aggregate limits of liability for all **Underlying Policies**, plus the uninsured retention or deductible applicable to the primary policy named in Item 5. of the Declarations.

III. LIMIT OF LIABILITY

The amount stated in Item 2. of the Declarations shall be the maximum amount payable by the **Company** under this Policy with respect to all **Claims** first made during the **Policy Period**.

IV. REDUCTION OR EXHAUSTION OF UNDERLYING LIMITS

- A. In the event the **Underlying Limits** are partially reduced by reason of actual payment by the insurers of the **Underlying Policies**, then subject to the Limit of Liability this Policy shall continue to apply as excess over the reduced **Underlying Limits**.
- B. In the event the **Underlying Limits** are wholly exhausted by reason of actual payment by the insurers of the **Underlying Policies** (and the **Insured** has paid the full amount of any applicable deductible or uninsured retention under the **Followed Policy**), then subject to the Limit of Liability this Policy shall continue to apply as primary insurance; provided always that this Policy shall only pay excess of such applicable deductible or retention, which shall be applied to any subsequent **Claim** in the same manner as specified in the **Followed Policy**.

- C. This Policy shall only pay in the event of the reduction or exhaustion of the **Underlying Policies** by reason of actual payment by the insurers of the **Underlying Limits** as described above and shall not drop down for any other reason, including but not limited to existence of any sub-limit in any **Underlying Policy** or the uncollectibility (in whole or in part) of any of the **Underlying Limits**; provided, however, this Policy will recognize erosion of any of the **Underlying Policies** due to the existence of a sub-limit.

The **Insureds** expressly retain the risk of any gap in coverage or uncollectibility and the **Company** does not in any way insure or assume such risk.

V. CONDITIONS OF COVERAGE

- A. As a condition precedent to this Policy's coverage, the **Insureds** agree to maintain the **Underlying Policies** in full effect with solvent insurers during the **Policy Period** except for any reduction or exhaustion of the **Underlying Limits** by reason of actual payments thereunder. If the **Underlying Policies** are not so maintained, the **Company** shall not be liable under this Policy to a greater extent than it would have been had such **Underlying Policies** been maintained.
- B. As a condition precedent to this Policy's coverage, the **Insureds** shall notify the **Company** in writing of any of the following events as soon as practicable thereafter, with full particulars:
- (1) the reduction or exhaustion of any of the **Underlying Limits**;
 - (2) the cancellation or termination of, or failure to maintain in full effect, any of the **Underlying Policies**;
 - (3) any change to any of the **Underlying Policies**; or
 - (4) the insurer of any of the **Underlying Policies** becoming subject to a receivership, liquidation, dissolution, rehabilitation or similar proceeding or being taken over by any regulatory authority.
- C. If during the **Policy Period** or any discovery or extended reporting period, any terms of any of the **Underlying Policies** are changed in any manner, this Policy shall not be subject to such change unless the **Company** consents to such change by written endorsement to this Policy. Unless the **Company** so consents to such change, the **Company** shall not be liable to a greater extent than it would have been absent such change to any of the **Underlying Policies**.