CERTIFIED INSURANCE COUNSELORS

Commercial Casualty

The National Alliance

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CERTIFIED INSURANCE COUNSELORS

Commercial Casualty

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THE NATIONAL ALLIANCE
for Insurance Education & Research

A Letter from William J. Hold, President/CEO

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Let's take the first step.

William J. Hold, M.B.A., CRM, CISR
President/CEO

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DISCLAIMER

This outline is intended as a general guideline and may not apply in each situation.

For any matters of legal and/or tax issues, one should consult with competent counsel or advisor for the matter in question and in the jurisdiction in question.

The Society of CIC and any organization for which this seminar is conducted shall have neither liability nor responsibility to any person or entity with respect to any loss or damage alleged to be caused directly or indirectly as a result of the information contained in this outline.

Insurance policy forms, clauses, rules, court decisions, and laws change constantly. Policy forms and underwriting rules vary from company to company.

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EXAM INFORMATION

Examination Techniques

During the Program

1. **Listen Professionally**
   Adjust the way you listen to the pace of the instructor. Listen actively for the "big ideas" and search for facts to back them up. Listen for key words and clue phrases like "You should know…," "Three steps are…," etc. Listen to the speaker's inflection and tone. If you intend to take the examination, study and review each evening while it is fresh—don't wait for the night before the exam.

2. **Take Careful Notes**
   During the lectures, take clear notes on each topic and be sure to ask the instructor if you need clarification on a point. Each evening, review these notes, as well as the materials to be covered next. Compose your own exam questions from the material. Study with others and concentrate on the areas you are least certain of—but don't forget to get a good night's rest before the examination.

During the Examination

1. **Remain Calm**
   Some of you may have had experiences in your previous schooling that have caused you to feel anxious at the thought of taking an examination. Relax and you will do much better. You will have more access to your memory if you take the examination as a confirmation of your understanding of the material and not as a test of your value as a person. Even if you do not pass the examination the first time, you cannot fail an institute! Your mere presence here is proof of your dedication to professional education and improvement.

2. **Understand the Examination Format**
   The examination period is two hours long for the CIC institutes and CPRM courses, and two and one- half hours long for the CRM courses. It is an essay-type exam with a total value of 200 points. In order to pass the exam a participant must score at least 140 points. The examination questions are in the order of presentation of the topics and are weighted to the length of the presentations. To work at a proper pace within the two-hour or two and one-half hour period, you should allow approximately six to eight minutes to answer each question. To work slower may mean that some questions might not be answered. It is a good rule of thumb in exam writing to NEVER LEAVE AN ANSWER BLANK.

During the Examination *(continued)*

3. **Understand Each Question**
   Read the question carefully, looking for clues contained in it. Look for action words, such as: compare, contrast, define, summarize, explain, etc. Underline key points or questions. Be sure that you answer the question that is asked and not the one that you wish had been asked.

4. **Plan Before You Write**
   It makes sense to briefly outline your answer before you begin writing. This will help you make sure you understand the full scope of the question and make it less likely that you will leave something important out of your answer. Be specific and give reasons. "Yes" or "No," "Covered" or "Not Covered" are not adequate answers. Rarely will a question require only a short, one-sentence answer. Take the time to explain.

5. **Use All of Your Time**
   Even if you finish your examination early, use the extra time to carefully review both the questions and the answers. Have you really answered the question that was asked? Is your answer as complete as it should be to convey your understanding? Use all of your time. Have you answered ALL of the questions?

Sample Examination Questions and Composite Answers

Note to Candidates:

This composite set of answers to the Certified Insurance Counselors examinations is published for CIC candidates and others interested in the CIC study program. The answers have been taken from actual student papers and have been edited by the staff of the Society. The questions and answers are ***illustrative only;*** the answers are not necessarily perfect.

It should be understood that these answers may be longer and more complete than necessary to receive a high grade. Your answers will be graded on the factual response to the question asked, the instructions given, and the completeness of the answer. You should not use this set of questions and answers as a substitute for a thorough study of the subject matter.

Agency Management Institute

Sample Examination Questions and Composite Answers

Sample Question 1:

Agency planning should be conducted through a formal process that includes several steps. Please identify the five formal steps in the planning process.

Sample Answer 1:

1. *Conduct a situation analysis*
2. *Review the agency's mission statement*
3. *Write the agency plan*
4. *Implement*
5. *Monitor/evaluate and adjust*

Sample Question 2:

Agent Best placed a Commercial Property policy with the Fire and Casualty Company. Subsequently, Agent Best's client suffered a large fire loss covered by the policy. However, because of financial difficulties, Fire and Casualty could not pay. Explain the possible liability of the agent in this case.

Sample Answer 2:

One of the agent's legal responsibilities to clients is the duty to investigate the solvency of an insurance company. This can include not only the initial placement, but also an ongoing duty.

Commercial Casualty Institute

Sample Examination Questions and Composite Answers

Sample Question 1:

Your insured states that he understands his Commercial General Liability (CGL) Policy provides coverage for an "insured contract." He then asks, "What is an 'insured contract'?" Answer your insured's question by listing the six "insured contracts" found in the CGL policy.

Sample Answer 1:

1. *Lease of premises, except for fire damage to the rented premises.*
2. *Sidetrack agreement.*
3. *Easement or license agreement, except construction or demolition on or within 50 feet of a railroad.*
4. *An obligation to indemnify a municipality as required by ordinance, except in connection with work for municipality.*
5. *Elevator maintenance agreement.*
6. *That part of any other contract, pertaining to an insured's business, assuming tort liability of another to pay a third party.*

Sample Question 2:

The Workers Compensation and Employers Liability Insurance Policy is composed of three coverages. Name each coverage and briefly describe the purpose of one of the coverages.

Sample Answer 2:

Must Name All Three Coverages:

Workers Compensation Insurance
Employers Liability Insurance
Other States Insurance

Provide Any One Description:

Workers Compensation Insurance provides coverage for workers compensation benefits to employees as required by state law.

or

Employers Liability Insurance provides coverage for liability other than state mandated benefits arising out of an employee's work-related injuries.

or

Other States Insurance provides temporary automatic coverage for new operations in other states, plus coverage for incidental exposures in other states. The states must be listed in Item 3C on the Information Page for other states insurance to apply.

Commercial Property Institute

Sample Examination Questions and Composite Answers

Sample Question 1:

MAP Company insures its corporate headquarters under an unendorsed Building and Personal Property Coverage Form with the Special Causes of Loss Form. The building is insured for $600,000 and the business personal property for $200,000. The 80% coinsurance requirement is satisfied. Ms. Peterson, the comptroller, asks the following questions. How would you respond to each question? Support your answer.

A. "Part of our premises includes an unattached retaining wall for decorative effects. The value of this wall is $15,000. What coverage applies if someone runs their car into the wall?"
B. "Will our policy pay for loss to our employees' belongings while they are at work?"

Sample Answer 1A:

No coverage. Retaining walls that are not part of the building are defined as Property Not Covered.

Sample Answer 1B:

Covered. Under the Coverage Extension Personal Effects And Property of Others coverage applies up to $2,500 at each described premises. However, loss or damage by theft is not covered.

Sample Question 2:

A prospect of yours decides to purchase Business Income Coverage from your agency. This prospect asks you the following question: "How is the term 'Business Income' defined?" Please respond to the client's question.

Sample Answer 2:

Business Income is defined as Net Income that would have been earned/incurred and continuing normal operating expenses including payroll.

Life & Health Institute

Sample Examination Questions and Composite Answers

Sample Question 1:

The following policy provisions are commonly found in most major medical insurance policies: (a) coinsurance clause, (b) deductible. Describe each provision.

Sample Answer 1:

(a) The coinsurance clause requires that the insured pay a portion of each dollar loss after the deductible has been exceeded.

(b) A deductible is an amount of money paid by the insured. It must be satisfied before the insurance contract responds.

Sample Question 2:

One of the standard provisions found in most life insurance contracts is the reinstatement provision. Explain the reinstatement provision and list the requirements needed to reinstate a policy.

Sample Answer 2:

After the expiration of the grace period, the insured may request the reinstatement of the contract. Requirements: proof of insurability, payment of all back premiums, interest, and policy loans.

Personal Lines Institute

Sample Examination Questions and Composite Answers

Sample Question 1:

John has his home insured on a Homeowner 3 - Special Policy that has a $200,000 Coverage A – Dwelling limit and a $300,000 Coverage E - Liability coverage.

A. John has an apartment above his detached garage that he rents to a college student. The tenant accidently starts a fire that causes $25,000 damage to the garage/apartment. The fire also causes $6,000 damage to the tenant's personal property. Ignoring any deductible, how much of this loss is covered by John's Homeowners Policy? Include the reason for your answer.

B. While John was on vacation, a neighbor cared for his dog as a favor. When the neighbor failed to shut the gate to the fence, John's dog got out of the yard and bit a child. The parents of the injured child have fire a$500,000 lawsuit against both John and his neighbor for the bodily injury to the child. Will John's Homeowner Policy provide coverage to both him and his neighbor? Explain your answer.

Sample Answer 1:

A. While fire is a covered peril, the homeowners policy does not cover another structure rented or held for rental to others unless used solely as a private garage. The tenant's property is not covered as the homeowner policy excludes property of tenants.

B. John is an insured and is provided coverage for bodily injury caused by his dog. The neighbor is also an insured while caring for John's dog as the neighbor is not in the business of caring for animals. The maximum the policy will pay is the $300,000 per occurrence limit.

Sample Question 2:

Sue is the named insured on a Personal Auto Policy on which she insures her 2014 Toyota. The policy has Part A – Liability limits of 50,000/100,000/25,000. Sue also has a company car provided by her employer.

A. Sue has an at-fault accident while driving her company car. The driver of the other car is seriously injured, and the other vehicle is totaled. Explain whether or not Sue's Personal Auto Policy will provide liability coverage for the injury to the other driver and the damage to the other vehicle.

B. Sue is helping her friend move. While driving her Toyota, Sue has an accident and the friend's property in her car is damaged. Explain whether or not Sue's Personal Auto Policy will pay for the $1,500 damage to her friend's property.

Sample Answer 2:

A. Sue's policy does not provide liability coverage while she is driving her company car. There is an exclusion for a vehicle furnished or available for her regular use.

B. Sue's policy will not cover the damage to her friend's property. There is an exclusion for property damage to property being transported.

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Section 1

COMMERCIAL GENERAL LIABILITY CONCEPTS AND COVERAGE

Commercial General Liability Concepts and Coverage

Section Goal

In this section, participants will analyze the Commercial General Liability Coverage Form to determine what is and is not covered; how limits of insurance apply; and how coverage may be modified.

Learning Objectives

1. Using knowledge of liability loss exposures faced by insureds and knowledge of Section II – Who is An Insured, the participant will be able to determine under what circumstances a person or organization qualifies as an insured and/or whether any limitations or exceptions to coverage apply under the Commercial General Liability Coverage Form.

2. Using knowledge of Coverage A – Bodily Injury And Property Damage Liability Insuring Agreement including:

   - the two promises the insurer makes (indemnity and defense)
   - applicable coverage as it relates to cause (occurrence), place (coverage territory), and time (policy period)
   - known vs. unknown bodily injury and property damage
   - damages for care, loss of services or death
   - key definitions

   the participant will be able to explain whether or not the requirements have been met in a given situation for Coverage A to apply.

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3. Using knowledge of Coverage A Exclusions including:

- exceptions that give back coverage
- key definitions
- exclusionary endorsements

the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used provide the necessary coverage.

4. Using knowledge of Coverage B – Personal And Advertising Injury Liability including:

- key definitions
- the Insuring Agreement and the offenses to which this insurance applies
- exclusions and the exceptions that give back coverage
- exclusionary endorsements

the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used to provide the necessary coverage.

5. Using knowledge of Coverage C – Medical Payments including:

- the Insuring Agreement
- exclusions, including exclusionary endorsements

the participant will be able to describe the circumstances to which the insurer will pay for medical expenses.

6. Using knowledge of Supplementary Payments – Coverages A and B the participant will be able to identify the costs and expenses that the insurer will pay in addition to the limits of insurance to investigate or settle any claim against an insured and determine when defense and litigation expenses are paid to an indemnitee as a supplementary payment.

7. Using knowledge of Section III – Limits Of Insurance, the participants will be able to determine and explain why and how much a loss would be paid, if any, in a given loss scenario.

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The Commercial General Liability Policy

A Commercial General Liability (CGL) Policy may be written as a monoline policy (single line of insurance), or it may be included as part of a multi-line policy called a Commercial Package Policy that includes other coverage parts such as Commercial Property Coverage, Inland Marine, Crime and Fidelity, etc.

Commercial General Liability Declarations CG DS 01 10 01

- Named Insured, Mailing Address, Policy Period
- Limits Of Insurance
- Form Of Business.

  Could be more than one type depending on multiple named insureds.
- Business Description

Commercial General Liability Coverage Form CG 00 01 04 13

1. Section I – Coverages
   - Coverage A – Bodily Injury And Property Damage Liability
   - Coverage B – Personal and Advertising Injury Liability
   - Coverage C – Medical Payments
2. Section II – Who Is An Insured
3. Section III – Limits Of Insurance
4. Section IV – CGL Conditions
5. Section V – Definitions

Endorsements

- Used to modify the CGL Coverage Form. May be amendatory or to meet contractual obligations. May also be used to broaden, or to limit and/or exclude coverage.

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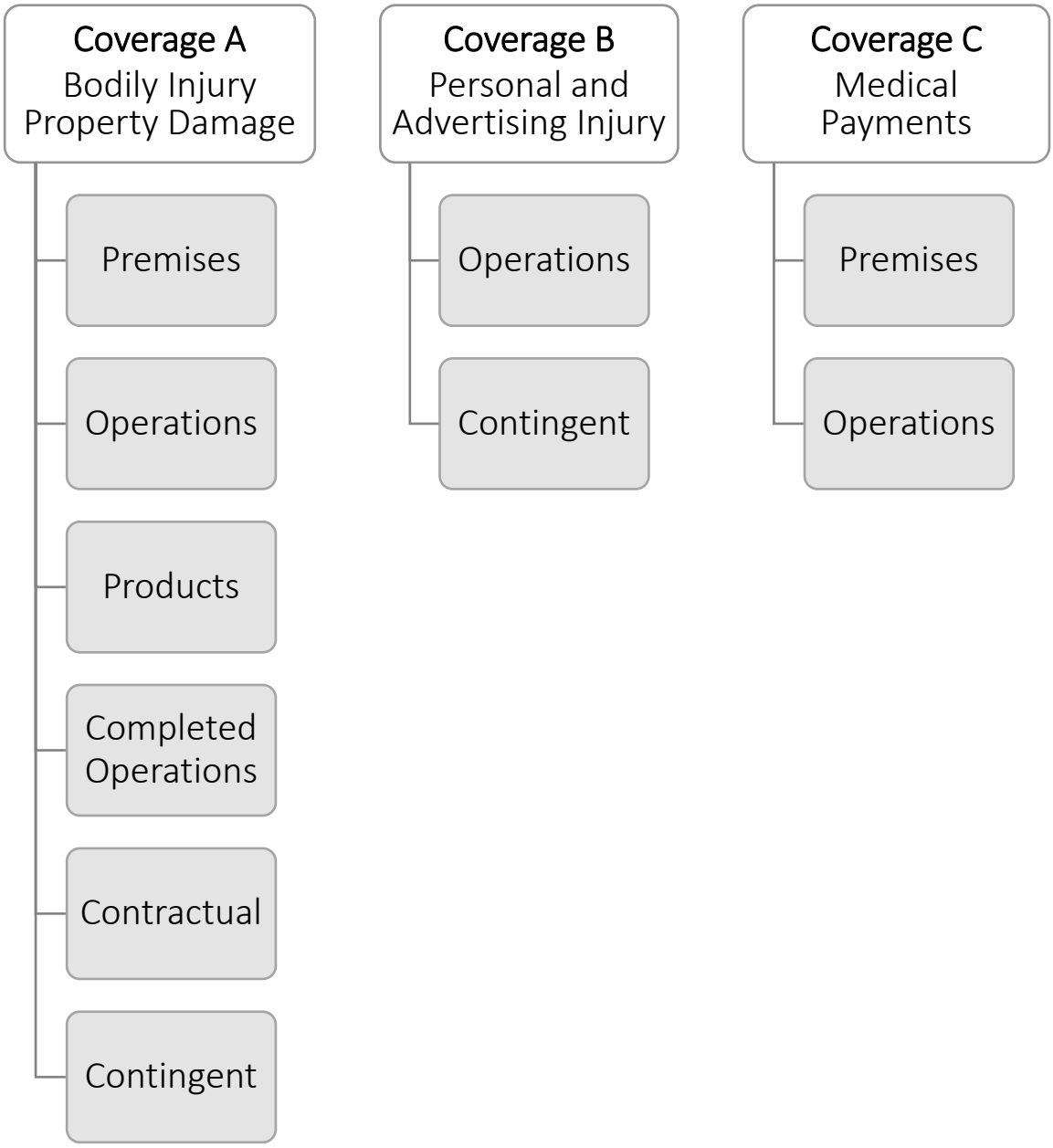
Liability Exposures Covered Under A CGL Policy



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Types of Liability Exposures Covered under a CGL Policy

Learning Objective 1:

Using knowledge of liability loss exposures faced by insureds and knowledge of Section II – Who is An Insured, the participant will be able to determine under what circumstances a person or organization qualifies as an insured and/or whether any limitations or exceptions to coverage apply under the Commercial General Liability Coverage Form.

Premises Liability

- Applies to owners, landlords, and tenants and arises out of the ownership, maintenance, or use of the named insured's premises

  Examples:
  A customer slips and falls on the named insured's premises.
  A guest drowns at a named insured hotel's swimming pool.

Business Operations Liability

- Liability arises from activities involved in the operation of an organization including service and repair activities usually done on the premises of others, *while the activity is being conducted*

  Examples:
  A named insured contractor accidentally cuts utility lines while digging a trench.
  A named insured contractor accidentally starts a fire while doing some welding.

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Products Liability

- Arises out of the sale, distribution or manufacture of the named insured's product

  Examples:
  A named insured (store or distributor) can be held liable if a consumer is injured by a food item, a pharmaceutical item, or some other product sold by the named insured.
  A named insured manufacturer can be held liable if a defective product causes bodily injury or property damage to others.

Completed Operations Liability

- Liability arises from activities involved in the operation of an organization including service and repair activities usually done on the premises of others*, after the activity has been concluded*

  Examples:
  A named insured installs a new water heater. After installation, the water heater leaks causing damage to the homeowners flooring.
  A named insured contractor repairs some stairs and balconies at an apartment complex. A week after completion, one of the balconies collapses causing injury to a tenant.

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Contractual Liability

- Arises from one party assuming responsibility of another party

Example:
Lease agreements; construction contracts, etc.

Contingent Liability

- Arises out of work performed for the named insured by someone else

Example:
Can protect a named insured from acts of others, other than insureds, such as independent contractors.

Note: We will discuss who qualifies as an insured later.

Personal Injury Liability

- Liability arising from intentional torts, such as libel, slander, wrongful eviction

Advertising Liability

- Liability caused by harm from such things as misappropriation of advertising ideas, style of doing business or infringement of copyright

Note: We will discuss Personal and Advertising Injury later.

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Insured Status Under the CGL Coverage Form

COMMERCIAL GENERAL 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 Section **II** – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** –Definitions.

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Preamble

The preamble in the CGL Coverage Form consists of four paragraphs. These paragraphs outline the parties to the insurance contract which will be referred to as the CGL Coverage Form and/or as the CGL Policy.

Second Paragraph

Defines how the Named Insured and Insurer will be identified in the CGL Coverage Form

- "You" is the person or organization named on the Declarations

AND

- "You" also refers to any other persons or organizations not listed on the Declarations that may <u>qualify as a named insured</u> (We will review this later when we discuss Section II – Who Is An Insured, paragraph 3)

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Third Paragraph
Defines the term "insured" as those persons or organizations qualifying as such under Section II – Who Is An Insured of the CGL Coverage Form

Fourth Paragraph
Indicates that certain words and phrases in quotations have a ***special meaning***

A Person Or Organization <u>Must Qualify As An Insured</u> In Order To Be Provided Insurance Protection

1. Named insureds (those listed on Declarations or Schedule attached thereto) and those who qualify as named insureds

2. Automatic insureds (those who qualify as insured under Section II – Who Is An Insured)

3. Non-automatic insureds – those added by endorsement

   - A CGL Policy written using the ISO Coverage Form requires <u>an endorsement</u> in order to provide additional insured status to other persons or organizations

   - Some insurers may grant additional insured status by a provision in their coverage form

     Note:
     Additional Insured Concepts and Endorsements will be discussed at a later section of this Institute

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Section II – Who Is An Insured

Paragraph 1
The Named Insured ("you") designated in the declarations is an insured.

There are also some persons or organizations that qualify as ***automatic insureds.*** They have a relationship with the type of named insured indicated on the Declarations and are automatically included as insureds under Section II – Who Is An Insured, Paragraph 1.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

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a. If named insured is an individual, then the individual and spouse are insureds, but only with respect to the conduct of the named insured's business

b. If named insured is a partnership or joint venture, then the members, partners, and spouse(s) are insureds, but only with respect to the conduct of the named insured's business

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c. If the named insured is a Limited Liability Company (LLC), includes:

- Members as insureds, but only with respect to the conduct of the named insured's business

- Managers as insureds, but only with respect to their duties

d. If the named insured is some other type of organization (corporation, municipalities, etc.), includes:

- Executive officers with respect to their duties as executive officers

  "Executive officer" is a defined term

SECTION V – DEFINITIONS

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

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- Directors as respects to their duties as directors

- Stockholders with respect to their liability as stockholders

e. If named insured is a trust, includes the trustees as an insured, but only within the scope of their duties as trustees

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Paragraph 2

Others are also included as automatic insureds under Section II – Who Is An Insured, Paragraph 2

SECTION II – WHO IS AN INSURED

2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

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a. "Employees" and "volunteer workers" are both defined terms

- Insured status for an employee applies only for acts within the scope of employment or while conducting the named insured's business

- Insured status for a volunteer worker applies only while performing duties related to the named insured's business

- "Leased worker" and a "temporary worker" are defined terms

SECTION V – DEFINITIONS

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

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Note:

The definition of "employee" and the definition of "leased worker" does NOT include a temporary worker

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- Limitations or exceptions to coverage:

SECTION II – WHO IS AN INSURED

2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

(a) Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

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Employees and volunteers are **not** considered insureds when they cause:

– BI or personal & advertising injury to a named insured, to partners, to members, to co-employees or to other volunteer workers

– Consequential injury to the family of an injured co-employee or volunteer worker

– Third party action over as a result of a) or b) above

– BI or personal & advertising injury arising out of providing or failing to provide professional health care services

– Property damage to property owned by or in the care, custody or control of the named insured, any employees, volunteer workers, any partners or members

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SECTION II – WHO IS AN INSURED

2. Each of the following is also an insured:

…….

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

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b. Real estate managers, other than named insured's employees or volunteer workers,

- While acting as such for the named insured

c. Persons or organizations with proper temporary custody of the named insured's property if the named insured dies, but only with respect to liability arising out of:

(1) The maintenance or use of that property;

AND

(2) Until the named insured's legal representative has been appointed.

d. Legal representative if the named insured dies

- But only with respect to such duties
- Legal representative has rights and duties of named insured

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Paragraph 3

Paragraph 3 of Section II – Who Is An Insured applies to newly acquired or newly formed organizations if acquired or formed by the named insured.

Note:
Does *NOT* include newly acquired or newly formed partnerships, joint ventures, or limited liability companies

SECTION II – WHO IS AN INSURED

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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These organizations qualify as a *named insured* if no other similar insurance available:

a. Until the end of the policy period or 90th day, whichever is earlier

b. Excludes prior bodily injury or property damage that occurs *before* the organization is acquired or formed

c. Excludes personal and advertising injury offenses committed *before* the organization is acquired or formed

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Last paragraph

The last paragraph of Section II – Who Is An Insured indicates who is **NOT** an insured

SECTION II – WHO IS AN INSURED

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

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- No person or organization is an insured with respect to current or past partnerships, joint ventures, or limited liability companies not shown as a Named Insured in the Declarations

- Can create coverage gap

- May need to write a separate policy for "discontinued products – completed operation insurance"

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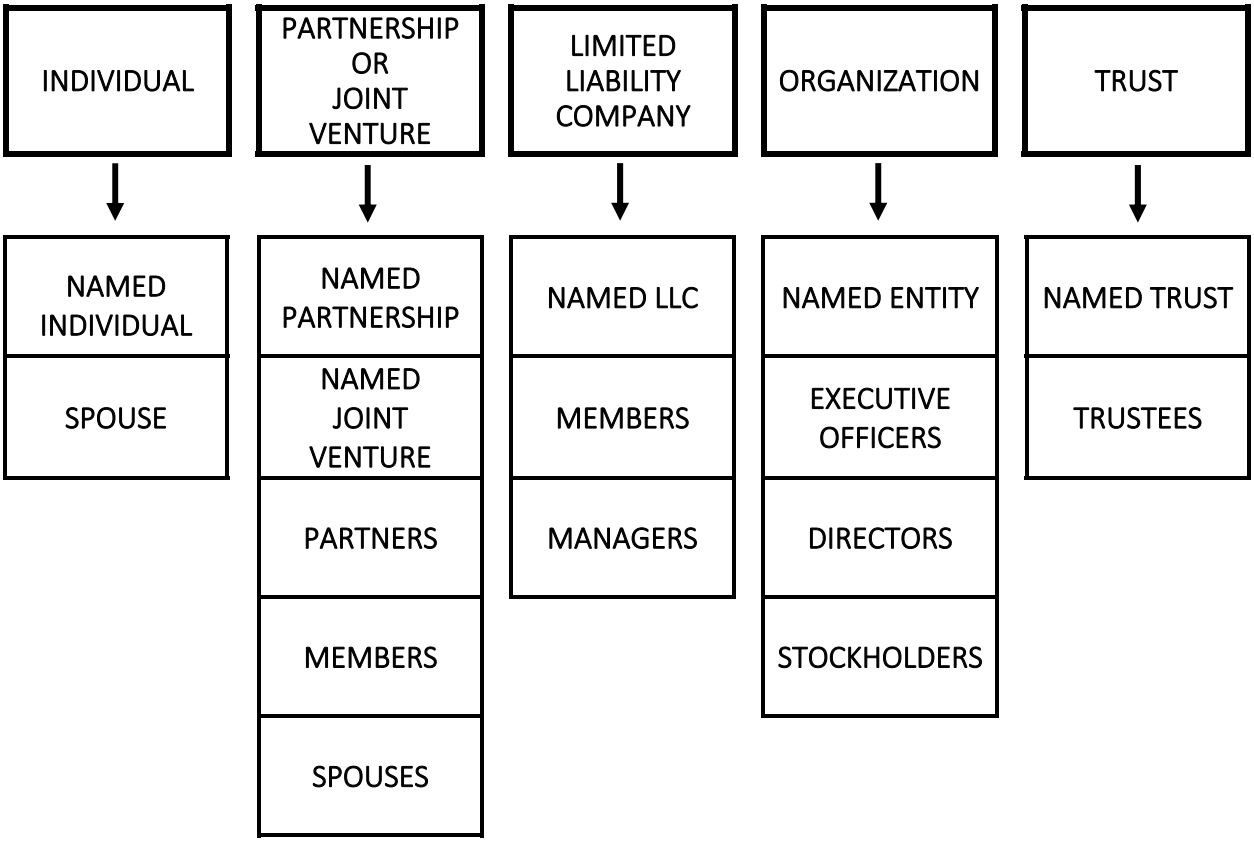
WHO IS AN INSURED EXHIBIT

The following named insureds provide automatic insured status for those who are "down line"



OTHERS INCLUDED AS AUTOMATIC INSUREDS				
EMPLOYEES AND VOLUNTEER WORKERS	REAL ESTATE MANAGERS	LEGAL REPRESENTATIVE IF NAMED INSURED DIES	PERSON OR ORGANIZATION WITH TEMPORARY CUSTODY IF NAMED INSURED DIES	NEWLY ACQUIRED OR NEWLY FORMED ORGANIZATIONS • Until 90th Day OR end of policy period, whichever is earlier • Does NOT Include Partnerships, Joint Ventures, or Limited Liability Companies

With Possible Exclusions Or Limitations

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Knowledge Check 1

1. Spouses of any type of named insured are automatically considered insureds.

   a. True

   b. False

2. A partnership is the only named insured listed on the CGL Declarations. A partner of the partnership buys a building in his/her own name during the policy period. A bodily injury loss occurs at that building, and the partner is sued for damages. Does the partner have insured status under the partnership's CGL Policy for this suit?

   a. Yes

   b. No

3. A nurse employed at a rehab center administers the wrong medication to a patient resulting in injury. A suit is filed against the nurse for damages. Does the nurse have insured status under the rehab center's CGL Policy?

   a. Yes

   b. No

4. A named insured acquires a corporation 30 days prior to the named insured's CGL Policy's expiration date. Which of the following is an accurate statement?

   a. In this scenario, the newly acquired corporation automatically qualifies as an insured but only until the end of the policy period

   b. Newly acquired corporations always have automatic insured status for 90 days

   c. No coverage at all for the newly acquired corporation unless added as a named insured

5. A newly formed joint venture is an automatic insured.

   a. True

   b. False

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Section I – Coverages
Coverage A – Bodily Injury and Property Damage Liability

Learning Objective 2:

Using knowledge of Coverage A – Bodily Injury And Property Damage Liability Insuring Agreement including:

- the two promises the insurer makes (indemnity and defense)
- applicable coverage as it relates to cause (occurrence), place (coverage territory), and time (policy period)
- known vs. unknown bodily injury and property damage
- damages for care, loss of services or death
- key definitions

the participant will be able to explain whether or not the requirements have been met in a given situation for Coverage A to apply.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will **pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies.** We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result.

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Coverage A – Insuring Agreement

Paragraph a.

Two promises found in paragraph **a.** of the insuring agreement

1st promise:

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. ,,,

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- Pay sums *the* insured becomes *legally obligated* to pay as damages because of bodily injury or property damage *to which this insurance applies* (in other words, subject to terms and conditions).

  Legal liability is a responsibility or obligation to others which courts recognize and enforce.

SECTION V – DEFINITIONS

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

17. "Property damage" means:

a. **Physical injury to 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 the "occurrence" that caused it.

For the purposes of this insurance, **electronic data is not tangible property**.

As used in this definition, 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.

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- "Bodily injury" (BI) means BI, sickness or disease, including death

- "Property damage" (PD)

  a. Physical injury to *tangible property*, including all resulting loss of use
  b. Loss of use of tangible property that is not physically injured

  Note: Electronic data is not tangible property.

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2nd promise:

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – 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 Coverages **A** or **B** or medical expenses under Coverage **C.**

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

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- Right and duty to defend against any suit seeking damages
  - But, no coverage, no defense
  - No consent to settle required
  - Duty to defend ends when the limit of insurance has been exhausted by judgments or settlements under Coverages A or B or medical expenses under Coverage C

SECTION V – DEFINITIONS

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

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- "Suit" means a civil proceeding. Clarifies that it includes arbitration proceedings or alternative dispute resolutions

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Paragraph b.

1. Insuring Agreement

……..

b. **This insurance applies** to "bodily injury" and "property damage" **only if:**

(1) The "bodily injury" or "property damage" is **caused by an "occurrence"** that **takes place in the "coverage territory"**;

(2) The "bodily injury" or "property damage" **occurs during the policy period**; and

(3) Prior to the policy period…

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(1) Coverage applies only if BI or PD is caused by an occurrence in the coverage territory

(2) The BI or PD must take place (occur) during the policy period

"Occurrence" is a defined term

SECTION V – DEFINITIONS

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

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"Coverage territory" is a defined term

SECTION V – DEFINITIONS

4. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;

(2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

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a. U.S. (including its territories and possessions), Puerto Rico and Canada;

b. International waters and airspace between the above

c. Anywhere in the world if:

(1) Products made ***or*** sold in territory described in paragraph **a.,**

(2) *Temporary* business travel of a resident of the territory described in paragraph **a.;** or

(3) Personal and advertising injury takes place through the internet,

AND

Suit must be brought in the U.S., including its territories and possessions, Puerto Rico and Canada; or there is an agreement to settle

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Paragraph b. continued

1. Insuring Agreement

…..

b. <u>This insurance applies to "bodily injury" and "property damage" only if:</u>

……

(3) <u>Prior to the policy period, **no insured listed under Paragraph 1**. of Section II – Who Is An Insured **and no "employee" authorized by you** to give or receive notice of an "occurrence" or claim, **knew** that the "bodily injury" or "property damage" had occurred, in whole or in part</u>. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

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(3) **<u>Known</u>** injury or damage applicability

- BI or PD known to have occurred prior to the policy period is NOT covered
- If previously known, any continuation, change or resumption of such BI or PD is also not covered

Paragraph c.

1. Insuring Agreement

…..

c. "Bodily injury" or "property damage" which occurs during the policy period **<u>and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1.</u>** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, **<u>includes any continuation, change or resumption of that "bodily injury" or "property damage"</u>** after the end of the policy period.

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Clarifies that BI or PD that occurs during the policy period and was *<u>not known</u>* to have occurred prior to the policy period includes any continuation, change or resumption of that BI or PD after the end of the policy period

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Example:
The named insured is a trust that owns an office building. In October 2017, the named insured under the CGL Policy, is notified about a water leak that developed in the roof area causing damage to a tenant's contents. The water leak continued to damage the tenant's contents into the following policy year. A claim is file by the tenant in 2018 for property damage.

Policy A	Policy B
Policy Period: 01/01/2017 to 01/01/2018	Policy Period: 01/01/2018 to 01/01/2019
In October 2017, insured was notified of the water leak and damage to the tenant's contents.	Water leak and damage continues.

Which policy responds?

Policy A responds because:

1) Insured had knowledge of the damage that first occurred during Policy A's policy period
2) Damage includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of that, Policy A's, policy period.

Policy B does not respond because the named insured knew about the property damage in 2017.

Paragraph d.

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

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

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

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

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An insured is deemed to have knowledge of BI or PD when any insured listed under Paragraph 1 of Who Is An Insured or any employee authorized to give or receive notice of a claim:

(1) Reports to the company or another insurer
(2) Receives a written or verbal demand or claim for damages
(3) Becomes aware by any other means that BI or PD has occurred

(See pages 10 - 11 regarding discussion of Paragraph 1 of Who Is An Insured)

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Paragraph e.

1. Insuring Agreement

…..

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

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- Damages include care, loss of services or death

Summary of Requirements for Coverage A to Apply

Coverage A – Bodily Injury and Property Damage Liability
Person or organization must qualify as an insured
Must meet the definitions of “bodily injury”, “property damage”, “occurrence”, and “coverage territory”
BI or PD must be caused by an occurrence
BI or PD must take place (occur) in the coverage territory
BI or PD must occur during the policy period *(Includes continuation, change or resumption of BI or PD, if not known to have occurred prior to the policy period)*
Subject to the CGL Coverage Form terms and conditions

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Knowledge Check 2

1. Indicate which of the following are true regarding the meaning of "property damage" as defined in the CGL Coverage Form.

	True	False
a. Physical injury to tangible property, includes all resulting loss of use of that property.		
b. Includes loss of use of tangible property that is not physically injured.		
c. Electronic data is considered tangible property.		

2. The named insured manufactures and sells kitchen appliances in the United States. A customer living in Mexico is injured while using an appliance manufactured by the named insured and files a lawsuit. Which statement accurately describes coverage?

   a. Since the CGL Policy only extends coverage to the U.S., its territories and possessions, Puerto Rico and Canada, there is no possible coverage for this claim.

   b. Since the CGL Policy extends worldwide coverage for products made in the U.S., there is coverage for this claim, no matter where the suit is filed.

   c. The CGL Policy extends coverage for this type of claim, if the responsibility for damages is determined from the suit filed and decided in the U.S., its territories and possessions, Puerto Rico and Canada

   d. There is no products coverage for injuries that occur outside the U.S.

3. The named insured, located in New York, is in the fashion business. In the following situations, does coverage apply to bodily injury or property damage caused by an employee while conducting the named insured's business in Europe under an unendorsed CGL Policy?

	Yes	No
a. A salesperson who resides in New York, travels to Europe for 10 days on business. A suit is filed in New York.		
b. An employee permanently resides in France to conduct the European sales for the named insured. A suit is filed in New York.		

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Coverage A – Exclusions

Learning Objective 3:

Using knowledge of Coverage A Exclusions including:

- exceptions that give back coverage
- key definitions
- exclusionary endorsements

the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used provide the necessary coverage.

There are seventeen exclusions that are applicable to Coverage A. Many of these exclusions include exceptions that "give back" coverage, but only under certain circumstances.

Seventeen Coverage A – Exclusions

Expected Or Intended Injury	Contractual Liability
Liquor Liability	Workers' Compensation And Similar Laws
Employer's Liability	Pollution
Aircraft, Auto Or Watercraft	Mobile Equipment
War	Damage To Property
Damage To Your Product	Damage To Your Work
Damage To Impaired Property Or Property Not Physically Injured	Recall Of Products, Work Or Impaired Property
Personal And Advertising Injury	Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability
Recording And Distribution Of Material Or Information In Violation Of Law	

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a. Expected Or Intended Injury Exclusion

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

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- Exclusion applies from the standpoint of the insured, not any insured

EXCEPTION for bodily injury from the use of reasonable force to protect persons or property

b. Contractual Liability

- Before addressing the exclusion, there must be an understanding of what contractual liability is

- Contractual liability arises from one party assuming responsibility of another party

Examples of parties commonly involved:

Tenant – Landlord

Subcontractor – General Contractor

Lessee – Lessor

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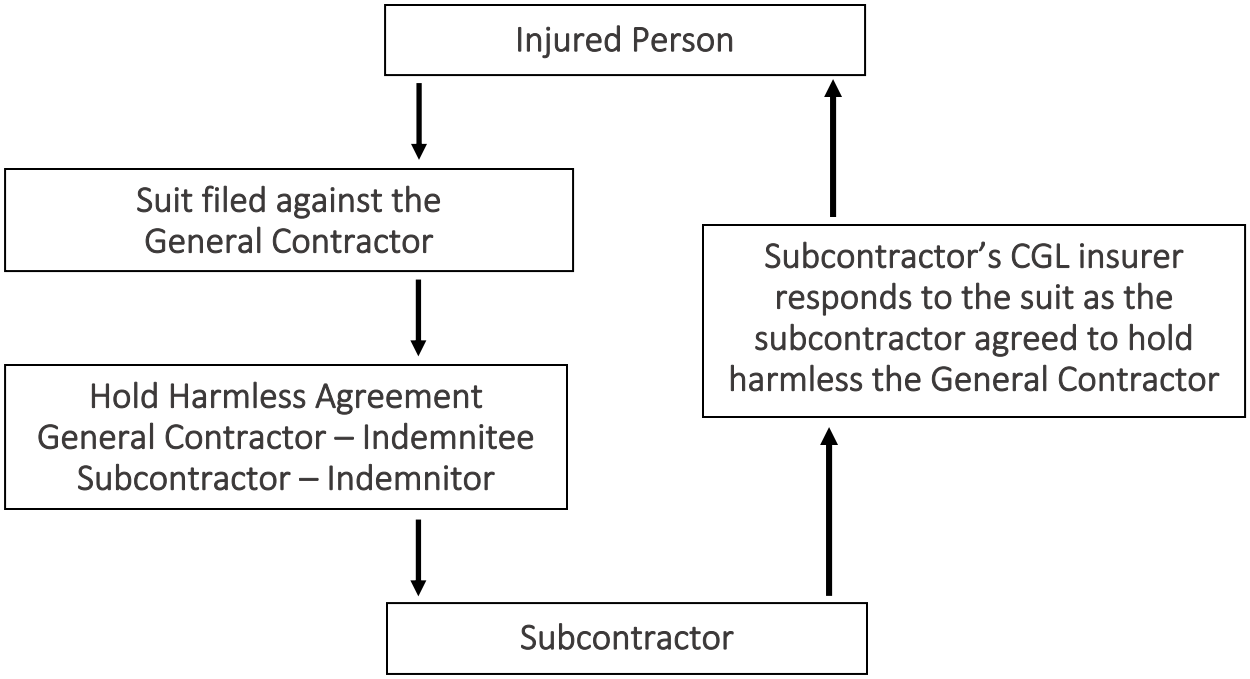
Hold Harmless Agreement Example

Scenario: The named insured is a subcontractor, a window installer. The subcontractor agrees to hold harmless the General Contractor at a downtown construction project for liability arising from the operations caused in whole or in part by the subcontractor. A pedestrian, injured by a fallen glass pane, files a suit against the General Contractor.



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- The contractual liability exclusion precludes coverage for contractually assumed liability

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

2. Exclusions

This insurance does not apply to:

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

(b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

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EXCEPTIONS. Coverage provided for:

(1) Liability in absence of the contract

(2) Liability assumed in a contract or agreement that is an insured contract and only with respect to injury or damage that occurs after the contract is executed

– Provides for reasonable defense expenses incurred provided liability for the cost of that party's defense has also been assumed in the same insured contract

– “Insured contract” is a defined term

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SECTION V – DEFINITIONS

9. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement: …

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The key to the coverage provided by the exception is the definition of "insured contract"

What is included as an "insured contract"?

Acronym
L
E
A
S
E
Plus

- **L**ease of *premises except* …
- **E**asement or license agreement except …
- **A**n obligation to indemnify a municipality as required by ordinance except …
- **S**idetrack agreement
- **E**levator maintenance agreement
- **Plus,** any other contract in which the named insured assumes the tort liability of another party to pay for BI or PD to a third person

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What is **NOT** included as an "insured contract"?

SECTION V – DEFINITIONS

9. "Insured contract" means:

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

NOT AN INSURED CONTRACT

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

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(1) A railroad indemnity agreement

(2) Architect, engineer or surveyor indemnity agreement

(3) An agreement in which the insured, if an architect, engineer or surveyor assumes liability for injury or damage arising out of the insured's rendering or failure to render professional services

BEWARE of exclusionary endorsements

Contractual Liability Limitation CG 21 39 10 93

- Eliminates paragraph **f.** of the definition of insured contract

Amendment of Insured Contract Definition CG 24 26 04 13

Note: CG 24 26 to be discussed in the Additional Insured Section of this Commercial Casualty Institute

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c. Liquor Liability

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

(a) The supervision, hiring, employment, training or monitoring of others by that insured; or

(b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph **(1), (2)** or **(3)** above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

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- Excluded losses – arising out of the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages

  Note: The policy does not define “in the business of”.

- Exclusion applies to supervision, hiring, employment training or monitoring others or providing or failing to provide transportation to an intoxicated person

- **Implied Exception** – “host” liquor liability coverage if the named insured is not in the businesses outlined above

- BYO alcohol establishments are NOT considered to be in the liquor business

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BEWARE of exclusionary endorsements

Amendment Of Liquor Liability Exclusion CG 21 50 04 13

- Exclusion applies when there is a charge whether or not a profit is derived; applies when it is a gift if a license or permit is required; exclusion also applies to BYO establishments

Note: Not applicable in MA, NJ, TX, and WA

Amendment Of Liquor Liability Exclusion – Exception For Scheduled Premises Or Activities CG 21 51 04 13

- Similar to CG 21 50; however, has an exception for scheduled premises or activities

d. Workers' Compensation And Similar Laws

2. Exclusions

This insurance does not apply to:

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.

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- The policy excludes statutory benefits that are payable under WC statute.

Note:
Workers Compensation (WC) exposures and coverage to be discussed in the WC and Employer's Liability Section of this Commercial Casualty Institute

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e. Employer's Liability

2. Exclusions

This insurance does not apply to:

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

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- Injury to an employee in the course of employment is excluded except for liability assumed under an insured contract

Note:
EL exposures and insurance coverage to be discussed in the WC & EL Section of this Commercial Casualty Institute

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Knowledge Check 3

1. Which of the following are considered "insured contracts" according to the definition in the CGL Coverage Form?

	Yes	No
a. All contracts signed by the named insured.		
b. All liability assumed in a lease of premises.		
c. That part of a copy machine rental contract under which the named insured assumes the tort liability of another party for injury to a third party.		
d. That part of a construction contract to do roofing, under which the named insured assumes the tort liability of another party for injury to a third party.		

2. Which is an example of a host liquor exposure?
   a. The named insured, a tavern, allows employees to purchase alcoholic beverages after their shift.
   b. The named insured serves wine at an office holiday party for their clients.
   c. The named insured, a grocery store, sells beer and wine.
   d. The named insured, a hotel, includes alcoholic beverages as part of their room service menu.

3. Indicate which of the following occurrences are covered under Coverage A of an unendorsed CGL Policy.

	Covered/Excluded
a. An employee of the named insured accidentally knocks over a large display causing severe injuries to a customer.	
b. An irate customer threatening other customers with a weapon is tackled and injured by an employee who was trying to protect the other customers.	
c. An employee suffers bodily injury due to a slip on the named insured's premises.	
d. A leased worker injures his back in a work-related injury.	

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f. Pollution

2. Exclusions

This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

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(1) Exclusion applies to BI or PD arising out of the discharge, dispersal, seepage, migration, release or escape of pollutants.

"Pollutants" is defined term.

SECTION V – DEFINITIONS

15. "Pollutants" mean 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.

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This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) <u>At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured.</u> However, this subparagraph does not apply to:

EXCEPTIONS

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

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(a) Excludes at or from <u>any premises</u> owned or occupied by, or rented or loaned to **<u>any</u>** insured

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EXCEPTIONS. Pollution Liability Coverage provided for

(i) BI sustained within building and caused by smoke, fumes, vapor or soot from building heating equipment used to heat that building

(ii) BI or PD if the named insured is a contractor performing operations at a premise where the owner has been added as an additional insured to the named insured contractor's CGL Policy

(iii) BI or PD arising out of heat, smoke or fumes from a "hostile fire" (premises exposure)

"Hostile fire" is a defined term

SECTION V – DEFINITIONS

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

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This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

…….

(b) At or from 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;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

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(b) Excludes at or from any premises used by any insured for handling, storage, disposal, processing or treatment of waste

(c) Excludes pollutants transported, handled, stored, treated, disposed of, or processed as waste

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This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(d) At or from 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 if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

EXCEPTIONS

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

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(d) Excludes at or from any premises while performing operations if the pollutants are brought on or to premises in connection with the operations

EXCEPTIONS. Coverage provided for:

(i) BI or PD from arising out of the accidental release of fuels, lubricants or other operating fluids related to the operation of mobile equipment

(ii) BI or PD caused by the release of gases, fumes or vapors from materials brought into that building in connection with the operations being performed

(iii) BI or PD arising out of heat, smoke or fumes from a hostile fire (operations exposure)

INFERRED EXCEPTIONS: Coverage provided for:

- Certain off premises operations. May be broadened by endorsement.
- Most products – completed operations exposures

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This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

…

(e) At or from 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 if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

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(e) Excludes operations to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or assess (aka environmental work operations)

This insurance does not apply to:

f. Pollution

(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".

EXCEPTION

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

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(2) Excludes cleanup costs arising out of regulatory requirements, or for claims by governmental authority for damages because of testing or clean up

EXCEPTION

- Cleanup costs may be provided **IF** the expense was included as part of the damages because of a covered claim

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BEWARE of exclusionary endorsements

Total Pollution Exclusion Endorsement CG 21 49 09 99

Partial copy

TOTAL POLLUTION EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion **f.** under Paragraph **2., Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

f. Pollution

(1) "Bodily injury" or "property 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.

(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".

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- Removes <u>all</u> the exceptions

Total Pollution Exclusion With A Hostile Fire Exception CG 21 55 09 99

Total Pollution Exclusion With A Building Heating, Cooling And Dehumidifying Equipment Exception And A Hostile Fire Exception CG 21 65 12 04

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Notes

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g. Aircraft, Auto Or Watercraft

Before reviewing Exclusion **g.**, there must be an understanding of some of the terminology. Aircraft and watercraft are not defined in the CGL Coverage Form; however; "auto" is a defined term. "Mobile equipment" is also a defined term and will be addressed later.

SECTION V – DEFINITIONS

2. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

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2. Exclusions

This insurance does not apply to:

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to: …

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- Excludes ownership, maintenance, use or entrustment to others, including operations and loading or unloading

Note:
Loading and unloading exposures to be discussed later in the Business Auto Coverage Section of this Commercial Casualty Institute

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g. Aircraft, Auto Or Watercraft

…

EXCEPTIONS

This exclusion does not apply to: …

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

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There are five exceptions that "give back" coverage

(1) Watercraft while ashore on premises

(2) Non-owned watercraft less than 26 feet and not use to carry for a charge

(3) Parking of autos

- Valet operations…but NOT physical damage to the vehicle itself (see Exclusion **j.** 4.)

(4) Liability assumed under an insured contract for aircraft or watercraft

(5) BI or PD arising out of <u>operation of machinery or equipment</u>

(a) Attached to mobile equipment that is considered an auto due to compulsory or financial responsibility law or other motor vehicle insurance law

OR

(b) Cherry pickers, air compressors, pumps, and generators that are mounted on automobile or truck chassis and are considered autos by definition

Note: <u>Operations of machinery and equipment are intended to be covered by the CGL Policy,</u> while most road exposures should be covered under a Business Auto Policy (BAP)

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What is mobile equipment?

SECTION V – DEFINITIONS

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- **a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- **b.** Vehicles maintained for use solely on or next to premises you own or rent;
- **c.** Vehicles that travel on crawler treads;
- **d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - **(1)** Power cranes, shovels, loaders, diggers or drills; or
  - **(2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- **e.** Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - **(1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - **(2)** Cherry pickers and similar devices used to raise or lower workers;
- **f.** Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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a. Designed for use principally off public roads

b. Maintained for use solely on or next to premises you own or rent

c. Travels on crawler treads

d. Maintained primarily to provide mobility to permanently mounted equipment as defined

e. Not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the types defined above

f. Maintained primarily for purposes other than the transportation of persons or cargo

Note: In a few jurisdictions, a few of the above may be subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. If they are, then they are considered autos. HOWEVER, the CGL Coverage Form exclusion exception, paragraph **g. (5) (a),** gives back coverage for the operations exposure of attached machinery or equipment.

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Definition specifically identifies several types of land vehicles that are considered autos and not mobile equipment. Self-propelled land vehicles with permanently attached equipment designed for:

SECTION V – DEFINITIONS

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

…

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

CONSIDERED AUTOS

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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(1) Snow removal; road maintenance, but not construction or resurfacing; or street cleaning

(2) Cherry pickers and similar devices mounted on a truck chassis

- **Exception:** The CGL Coverage Form, exclusion paragraph **g.(5) (b),** gives back coverage for the operations exposure of attached machinery or equipment

(3) Air compressors, pumps and generators, including …

- **Exception:** The CGL Coverage Form**,** exclusion paragraph **g. (5) (b),** gives back coverage for the operations exposure of the attached machinery or equipment

Note: Look to a BAP for coverage for the "locomotion" exposure of these land vehicles that are considered autos and not mobile equipment.

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Endorsements that impact the Aircraft, Auto or Watercraft Exclusion

Snow Plow Operations Coverage CG 22 92 12 07

- Provides completed operations coverage to any auto that is used for snow plow operations

Unmanned aircraft endorsements

- ISO introduced several optional endorsements to address the liability exposures related to unmanned aircraft

  BEWARE!
  These optional endorsements do NOT include an exception for liability assumed under an insured contract for an *unmanned* aircraft

Form Number	Form Name	Coverage A	Coverage B
CG 21 09 06 15	Exclusion – Unmanned Aircraft	Excluded	Excluded
CG 21 10 06 15	Exclusion – Unmanned Aircraft (Coverage A Only)	Excluded	Not applicable
CG 21 11 06 15	Exclusion – Unmanned Aircraft (Coverage B Only)	Not applicable	Excluded
CG 24 50 06 15	Limited Coverage For Designated Unmanned Aircraft	Excluded except for designated UAS	Excluded except for designated UAS
CG 24 51 06 15	Limited Coverage For Designated Unmanned Aircraft (Coverage A Only)	Excluded except for designated UAS	Not applicable
CG 24 52 06 15	Limited Coverage For Designated Unmanned Aircraft (Coverage B Only)	Not applicable	Excluded except for designated UAS

Definition of "unmanned aircraft" in the above endorsements

"Unmanned aircraft" means an aircraft that is not:

1. Designed;

2. Manufactured; or

3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

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h. Mobile Equipment

2. Exclusions

This insurance does not apply to:

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

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(1) Excludes transportation of mobile equipment by an auto owned or operated by or rented or loaned to any insured

- Look to a BAP for coverage

(2) Excludes the use in, or while practicing for, or while being prepared for, racing, speed, demolition or stunting activity

- A special events policy may be needed to cover this exposure

i. War

2. Exclusions

This insurance does not apply to:

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) 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

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

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- Excludes direct or indirect exposures

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j. Damage To Property

2. Exclusions

This insurance does not apply to:

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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(1) Excludes damage to property the named insured owns, rents, or occupies

- Exceptions apply – damage to premises rented to the named insured

(2) Excludes damage to premises sold, given away or abandoned (alienated premises) if the damage arises out of any part of those premises

(3) Excludes damage to property loaned to the named insured

(4) Excludes damage to personal property in the insured's care, custody or control (CCC)

(5) Excludes damage to <u>that particular part of real property</u> being worked on that is damaged <u>during operations</u>

Example:
An electrician replacing a circuit breaker accidentally causes an arc and damages the entire panel. No coverage for the damaged circuit breaker. If the arc causes a fire that spreads and damages other parts of the building, then the resulting damage to the <u>other parts</u> of the building are covered.

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(6) Excludes damage to that particular part of any property that must be restored, repaired or replaced if the named insured's work was incorrectly performed on it (faulty workmanship)

Example:
At a construction site, the roofer improperly installs flashing on a roof. The flashing blows off. No coverage to correctly reinstall the flashing.

j. Damage To Property

…

EXCEPTIONS

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section **III** – Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

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EXCEPTIONS. Coverage is provided by exception to specific paragraphs for:

- Property damage, not caused by fire, to premises including contents, rented to the named insured for seven or fewer consecutive days
- Speculative buildings that are the named insured's work and were never occupied, rented or held for rental by the named insured
- Sidetrack agreements
- Products-completed operations hazard

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Knowledge Check 4

1. Indicate if the following are covered or excluded under Coverage A of an unendorsed CGL Policy.

	Covered/Excluded
a. Chemicals leak from a storage tank at the named insured's location causing damage to a neighboring business.	
b. A furnace at the named insured's hotel malfunctions emitting fumes causing several guests to become ill.	
c. The named insured's bulldozer overturns at a job site causing diesel fuel to flow out of its tank and damage the neighbor's property.	
d. Waste being treated at the named insured's manufacturing plant escapes causing property damage to several nearby businesses.	

2. Indicate which of the following loss is excluded under Coverage A of an unendorsed CGL Policy.

   a. The named insured operates a lakeside inn. A kayak owned by the named insured falls off its storage rack injuring a guest.
   b. The named insured hits and damages property while operating a drone (unmanned aircraft).
   c. While valet parking a customer's auto, an employee of the named insured hits and injures a pedestrian.
   d. The named insured is a tree trimmer who owns a truck with a mounted cherry picker. While raising the bucket to trim branches, the bucket snags and damages a utility line.

3. Indicate if the following losses are covered or excluded under Coverage A of an unendorsed CGL Policy.

	Covered/Excluded
a. While operating a backhoe, the named insured's employee causes damage to underground utilities at a job site.	
b. An employee, operating a forklift, backs into the named insured's storage barn causing property damage.	
c. While operating a mobile equipment borrowed from another contractor, the named insured damages the equipment.	
d. While valet parking a customer's auto, an employee of the named insured hits a concrete post damaging he customer's auto.	

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k. Damage To Your Product

2. Exclusions

This insurance does not apply to:

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

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- Excludes property damage to the named insured's product itself. Coverage still provided for resulting damage.
- "Your product" is a defined term.

SECTION V – DEFINITIONS

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 representations 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 located for the use of others but not sold.

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l. Damage To Your Work

This insurance does not apply to:

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

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- Excludes property damage to the named insured's work **AND** included in the product-completed operations hazard

EXCEPTIONS. Coverage provided for the named insured if the damaged work **OR** the work out of which the damage arises was performed on the named insured's behalf by a subcontractor

- "Your work" is a defined term

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 representations 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.

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Note:
For work that has not been completed, see the applicable paragraphs of Exclusion **j. Damage To Your Property**.

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Damage to "Your Work" Exhibit from GC's Perspective	
PD to the named insured's work resulting from the named insured's own work	Excluded
PD to a subcontractor's work when the damage results from the named insured's work	Covered
PD to a subcontractor's work when the damage results from that sub's work	Covered
PD to a subcontractor's work when the damage results from the work of another subcontractor	Covered
PD to named insured's work when the damage results from the named insured's subcontractor's work	Covered

BEWARE of exclusionary endorsements

Exclusion – Damage To Work Performed By Subcontractors On Your Behalf
CG 22 94 10 01

- Removes the exception for subcontractors

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m. Damage To Impaired Property Or Property Not Physically Injured

Before addressing Exclusion **m.**, there must be an understanding of the definition of "impaired property"

SECTION V – DEFINITIONS

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less 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;

<u>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.</u>

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- "Impaired property" means tangible property that cannot be used or is less useful because:

  a. It incorporates the named insured's product or work that is known or thought to be defective, deficient, inadequate or dangerous; or

  b. The named insured has failed to fulfill the terms of a contract or agreement

- <u>*A qualifying requirement*</u> of impaired property is that such property can be restored to use

- It is necessary to understand the definition of impaired property to know if and when the exclusion may apply

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2. Exclusions

This insurance does not apply to:

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

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- Excludes property damage to impaired property (must qualify as previously defined) or to property that has not been physically injured

  (1) Arising out of a defect, deficiency, inadequacy or dangerous condition in the named insured's product or the named insured's work; or

  Example:
  The named insured sells electronic sensors to an equipment manufacturer. Some of the sensors turn out to be defective. The equipment that have these defective sensors meet the definition of impaired property because the named insured can replace or repair the defective sensors. Therefore, the exclusion applies and no coverage for the named insured for the equipment manufacturer's claim for loss of use of the equipment.

  (2) Arising out of a delay or failure to perform according to the terms of a contract or agreement

  EXCEPTION. Coverage provided for loss of use of other property arising out of sudden and accidental physical injury (malfunction) to the named insured's product or the named insured's work *after it has been put to its intended use*

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n. Recall Of Products, Work Or Impaired Property

2. Exclusions

This insurance does not apply to:

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is 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.

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- Excludes damages, costs or expenses incurred by the named insured or others

  Note: There are specialty markets that have forms available that provide coverage under certain conditions.

o. Personal And Advertising Injury

2. Exclusions

This insurance does not apply to:

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

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- Bodily injury arising out of “personal and advertising injury” is covered under Coverage B which will be discussed later

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Note:
Mandatory endorsement Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability – With Limited Bodily Injury Exception CG 21 06 replaced Exclusion p. Electronic Data with the following

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

A. Exclusion 2.p. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) 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; or

(2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

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 that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, 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.

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(1) Excludes damages arising out of access or disclosure of confidential or personal information

(2) Excludes damages arising out of the loss of, loss of use of, corruption of, inability to access, or inability to manipulate electronic data

- Limited BI exception applies to Coverage A only

Note:
No exception to damages arising out of any access to or disclosure of any person's or organization’s confidential or personal information

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q. Recording And Distribution Of Material Or Information In Violation Of Law

2. Exclusions

This insurance does not apply to:

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

(3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

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- Excludes BI or PD arising from acts or omissions that violates various consumer protection laws

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Exception to Coverage A – Exclusions c. through n.

Last paragraph of Coverage A – Exclusions

> Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.
>
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- Commonly referred to as Fire Damage Legal Liability
- Applies to damage caused by fire <u>to premises</u> that are rented to or temporarily occupied by the named insured
- Coverage only applies if the insured is legally liable
- A separate limit of insurance applies

Exhibit – Damage To Premises Rented To You (Named Insured)			
Cause of Damage	Property	7 consecutive days or less	More than 7 consecutive days
Fire, *if legally liable– as an exception to exclusions **c.** through **n.***	Premises while rented to *OR* temporarily occupied by the named insured	Covered	Covered
Other than fire, *if legally liable – as an exception to Exclusion **j.***	Premises & contents <u>rented</u> to the named insured	Covered	Not covered

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Knowledge Check 5

1. Indicate whether Coverage A would apply in the following claim situations.

	Covered/Excluded
a. A battery-operated toy manufactured by the named insured explodes causes injury to a child.	
b. A balcony constructed by the named insured collapses, causing bodily injury to those standing on it.	
c. Appliances that contain a defective switch manufactured by the named insured do not work and therefore cannot be sold.	
d. The named insured, an infant car seat manufacturer, turns in a claim for the expenses incurred to recall certain models that contain a defective harness.	
e. The named insured, an electrician, causes a power outage at a job site that results in the loss of electronic data belonging to their customer.	
f. The named insured who uses an automatic pre-recorded message dialing system to sell their product has a claim filed against them by a person on their do not call list.	

2. The named insured, a restaurant owner, is a tenant in a shopping center. An employee accidentally causes a fire on the premises. Which of the following is an accurate statement regarding coverage provided by an unendorsed CGL Policy?

   a. Damage to the named insured's premises and contents are covered.
   b. Damage to the named insured's premises are covered, but not the contents.
   c. Damage to the surrounding stores are covered, but not the named insured's premises.
   d. Damage to the named insured's contents are covered, but not the premises.

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Section I - Coverages
Coverage B – Personal And Advertising Injury Liability

Learning Objective 4:

Using knowledge of Coverage B – Personal And Advertising Injury Liability including:

- key definitions
- the Insuring Agreement and the offenses to which this insurance applies
- exclusions and the exceptions that give back coverage
- exclusionary endorsements

the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used to provide the necessary coverage.

Before addressing the Coverage B – Personal And Advertising Injury Liability Insuring Agreement, there must be an understanding of certain key definitions.

"Personal And Advertising Injury" is a defined term

SECTION V – DEFINITIONS

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

f. The use of another's advertising idea in your "advertisement"; or

g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

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Injury, including consequential injury, must arise out of one or more of the following offenses:

a. False arrest, detention or imprisonment

b. Malicious prosecution

c. Wrongful eviction, wrongful entry, invasion of private occupancy

d. Slander, libel, disparagement

e. Violation of a person's right of privacy

f. Use of another's advertising idea

g. Infringing upon copyright, trade dress or slogan in the named insured's advertisement

BEWARE of exclusionary endorsements

Amendment Of Personal And Advertising Injury Definition CG 24 13 04 13

- Oral or written publication, in any manner, of material that violates a person's right of privacy <u>is removed</u> as a covered offense

"Advertisement" is a defined term

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and

b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

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- A notice that is broadcast or published to the general public or specific market segments to attract customers

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Coverage B – Insuring Agreement

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

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

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

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

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a. Legal obligation to pay damages because of personal and advertising injury to which this insurance applies. Provides the right and duty to defend the insured. No duty to defend if coverage does not apply

(1) Subject to a Limit Of Insurance

(2) Defense ends when applicable Limit Of Insurance is used up in payment of judgments or settlements or medical expenses

b. Applies to personal and advertising injury caused by an offense in the coverage territory during the policy period

Reminder:
Coverage territory includes all other parts of the world if damages arise out of personal and advertising injury offenses that take place through the Internet, provided the insured's responsibility to pay damages is determined in a suit on the merits, in the U.S., (including its territories and possessions), Puerto Rico and Canada; or in a settlement.

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Coverage B – Exclusions

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

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a. Knowing Violation Of Rights Of Another

b. Material Published With Knowledge Of Falsity

c. Material Published Prior To Policy Period

d. Criminal Acts

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2. Exclusions

This insurance does not apply to:

…

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

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e. Contractual Liability

- Excludes coverage for liability assumed in a contract

- **EXCEPTION** related to liability that insured would have had without a contractual assumption

- **Limited Contractual Liability Coverage For Personal And Advertising Injury CG 22 74 10 01**

  – Provides some coverage for liability assumed in a contract for the offenses of false arrest, detention or imprisonment

  – The limited coverage only applies to those contracts indicated in the endorsement schedule

  Example:
  Security firms or other businesses may contractually agree to hold harmless their clients for false arrest or wrongful detention

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2. Exclusions

This insurance does not apply to:

…

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

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f. Breach Of Contract

g. Quality Or Performance Of Goods – Failure To Conform To Statements

h. Wrong Description Of Prices

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

- Excludes copyright, patent, trademark or trade secret infringement
- **EXCEPTION** for an advertisement if it is infringement of a copyright, trade dress or slogan

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2. Exclusions

This insurance does not apply to:

…

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of web sites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a., b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

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j. Insureds In Media And Internet Type Businesses

- Excludes coverage for certain types of businesses
- **EXCEPTIONS**
  - False arrest, detention or imprisonment
  - Malicious prosecution
  - Wrongful eviction, wrongful entry, invasion of the right of private occupancy
- Placing of links or advertising to other sites is NOT considered in the business of

k. Electronic Chatrooms Or Bulletin Boards

- No coverage if the insured hosts, owns, or controls

l. Unauthorized Use Of Another’s Name Or Product

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2. Exclusions

This insurance does not apply to:

…

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

(1) 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

(2) 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".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) 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

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

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

(3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

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m. Pollution

n. Pollution-related

o. War

p. Recording And Distribution Of Material Or Information In Violation Of Law

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Note:
Mandatory endorsement Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability – With Limited Bodily Injury Exception CG 21 06 added the following exclusion:

Access Or Disclosure Of Confidential Or Personal Information

B. The following is added to Paragraph **2. Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" 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.

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- Excludes personal and advertising injury arising out of any access to or disclosure of any person's or organization's confidential or personal information
- Exclusion includes patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information, or any other type of nonpublic information.
- Applies to notification costs, credit monitoring expenses, forensic expenses, public relations expenses

Note:
This exposure may be best covered under some type of Cyber Policy.

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Knowledge Check 6

1. Indicate which of the following intentional acts most likely qualify as "personal and advertising Injury" *as defined* under Coverage B of the CGL Coverage Form.

	Yes	No
a. The named insured's employee discriminates against a customer.		
b. The named insured orders the eviction of a tenant without giving proper notice.		
c. The named insured's website contains material that disparages a person's or organization's goods, products or services.		
d. The named insured's employee wrongfully detains a customer for shoplifting.		

2. Which of the following claim scenarios are most likely excluded under Coverage B – Personal And Advertising Injury Liability of an unendorsed CGL Policy?

	Excluded or Not
a. The named insured is sued for libel due to comments posted on the company's electronic bulletin board.	
b. A personal and advertising injury claim against the named insured for liability assumed in a contract or agreement.	
c. A suit filed against the named insured for failure of their product to perform as advertised.	
d. The wrong price for a product is advertised on the named insured's website, and the named insured is forced to honor the sale at a substantial loss.	
e. A suit is filed against the named insured for personal and advertising injury arising out of a disclosure of a client's health information.	

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Coverage C – Medical Payments

Learning Objective 5:

Using knowledge of Coverage C – Medical Payments including:

- the Insuring Agreement
- exclusions, including exclusionary endorsements

the participant will be able to describe the circumstances to which the insurer will pay for medical expenses.

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Coverage C – Insuring Agreement

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

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a. Pays for medical expenses caused by an accident

(1) On premises the named insured owns or rents;

(2) On ways next to premises the named insured owns or rents;

(3) **OR** because of the named insured's operations

Pays provided that:

(a) Must occur in the coverage territory and during the policy period

(b) Expenses must be incurred and reported within one year of date of accident

(c) Injured person submits to examination at insurer's expense

b. Payment made regardless of fault

- Pays for reasonable expenses not to exceed the applicable limit of insurance

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Coverage C – Exclusions

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage **A.**

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a. Any Insured

EXCEPTION for volunteer workers

b. Hired Person

c. Injury On Normally Occupied Premises

d. Workers' Compensation And Similar Laws

e. Athletics Activities

f. Products-Completed Operations Hazard

g. Coverage A Exclusions

Exclusion – Coverage C – Medical Payments CG 21 35 10 01

- Used to exclude Coverage C and to amend Supplementary Payments to include first aid expenses to others

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Supplementary Payments – Coverage A and B

Learning Objective 6:

Using knowledge of Supplementary Payments – Coverages A and B the participant will be able to identify the costs and expenses that the insurer will pay in addition to the limits of insurance to investigate or settle any claim against an insured and determine when defense and litigation expenses are paid to an indemnitee as a supplementary payment.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

a. All expenses we incur.

b. Up to $250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.

f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

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Paragraph 1

- On any investigation, settlement, or defense for a claim or suit ***against an insured,*** the insurer will pay described expenses and costs in addition to the limits of insurance.

  Note: Paragraph 1 applies to Additional Insureds

- Will *not* reduce the limits of insurance

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Paragraph 2. Defense and other litigation expenses ***for an indemnitee***

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

b. This insurance applies to such liability assumed by the insured;

c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

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- Will defend that indemnitee only if the conditions described are met (Paragraph 2 does not apply to Additional Insureds)
- *Conditions are not usually met, but if they are met*, litigation expenses will be paid as Supplementary Payments and will not reduce the limits of insurance
- Defense ends when applicable limits are used up **OR** if the described terms of the agreement are no longer met

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Limits Of Insurance

Learning Objective 7:
Using knowledge of Section III – Limits Of Insurance, the participants will determine and explain why and how much a loss would be paid, if any, in a given loss scenario.

CGL Declarations

Partial copy of CG DS 01

LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	$ _____	
DAMAGE TO PREMISES RENTED TO YOU LIMIT	$ _____	Any one premises
MEDICAL EXPENSE LIMIT	$ _____	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	$ _____	Any one person or organization
GENERAL AGGREGATE LIMIT	$ _____	
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	$	

There are six Limits of Insurance

- Each Occurrence Limit
- Damage To Premises Rented To You Limit
- Medical Expense Limit
- Personal & Advertising Injury Limit
- General Aggregate Limit
- Products/Completed Operations Aggregate Limit

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Section III – Limits Of Insurance

SECTION III – 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
- **c.** Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- **a.** Medical expenses under Coverage **C;**
- **b.** Damages under Coverage **A,** except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- **c.** Damages under Coverage **B.**

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1. The Limits of Insurance shown on the Declarations are the most paid regardless of the number of:

   a. Insureds

   b. Claims made or suits brought

   c. Persons or organizations making claims or bringing suits

2. The General Aggregate Limit is the most paid for <u>the sum of</u>:

   a. Medical Expenses under Coverage C

   b. Damages under Coverage A, <u>except</u> for products-completed operations hazards

   c. Damages under Coverage B

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SECTION III – LIMITS OF INSURANCE

…

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

a. Damages under Coverage **A;** and

b. Medical expenses under Coverage **C**

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

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3. Products-Completed Operations Aggregate Limit

- **Only** for Coverage A for BI or PD claims included in the products-completed operations hazard

4. Personal And Advertising Injury Limit

- The limit applies to any one person or organization subject to the available General Aggregate Limit

5. Each Occurrence Limit

- If it is a products-completed operations claim/suit, the Each Occurrence Limit is subject to the available Products-Completed Operations Aggregate Limit

- If it is a claim other than product-completed operation claim; the Each Occurrence Limit is subject to the available General Aggregate Limit

- The most paid under the Each Occurrence Limit is the sum of damages under Coverage A and Coverage C (if applicable) because of all BI and PD out of one occurrence

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SECTION III – LIMITS OF INSURANCE

6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

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6. Damage To Premises Rented To You Limit

- Subject to the Each Occurrence Limit and available General Aggregate Limit
- The most paid under Coverage A for
  - PD, not caused by fire, to any one premises while rented to the named insured (seven or fewer consecutive days)
    OR
  - PD caused by fire to any one premises rented to the named insured or temporarily occupied by the named insured with permission
- The basic limit is $100,000 per premises rented to the insured
- Frequently the basic limit is not a high enough limit and additional limits may need to be purchased

7. Medical Expense Limit

- The limit applies to any one-person subject to the Each Occurrence Limit and subject to the General Aggregate Limit

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Examples of Application of CGL Limits Of Insurance

LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	$ 1,000,000	
DAMAGE TO PREMISES RENTED TO YOU LIMIT	$ 100,000	Any one premises
MEDICAL EXPENSE LIMIT	$ 10,000	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	$ 1,000,000	Any one person or organization
GENERAL AGGREGATE LIMIT		$ 2,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT		$ 2,000,000

Example 1: *Separate claims from separate occurrences within the same policy period*

Date and Type of Claim	*Amount of Loss*	*Amount Paid*	*General Aggregate After Payment*
2/10 Property damage from Operations	*$400,000*	*$400,000*	*$1,600,000*
3/17 Bodily injury from Operations	*$1,200,000*	*$1,000,000*	*$600,000*
6/6 Bodily injury from Premises	*$700,000*	*$600,0000*	*0*

A products claim later occurs during the same policy period for the same named insured. Indicate how much would be paid below and which aggregate applies?

Date and Type of Claim	*Amount of Loss*	*Amount Paid?*	*Aggregate affected?*
7/15 Products Claim	*$100,000*	*$*	

Example 2: *(Ignore example 1) A portion of the ceiling collapses at the named insured's retail store. Several people get injured from this <u>same occurrence</u> at the named insured's premises.*

Type of Claims	*Amount of Loss*	*Amount Paid*	*General Aggregate After Payment*
Medical Expenses Claims *Party 1 – $20,000* *Party 2 – $10,000*	*$20,000* *$10,000*	*$10,000* *$10,000*	*$1,990,000* *$1,980,000*
Bodily Injury Suit *(This could be from party 1, party 2, or another party)*	*$1,000,000*	*$980,000 Paid from the available Each Occurrence Limit*	*$1,000,000*

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LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	$ 1,000,000	
DAMAGE TO PREMISES RENTED TO YOU LIMIT	$ 100,000	Any one premises
MEDICAL EXPENSE LIMIT	$ 10,000	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	$ 1,000,000	Any one person or organization
GENERAL AGGREGATE LIMIT		$ 2,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT		$ 2,000,000

Example 3:
(Ignore previous examples.) The named insured operates a store in a shopping center. The named insured's employee accidentally caused a fire that damages the named insured's premises and damages the neighboring store. The following claims arise from this occurrence.

Claim	*Amount of Loss*	*Amount Paid*	*General Aggregate After Payment*
Damage to the named insured's premises	*$150,000*	*$100,000 Paid from the Damage To Premises Rented To You Limit that is subject to the available Each Occurrence Limit*	*$1,900,000*
Shopping center files a claim for fire and smoke damage to the adjoining walls & roof of the neighboring store	*$600,000*	*$600,000 Paid from the available Each Occurrence Limit*	*$1,300,000*
Neighboring store files a claim for smoke damage to their contents	*$400,000*	*$300,000 Paid from the available Each Occurrence Limit*	*$1,000,000*

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Commercial General Liability Conditions

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy
2. Duties In The Event Of Occurrence, Offense, Claim Or Suit
3. Legal Action Against Us
4. Other Insurance
5. Premium Audit
6. Representations
7. Separation Of Insureds
8. Transfer Of Rights Of Recovery Against Others To Us
9. When We Do Not Renew

There are nine conditions in the CGL Coverage Form. We will be addressing the following *two* conditions.

- Duties In The Event Of Occurrence, Offense, Claim Or Suit
- Separation Of Insureds

Note: Transfer Of Rights Of Recovery Against Others To Us condition will be discussed in the Additional Insured Section of this Commercial Casualty Institute.

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

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense 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 "occurrence" or offense.

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 involved insured 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.

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a. Notify company of an occurrence or an offense as soon as practicable

b. Record specifics, notify insurer, must send the insurer written notice of the claim or suit as soon as practicable

c. Immediately send copies, provide authorization to obtain records, cooperate with the insurer, provide assistance

d. No insured may voluntarily make payment, assume any obligation, or incur any expense without the company's permission – other than first aid

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

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- Limits of Insurance do NOT apply separately
- Permits insured vs. insured claims/suits (Cross suits liability)

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Knowledge Check 7

1. Indicate which is a true statement regarding Coverage C – Medical Payments of the CGL Coverage Form.

	True	False
a. Must be caused by an accident because of operations or products completed operations exposures on or next to the named insured's premises.		
b. Pays reasonable medical expenses, up to the available limit of insurance, even when it is not the named insured's fault.		
c. Pays for reasonable medical expenses, up to the available limit of insurance, for an injured tenant caused by an accident on the tenant's occupied premises.		

2. Which of the following is an accurate statement regarding Supplementary Payments under the CGL Coverage Form?

   a. Pays up to the limit of insurance for all defense and investigative expenses incurred by the insurer for claims or suits against an insured.
   b. In addition to the limits of insurance, will pay for all expenses incurred by the insurer for any claim or suit against an insured that the insurer defends.
   c. Pays for defense expenses within the limit of insurance of an indemnitee but only if conditions are met.

3. Select the statement that best accurately describes how the Limits of Insurance apply under the CGL Coverage Form.

   a. Other than products-completed operation claims or suits, the Each Occurrence Limit is the most paid for Coverage A, Coverage B, and Coverage C because of one occurrence subject to the available General Aggregate Limit.
   b. The Personal and Advertising Injury Limit has its own limit that applies to any one person or organization subject to the available General Aggregate Limit.
   c. The Damage to Premises Rented To You Limit also applies to fire damage caused by the named insured to neighboring premises.

4. Indicate which of the following statements is true regarding the Separation of Insureds condition of the unendorsed CGL Policy.

   a. Does not permit liability coverage for insured versus insured suits.
   b. Except for Limits of insurance, insured versus insured suits liability coverage applies separately to each insured.

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Notes

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Review of Learning Objectives

1. Using knowledge of liability loss exposures faced by insureds and knowledge of Section II – Who is An Insured, the participant will be able to determine under what circumstances a person or organization qualifies as an insured and/or whether any limitations or exceptions to coverage apply under the Commercial General Liability Coverage Form.

2. Using knowledge of Coverage A – Bodily Injury And Property Damage Liability Insuring Agreement including:
   - the two promises the insurer makes (indemnity and defense),
   - applicable coverage as it relates to cause (occurrence), place (coverage territory), and time (policy period),
   - known vs. unknown bodily injury and property damage
   - damages for car, loss of services or death
   - key definitions

   the participant will be able to explain whether or not the requirements have been met in a given situation for Coverage A to apply.

3. Using knowledge of Coverage A Exclusions including:
   - exceptions that give back coverage
   - key definitions
   - exclusionary endorsements

   the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used provide the necessary coverage.

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4. Using knowledge of Coverage B – Personal And Advertising Injury Liability including:
   - key definitions
   - the Insuring Agreement and the offenses to which this insurance applies
   - exclusions and the exceptions that give back coverage
   - exclusionary endorsements

   the participant will be able to explain what is and is not covered in a given loss situation and the endorsements, if any, that may be used provide the necessary coverage.

5. Using knowledge of Coverage C – Medical Payments including:
   - the Insuring Agreement
   - exclusions including exclusionary endorsements

   the participant will be able to describe the circumstances to which the insurer will pay for medical expenses.

6. Using knowledge of Supplementary Payments – Coverages A and B the participant will be able to identify the costs and expenses that the insurer will pay in addition to the limits of insurance to investigate or settle any claim against an insured and determine when defense and litigation expenses are paid to an indemnitee as a supplementary payment.

7. Using knowledge of Section III – Limits Of Insurance, the participants will be able to determine and explain why and how much a loss would be paid, if any, in a given loss scenario.

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Knowledge Check 1 – ANSWERS

1. Spouses of any type of named insured are automatically considered insureds.

   False

2. A partnership is the only named insured listed on the CGL Declarations. A partner of the partnership buys a building in his/her own name during the policy period. A bodily injury loss occurs at that building, and the partner is sued for damages. Does the partner have insured status under the partnership's CGL Policy for this suit?

   No

3. A nurse employed at a rehab center administers the wrong medication to a patient resulting in injury. A suit is filed against the nurse for damages. Does the nurse have insured status under the rehab center's CGL Policy?

   No

4. A named insured acquires a corporation 30 days prior to the named insured's CGL Policy's expiration date. Which of the following is an accurate statement?

   a. In this scenario, the newly acquired corporation automatically qualifies as a named insured but only until the end of the policy period

5. A newly formed joint venture is an automatic insured.

   False

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Knowledge Check 2 – ANSWERS

1. Indicate which of the following are true regarding the meaning of "property damage" as defined in the CGL Coverage Form.

	True	False
a. Physical injury to tangible property, includes all resulting loss of use of that property.	X	
b. Includes loss of use of tangible property that is not physically injured.	X	
c. Electronic data is considered tangible property.		X

2. The named insured manufactures and sells kitchen appliances in the United States. A customer living in Mexico is injured while using an appliance manufactured by the named insured and files a lawsuit. Which statement accurately describes coverage?

   c. The CGL Policy extends coverage for this type of claim, if the responsibility for damages is determined from the suit filed and decided in the U.S., its territories and possessions, Puerto Rico and Canada

3. The named insured, located in New York, is in the fashion business. In the following situations, does coverage apply to bodily injury or property damage caused by an employee while conducting the named insured's business in Europe under an unendorsed CGL Policy?

	Yes	No
a. A salesperson who resides in New York, travels to Europe for 10 days on business. A suit is filed in New York.	X	
b. An employee permanently resides in France to conduct the European sales for the named insured. A suit is filed in New York.		X

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Knowledge Check 3 – ANSWERS

1. Which of the following are considered "insured contracts" according to the definition in the CGL Coverage Form?

	Yes	No
a. All contracts signed by the named insured.		X
b. All liability assumed in a lease of premises.		X
c. That part of a copy machine rental contract under which the named insured assumes the tort liability of another party for injury to a third party.	X	
d. That part of a construction contract to do roofing, under which the named insured assumes the tort liability of another party for injury to a third party.	X	

2. Which is an example of a host liquor exposure?

   b. A named insured serves wine at an office holiday party for their clients.

3. Indicate which of the following occurrences are covered under Coverage A of an unendorsed CGL Policy.

	Covered/Excluded
a. An employee of the named insured accidentally knocks over a large display causing severe injuries to a customer.	COVERED
b. An irate customer threatening other customers with a weapon is tackled and injured by an employee who was trying to protect the other customers.	COVERED
c. An employee suffers bodily injury due to a slip on the named insured's premises.	EXCLUDED
d. A leased worker injures his back in a work-related injury.	EXCLUDED

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Knowledge Check 4 – ANSWERS

1. Indicate if the following losses are covered or excluded under Coverage A of an unendorsed CGL Policy.

	Covered/Excluded
a. Chemicals leak from a storage tank at the named insured's location causing damage to a neighboring business.	EXCLUDED
b. A furnace at a named insured's hotel malfunctions emitting fumes causing several guests to become ill.	COVERED
c. The named insured's bulldozer overturns at a job site causing diesel fuel to flow out of its tank and damage the neighbor's property.	COVERED
d. Waste being treated at the named insured's manufacturing plant escapes causing property damage to several nearby businesses.	EXCLUDED

2. Indicate which of the following loss is excluded under Coverage A of an unendorsed CGL Policy.

   b. The named insured hits and damages property while operating a drone (unmanned aircraft).

3. Indicate if the following losses are covered or excluded under Coverage A of an unendorsed CGL Policy.

Contract	Covered/Excluded
a. While operating a backhoe, the named insured's employee causes damage to underground utilities at a job site.	COVERED
b. An employee, operating a forklift, backs into the named insured's storage barn causing property damage.	EXCLUDED
c. While operating a mobile equipment borrowed from another contractor, the named insured damages the equipment.	EXCLUDED
d. While valet parking a customer's auto, an employee of the named insured hits a concrete post damaging he customer's auto.	EXCLUDED

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Knowledge Check 5 – ANSWERS

1. Indicate whether Coverage A would apply in the following claim situations.

	Covered/Excluded
a. A battery-operated toy manufactured by the named insured explodes causes injury to a child.	COVERED
b. A balcony constructed by the named insured collapses, causing bodily injury to those standing on it.	COVERED
c. Appliances that contain a defective switch manufactured by the named insured do not work and therefore cannot be sold.	EXCLUDED
d. The named insured, an infant car seat manufacturer, turns in a claim for the expenses incurred to recall certain models that contain a defective harness.	EXCLUDED
e. The named insured, an electrician, causes a power outage at a job site that results in the loss of electronic data belonging to their customer.	EXCLUDED
f. The named insured who uses an automatic pre-recorded message dialing system to sell their product has a claim filed against them by a person on their do not call list.	EXCLUDED

2. The named insured, a restaurant owner, is a tenant in a shopping center. An employee accidentally causes a fire on the premises. Which of the following is an accurate statement regarding coverage provided by an unendorsed CGL Policy?

   b. Damage to the named insured's premises are covered, but not the contents.

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Knowledge Check 6 – ANSWERS

1. Indicate which of the following intentional acts most likely qualify as "personal and advertising injury" *as defined* under Coverage B of the CGL Coverage Form.

	Yes	No
a. The named insured's employee discriminates against a customer.		X
b. The named insured orders the eviction of a tenant without giving proper notice.	X	
c. The named insured's website contains material that disparages a person's or organization's goods, products or services.	X	
d. The named insured's employee wrongfully detains a customer for shoplifting.	X	

2. Which of the following claim scenarios are most likely excluded under Coverage B – Personal And Advertising Injury Liability of an unendorsed CGL Policy?

	Excluded or Not
a. The named insured is sued for libel due to comments posted on the company's electronic bulletin board.	EXCLUDED
b. A personal and advertising injury claim against the named insured for liability assumed in a contract or agreement.	EXCLUDED
c. A suit filed against the named insured for failure of their product to perform as advertised.	EXCLUDED
d. The wrong price for a product is advertised on the named insured's website, and the named insured is forced to honor the sale at a substantial loss.	EXCLUDED
e. A suit is filed against the named insured for personal and advertising injury arising out of a disclosure of a client's health information.	EXCLUDED

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Knowledge Check 7 – ANSWERS

1. Indicate which is a true statement regarding Coverage C – Medical Payments of the CGL Coverage Form.

	True	False
a. Must be caused by an accident because of operations or products completed operations exposures on or next to the named insured's premises.		X
b. Pays reasonable medical expenses, up to the available limit of insurance, even when it is not the named insured's fault.	X	
c. Pays for reasonable medical expenses, up to the available limit of insurance, for an injured tenant caused by an accident on the tenant's occupied premises.		X

2. Which of the following is an accurate statement regarding Supplementary Payments under the CGL Coverage Form?

   b. In addition to the limits of insurance, will pay for all expenses incurred by the insurer for any claim or suit against an insured that the insurer defends

3. Select the statement that best accurately describes how the Limits of Insurance apply under the CGL Coverage Form.

   b. The Personal and Advertising Injury Limit has its own limit that applies to any one person or organization subject to the available General Aggregate Limit.

4. Indicate which of the following statements is true regarding the Separation of Insureds condition of the unendorsed CGL Policy.

   b. Except for Limits of insurance, insured versus insured suits liability coverage applies separately to each insured.

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Quick Reference Guide - Endorsements

There are numerous endorsements developed by ISO that are used to modify the CGL Coverage Form provisions. Some endorsements may be used to broaden coverage or to restrict coverage. Other endorsements reinforce or establish that Coverage A and/or Coverage B under the CGL Coverage Form are not intended to provide coverage for certain types of exposures. Following are a just a few additional ISO endorsements for your review that can be used to modify the CGL Coverage Form.

CG 04 24 10 93 Coverage For Injury To Leased Workers

- This endorsement is used to modify the definition of employee, but only for the Employer's Liability exclusion, so that liability coverage may be provided because of injury to a leased worker.

CG 04 37 05 14 Electronic Data Liability,

- Amends the property damage definition to <u>include</u> loss of electronic data resulting from physical injury to tangible property

CG 21 07 05 14 Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability – Limited Bodily Injury Exception Not Included

- Optional endorsements available in lieu of mandatory endorsement CG 21 06
- Does not include the bodily injury exception

CG 21 08 05 14 Exclusion – Access Or Disclosure Of Confidential Or Personal Information (Coverage B Only)

- Optional endorsements available in lieu of mandatory endorsement CG 21 06
- Applies only to Coverage B. The electronic data exclusion under Coverage A is not replaced.

CG 21 33 11 85 Exclusion – Designated Products

- No bodily injury or property damage coverage arising out of the named insured's products indicated in the endorsement schedule

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CG 21 34 01 87 Exclusion – Designated Work

- No bodily injury or property damage coverage arising out of the named insured's work described in the endorsement schedule

CG 21 41 11 85 Exclusion – Intercompany Products Suits Endorsement

- Excludes coverage for any claim by any Named Insured against another Named Insured arising out of the Named Insured's products and included within the products-completed operations hazard

CG 21 44 04 17 Limitation Of Coverage To Designated Premises, Project Or Operation

- Coverage only applies to the designated premises, project or operation – does not provide coverage for off-premises incidental exposures-

CG 22 95 10 01 Exclusion – Damage To Work Performed By Subcontractors On Your Behalf – Designated Sites Or Operations

- Removes the exception for work performed by subcontractors at the sites or operations described in the endorsement schedule

CG 24 07 01 96 Products/Completed Operations Hazard Redefined

- Used to include coverage arising out of the named insured's products exposure <u>on the premises</u>

  Example: Food consumption on the named insured's premises

CG 24 08 10 93 Liquor Liability

- Removes the liquor liability exclusion

CG 24 17 10 01 Contractual Liability – Railroads

- Modifies the insured contract definition by removing some wording under paragraph f which therefore provides coverage for the tort liability assumed in a contract for the indemnification of a railroad arising out of construction or demolition operations on or within 50 feet of railroad property

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The following three endorsements can be used to expand the coverage territory

CG 24 22 04 13 Amendment Of Coverage Territory – Worldwide Coverage

CG 24 23 04 13 Amendment Of Coverage Territory – Additional Scheduled Countries

CG 24 24 04 13 Amendment Of Coverage Territory – Worldwide Coverage With Specified Exceptions

CG 25 03 05 09 Designated Construction Project(s) General Aggregate Limits

- A separate General Aggregate Limit applies to each designated construction project

CG 25 04 05 09 Designated Location(s) General Aggregate Limits

- A separate General Aggregate applies to each designated location

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EXHIBITS

Form Number	Form Name
IL DS 00	Common Policy Declarations
IL 00 17	Common Policy Conditions
CG DS 01	Commercial General Liability Declarations
CG 00 01	Commercial General Liability Coverage Form
CG 21 06	Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability – With Limited Bodily Injury Exception

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POLICY NUMBER:

COMMON POLICY DECLARATIONS

COMPANY NAME AREA	PRODUCER NAME AREA

NAMED INSURED: _____

MAILING ADDRESS: _____

_____

POLICY PERIOD: FROM _____ TO _____ 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
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART	$ _____
COMMERCIAL AUTOMOBILE COVERAGE PART	$ _____
COMMERCIAL GENERAL LIABILITY COVERAGE PART	$ _____
COMMERCIAL INLAND MARINE COVERAGE PART	$ _____
COMMERCIAL LIABILITY UMBRELLA	$ _____
COMMERCIAL PROPERTY COVERAGE PART	$ _____
CRIME AND FIDELITY COVERAGE PART	$ _____
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART	$ _____
EQUIPMENT BREAKDOWN COVERAGE PART	$ _____
FARM COVERAGE PART	$ _____
LIQUOR LIABILITY COVERAGE PART	$ _____
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART	$ _____
POLLUTION LIABILITY COVERAGE PART	$ _____
_____	$ _____
TOTAL:	$ _____

Premium shown is payable: $_____ at inception. $ _____

SAMPLE

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FORMS APPLICABLE TO ALL COVERAGE PARTS (SHOW NUMBERS):
_____ _____ _____ _____ _____ _____ _____

Countersigned:	By:
(Date)	(Authorized Representative)

NOTE

OFFICERS' FACSIMILE SIGNATURES MAY BE INSERTED HERE, ON THE POLICY COVER OR ELSEWHERE AT THE COMPANY'S OPTION.

SAMPLE

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COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

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

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

a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

b. 30 days before the effective date of cancellation if we cancel for any other reason.

3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

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

5. 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.

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

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:

a. Make inspections and surveys at any time;

b. Give you reports on the conditions we find; and

c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

a. Are safe or healthful; or

b. Comply with laws, regulations, codes or standards.

3. Paragraphs **1.** and **2.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph **2.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and

2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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COMMERCIAL GENERAL LIABILITY DECLARATIONS

COMPANY NAME AREA	**PRODUCER NAME AREA**

NAMED INSURED: _____

MAILING ADDRESS: _____

_____

POLICY PERIOD: FROM _____ TO _____ AT 12:01 A.M. TIME AT YOUR MAILING ADDRESS SHOWN 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.

LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	$ _____	
DAMAGE TO PREMISES RENTED TO YOU LIMIT	$ _____	Any one premises
MEDICAL EXPENSE LIMIT	$ _____	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	$ _____	Any one person or organization
GENERAL AGGREGATE LIMIT	$ _____	
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	$ _____	

RETROACTIVE DATE (CG 00 02 ONLY)

THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL AND ADVERTISING INJURY" WHICH OCCURS BEFORE THE RETROACTIVE DATE, IF ANY, SHOWN BELOW.

RETROACTIVE DATE: _____

(ENTER DATE OR "NONE" IF NO RETROACTIVE DATE APPLIES)

DESCRIPTION OF BUSINESS

FORM OF BUSINESS:

☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ TRUST

☐ LIMITED LIABILITY COMPANY ☐ ORGANIZATION, INCLUDING A CORPORATION (BUT NOT INCLUDING A PARTNERSHIP, JOINT VENTURE OR LIMITED LIABILITY COMPANY)

BUSINESS DESCRIPTION: _____

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ALL PREMISES YOU OWN, RENT OR OCCUPY	
LOCATION NUMBER	ADDRESS OF ALL PREMISES YOU OWN, RENT OR OCCUPY

CLASSIFICATION AND PREMIUM							
LOCATION NUMBER	CLASSIFICATION	CODE NO.	PREMIUM BASE	RATE		ADVANCE PREMIUM	
				Prem/ Ops	Prod/Comp Ops	Prem/ Ops	Prod/Comp Ops
			$	$	$	$	$

	STATE TAX OR OTHER (if applicable)	$ _____
	TOTAL PREMIUM (SUBJECT TO AUDIT)	$ _____
PREMIUM SHOWN IS PAYABLE:	AT INCEPTION	$ _____
	AT EACH ANNIVERSARY	$ _____
	(IF POLICY PERIOD IS MORE THAN ONE YEAR AND PREMIUM IS PAID IN ANNUAL INSTALLMENTS)	

AUDIT PERIOD (IF APPLICABLE)	☐ ANNUALLY	☐ SEMI-ANNUALLY	☐ QUARTERLY	☐ MONTHLY

ENDORSEMENTS
ENDORSEMENTS ATTACHED TO THIS POLICY:
_____
_____
_____

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

Countersigned:	By:
(Date)	(Authorized Representative)

NOTE

OFFICERS' FACSIMILE SIGNATURES MAY BE INSERTED HERE, ON THE POLICY COVER OR ELSEWHERE AT THE COMPANY'S OPTION.

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COMMERCIAL GENERAL 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 Section **II** – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – 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 Coverages **A** or **B** or medical expenses under Coverage **C.**

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

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(2) The "bodily injury" or "property damage" occurs during the policy period; and

(3) Prior to the policy period, no insured listed under Paragraph **1.** of Section **II** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **1.** of Section **II** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

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

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

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

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

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

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2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

(b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

(a) The supervision, hiring, employment, training or monitoring of others by that insured; or

(b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph **(1), (2)** or **(3)** above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

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.

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

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f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from 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;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from 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 if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from 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 if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

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(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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) 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

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

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

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(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section **III** – Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work, or property is 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.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, 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.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

(3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

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(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

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

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

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

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i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of web sites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a., b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

(1) 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

(2) 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".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) 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

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

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

(3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

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COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage **A.**

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

a. All expenses we incur.

b. Up to $250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.

f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

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g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

b. This insurance applies to such liability assumed by the insured;

c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

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2. Each of the following is also an insured:

a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

(a) Owned, occupied or used by;

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – 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

c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

a. Medical expenses under Coverage **C;**

b. Damages under Coverage **A,** except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and

c. Damages under Coverage **B.**

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3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

   a. Damages under Coverage **A;** and

   b. Medical expenses under Coverage **C**

   because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period 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 IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. **Bankruptcy**

   Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit**

   a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

   (1) How, when and where the "occurrence" or offense 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 "occurrence" or offense.

   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 involved insured 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.

3. **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 and the claimant or the claimant's legal representative.

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4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. 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. 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.

6. Representations

By accepting this policy, you agree:

a. The statements in the Declarations are accurate and complete;

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b. Those statements are based upon representations you made to us; and

c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. 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 V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and

b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;

(2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less 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.

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9. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

f. The use of another's advertising idea in your "advertisement"; or

g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean 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.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

(2) The existence of tools, uninstalled equipment or abandoned or unused materials; or

(3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

a. Physical injury to 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 the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

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As used in this definition, 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. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

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 representations 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 located 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 representations 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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Exclusion **2.p.** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) 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; or

(2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

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 that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, 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.

B. The following is added to Paragraph **2. Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" 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.

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Section 2

ADDITIONAL INSURED CONCEPTS AND ENDORSEMENTS

Additional Insured Concepts and Endorsements

Section Goal

In this section, participants will review various insurance requirements found in contracts and gain knowledge on how a Commercial General Liability Policy may or can be modified to comply.

Learning Objectives

1. Using knowledge of the rights and duty the insured has, according to the Commercial General Liability (CGL) subrogation condition, the participant will be able to explain to a named insured if compliance with contractual requirements for a waiver of subrogation has been met under an unendorsed CGL Policy, and, if not, what endorsement may be available.

2. Using knowledge of the concept and reasoning for Additional Insured status, the participant will distinguish the problems that Additional Insured status may create for the named insured vs. an Additional Insured.

3. Using knowledge of the commonly used Additional Insured endorsements including purpose, coverages and limitations or exclusions, the participant will determine the appropriate endorsement needed for providing coverage to comply with requests for Additional Insured status.

4. Using knowledge of the Other Insurance Condition of the CGL Policy, the participant will be able to explain if an unendorsed CGL Policy will meet the contractual liability requirements for primary and noncontributory insurance, and, if not, what endorsement may be available.

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Introduction

Clients are always signing contracts!

As a result, typical issues faced by insurance professionals include:

1. Clients often agree to indemnify/hold harmless other parties

   - A Commercial General Liability Policy (CGL) may provide coverage for the insured who has agreed to indemnify another for certain bodily injury and property damage losses

   - See discussion in the Commercial General Liability Section of this Institute regarding contractual liability coverage for certain types of insured contracts, as defined

2. Clients may agree to provide a waiver of subrogation to other parties

3. Clients may agree to provide Additional Insured status to other parties

4. Clients may agree that their insurance coverages will be primary and, in some instances, noncontributory

5. Clients may agree that the Additional Insured will receive notice of cancellation and/or non-renewal

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Waiver of Subrogation Contract Requirement and The Commercial General Liability (CGL) Coverage Form

Learning Objective 1:
Using knowledge of the rights and duty the insured has, according to the Commercial General Liability (CGL) subrogation condition, the participant will be able to explain to a named insured if compliance with contractual requirements for a waiver of subrogation has been met under an unendorsed CGL Policy, and, if not, what endorsement may be available.

Subrogation Definition
The assignment to an insurer by terms of the policy or by law, after payment of a loss, of the rights of the insured to recover the amount of the loss from one legally liable for it.

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Contract Requirement

Example contract

> Tenant hereby releases Landlord, its executive officers and employees from any liability to Tenant by way of subrogation for any injury to persons or damage to property sustained by any third person (including employees), firm or corporation against which Tenant is provided protection by the insurance coverage afforded Tenant through <u>any</u> Liability or Workers Compensation Insurance Policies.

To which policies does this waiver of subrogation apply?
It is important to make sure that an insurance policy permits a waiver of subrogation if the named insured has agreed to such a provision

What is a waiver of subrogation?
An agreement between two parties in which one party agrees to waive subrogation rights against another in the event of a loss. Generally, insurance policies do not bar coverage if an insured waives subrogation against a third party before a loss. However, coverage is excluded from many policies if subrogation is waived after a loss because to do so would violate the principle of indemnity.

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CGL Coverage Form subrogation condition

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

8. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

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- Insureds must do nothing after a loss that would impair the right of the insurer to recover from an at-fault third party

- Implied right to waive subrogation *prior* to a loss

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) (CG 24 04 12 19)

- Applies to the specific person or organization listed on the endorsement

- Should "mirror" contract requirement

- The waiver applies only to the extent that the insured has waived, prior to loss, its right of recovery against the named person or organization

Example:
A subcontractor has a written agreement with a general contractor. One of the contractual requirements is for an endorsement specifying that subrogation rights against the general contractor have been waived.

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 24 04 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

SCHEDULE

Name Of Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

SAMPLE

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Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) – Automatic (CG 24 53 12 19)

- Automatically waives the insurer's right of recovery to the extent the insured has waived, prior to loss, its right of recovery in a written contract or agreement
- The endorsement does not name a specific person or organization

COMMERCIAL GENERAL LIABILITY
CG 24 53 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION) – AUTOMATIC

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

CG 24 53 12 19 © Insurance Services Office, Inc., 2018 **Page 1 of 1**

SAMPLE

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Requests for Additional Insured Status under a CGL Policy

Learning Objective 2:
Using knowledge of the concept and reasoning for Additional Insured status, the participant will distinguish the problems that Additional Insured status may create for the named insured vs. an Additional Insured.

Three types of insureds under a CGL Policy

1. Named insureds *
   - Person or organization named on the Declarations and any other person or organization qualifying as a named insured according to the CGL Coverage Form
2. Automatic insureds *
   - Any person or organization qualifying as an insured according to the Who Is An Insured provision in the CGL Coverage Form
3. Non-automatic insureds – referred to as Additional Insureds

** For additional information, see the CGL Section of this Institute.*

What is an Additional Insured?
"Additional Insured…is intended to signify those persons or organizations that generally are not automatically included as insureds under the liability policy of another, but for whom the named insured desires or is required to provide a certain degree of protection under its liability policies."[1]

How do you achieve such status under a CGL Policy?

1. Add by endorsement, or
2. There are some insurers that directly provide Additional Insured status by a provision in their coverage form and not by endorsement

[1] The Additional Insured Book, (7th Edition), International Risk Management Institute, Inc., Chapter 4.

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Reasons why other persons or organizations request Additional Insured status

1. May assure greater safety in risk transfer

   - A “safety net" for a hold harmless/indemnification agreement in the event the agreement is not enforceable

   - “Belt and suspenders” approach

2. Grants direct rights under the named insured’s CGL Policy

   - As an insured, has certain policy rights and responsibilities

   - Defense costs outside of limits of insurance

   Example:
   A general contractor is added as an Additional Insured on a subcontractor’s CGL Policy. A pedestrian is injured while visiting the jobsite, and both the general contractor and the subcontractor are named in a lawsuit. The subcontractor’s insurer has a right and duty to provide defense and pay any judgments and settlements.

3. Protects the Additional Insureds from subrogation

   - Normally insurers do not subrogate against insureds

   Example:
   The CGL Policy insurer for a tenant pays the judgment awarded to an injured customer. Upon investigation it was determined that the landlord was partially responsible. Being added as an Additional Insured under the tenant’s CGL Policy may protect the landlord from any subrogation by the tenant’s CGL Policy insurer.

4. May provide for higher total limits available

   - Additional Insured limits in addition to own policy limits of insurance

5. May reduce direct insurance costs

   - Better loss experience as a result of using someone’s insurance

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Reasons a named insured is willing to add others as an Additional Insured

1. Close relationship with the named insured

   Examples:
   If the named insured is a club, the club may wish to protect its club members

   If the named insured is a church, the church may want to protect the church members

2. Contractual relationship requires the named insured to comply

   Examples:
   Tenant – Landlord

   Subcontractor – General Contractor

   General Contractor – Project Owner

   Lessee – Rental Company

   Manufacturer – Vendor/Distributor

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Adding other persons or organizations as Additional Insureds may create problems

Problems for the <u>Named Insured</u>

1. Diminution of policy limits

   - All insureds, including Additional Insureds, share the same Limit Of Insurance under the Named Insured's CGL Policy

2. Unintended coverage provided

   - Recent editions of many ISO Additional Insured endorsements will not afford coverage to an Additional Insured broader than what is required by contract or agreement; however, some older editions and/or nonstandard Additional Insured endorsements that are worded differently may provide unintended coverage

3. Defense conflicts

   - The best defense is often for one party to point the blame at another party. This can pose a conflict of interest when the insurer has the responsibility to defend both parties.

4. Compliance problems

   - There are varying types of Additional Insured endorsements, plus coverage varies among edition dates which could cause a compliance problem for the named insured

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Problems for the <u>Additional Insured</u>

1. Loss of defense control

   - It is the named insured's insurer who has the right to defend, investigate and settle

2. Increased probability of disputes over coverage

3. Limited coverage under current forms

4. Dependence on someone else's insurance

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Knowledge Check 1

1. On the unendorsed CGL Policy, when is the named insured permitted to waive subrogation?

   a. Implied right to waive subrogation, but only prior to a loss
   b. Implied right to waive subrogation at any time during the policy period
   c. Never, without an endorsement

2. Indicate if the following statements are true or false regarding Additional Insured status.

	True	False
a. Not needed as all hold harmless/indemnification agreements are enforceable as a “safety net"		
b. Grants the Additional Insured direct rights to defense costs inside the limits of insurance		
c. Protects the Additional Insured from subrogation		
d. May provide higher total limits for the Additional Insured		
e. May reduce direct insurance costs for the Additional insured		

3. Indicate which is a potential problem for the Named Insured vs. an Additional Insured.

	Named Insured	Additional Insured
a. Loss of defense control		
b. Unintended coverage provided		
c. Defense conflict of interest when the insurer has the responsibility to defend both parties		
d. Increased probability of coverage disputes		
e. Diminution of policy limits		
f. Varying edition dates which could cause a compliance problem		
g. Dependence on someone else’s insurance		
h. Limited coverage under current forms		

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Significant Changes by ISO Affected Many Endorsements

What were some of the changes about?

In 2004, an important change was made in many forms. That language remains in many of the current forms.

- For there to be coverage for the Additional Insured, there must be a causal connection between the loss and the named insured's acts or omissions or the named insured's work

e.g. There is no longer coverage for the Additional Insured if the loss is caused by the sole negligence of the Additional Insured

CG 20 10 12 19 sample

> **A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s)or organization(s) shown in the Schedule, but only with respect of liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
> **1.** Your acts or omissions; of
> **2.** The acts of omissions of those acting on your behalf;…

CG 20 37 12 19 sample

> **A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect of liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the **Definitions** section is replaced by the following:

"Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

SAMPLE

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Exacerbated by potential contractual coverage issue

- Contractual liability coverage of the CGL Policy may provide coverage (subject to policy terms and conditions) for sole negligence of another

Beware! Watch out for any limiting endorsements

Amendment Of Insured Contract Definition (CG 24 26 04 13)

– Narrows contractual coverage under paragraph **f.** of the definition of "insured contract" under the CGL Coverage Form

– The bodily injury or property damage must be caused, in whole or in part, by the named insured or those acting on behalf of the named insured

e.g. The named insured isn't covered when he indemnifies another party for the other party's sole negligence

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The 2013 edition of many Additional Insured endorsements added significant language

The language that follows appears in many of the 2019 editions of the Additional Insured endorsements and incorporates the earlier 2013 changes.

Sample revised ISO AI wording

> However:
> 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

1. There are several states that have passed legislation that voids certain indemnification/hold harmless provisions in contracts, primarily construction contracts

   - Some states indicate that these statutes do not affect contractual risk transfer through the use of requirements to purchase insurance to protect another party

   - But, in several states, statutory limitations also apply to Additional Insured requirements – **in essence, cannot have an Additional Insured endorsement that "picks up" more insurance protection than that permitted by statute**

Sample revised ISO AI wording

> 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. Incorporates contract provisions, if any, into the insurance protection available

Sample revised ISO AI wording

> With respect to the insurance afforded to these additional insureds, the following is added to
> Section III – Limits Of 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:
>
> 1. Required by the contract or agreement; or
> 2. Available under the applicable limits of insurance;
>
> whichever is less.
>
> This endorsement shall not increase the applicable limits of insurance.

3. If there is a contract, the amount of coverage available to the Additional Insured will not be more than the contract requires

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Sample revised ISO AI wording

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

Policy excerpt from CG 20 39 12 19 © Insurance Services Office, Inc., 2018

4. This fourth change was made to some Additional Insured endorsements, those that include professional liability exclusion language

   e.g. The exclusion doesn't apply only to the professional. It also applies to the employer of the professional who did not properly supervise, hire, train, etc.

Additional changes were made in the 2019 revisions

- New endorsements added to the ISO library
- Various changes to existing Additional Insured endorsements
- Recognition of the fact that policy endorsements may change the limits on the Declarations

e.g. Available under the applicable Limits of Insurance ~~shown in the Declarations~~

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Notes

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Commonly used Additional Insured Endorsements for use with the CGL Policy

Learning Objective 3:
Using knowledge of the commonly used Additional Insured endorsements including purpose, coverages and limitations or exclusions, the participant will determine the appropriate endorsement needed for providing coverage to comply with requests for Additional Insured status.

There are many standard endorsements available to provide Additional Insured status. Many are on a scheduled basis. A few other endorsements have been designed to provide Additional Insured status on an "automatic" basis based on contractual obligation. Selected for discussion are ISO endorsements that are commonly used to provide Additional Insured status.

CG 20 10 12 19	Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization
CG 20 37 12 19	Additional Insured – Owners, Lessees Or Contractors – Completed Operations
CG 20 11 12 19	Additional Insured – Managers Or Lessors Of Premises
CG 20 26 12 19	Additional Insured – Designated Person Or Organization
CG 20 28 12 19	Additional Insured – Lessor Of Leased Equipment
CG 20 33 12 19	Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In A Written Construction Agreement With You
CG 20 38 12 19	Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement
CG 20 39 12 19	Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In Written Construction Agreement With You (Completed Operations)
CG 20 40 12 19	Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement (Completed Operations)

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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SAMPLE

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Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization (CG 20 10 12 19)

Purpose
Used when owners, lessees, and contractors require they be added to the named insured's CGL Policy for ongoing operations

Modifies the Who Is An Insured provision to include the person or organization shown in the schedule as an Additional Insured

Provides liability coverage for the Additional Insured for bodily injury, property damage, or personal and advertising injury

- Caused, *in whole or in part*, by the named insured's acts or omissions or the acts or omissions of those acting on the named insured's behalf

  e.g. No coverage for losses caused solely by the Additional Insured

  - In the performance of the named insured's *ongoing operations* for the Additional Insured

  - *At the location designated* in the endorsement schedule

Coverage limitations

- Only applies to the extent *permitted by law*

- ***If*** coverage is required by contract or agreement, the insurance will *not be broader than what is required* by contract or agreement

Does *NOT* provide coverage for:

- Completed operations

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C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of 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:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

SAMPLE

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***If* coverage is required by contract or agreement**, the CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable limits of insurance

Notice that the endorsement does not stipulate that a *written* contract or agreement is required

Note:
The CG 20 10 11 85 edition is hard to get and provides ongoing operations and completed operations coverage. It will also provide coverage for the sole negligence for the Additional Insured.

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 37 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of 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:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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SAMPLE

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Additional Insured – Owners, Lessees Or Contractors – Completed Operations (CG 20 37 12 19)

Purpose
Used when owners, lessees, and contractors require they be added to a named insured's CGL Policy for completed operations

Modifies the Who Is An Insured provision to include the person or organization shown in the schedule as an Additional Insured

Provides liability coverage for the Additional Insured for bodily injury or property damage

- Caused, *in whole or in part*, by the named insured's work

  e.g. No coverage for losses caused solely by the Additional Insured

  - At the location designated in the endorsement schedule
  - Performed for the Additional Insured
  - Included in the *products-completed operation* hazard
    (No coverage provided for ongoing operations)

Coverage limitations

- Only applies to the extent *permitted by law*
- ***If*** coverage is required by contract or agreement, the insurance will *not be broader than what is required* by contract or agreement

***If* coverage is required by contract or agreement**, the CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable limits of insurance

Notice that the endorsement does not stipulate that a *written* contract or agreement is required

Note:
For a construction project, BOTH CG 20 10 and CG 20 37 may be required for compliance

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 11 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You):
Name Of Person(s) Or Organization(s) (Additional Insured):
Additional Premium: $
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.

2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of 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:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Additional Insured – Managers Or Lessors Of Premises (CG 20 11 12 19)

Purpose
Used when real estate managers or owners of premises require they be added to a tenant's (named insured's) CGL Policy

- Not suitable if no lease is in place

Modifies the Who Is An Insured provision to include the person or organization shown in the schedule as an Additional Insured

Provides liability coverage for the Additional Insured for bodily injury, property damage, personal and advertising injury:

- Caused, *in whole or in part*, by the named insured or those acting on the named insured's benefit in connection with:

  e.g. No coverage for losses caused solely by the Additional Insured

  - The ownership, maintenance, or use of *that part of the premises leased* to the named insured

    AND

  - *Shown* in the endorsement schedule

    CAUTION! Two-part test for coverage to apply

Does NOT provide coverage for:

- Any occurrences that take place after the named insured ceases to be a tenant
- Structural alterations, new construction or *demolition performed* *by or on behalf of the Additional Insured*

Coverage limitations

- Only applies to the extent *permitted by law*
- ***If*** coverage is required by contract or agreement, the insurance will *not be broader than what is required* by contract or agreement

***If* coverage is required by contract or agreement**, the CGL Policy will pay on behalf the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable Limits Of Insurance

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 26 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of 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:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Additional Insured – Designated Person Or Organization (CG 20 26 12 19)

Purpose
Used to designate a specific person or organization for ongoing operations or in relationship to premises

- Suitable for a landlord – tenant relationship when a lease does not exist
- Suitable for many situations, especially when a more specific endorsement is not available

Modifies the Who Is An Insured provision to include the person or organization shown in the schedule as an Additional Insured

Provides liability coverage for the Additional Insured for bodily injury, property damage, or personal and advertising injury

- Caused, *in whole or in part*, by the named insured's acts or omissions or the acts or omissions of those acting on the named insured's behalf
  e.g. No coverage for losses caused solely by the Additional Insured
  - In the performance of the named insured's *ongoing operations*

    OR
  - In connection with the named insured's premises owned by or rented to the named insured

Coverage limitations

- Only applies to the extent *permitted by law*
- ***If*** coverage is required by contract or agreement, the insurance will *not be broader than what is required* by contract or agreement

***If* coverage is required by contract or agreement**, the CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR
- Available applicable Limits Of Insurance

Notice that the endorsement does not stipulate that a *written* contract or agreement is required

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 28 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of 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:

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Additional Insured – Lessor Of Leased Equipment (CG 20 28 12 19)

Purpose
Used when the lessor of leased equipment requires it be added to the named insured's CGL Policy

Modifies the Who Is An Insured provision to include the person or organization shown in the schedule as an Additional Insured

Provides liability coverage for the Additional Insured for bodily injury, property damage, or personal and advertising injury

- Caused, *in whole or in part*, by the named insured's maintenance, operation, or use of the equipment leased to the named insured by the Additional Insured
  e.g. No coverage for losses caused solely by the Additional Insured

Coverage limitations

- Only applies to the extent *permitted by law*
- ***If*** coverage is required by contract or agreement, the insurance will *not be broader than what is required* by contract or agreement

Does NOT provide coverage for any occurrences that take place after the lease expires

***If* coverage is required by contract or agreement**, the CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR
- Available applicable Limits Of Insurance

Notice that the endorsement does not stipulate that a *written* contract or agreement is required

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Notes

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“Automatic” Additional Insured Endorsements

Why use?

1. Reduces administrative burden when faced with numerous contractual requests for Additional Insured status

2. Some insureds forget to call/contact or some don’t realize they should call

Selected endorsements for discussion (varies by insurer)

CAUTION! Need to read to determine <u>what “triggers” coverage</u>

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ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN A WRITTEN CONSTRUCTION AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. **Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or

2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and

2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

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Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In A Written Construction Agreement With You (CG 20 33 12 19)

Often categorized as an automatic **CG 20 10 12 19**

Purpose
Used when owners, lessees, or contractors want to be added as an Additional Insured for ongoing operations

Requires a written contract or agreement

Provides liability coverage for the Additional Insured for bodily injury, property damage, or personal and advertising injury

- Caused, *in whole or in part*, by the named insured's acts or omissions or the acts or omissions of those acting on the named insured's behalf

  e.g. No coverage for losses caused solely by the Additional Insured

  - In the performance of the named insured's *ongoing operations* for the Additional Insured

Coverage limitations

- Only applies to the extent *permitted by law*
- The insurance will *not be broader than what is required* by contract or agreement

The CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable Limits of Insurance

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2. "Bodily injury" or "property damage" occurring after:

   a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

   b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Only gives automatic insured status to the person or organization who/which *is a party to the contract with the named insured*

NOTE: This has been interpreted differently in different Jurisdictions

2

NO coverage for:

- Completed operations
- Liability arising out of professional services

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and

2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph **1.** above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

a. Your acts or omissions; or

b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured described in Paragraph **1.** or **2.** above.

However, the insurance afforded to such additional insured described above:

a. Only applies to the extent permitted by law; and

b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph **1.** above are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

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Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement (CG 20 38 12 19)

Purpose
Used when owners, lessees, or contractors want to be added as an Additional Insured for ongoing operations **AND** to add others as Additional Insureds as required by contract

Does require a written contract or agreement; however, does NOT require that the other person/organization be a party to the contract or agreement

Provides liability coverage for the Additional Insured for bodily injury, property damage, or personal and advertising injury

- Caused, *in whole or in part*, by the named insured's acts or omissions or the acts or omissions of those acting on the named insured's behalf

  e.g. No coverage for losses caused solely by the Additional Insured

  - In the performance of the named insured's *ongoing operations* for an Additional Insured

Coverage limitations

- Only applies to the extent *permitted by law*
- The insurance will *not be broader than what is required* by contract or agreement

The CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable Limits of Insurance

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b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph **A.1.;** or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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NO coverage for

- Completed operations
- Liability arising out of professional services

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT WITH YOU (COMPLETED OPERATIONS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section **II** – Who Is An Insured is amended to include as an additional insured any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for that additional insured and included in the "products-completed operations hazard".

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and

2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

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Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In Written Construction Agreement With You (Completed Operations) - (CG 20 39 12 19)

2

Purpose
Used when owners, lessees, or contractors want to be added as an Additional Insured for completed operations

This is a completed operations version of the CG 20 33 12 19

Requires a written contract or agreement

Provides liability coverage for the Additional Insured for bodily injury or property damage

- Caused, *in whole or in part*, by the named insured's work performed for the Additional Insured; and

  e.g. No coverage for losses caused solely by the Additional Insured

- Included in the product-completed operations hazard

Only gives automatic insured status to the person or organization who/which *is a party to the contract with the named insured*

Coverage limitations

- Only applies to the extent *permitted by law*

- The insurance will *not be broader than what is required* by contract or agreement

The CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable Limits of Insurance

NO coverage for:

- Ongoing operations

- Liability arising out of professional services

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – AUTOMATIC STATUS FOR OTHER PARTIES WHEN REQUIRED IN WRITTEN CONSTRUCTION AGREEMENT (COMPLETED OPERATIONS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured:

1. Any person or organization for whom you have performed operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and

2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph **1.** above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" performed for the additional insured described in Paragraph **1.** or **2.** above and included in the "products-completed operations hazard".

However, the insurance afforded to such additional insured described above:

a. Only applies to the extent permitted by law; and

b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to:

"Bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

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Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement (Completed Operations) - (CG 20 40 12 19)

2

Purpose
Used when owners, lessees, or contractors want to be added as an Additional Insured for completed operations **AND** to add other Additional Insureds as required by contract

This is a completed operations version of the CG 20 38 12 19

Requires a written contract or agreement, however, does NOT require that the other person/organization be a party to the contract or agreement

Provides liability coverage for the Additional Insured for bodily injury or property damage

- Caused, *in whole or in part*, by the named insured's work performed for an Additional Insured; and

  e.g. No coverage for losses caused solely by the Additional Insured

  - Included in the products-completed operations hazard

Coverage limitations

- Only applies to the extent *permitted by law*
- The insurance will *not be broader than what is required* by contract or agreement

The CGL Policy will pay on behalf of the Additional Insured the lesser of:

- Amount required by the contract or agreement

  OR

- Available applicable Limits of Insurance

NO coverage for:

- Ongoing operations
- Liability arising out of professional services

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Primary and Noncontributory

Learning Objective 4:
Using knowledge of the Other Insurance Condition of the CGL Policy, the participant will be able to explain if an unendorsed CGL Policy will meet the contractual liability requirements for primary and noncontributory insurance, and if not, what endorsement may be available.

Contractual Requirement

- May be required by contract

Example of a Lease of Premises

> Such policy or policies shall be endorsed to include the Landlord as well as its officers and employees as Additional Insureds and shall stipulate the insurance afforded for the Landlord as well as its officers and employees shall be primary insurance and that any insurance carried by the Landlord as well as its officers or employees shall be excess and not contributing insurance.

What is meant by "noncontributory" insurance?

Noncontributory
Insurance issued on the basis that it will not seek contribution from other insurance policies that apply to a covered loss on the same basis (e.g., primary). Requests for Additional Insured status sometimes specify that it be provided on a noncontributing or noncontributory basis. The Additional Insured in such cases is seeking assurance that its own policy will not be asked to contribute to a covered loss.

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How does the CGL Policy respond to this contractual requirement?

2

1. CGL Coverage Form – Section IV – CGL Conditions

   - Other Insurance

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

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- Method of Sharing

  Equal Shares vs. Pro Rata

Example – Covered loss of $300,000

Example of Equal Shares		
Scenario: There are two policies in force that cover a loss. Both policies permit contribution by equal shares. Each insurer's share contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever is first.		
	Policy A	Insurer B
Limit of Insurance	$500,000	$1,000,000
Equal Shares	$150,000	$150,000

Example of Pro Rata Share			
Scenario: There are two policies in force that cover a loss; however, one of the policies does *not* permit contribution by equal shares. Each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.			
	Policy A	Policy B	Total Applicable Limits
Limit of Insurance	$500,000	$1,000,000	$1,500,000
Pro rata %	33.3%	66.7%	
Pro rata payment	$100,000	$200,000	

2. ISO primary and noncontributory endorsement available for a CGL Policy

   Primary And Noncontributory – Other Insurance Condition (CG 20 01 12 19)

   - Used to meet contractual requirement that insurance is primary and will not seek contribution from other available insurance

   - Subject to a written contract or agreement

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COMMERCIAL GENERAL LIABILITY
CG 20 01 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

SAMPLE

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Knowledge Check 2

1. CG 20 10 Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization and CG 20 37 Additional Insured – Owners, Lessees Or Contractors – Completed Operations are added to the named insured's CGL Policy naming the General Contractor as an Additional Insured while the project was ongoing. At renewal, both endorsements were removed. A balcony collapses two years after the project is completed. Which of the following is an accurate statement?

   a. The previous CGL policy that had the CG 20 37 indicating the General Contractor as an additional insured will respond.
   b. The CGL Policy in force at the time of the collapse will provide additional insured status to the General Contractor.
   c. The CGL Policy in force at the time of the collapse will not provide additional insured coverage to the General Contractor.

2. Indicate which of the following are true or false.

	True	False
a. CG 20 11 Additional Insured – Managers Or Lessors Of Premises provides coverage for the person indicated in the schedule for structural alterations performed by the additional insured for the named insured.		
b. CG 20 26 Additional Insured – Designated Person Or Organization endorsement provides coverage to the person indicated in the schedule for the named insured's ongoing operations AND must be in connection with the named insured's premises owned by or rented to the named insured		
c. CG 20 28 Additional Insured – Lessor Of Leased Equipment provides coverage for the additional insured for liability caused, in whole, in part, or solely caused by the additional insured's negligence for equipment maintained, operated or used by the named insured.		

3. Which of the following provide additional insured status for parties other than the party that contracted with the named insured?

   a. CG 20 33 Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In Construction Agreement With You
   b. CG 20 38 Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement

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Certificates of Insurance

According to ACORD 25 (2016/03), **a Certificate of Liability Insurance includes the following**:

> THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

> IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

- When evidenced by a Certificate of Insurance only, there is no guarantee
- May still involve Additional Insured's insurance coverage in a claim

Suggestions

- Show actual Limits Of Insurance shown on the Declarations of all policies shown on certificate even if contract requirements are less
- Follow any/all ACORD instructions as well as state-specific mandates (statutes/regulations) applicable

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Review of Learning Objectives

1. Using knowledge of the rights and duty the insured has, according to the Commercial General Liability (CGL) subrogation condition, the participant will be able to explain to a named insured if compliance with contractual requirements for a waiver of subrogation has been met under an unendorsed CGL Policy, and if not, what endorsement may be available.

2. Using knowledge of the concept and reasoning for Additional Insured status, the participant will distinguish the problems that Additional Insured status may create for the named insured vs. an Additional Insured.

3. Using knowledge of the commonly used Additional Insured endorsements including purpose, coverages and limitations or exclusions, the participant will determine the appropriate endorsement needed for providing coverage to comply with requests for Additional Insured status.

4. Using knowledge of the Other Insurance Condition of the CGL Policy, the participant will be able to explain if an unendorsed CGL Policy will meet the contractual liability requirements for primary and noncontributory insurance, and if not, what endorsement may be available.

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Knowledge Check 1 – ANSWERS

1. On the unendorsed CGL Policy, when is the named insured permitted to waive subrogation?

   a. **Implied right to waive subrogation, but only prior to a loss**
   b. Implied right to waive subrogation at any time during the policy period
   c. Never, without an endorsement

2. Indicate if the following statements are true or false regarding Additional Insured status.

	True	False
a. Not needed as hold harmless/indemnification agreements function are enforceable as a "safety net"		X
b. Grants the Additional Insured direct rights to defense costs inside the limits of insurance		X
c. Protects the Additional Insured from subrogation	X	
d. May provide higher total limits for the Additional Insured	X	
e. May reduce direct insurance costs for the Additional insured	X	

3. Indicate which is a potential problem for the Named Insured vs. an Additional Insured.

	Named Insured	Additional Insured
a. Loss of defense control		X
b. Unintended coverage provided	X	
c. Defense conflict of interest when the insurer has the responsibility to defend both parties	X	
d. Increased probability of coverage disputes		X
e. Diminution of policy limits	X	
f. Varying edition dates which could cause a compliance problem	X	
g. Dependence on someone else's insurance		X
h. Limited coverage under current forms		X

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Knowledge Check 2 – ANSWERS

1. CG 20 10 Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization and CG 20 37 Additional Insured – Owners, Lessees Or Contractors – Completed Operations are added to the named insured's CGL Policy naming the General Contractor as an Additional Insured while the project was ongoing. At renewal, both endorsements were removed. A balcony collapses two years after the project is completed. Which of the following is an accurate statement?

   a. The previous CGL policy that had the CG 20 37 indicating the General Contractor as an additional insured will respond.
   b. The CGL Policy in force at the time of the collapse will provide additional insured status to the General Contractor.
   c. **The CGL Policy in force at the time of the collapse will not provide additional insured coverage to the General Contractor.**

2. Indicate which of the following are true or false.

	True	False
a. CG 20 11 Additional Insured – Managers Or Lessors Of Premises provides coverage for the person indicated in the schedule for structural alterations performed by the additional insured for the named insured.		X
b. CG 20 26 Additional Insured – Designated Person Or Organization endorsement provides coverage to the person indicated in the schedule for the named insured's ongoing operations AND must be in connection with the named insured's premises owned by or rented to the named insured		X
c. CG 20 28 Additional Insured – Lessor Of Leased Equipment provides coverage for the additional insured for liability caused, in whole, in part, or solely caused by the additional insured's negligence for equipment maintained, operated or used by the named insured.		X

3. Which of the following provide additional insured status for parties other than the party that contracted with the named insured?

   a. CG 20 33 Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In Construction Agreement With You
   b. **CG 20 38 Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement**

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Section 3

BUSINESS AUTOMOBILE COVERAGES AND ENDORSEMENTS

Business Automobile Coverages and Endorsements

Section Goal

In this section, participants will analyze the Business Auto Coverage Form to determine what is and is not covered; how limits of insurance apply; and how coverage may be modified.

Learning Objectives

1. Using knowledge of Section I – Covered Autos including:

   - designation symbols
   - endorsements that modify covered auto status
   - newly acquired autos
   - certain trailers, mobile equipment, temporary substitute autos

   the participant will be able to distinguish whether a vehicle is a covered auto under a Business Auto Policy (BAP) for liability, physical damage, and/or other particular coverages.

2. Using knowledge of Who Is An Insured under the Business Auto Coverage (BAC) Form the participant will be able to explain whether or not a person or organization qualifies as an insured for covered auto liability coverage and, if not, what endorsements may be needed to provide insured status.

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3. Using knowledge of the Section II – Covered Autos Liability Coverage including:

- the Insuring Agreement
- Supplementary Payments
- Exclusions
- Limit Of Insurance

the participant will be able to determine if liability coverage applies in a given accident situation and the endorsements, if any, that may be used to provide the necessary liability coverage.

4. Using knowledge of Section III – Physical Damage Coverage including:

- types of physical damage coverage available
- Coverage Extensions
- Exclusions
- Limit Of Insurance

the participant will be able to determine if physical damage coverage applies in a given loss situation and the endorsements, if any, that may be used to provide the necessary coverage and/or limits to pay for physical damage.

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5. Using knowledge of the Business Auto Conditions including:

- Loss Conditions
- General Conditions

the participant will be able to explain how the conditions apply and the endorsements available to comply with contractual requirements.

6. Using knowledge of Auto Medical Payments Coverage, the participant will be able to explain the coverage available and to whom the coverage applies, including applicable exclusions.

7. Using knowledge of the purpose for uninsured and underinsured motorists coverage, the participant will be able to explain the need for this coverage and describe the coverage and exclusions that typically apply.

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Introduction

Types of Commercial Auto Coverage Forms

1. Business Auto Coverage (BAC) Form

   - Provides coverage for most business auto exposures including auto service risks

   - Service risks include repair shops, service stations, storage garages, and public parking places and tow truck operators

   - Types of vehicles eligible

     – All trucks, including pickup, panel and van types, truck-tractors, trailers, and semi-trailers

     – Private passenger autos

     – Specialty vehicles used for commercial purpose such as ambulances, fire trucks, motorcycles, snowmobiles, etc.

2. Motor Carrier Coverage Form (MCCF)

   - Provides coverage for businesses that transport materials, commodities, and goods of their own and of others

3. Auto Dealers Coverage Form (ADCF)

   - Provides coverage for auto dealers and trailer dealers

Note:
This course will focus on the BAC Form and commonly used endorsements. Further discussion on the MCCF and the ADCF is beyond the scope of this course.

Exposures Covered Under A Business Auto Policy (BAP)

- Liability resulting from the ownership, maintenance or use of covered autos

- Physical damage for loss to certain covered autos

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Business Auto Policy (BAP) Structure

1. Common Policy Declarations (IL DS 00 09 08)

2. Common Policy Conditions (IL 00 17 11 98)

3. Business Auto Declarations (CA DS 03 11 20)

4. Business Auto Coverage Form (CA 00 01 11 20)

   - Section I – Covered Autos
   - Section II – Covered Autos Liability Coverage
   - Section III – Physical Damage Coverage
   - Section IV – Business Auto Conditions
   - Section V – Definitions

5. Endorsements

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BUSINESS AUTO DECLARATIONS

ITEM ONE

Company Name:	
Producer Name:	
Named Insured:	
Mailing Address:	
Policy Period	
From:	
To:	At 12:01 AM Standard Time at your mailing address shown above
Previous Policy Number:	

Form Of Business:

☐ **Corporation** ☐ **Limited Liability Company (LLC)** ☐ **Individual**
☐ **Partnership** ☐ **Other:**

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.

Premium Shown Is Payable At Inception: $
Audit Period (if applicable): ☐ **Annually** ☐ **Semiannually** ☐ **Quarterly** ☐ **Monthly**

Endorsements Attached To This Policy
IL 00 17 – Common Policy Conditions (**IL 01 46** in Washington) **IL 00 21** – Broad Form Nuclear Exclusion (not applicable in New York) (**IL 01 98** in Washington)

SAMPLE

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Business Auto Declarations

Item One

1. Named Insured

   - May have multiple named insureds

2. Policy Period

   - At 12:01 AM Standard Time at the named insured's mailing address, NOT at the location of the business

3. Form of Business

4. Premium at Inception

5. Endorsements attached to the BAP

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ITEM TWO

Schedule Of Coverages And Covered Autos

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the Covered Autos section of the Business Auto Coverage Form next to the name of the coverage.

Coverages	Covered Autos	Limit or Deductible	Premium
Covered Autos Liability		$	$
Personal Injury Protection (Or Equivalent No-fault Coverage)		Separately Stated In Each Personal Injury Protection Endorsement Minus $ Deductible	$
Added Personal Injury Protection (Or Equivalent Added No-fault Coverage)		Separately Stated In Each Added Personal Injury Protection Endorsement	$
Property Protection Insurance (Michigan Only)		Separately Stated In The Property Protection Insurance Endorsement Minus $ Deductible For Each Accident	$
Auto Medical Payments		$ Each Insured	$
Medical Expense And Income Loss Benefits (Virginia Only)		Separately Stated In The Medical Expense And Income Loss Benefits Endorsement	$
Uninsured Motorists		$	$
Underinsured Motorists (When Not Included In Uninsured Motorists Coverage)		$	$
Physical Damage Comprehensive Coverage		$ Deductible For Each Covered Auto For Loss Caused By Theft or Mischief or Vandalism (A maximum deductible may also apply. Refer to Coverage Form for details.) OR $ Deductible For All Perils For Each Covered Auto (A maximum deductible may also apply. Refer to Coverage Form for details.) See Item Four For Hired or Borrowed Autos	$
Physical Damage Specified Causes Of Loss Coverage		$ Deductible For Loss Caused By Theft or Mischief or Vandalism (A maximum deductible may also apply. Refer to Coverage Form for details.) OR $ Deductible For All Perils For Each Covered Auto (A maximum deductible may also apply. Refer to Coverage Form for details.) See Item Four For Hired or Borrowed Autos	$
Physical Damage Collision Coverage		$ Deductible For Each Covered Auto See Item Four for Hired or Borrowed Autos.	$
Physical Damage Towing And Labor		$ For Each Disablement Of A Private Passenger Auto, Light Or Medium Truck	$
		Premium For Endorsements	$
		Estimated Total Premium	$
*This policy may be subject to final audit.			

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Item Two – Schedule of Coverages and Covered Autos

1. Coverages

   - The BAP will provide only those coverages where a charge is shown in the premium column

2. Covered Autos

   - One or more symbols indicated in the Covered Autos column is what activates coverage

   - Symbols and covered autos discussed in detail later

3. Limits

   - Per coverage

   - Indicates deductibles, if any

4. Premium indicated by Coverage

Note:
Items Three through Six of the Declarations indicate the rating basis used to calculate the premiums for the particular coverages selected in Item Two. In-depth discussion on the rating basis is beyond the scope of this course.

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Business Auto Coverage Form – Preamble

BUSINESS AUTO 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. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to **Section V – Definitions.**

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Introductory language that contains restrictive language, defines how named insured and insurer will be identified, and indicates how words and phrases with special meaning will be identified

"Auto" is a defined term

SECTION V – DEFINITIONS

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or
2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

P. "Trailer" includes semitrailer.

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1. A land motor vehicle; trailer or semitrailer designed for travel on public roads
2. Land vehicle subject to a compulsory, financial responsibility, or other motor vehicle insurance law where licensed or principally garaged
3. Does not include mobile equipment as defined

"Trailer" is a defined term

Includes semitrailer

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“Mobile equipment” is a defined term

Paragraph 6 of the definition specifically identifies several types of self-propelled vehicles that are considered autos and not mobile equipment

3

SECTION V – DEFINITIONS

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

…

6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

   a. Equipment designed primarily for:

      (1) Snow removal;

      (2) Road maintenance, but not construction or resurfacing; or

      (3) Street cleaning;

   b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

   c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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a. Self-propelled vehicles with permanently attached equipment primarily designed for:

   (1) Snow removal

   (2) Road maintenance, but not construction or resurfacing

   (3) Street cleaning

b. Cherry pickers and similar devices mounted on automobile or truck chassis

c. Self-propelled vehicles with permanently attached air compressors, pumps and generators, etc.

Note:
Land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where licensed or principally garaged are considered autos

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BUSINESS AUTO 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. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the Policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the Policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the Policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the Policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the Policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.
19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this Policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

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Covered Autos – Designation Symbols

Learning Objective 1:

Using knowledge of Section I – Covered Autos including:

- designation symbols
- endorsements that modify covered auto status
- newly acquired autos
- certain trailers, mobile equipment, temporary substitute autos

the participant will be able to distinguish whether a vehicle is a covered auto under a Business Auto Policy (BAP) for liability, physical damage, and/or other particular coverages.

Description Of Covered Autos Designation Symbols

Numerical symbols are used to designate which autos are covered autos for the various coverages provided by the BAP. One or more symbols must be shown on the Declarations to trigger coverage as a covered auto.

Symbols 1 – Any Auto

Symbol	Description Of Covered Auto Designation Symbols
1	Any "Auto"

- Triggers liability coverage for **ANY** auto
- Provides the broadest liability coverage possible

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Symbol 2 – Owned Autos Only

2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the Policy begins.

- Triggers coverage for all owned autos at the inception of the policy as well as automatic coverage for autos where ownership is acquired during the policy period
- Can be used to provide liability, medical payments, Uninsured/ Underinsured Motorists coverage (UM/UIM), and physical damage coverage
- Also triggers liability coverage for non-owned trailers while attached to owned autos

Symbol 3 – Owned Private Passenger Autos Only

3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the Policy begins.

- Triggers coverage for private passenger autos owned at the inception of the policy as well as automatic coverage for autos (of the same type) acquired during the policy period
- Can be used to provide liability, medical payments, UM/UIM, and physical damage coverage, towing and labor
- BAP does not define private passenger auto

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Symbol 4 – Owned Autos Other Than Private Passenger Autos Only

4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the Policy begins.

- Triggers coverage for autos, **other than private passenger,** owned at the inception of the policy as well as automatic coverage for autos (of the same type) acquired during the policy period
- Can be used to provide liability, medical payments, UM/UIM, and physical damage coverage
- BAP does not define private passenger auto

Symbol 5 – Owned Autos Subject To No-fault

5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the Policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.

- Used for owned autos that are required to have and cannot reject no-fault benefits because of state law in the state where they are licensed or garaged
- Includes newly acquired autos if they are subject to the law

Symbol 6 – Owned Autos Subject To A Compulsory Uninsured Motorists Law

6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the Policy begins provided they are subject to the same state uninsured motorists requirement.

- Used for owned autos that are required to have and cannot reject uninsured motorist coverage because of state law in the state where they are licensed or garaged
- Includes newly acquired autos if they are subject to the law

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Symbol 7 – Specifically Described Autos

7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).

- Triggers coverage for autos scheduled in the Declarations
- Also triggers liability coverage for non-owned trailers attached to a scheduled auto

Symbol 8 – Hired Autos Only

8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

- Triggers coverage for autos the named insured leases, hires, rents, or borrows
- **Does not include** autos leased, hired, rented, or borrowed from employees, partners or members, or members of their households

Symbol 9 – Non-owned Autos Only

9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

- Triggers coverage for autos the named insured does not own, lease, hire, rent, or borrow that are used in connection with the named insured's business
- Includes autos owned by the named insured's employees, partners, members if the named insured is an LLC, or members of their household while used in the named insured's business or the named insured's personal affairs

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Symbol 19 – Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

- Used for mobile equipment to trigger liability coverage but only in those jurisdictions where it is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged
- Makes no reference to ownership of the mobile equipment
- Should always be included if symbol 7 is used for liability coverage

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Endorsements that Impact Covered Auto Status

Covered Auto Designation Symbol CA 99 54 10 13

POLICY NUMBER:

COMMERCIAL AUTO
CA 99 54 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COVERED AUTO DESIGNATION SYMBOL

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below:

Named Insured:

Endorsement Effective Date:

Section I – Covered Autos in the Business Auto and Motor Carrier Coverage Forms and **Section I – Covered Autos Coverages** in the Auto Dealers Coverage Form are amended by adding the following:

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols may be used (in addition to the numerical symbols described in the Coverage Form) to describe the "autos" that may be covered "autos". The entry of one of these symbols next to a coverage on the Declarations will designate the only "autos" that are covered "autos".

Symbol		Description Of Covered Auto Designation Symbols
		For use with the Business Auto Coverage Form
10	=	EXAMPLE Any "auto" model year 2014 or newer you own. This includes those "autos" with a model year 2014 or newer you acquire ownership of after the policy begins.

CA 99 54 10 13 © Insurance Services Office, Inc., 2011 **Page 1 of 2**

SAMPLE

- Description of covered auto can be customized/negotiated to broaden or limit the description of what is a covered auto
- Symbol 10 used with the BAC Form
- See example in description above

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Golf Carts And Low Speed Vehicles CA 04 45 10 13

- Used in jurisdictions where golf carts and other low speed vehicles are NOT subject to subject to a compulsory or financial responsibility law or other motor vehicle insurance law and that are NOT covered under a CGL Policy

- Vehicles described in the endorsement schedule will be considered covered autos for the coverages selected

Snowmobiles CA 20 21 10 13

- Used to provide coverage(s) for snowmobiles shown as covered autos in the endorsement Schedule

  Examples:
  Ski resorts, hotels, other business that use snowmobiles for commercial purposes

Mobile Equipment CA 20 15 11 20

- Used in jurisdictions where mobile equipment is not subject to a compulsory or financial responsibility law or other motor vehicle insurance law

- Vehicles described in the endorsement schedule will be considered covered autos and not mobile equipment

- HOWEVER, liability coverage does not apply to the operation of any machinery or equipment that is on, attached to or part of any of these vehicles. Look to the CGL Policy for coverage for this exposure.

Exclusion Or Excess Coverage Hazards Otherwise Insured CA 99 40 10 13

- Used to exclude or provide excess coverage for owned autos described in the endorsement because the named insured has other insurance

  Example:
  Autos insured under a Personal Auto Policy (PAP)

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Covered Autos – Newly Acquired Autos

SECTION I – COVERED AUTOS

B. Owned Autos

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire after the policy period begins of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire after the policy begins will be a covered "auto" for that coverage only if:
   a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
   b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.
3. An "auto" that is leased or rented to you without a driver, under a written agreement for a continuous period of at least six months that you to provide primary insurance covering such "auto", will be considered a covered "auto" you own.

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Symbols 1, 2, 3, 4, 5, 6, 19

- Automatic coverage for the same described type for the remainder of the policy period

Symbol 7

1. Automatic coverage ONLY IF:

   a. Insurer already provides coverage for <u>all</u> owned autos **or** auto <u>replaces</u> a previously owned auto with that coverage

   AND

   b. Notification to insurer within 30 days of acquisition that you want the insurer to cover it for that coverage

Clarifies that specific types of leased or rented autos are considered owned autos

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Covered Autos – Certain Trailers, Mobile Equipment And Temporary Substitute Autos

3

SECTION I – COVERED AUTOS

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a registered Gross Vehicle Weight Rating of 3,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
   a. Breakdown;
   b. Repair;
   c. Servicing;
   d. "Loss"; or
   e. Destruction.

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The following are covered autos, but for *liability only*

1. Trailers
   - 3,000 lbs. registered Gross Vehicle Weight Rating or less
2. Mobile equipment
   - Carried or towed by a covered auto
3. Temporary substitute of an owned covered auto because of its:
   a. Breakdown;
   b. Repair;
   c. Servicing;
   d. Loss; or
   e. Destruction.

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Notes

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Knowledge Check 1

1. The Named Insured has a Business Auto Policy with Symbol 1, Any Auto, indicated for liability coverage and Symbol 2, Owned Autos Only, indicated for Physical Damage Coverage. An additional auto is purchased. Indicate the correct answer.

   a. Liability and physical damage coverage both automatically apply until the remainder of the policy period.

   b. Liability coverage is automatically provided until the remainder of the policy period. Physical damage is automatically covered but only if notice was given to provide that coverage within 30 days after acquisition.

2. The Named Insured owns five delivery vans. The Business Auto Policy is written with Symbol 1, Any Auto, indicated for liability coverage and Symbol 7, Specifically Described Autos, is indicated for physical damage on all the vans. The named insured decides to purchase another van. Indicate the correct answer.

   a. Liability and physical damage coverage both automatically apply until the remainder of the policy period.

   b. Liability coverage is automatically provided until the end of policy period. Physical damage is automatically provided but only if notice is given that physical damage coverage is wanted within 30 days after acquisition.

3. The Named Insured owns five trucks. The Business Auto Policy is written with Symbol 1, Any Auto, indicated for liability coverage and Symbol 7, Specifically Described Autos, is indicated for physical damage but only on three trucks that have a model year of 2014 or newer. The named insured decides to trade in a 2008 truck with a 2018 truck. Indicate the correct answer.

   a. Liability coverage is automatically provided until the end of policy period; however, no physical damage coverage is automatically provided.

   b. Liability coverage is automatically provided until the end of policy period. Physical damage is automatically provided but only if notice is given that physical damage coverage is wanted within 30 days after acquisition.

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Covered Autos Liability Coverage – Who Is An Insured

Learning Objective 2:

Using knowledge of Who Is An Insured under the Business Auto Coverage (BAC) Form the participant will be able to explain whether or not a person or organization qualifies as an insured for covered auto liability coverage and if not, what endorsements may be needed to provide insured status.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

....

1. Who Is An Insured

The following are "insureds":

a. You for any covered "auto".

b. Anyone else while using with your permission a covered "auto" you own, hire or borrow <u>except</u>:

NOT AN INSURED

(1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

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a. Named Insured for any covered auto

Preamble

Throughout this Policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

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b. Others with named insured's permission for a *covered* auto the named insured owns, hires, or borrows **EXCEPT:**

(1) Owner of covered auto the named insured hires or borrows except a trailer attached to covered auto the named insured owns

Example:*
The named insured borrows a van from the business next door and has an at fault accident. The named insured has insured status under the BAP, but the owner of the van does not.

**BAP written with hired and non-owned auto coverage.*

(2) Named insured's employee if the covered auto is owned by him/her or his/her household

"Employee" is a defined term

SECTION V – DEFINITIONS

F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

I. "Leased worker" means a person leased to you by a labor-leasing firm under an agreement between you and the labor-leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

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*Example **:*
The named insured borrows an employee's personal auto to pick up some clients at the airport and has an at fault accident. The named insured has insured status under the BAP, but the employee who owns the auto does not.

**BAP written with hired and non-owned auto coverage.*

(3) In auto business, except the named insured's

Example:*
The named insured takes a covered company truck to an auto repair shop to work on the brakes. An employee for the repair shop test drives the truck and causes an accident. The named insured has insured status under the BAP, but the repair shop and the repair shop employee do not.

**BAP written with hired and non-owned auto coverage.*

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(4) Anyone, other than the named insured's employee, partners (if "you" are a partnership), members (if "you" are a LLC), lessee, or borrower, while loading and unloading

Example:
The named insured is a distributor and is delivering products to their customer in a covered truck. The customer's employee helps unload the truck and causes damage to a nearby parked car. The named insured and the named insured's employee have insured status under the BAP, but the customer's employee does not. (Customer's employee will usually have coverage under customer's CGL Policy.)

(5) Partners (if partnership) or a member (if LLC) for individually owned autos or his/her household

Example:*
The name of a partnership is the only named insured indicated on the Declarations. An employee borrows one of the partner's personal autos to run a business errand and is involved in an at fault accident. The named insured partnership and the employee have insured status under the BAP, but the partner does not.

**BAP written with hired and non-owned auto coverage.*

c. Others held vicariously liable for the conduct of an insured

Example:
The named insured is a subcontractor hired by a general contractor. While driving through the construction site in a covered auto, an employee of the subcontractor accidentally hits a pedestrian. The named insured subcontractor and the employee are insureds. If the general contractor (GC) is held vicariously liable for the actions of the subcontractor, then the GC has insured status under the subcontractor's BAP.

**BAP written with hired and non-owned auto coverage.*

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WHO IS AN INSURED

- NAMED INSURED FOR A COVERED AUTO
- PERMISSIVE USER OF A COVERED AUTO
  THE NAMED INSURED OWNS, HIRES, OR BORROWS
- ANYONE HELD VICARIOUSLY LIABLE FOR AN INSURED

EXCEPT
THE OWNER OR ANYONE ELSE FROM WHOM YOU HIRE OR BORROW A COVERED AUTO **
EMPLOYEE IF THE COVERED AUTO IS OWNED BY THE EMPLOYEE OR A MEMBER OF THEIR HOUSEHOLD **
ANYONE USING A COVERED AUTO WHILE WORKING IN THE AUTO BUSINESS UNLESS THAT IS THE NAMED INSURED'S BUSINESS
LOADING AND UNLOADING (Under certain circumstances)
PARTNER/MEMBER IF THE COVERED AUTO IS OWNED BY THE PARTNER/MEMBER OR A MEMBER OF THEIR HOUSEHOLD **

** This coverage may be purchased by endorsement

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Endorsements that Modify Insured Status

Individual Named Insured CA 99 17 10 13

- Used when one of the named insureds indicated on the Business Auto Declarations is an individual and the individual named insured needs Personal Auto Coverage. Typically, because they do not have a Personal Auto Policy (PAP).

  Examples:

  Named Insured: Joe Smith dba Smith Plumbing

  Named Insured: Jones Industries, Inc.; Mary Jones

- At least one Private Passenger Type (PPT) must be scheduled on the BAP

- The Fellow Employee Exclusion does not apply to the individual named insured or to any family member

- Personal Auto Coverage provided

  – Provides insured status to the individual named insured's resident *spouse* and *resident family members* for use of covered autos that are the owned PPT **AND** also for personal use of non-owned autos

    Examples:

    The individual named insured's spouse rents an automobile in his/her personal name to go on a weekend trip

    The individual named insured's spouse borrows the neighbor's truck

    The individual named insured's teenage daughter drives her boyfriend's car

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- Non-owned covered autos do NOT include any auto that is:
  - Owned by any family members
  - Furnished or made available for regular use
  - Used in *"the business"* of selling, servicing, repairing or parking autos
  - That is not a PPT, while working in any *other* business or occupation

- Pollution Exclusion does not apply to any covered auto of the PPT

- If an owned PPT auto is covered for physical damage coverage, then physical damage coverage also extends to non-owned auto
  - The most paid for "loss" to a non-owned trailer is $500

- Definitions as used in this endorsement

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.
2. The words "you" and "your" include your spouse if a resident of the same household except for notice of cancellation.
3. When the phrase "private passenger type" appears in quotation marks it includes any covered "auto" you own of the pickup or van type not used for business purposes, other than farming or ranching.
4. "Non-owned auto" means any "private passenger type" "auto", pickup, van or "trailer" not owned by or furnished or available for the regular use of you or any "family member", while it is in the custody of or being operated by you or any "family member".

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Note:

Family members and spouses must be residents of the individual named insured's household

PPT autos include pickups or vans NOT used in business unless that business is farming or ranching

Non-owned autos do not include furnished autos or autos made available for regular use

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INDIVIDUAL NAMED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

If you are an individual, the policy is changed as follows:

A. Changes In Covered Autos Liability Coverage

1. The Fellow Employee Exclusion does not apply to "bodily injury" to your or any "family member's" fellow "employees".

2. Personal Auto Coverage

If any "auto" you own of the "private passenger type" is a covered "auto" under **Covered Autos Liability Coverage:**

a. The following is added to the **Who Is An Insured** provision:

"Family members" are "insureds" for any covered "auto" you own of the "private passenger type" and any other "auto" described in Paragraph **2.b.** of this endorsement.

b. Any "auto" you don't own is a covered "auto" while being used by you or by any "family member" except:

(1) Any "auto" owned by any "family members".

(2) Any "auto" furnished or available for your or any "family member's" regular use.

(3) Any "auto" used by you or by any of your "family members" while working in a business of selling, servicing, repairing or parking "autos".

(4) Any "auto", other than an "auto" of the "private passenger type", used by you or any of your "family members" while working in any other business or occupation.

c. The Pollution Exclusion and, if forming a part of the policy, the Nuclear Energy Liability Exclusion (Broad Form), do not apply to any covered "auto" of the "private passenger type".

d. The following exclusion is added and applies only to "private passenger type" covered "autos":

This insurance does not apply to:

"Bodily injury" or "property damage" for which an "insured" under the policy is also an "insured" under a nuclear energy liability policy or would be an "insured" but for its termination upon its exhaustion of its limit of liability. A nuclear energy liability policy is a policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or any of their successors. This exclusion does not apply to "autos" registered or principally garaged in New York.

B. Changes In Physical Damage Coverage

Personal Auto Coverage

If any "auto" you own of the "private passenger type" is a covered "auto" under Physical Damage Coverage, a "non-owned auto" will also be considered a covered "auto". However, the most we will pay for "loss" to a "non-owned auto" which is a "trailer" is $500.

C. Additional Definitions

As used in this endorsement:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.

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2. The words "you" and "your" include your spouse if a resident of the same household except for notice of cancellation.

3. When the phrase "private passenger type" appears in quotation marks it includes any covered "auto" you own of the pickup or van type not used for business purposes, other than farming or ranching.

4. "Non-owned auto" means any "private passenger type" "auto", pickup, van or "trailer" not owned by or furnished or available for the regular use of you or any "family member", while it is in the custody of or being operated by you or any "family member".

SAMPLE

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Drive Other Car Coverage – Broadened Coverage For Named Individuals CA 99 10 10 13

- Even though the BAP extends liability coverage to permissive users of covered autos, some executive officers, partners, or key employees may not personally own any autos and may on occasion have to rent or borrow *other* autos for personal use

  Examples:
  The president of a corporation is furnished an auto and does not personally own any autos, so therefore does not have a PAP. He/she rents an auto in his/her personal name to go on vacation. The president's spouse borrows a neighbor's auto to run personal errands.

- This endorsement provides only those coverages where a premium is shown in the endorsement schedule
  - Select the coverages that will provide coverage as close to the PAP as possible

- For Covered Auto Liability Coverage, insured status applies for *personal use of a non-owned auto,* but only to the individual listed in the endorsement schedule
  - Do not confuse an individual named in the endorsement with an individual that is a named insured on the Business Auto Declarations
  - Insured status extends to a resident spouse but not to family members. Need to schedule every family member for coverage to apply to them.

- Auto Medical Payments and Uninsured And Underinsured Motorist Coverage applies, if coverage is selected, to the individual listed in the schedule *and to family members* while occupying or while a pedestrian when being struck by any auto that the named insured does not own.
  - However, does not apply to any auto owned by that individual or by any family member

- If Physical Damage is selected, coverage extends to a non-owned auto in the care, custody or control of the individual listed in the schedule or to his/her resident spouse

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Individual Named Insured
vs.
Drive Other Car Coverage – Broadened Coverage For Named Individuals

	Individual Named Insured CA 99 17	Drive Other Car CA 99 10
Endorsement intended to provide coverage for:	The individual named insured shown on the Declarations that has all personally owned autos under the BAP and does not have a PAP (Examples: sole proprietors; or a majority owner of a corporation who is also listed as a named insured on the BAP)	Key employees who are furnished company autos that do not have a PAP (Examples: executive officers, partners, salespeople)
Eligibility for endorsement:	The individual named insured must be shown on the Declarations At least one PPT auto must be scheduled on the BAP	Individual must be named on the endorsement
Who Is An Insured for Covered Auto Liability?	The individual named insured, resident spouse and other resident family members	The individual and resident spouse only – no family members
Exclusions "give backs":	1. Fellow Employee Exclusion does not apply 2. Pollution exclusion does not apply to any covered PPT autos	All business auto coverage exclusions still apply
Coverages:	Endorsement extends coverage from the BAP	Liability, Medical Payments, Physical Damage and UM can be added for a premium
Premium:	No premium charge	Premium charge

Note:
The above is an illustration only of key differences. Look to the endorsements or the Commercial Line Manual for full details.

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POLICY NUMBER:

COMMERCIAL AUTO
CA 99 10 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DRIVE OTHER CAR COVERAGE – BROADENED COVERAGE FOR NAMED INDIVIDUALS

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Name Of Individual:				
Covered Autos Liability Coverage	**Limit:**	$	**Premium:**	$
Auto Medical Payments	**Limit:**	$	**Premium:**	$
Comprehensive	**Deductible:**	$	**Premium:**	$
Collision	**Deductible:**	$	**Premium:**	$
Uninsured Motorists	**Limit:**	$	**Premium:**	$
Underinsured Motorists	**Limit:**	$	**Premium:**	$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.				

Note: When Uninsured Motorists Coverage is provided at limits higher than the basic limits required by a financial responsibility law, Underinsured Motorists Coverage is included, unless otherwise noted. If Underinsured Motorists Coverage is provided as a separate coverage, make appropriate entry in the Schedule above.

SAMPLE

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A. This endorsement changes only those coverages where a premium is shown in the Schedule.

B. Changes In Covered Autos Liability Coverage

1. Any "auto" you don't own, hire or borrow is a covered "auto" while being used by any individual named in the Schedule or by his or her spouse while a resident of the same household except:

a. Any "auto" owned by that individual or by any member of his or her household.

b. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

2. The following is added to **Who Is An Insured:**

Any individual named in the Schedule and his or her spouse, while a resident of the same household, are "insureds" while using any covered "auto" described in Paragraph **B.1.** of this endorsement.

C. Changes In Auto Medical Payments And Uninsured And Underinsured Motorists Coverages

The following is added to **Who Is An Insured:**

Any individual named in the Schedule and his or her "family members" are "insureds" while "occupying" or while a pedestrian when being struck by any "auto" you don't own except:

Any "auto" owned by that individual or by any "family member".

D. Changes In Physical Damage Coverage

Any private passenger type "auto" you don't own, hire or borrow is a covered "auto" while in the care, custody or control of any individual named in the Schedule or his or her spouse while a resident of the same household except:

1. Any "auto" owned by that individual or by any member of his or her household.

2. Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

E. Additional Definition

As used in this endorsement:

"Family member" means a person related to the individual named in the Schedule by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

SAMPLE

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Employees As Insureds CA 99 33 10 13

- Used to provide insured status to any employee who use their own personal autos to conduct the named insured's business

- Liability coverage for these insureds is provided on an excess basis

  Example:
  The office manager uses her personally owned auto to pick up supplies. An at-fault accident occurs. Her PAP responds first. The BAP is excess.

Non-ownership Liability Coverage For Volunteers CA 05 24 11 20

- Used to provide insured status to volunteers using personal autos while providing volunteer services while they are either engaged in the specific activities described in the Schedule or acting on the named insured's behalf if no activity is described in the Schedule

  Example:
  Jane, a volunteer for a social service agency for the disabled, uses her personally owned auto to take clients to their doctors' appointments

- Also extends insured status to anyone else who furnishes the auto to the volunteer if the auto is not owned by the volunteer

Employee Hired Autos CA 20 54 11 20

- Used to provide insured status to a named insured's employee while operating an auto rented under an employee's own name, with the named insured's permission, for the furtherance of the named insured's business

- For Hired Physical Damage, the hired auto is considered a covered auto the named insured owns

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Volunteer Hired Autos CA 04 39 11 20

- Used to provide insured status to a named insured's volunteer while operating an auto rented under a volunteer's own name, with the named insured's permission, for the furtherance of the named insured's business
- For Hired Physical Damage, the hired auto is considered a covered auto the named insured owns

Lessor – Additional Insured And Loss Payee CA 20 01 11 20

- Used when the named insured leases autos and the leasing company requires that the named insured protect the leasing company's interest
- Provides loss payee status to the lessor
- Provides notice of cancellation to the lessor

Employee As Lessor CA 99 47 10 13

- Used to provide insured status to an employee who leases their auto to the named insured
- The auto must be described in the endorsement schedule. Liability coverage is provided on a primary basis since the auto is now considered an owned auto.

  Example:
  The president of a corporation may lease his/her auto to the business

  CAUTION!
  If the lessor does not have a PAP, may also need the Drive Other Car Coverage-Broadened Coverage For Named Individuals to close any potential gaps

Partners Or Members As Insureds CA 05 25 11 20

- Used to add partners of partnerships or members of limited liability companies as insureds while using a covered auto owned by them or a member of their household in the named insured's business affairs

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Hired Auto Specified As Covered Auto You Own CA 99 16 10 13

- Used to provide insured status to the owner who leases his auto to the named insured

- The auto must be described in the endorsement schedule

  – Insured status is extended to the owner but only for ***that*** scheduled auto

- Liability coverage is provided on a primary basis for ***that*** scheduled auto since the auto is now considered an owned auto of the named insured

  Example:
  The named insured wants to insure an auto owned by one of the spouses of an executive officer of the corporation as a covered auto and wants to include the spouse as an insured

Designated Insured For Covered Autos Liability Coverage CA 20 48 10 13

- Even though the BAP already grants insured status to anyone liable for the conduct of an insured (vicarious liability), that person/organization may want proof

- This endorsement was developed to specifically name a person or organization as an insured

  Note:
  This endorsement does not provide insured status coverage that was not already there

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Covered Autos Liability Coverage – Insuring Agreement

Learning Objective 3:

Using knowledge of the Section II – Covered Autos Liability Coverage including:

- the Insuring Agreement
- Supplementary Payments
- Exclusions
- Limit Of Insurance

the participant will be able to determine if liability coverage applies in a given accident situation and the endorsements, if any, that may be used to provide the necessary liability coverage.

Three promises in the Insuring Agreement

1. **First Promise**
   Promise to pay legal obligations of an insured because of:

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

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- Bodily injury (BI) or Property Damage (PD) to which this insurance applies
- Must be caused by an accident
- Must result from the ownership, maintenance or use of a covered auto
- “Accident”, “bodily injury”, and “property damage” are defined terms

SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

M. "Property damage" means damage to or loss of use of tangible property.

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2. **Second Promise**
   Promise to pay legal obligations of an insured for a covered pollution cost or expense, as defined

SECTION II – COVERED AUTOS LIABILITY COVERAGE
A. Coverage
…
We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

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- Must be caused by an accident resulting from ownership, maintenance or use of a covered auto
- Must also be caused by BI or PD to which coverage applies
- Pollution liability is excluded with a few exceptions. To be discussed later.
- "Covered pollution cost or expense" is a defined term

SECTION V – DEFINITIONS
(Partial definition)
D. "Covered pollution cost or expense" means any cost or expense arising out of:
1. Any 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
2. Any 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".

"Covered pollution cost or expense" does not include …

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3. **Third Promise**
   Right and duty to defend (promise to defend)

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

...

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

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- No coverage – no duty to defend
- Right to investigate and settle
- Duty ends when Limit of Insurance is exhausted

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Covered Autos Liability Coverage – Coverage Extensions

a. Supplementary Payments

These payments are in addition to the Limit of Insurance. They do **NOT** reduce the Limit of Insurance.

SECTION II – COVERED AUTOS LIABILITY COVERAGE
A. Coverage
2. Coverage Extensions
a. Supplementary Payments

We will pay for the "insured":

(1) All expenses we incur.
(2) Up to $2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $250 a day because of time off from work.
(5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".
(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

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(1) All expenses the insurer incurs

- Primary expense is defense costs

(2) Up to $2000 for cost of bail bonds due to covered accident

- The insurer does not have to provide the bond

(3) Cost of bonds to release attachments

- Only for bond amounts within the Limit of Insurance
- The insurer does not have to provide the bond

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(4) Reasonable expenses incurred by an insured at insurer's request, including up to $250 per day for loss of earnings

(5) Court costs taxed against insured in any suit the insurer defends

- Does not include attorneys' fees or attorneys' expenses

(6) Post-judgment interest

- BAP makes no mention of pre-judgment interest as in the CGL Policy

3

b. Out-of-state Coverage Extensions

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

2. Coverage Extensions

…

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

(1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

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(1) Increases the Limit of Insurance for Covered Auto Liability Coverage to comply with financial responsibility laws

(2) Provides minimum amounts and types of other coverages required by law

Note:
No duplication of payments

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Covered Autos Liability Coverage – Exclusions

SECTION II – COVERED AUTOS LIABILITY COVERAGE

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

   "Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

   Liability assumed under any contract or agreement.

   But this exclusion does not apply to liability for damages:

   a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

   b. That the "insured" would have in the absence of the contract or agreement.

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1. Expected Or Intended Injury

   - Notice that there is **no** exception for BI or PD resulting from the use of reasonable force to protect persons or property

2. Contractual

   Two exceptions give back coverage

   a. Insured contracts

      - Provided the BI or PD occurs subsequent to the execution of the contract or agreement

   b. Insured's liability that would have been there in absence of the contract or agreement

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- "Insured contract" is a defined term

H. "Insured contract" means:
1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:
a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

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- Similar to the CGL Policy definition but no elevator maintenance agreement for obvious reasons
- Includes rental car or auto lease agreements
- Physical damage to the rental car itself is not covered unless Symbol 8 is indicated on Declarations for Physical Damage Coverage
- Insured contract does NOT include:
  a. Construction or demolition operations, within 50 feet of any railroad property
     - **Coverage For Certain Operations In Connection With Railroads CA 20 70 10 13**
  b. Autos loaned, leased or rented with a driver;
  c. Contracts with common carriers

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B. Exclusions

This insurance does not apply to any of the following:

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

a. An "employee" of the "insured" arising out of and in the course of:

(1) Employment by the "insured"; or

(2) Performing the duties related to the conduct of the "insured's" business; or

b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

(1) Whether the "insured" may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

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3. Workers' Compensation (WC)

4. Employee Indemnification And Employer's Liability (EL)

a. Excludes BI to an employee

- **Coverage For Injury To Leased Workers CA 23 25 10 13**
  Amends the definition of employee so as not to include a leased worker or temporary worker. Hence, the exclusion would not apply to leased workers or temporary workers.

b. Excludes consequential BI to injured employee's family members

c. Exceptions give back coverage for:

- BI to domestic employees not entitled to WC
- Liability assumed by the insured under an insured contract

Note:

Look to the Workers Compensation And Employers Liability Insurance Policy for possible coverage for WC and EL exposures not covered under the BAP

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5. Fellow Employee

B. Exclusions

This insurance does not apply to any of the following:

5. Fellow Employee

"Bodily injury" to:

a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or

b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

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a. Excludes bodily injury to any fellow employee of the insured arising out of and in the course of that fellow employee's employment

b. Excludes consequential BI to injured employee's family members

BEWARE!
Some states allow an injured worker to file a liability claim against a fellow employee responsible for bodily injury caused by an auto accident

Endorsements available:

Fellow Employee Coverage CA 20 55 10 13

- The Fellow Employee Exclusion contained under the Covered Autos Liability Coverage does not apply

Fellow Employee Coverage for Designated Employees/Positions CA 20 56 10 13

- The Fellow Employee Exclusion contained under the Covered Autos Liability Coverage does not apply to the employee(s), job title(s), or position(s) named or listed in the Schedule

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6. Care, Custody Or Control

B. Exclusions

This insurance does not apply to any of the following:

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

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- Excludes PD to property owned by or transported by the insured or in the insured's care, custody or control

- Exception for liability assumed under a sidetrack agreement

  Example:
  The named insured accidentally backs into and damages a railcar on the sidetrack at the named insured's premises. PD to the railcar is covered.

Solutions to provide coverage for CCC exposures

Garagekeepers Coverage CA 99 37 10 13 *(To be discussed later)*

Garagekeepers Coverage For Autos And Watercrafts CA 04 15 11 20

On-hook Coverage CA 04 52 11 20

Legal Liability Coverage Form CP 00 40 10 12

Bailees Customers Coverage

Motor Truck Cargo Coverage

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7. Handling Of Property

SECTION II – COVERED AUTOS LIABILITY COVERAGE

B. Exclusions

This insurance does not apply to any of the following:

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

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The BAP does not cover BI or PD resulting from the handling of property:

a. Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto;

OR

b. After it is moved from the covered auto to the place where it is finally delivered by the insured

Note:

The BAP covers BI or PD during loading, while in transit and during unloading; however, in the next exclusion there is an exception for movement of property by mechanical device *attached* to the covered auto

- The BAP and CGL Policy dovetail the treatment of loading and unloading. Look to the CGL Policy for BI or PD that occurs before property is accepted for delivery or after its final delivery.

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8. Movement Of Property By Mechanical Device

SECTION II – COVERED AUTOS LIABILITY COVERAGE

B. Exclusions

This insurance does not apply to any of the following:

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

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Exceptions

- Movement by hand truck is covered under the BAP
- Movement by mechanical device attached to covered auto is covered under the BAP

Example:
A masonry distributor has a covered truck with an attached boom that is used to load and unload their product. While unloading at a jobsite, the contractor accidentally drops a slab of marble, damaging a nearby parked car and also damaging the cargo of the covered truck being delivered.

Property damage to the parked car – covered due to the exception to the exclusion

Property damage to the cargo – not covered due to the CCC exclusion previously discussed

Note:
Look to the CGL Policy for possible coverage for movement of property by any other mechanical device

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LOADING AND UNLOADING EXHIBIT	
Exposure	**Policy**
Ozzie's Office Supply has stacked boxes on shelves inside the store for customer purchase. Two top boxes fall, injuring a customer.	Ozzie's CGL Policy provides coverage for the injury to the customer because the goods have *not* been accepted for movement onto an auto.
Ozzie's driver begins moving the boxes with the use of hand truck onto a covered company delivery truck. He drops one of the boxes and injures a pedestrian.	Ozzie's BAP provides coverage for the injury to the pedestrian because the goods have been accepted for movement onto a covered auto with the use of a hand truck.
One of the customers purchased a large desk and shelves. Ozzie's driver uses a front-end loader to load the goods into the covered company delivery truck; however, while loading the goods into the truck, a pedestrian is injured.	Even though the goods have been accepted for movement onto the covered truck, Ozzie's BAP excludes coverage because injury was caused by the movement of property by a mechanical device. Look to the CGL Policy for coverage.
While driving across town, one of the boxes falls off the delivery truck, causing extensive damage to a parked vehicle.	Ozzie's BAP provides coverage to the damage to the parked vehicle because the goods have been accepted for movement onto a covered auto, are in transit, and have not been finally delivered.
After final delivery of the shipment, the improperly stacked boxes fall and damage some computer equipment at the customer's office.	Ozzie's BAP no longer provides coverage because the goods have been finally delivered by the insured. This represents liability arising out of a completed operation that Ozzie's CGL Policy will cover.

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9. Operations

SECTION II – COVERED AUTOS LIABILITY COVERAGE

B. Exclusions

This insurance does not apply to any of the following:

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or

b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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a. Excludes the operations exposure of

- Any equipment listed in Paragraph 6.b.
  - Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers
- Any equipment listed in Paragraph 6.c.
  - Self-propelled vehicles with attached air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment

b. Excludes the operations exposure of ***machinery or equipment*** that is on, attached to, or part of, mobile equipment if it were not subject to motor vehicle law, etc.

Note:

Over-the-road (locomotion) exposure is covered under the BAP. Operations exposure of attached equipment should be covered under CGL Policy as an exception to the auto exclusion under that Policy.

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10. Completed Operations

B. Exclusions

This insurance does not apply to any of the following:

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph a. or b. above.

Your work will be deemed completed at the earliest of the following times:

(1) When all of the work called for in your contract has been completed;

(2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or

(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

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- Not intended to be covered by the BAP (look to the CGL Policy)

- May need to attach endorsement(s) to the CGL Policy to provide needed coverage as the CGL Policy has an exclusion pertaining to autos

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11. Pollution

- "Pollutants" is a defined term

SECTION V – DEFINITIONS

L. "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.

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B. Exclusions

This insurance does not apply to any of the following:

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

…

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- Bodily injury and property damage arising from pollutants is excluded
  - Actual, alleged or threatened
  - Discharge, dispersal, seepage, migration, release or escape of pollutants

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B. Exclusions

This insurance does not apply to any of the following:

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

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a. Excludes pollutants that are or contained in any property that is

(1) transported, towed by, handled, moved into/onto/from a covered auto,

(2) in the course of transit,

(3) being stored, disposed of, treated or processed

b. Excludes before accepted for movement

c. Excludes after final delivery, disposal of or abandoned

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B. Exclusions

This insurance does not apply to any of the following:

11. Pollution

…

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

(1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

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Exceptions

Exception to paragraph a. gives back coverage for BI or PD if:

(1) The pollutant is needed for or results from the normal electrical, hydraulic or mechanical function of the auto **AND** the pollutant is released directly from the auto part designed to hold it

BEWARE!

This exception does not apply to released pollutants from the operation of *equipment* such as cherry pickers and similar devices, air compressors, pumps, generators, etc. that are attached to a covered auto. Look to the CGL for possible coverage.

Exception to paragraph b. and c. gives back coverage for BI or PD to

- An auto accident that occurs away from a premises owned by or rented to an insured,
- Pollutants are *not* in, upon or transported by a covered auto, **if:**

  (a) The pollutants that are upset, overturned or damaged are caused by the maintenance or use of a covered auto

  AND

  (b) The released pollutant is a direct result of an accident arising from the covered auto

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Pollution Liability Examples	
The named insured has a covered gasoline tanker truck. The truck hits an ice patch and overturns, releasing gasoline from its cargo tank.	*Excludes bodily injury or property damage arising out of the release or escape of pollutants that are being transported by the named insured's covered auto.*
A named insured unloading barrels of liquid fertilizer accidentally drops a barrel, causing it to rupture and release the fertilizer.	*Excludes bodily injury or property damage arising out of the release or escape of pollutants that are being handled or handled for movement into, onto or from the named insured's covered auto.*
The named insured, driving a covered delivery truck, hits a gasoline tanker truck causing the tanker truck to overturn and spill gasoline.	*Exception gives back coverage for accidents that occur away from the premises and the pollutants were not in/on the covered auto.*
The named insured's covered delivery truck makes a sharp turn and overturns. The fuel tank splits open, releasing diesel fuel.	*Exception give back coverage for fuels that are needed for the normal functioning of the covered auto if the pollutants are released directly from an auto part designed to hold such pollutants.*
The named insured accidentally backs his covered truck into a storage tank at a customer's location causing the tank to release pollutants.	*Exception gives back coverage for accidents that occur away from the premises and the pollutants were not in/on the covered auto.*

Pollution Liability – Broadened Coverage for Covered Autos – Business Auto and Motor Carrier Forms CA 99 48 10 13

- Endorsement available under the Commercial Auto Program that modifies the Pollution exclusion
- Gives back some coverage for the discharge of pollutants that are being transported or towed by, handled or handled for movement into, onto, or from a covered "auto"
- Still excludes coverage for liability assumed in a contract

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SECTION II – COVERED AUTOS LIABILITY COVERAGE

B. Exclusions

This insurance does not apply to any of the following:

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

a. War, including undeclared or civil war;

b. 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

c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

14. Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance or use of "unmanned aircraft".

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12. War

- Exclusion applies whether direct or indirect

13. Racing

- Excludes covered autos **used in (not just participating in)** racing, demolition, or stunting activity, or while practicing for such activity
- Also excludes covered autos while being prepared for such above mentioned activities

14. Unmanned Aircraft

- Excludes coverage for unmanned aircraft as defined

SECTION V – DEFINITIONS

Q. "Unmanned aircraft" means an aircraft that is not:

1. Designed;
2. Manufactured;
3. Modified after manufacture:

To be controlled directly by a person from within or on the aircraft.

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Covered Autos Liability Coverage – Limit Of Insurance

SECTION II – COVERED AUTOS LIABILITY COVERAGE

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

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- The Limit Of Insurance for Covered Autos Liability Coverage is shown in Item Two of the Business Auto Declarations
- It is the most that will be paid for <u>any one accident</u> regardless of the number of covered autos, insureds, claims made or vehicles involved
- Damage from continuous or repeated exposure treated as one accident
- No duplication of payments for the same elements of loss
  - Prevents stacking

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Knowledge Check 2

	True	False
1. The Drive Other Car Coverage – Broadened Coverage For Named Individuals, CA 99 10, provides Covered Auto Liability Coverage for the personal use of owned and non-owned autos by the person named in the schedule and their resident spouse.		
2. The named insured has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage, and Symbol 2, Owned Autos, for Physical Damage Coverage. An employee on a business trip rents a vehicle. The BAP has a contractual liability exclusion; however, the exclusion has an exception for insured contracts. Rental car agreements are included as an insured contract. Therefore, the BAP provides coverage for damage to the rental vehicle itself in the event of an accident.		
3. A corporation, has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage. The president is texting while driving a covered company vehicle and causes an accident injuring his/her executive assistant. The BAP will provide coverage if the injured employee files a suit against the president for damages that are not covered under Workers Compensation.		
4. The named insured, has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage. The unendorsed BAP excludes liability resulting from movement by mechanical device; however, there is an exception if the mechanical device is attached to a covered auto. Therefore, any damage caused to cargo during the unloading process by a company owned truck with an attached boom is covered.		
5. The named insured's self-propelled vehicle used to provide mobility to permanently mounted shovel/drill is subject to motor vehicle law while on a public road. While excavating at a construction site, the drill hits and damages a utility cable. The unendorsed BAP with Symbol 1, Any Auto, provides liability coverage to the damaged cable since this vehicle is considered an auto.		
6. The named insured, a landscaper, has an unendorsed BAP with Symbol 7. A truck, with an attached tank and spraying apparatus used to spray mosquito repellant, is specifically described for Covered Auto Liability Coverage. The BAP will provide coverage if the discharge of mosquito repellant causes bodily injury to nearby pedestrians.		

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Exclusionary Endorsements

Selected Exclusionary Endorsements

The following two exclusionary endorsements were designed as underwriting tools to exclude coverage when a covered auto is used as a public or livery conveyance by an insured who has an exposure as a driver for a Transportation Network Company.

1. **Public Or Livery Passenger Conveyance Exclusion CA 23 44 11 20**

   BEWARE!

   Covered Auto Liability Coverage, Physical Damage, Auto Medical Payments, Uninsured and/or Underinsured Motorist, Personal Injury Protection Coverage does **NOT** apply to any covered auto while being used as a public or livery conveyance for passengers

   - This includes, but is not limited to, any period of time a covered auto is being used by an insured who is logged into a transportation network platform as a driver, whether or not a passenger is occupying the covered auto

2. **Public Or Livery Passenger Conveyance And On-Demand Delivery Services CA 23 45 11 20**

   - Same exclusionary language as CA 23 44 but adds exclusion for an insured who is logged into a transportation network platform or delivery network platform as a driver to provide delivery services, whether or not the goods, items or products to be delivered are in the covered auto

Note:

Further discussion on the endorsements and exposures on public or livery passenger conveyances is beyond the scope of this course

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES EXCLUSION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Changes In Covered Autos Liability Coverage

The following exclusion is added:

Public Or Livery Passenger Conveyance And On-demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured(s) listed in the Declarations.

B. Changes In Physical Damage Coverage

The following exclusion is added:

We will not pay for "loss" to any covered "autos" while being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured(s) listed in the Declarations.

C. Changes In Auto Medical Payments

If Auto Medical Payments Coverage is attached, then the following exclusion is added:

Public Or Livery Passenger Conveyance And On-demand Delivery Services

This insurance does not apply to:

"Bodily injury" sustained by an "insured" "occupying" a covered "auto" while it is being used:

1. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or
2. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured(s) listed in the Declarations.

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SAMPLE

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D. Changes In Uninsured And/Or Underinsured Motorists Coverage

1. If Uninsured and/or Underinsured Motorists Coverage is attached, and:

a. Contains, in whole or in part, a public or livery exclusion, then the following exclusion in Paragraph **2.** does not apply.

b. Does not contain a public or livery exclusion, then the following exclusion in Paragraph **2.** is added.

2. Public Or Livery Passenger Conveyance And On-demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or

b. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured(s) listed in the Declarations.

E. Changes In Personal Injury Protection Coverage

1. If Personal Injury Protection, no-fault or other similar coverage is attached, and:

a. Contains, in whole or in part, a public or livery exclusion, then the following exclusion in Paragraph **2.** does not apply.

b. Does not contain a public or livery exclusion, then the following exclusion in Paragraph **2.** is added.

2. Public Or Livery Passenger Conveyance And On-demand Delivery Services

This insurance does not apply to any covered "auto" while being used:

a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered "auto" is being used by an "insured" who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered "auto"; or

b. By an "insured" who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered "auto".

However, this exclusion does not apply to business activities performed by an "insured" that are directly related to the Named Insured(s) listed in the Declarations.

F. Additional Definitions

As used in this endorsement:

1. "Delivery network platform" means an online-enabled application or digital network, used to connect customers:

a. With drivers; or

b. With local vendors using drivers;

for the purpose of providing prearranged "delivery services" for compensation. A "delivery network platform" does not include a "transportation network platform".

2. "Delivery services" includes courier services.

3. "Occupying" means in, upon, getting in, on, out or off.

4. "Transportation network platform" means an online-enabled application or digital network used to connect passengers with drivers using vehicles for the purpose of providing prearranged transportation services for compensation.

SAMPLE

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Summary – Application of Covered Auto Liability Coverage

Does Covered Auto Liability Coverage Apply?		
Is the auto involved in the accident a covered auto as shown in the Declarations by use of the appropriate designation symbol or by endorsement?	No →	No Coverage Applies
Yes ↓		
Does the person seeking coverage under the BAP qualify as an insured?	No →	
Yes ↓		
Do any covered auto liability exclusions apply? This includes exclusionary endorsements.	Yes →	
No ↓		
Coverage applies if the insured is legally liable*		

*Subject to the Limit Of Insurance for Covered Auto Liability Coverage shown in the Declarations

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Physical Damage Coverage

Learning Objective 4:

Using knowledge of Section III – Physical Damage Coverage including:

- Types of physical damage coverage available
- Coverage Extensions
- Exclusions
- Limit of Insurance

the participant will be able to determine if physical damage coverage applies in a given loss situation and the endorsements, if any, that may be used to provide the necessary coverage and/or limits to pay for physical damage.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

   a. Comprehensive Coverage

      From any cause except:

      (1) The covered "auto's" collision with another object; or

      (2) The covered "auto's" overturn.

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Pays for loss to a covered auto or its equipment

- "Loss" is a defined term

SECTION V – DEFINITIONS

J. "Loss" means direct and accidental loss or damage.

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a. Comprehensive

- Any cause except collision with another object or overturn

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b. Specified Causes Of Loss

b. Specified Causes Of Loss Coverage

Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

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- Provides coverage for six specified causes of loss
- Selection can be modified by endorsement
- **Fire, Fire And Theft, Fire, Theft And Windstorm And Limited Specified Causes Of Loss Coverages CA 99 14 11 20**

c. Collision Coverage

Caused by:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

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c. Collision

- With another object or overturn

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Towing And Labor

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

…

2. Towing And Labor

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" that is a private passenger type, light truck or medium truck is disabled. However, the labor must be performed at the place of disablement.

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- Can be purchased for various types of covered autos
- Pays up to the limit shown in Declarations
- Includes labor performed only at place of disablement

Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

…

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

a. Glass breakage;

b. "Loss" caused by hitting a bird or animal; and

c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

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- This is not an additional coverage, but rather clarification as to how the BAP will pay under certain circumstances
- Paid under comprehensive if comprehensive is carried
- Glass breakage can be covered under collision – insured's option – may prevent two deductibles from applying

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Physical Damage Coverage – Coverage Extensions

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

…

4. Coverage Extensions

a. Transportation Expenses

We will pay up to $30 per day, to a maximum of $900, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the Policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

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a. Transportation Expenses

- Pays up to $30 per day/$900 maximum for temporary transportation expenses, not just for a rental car
- Caused by total theft of covered PPT auto
- Applies only if Comprehensive or Specified Causes Of Loss Coverage is carried on the covered auto that is stolen
- 48 hour waiting period
- Broader approach available by endorsement

Rental Reimbursement Coverage CA 99 23 10 13

BEWARE!
This endorsement does NOT provide coverage if there are spare or reserve autos available

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b. Loss Of Use Expenses

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

4. Coverage Extensions

…

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

(1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

(3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is $30 per day, to a maximum of $900.

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- For Hired Auto Physical Damage to apply, coverage must be indicated on the Declarations
- Applies only to vehicles rented or hired without a driver
- Only if legally responsible to pay for loss of use under a written contract
- Pays up to $30 per day/$900 maximum
- Endorsement available to increase the amount per day and maximum

Optional Limits – Loss of Use Expenses – CA 99 90 10 13

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Optional Endorsements that Modify Physical Damage Coverage

Business Interruption CA 99 05 11 20

- Some named insureds may depend on its vehicles as a means of generating income. Examples include food trucks, shredding trucks, mobile blood banks, etc. Some of these vehicles are customized and cannot be repaired or replaced in a timely manner if they suffer damage. Those named insureds could potentially suffer a loss of income if their operations slowdown or halt as a result of damage to Covered Autos.

- **Business Interruption Coverage CA 99 05**, was introduced by ISO in 2014 to provide coverage for off-premises business interruption exposures

Note:
Coverage under a Commercial Property Policy typically applies to property while located at or within 100 feet of the insured's premises. Business Income (And Extra Expense) Coverage Form may also be endorsed for this off-premises exposure.

A. Coverage

This endorsement provides coverage in accordance with the entries made in the Schedule.

1. Business Income

   We will pay for the actual loss of "business income" you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct and accidental loss or damage to "scheduled property". The direct and accidental loss or damage must be caused by or result from a Covered Cause of Loss and must occur while such "scheduled property" is located within the coverage territory.

2. Extra Expense

   If the Schedule indicates that Extra Expense Coverage applies, we will pay the actual and necessary "extra expense" you incur during the "period of restoration" due to direct and accidental loss or damage to "scheduled property". The direct and accidental loss or damage must be caused by or result from a Covered Cause of Loss and must occur while such "scheduled property" is located within the coverage territory.

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Note:
Further discussion is beyond the scope of this course

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Garagekeepers Coverage – CA 99 37 10 13

A. This endorsement provides only those coverages:
   1. Where a Limit Of Insurance and a premium are shown for that coverage in the Schedule; and
   2. For the location shown in the Schedule.

B. Coverage
   1. We will pay all sums the "insured" legally must pay as damages for "loss" to a "customer's auto" or "customer's auto" equipment left in the "insured's" care while the "insured" is attending, servicing, repairing, parking or storing it in your "garage operations" under:

CA 99 37 10 13 ©Insurance Services Office, Inc., 2011 Page 4 of 6

3

- Provides for physical damage coverages indicated in the endorsement schedule **and** for the scheduled location

- Covers loss to a customer's auto while in the insured's care while attending, servicing, repairing, parking or storing the auto in the named insured's garage operations

Note:
Further discussion is beyond the scope of this course

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Physical Damage Coverage – Exclusions

SECTION III – PHYSICAL DAMAGE COVERAGE

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".
   a. Nuclear Hazard
      (1) The explosion of any weapon employing atomic fission or fusion; or
      (2) Nuclear reaction or radiation, or radioactive contamination, however caused.
   b. War Or Military Action
      (1) War, including undeclared or civil war;
      (2) 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
      (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.
2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.
3. We will not pay for "loss" due and confined to:
   a. Wear and tear, freezing, mechanical or electrical breakdown.
   b. Blowouts, punctures or other road damage to tires.

   This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

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1. Nuclear hazard, war or military action

2. Professional or organized racing, demolition contests or stunting activity
   - Includes practice and/or preparation for

3. Loss confined to wear and tear, freezing, mechanical or electrical breakdown, or road damage to tires
   - Does not apply if loss results from total theft of covered auto

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4. We will not pay for "loss" to any of the following:
   a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
   b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.
   c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.
   d. Any accessories used with the electronic equipment described in Paragraph c. above.

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3

4. Electronic equipment and media

   a. Tapes, records, discs or similar audio, visual or data electronic devices

      - **Tapes, Records, and Discs Coverage CA 99 30 10 13**

   b. Radar detectors

   c. Electronic equipment that reproduces, receives or transmits audio, visual or data signal

   d. Accessories used with the electronic equipment described above

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5. Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:
   a. Permanently installed in or upon the covered "auto";
   b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
   c. An integral part of the same unit housing any electronic equipment described in Paragraphs **a.** and **b.** above; or
   d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.
6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

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5. **EXCEPTIONS**. Coverage provided for equipment and/or its accessories powered solely by the auto's electrical system if:

   a. Permanently installed in or upon the covered auto;

   b. Removable from a housing that is permanently installed in or upon the covered auto;

   c. Integral part of the same housing unit;

   d. Necessary for normal operation of the covered auto

6. "Diminution in Value" – may be modified in a particular jurisdiction

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

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Physical Damage Coverage – Limits Of Insurance

SECTION III – PHYSICAL DAMAGE COVERAGE

C. Limits Of Insurance

1. The most we will pay for:
   a. "Loss" to any one covered "auto" is the lesser of:
      (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
      (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
   b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is $1,000, if, at the time of "loss", such electronic equipment is:
      (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
      (2) Removable from a permanently installed housing unit as described in Paragraph **b.(1)** above; or
      (3) An integral part of such equipment as described in Paragraphs **b.(1)** and **b.(2)** above.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

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1. The most that is paid for loss to any one covered auto
   a. Lesser of
      (1) Actual Cash Value (ACV) at time of loss or
      (2) Cost to repair or replace with like kind and quality
   b. $1,000 for all electronic equipment that reproduces, receives or transmits audio, visual or data signals if:
      (1) Permanently installed in the housing unit <u>not normally used</u> by the manufacturer for such equipment
      (2) Removable from the permanently installed housing unit
      (3) An integral part of such equipment
2. Adjustment for depreciation
3. No payment for betterment

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Endorsements that modify Physical Damage Limits Of Insurance

Replacement Cost Coverage – Private Passenger Types CA 04 41 11 20

- Used to provide replacement cost coverage for private passenger type autos in the event of a total loss
- Certain conditions apply as to age of vehicle, mileage, etc.

Audio, Visual and Data Electronic Equipment Coverage Added Limits CA 99 60 10 13

- Used to increase the $1,000 sublimit

Auto Loan/Lease Gap Coverage CA 20 71 11 20

- Used to close the gap between unpaid amounts due on a lease or loan on a covered auto and the amount paid under the BAP's Physical Damage Coverage

Stated Amount Of Insurance CA 99 28 11 20

- Amends the Limits Of Insurance to include a third amount. The most that is paid for loss to a covered auto described in the schedule is the least of:
  - ACV at time of loss or
  - Cost to repair or replace with like kind and quality or
  - The Limit Of Insurance shown in the endorsement schedule

  In essence, caps ACV

Note:
The auto rules in the Commercial Lines Manual requires this endorsement be added for certain types of covered autos under the BAP such as antique autos, golf carts and low speed vehicles, motorcycles, motor homes, and snowmobiles

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Physical Damage Coverage – Deductible

SECTION III – PHYSICAL DAMAGE COVERAGE

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations prior to the application of the Limit Of Insurance, provided that:

1. The Comprehensive or Specified Causes Of Loss Coverage deductible applies only to "loss" caused by:

   a. Theft or mischief or vandalism; or

   b. All perils,

2. Regardless of the number of covered "autos" damaged or stolen, the maximum deductible applicable for all "loss" in any one event caused by:

   a. Theft or mischief or vandalism; or

   b. All perils

   will be equal to five times the highest deductible applicable to any one covered "auto" on the Policy for Comprehensive or Specified Causes Of Loss Coverage. The application of the highest deductible used to calculate the maximum deductible will be made regardless of which covered "autos" were damaged or stolen in the "loss".

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- Per covered auto, a per item deductible with a maximum deductible of five times the highest deductible to any one covered auto will apply

- Options available for the application of the deductible for Comprehensive or Specified Causes Of Loss Coverage

Full Safety Glass Coverage CA 04 21 11 20

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Knowledge Check 3

Coverages	Covered Autos
Physical Damage Comprehensive Coverage	3 (Owned Private Passenger Autos Only) 8 (Hired Autos Only)
Physical Damage Specified Causes Of Loss Coverage	4 (Owned Autos Other Than PPA Only)
Physical Damage Collision Coverage	2 (Owned Autos Only), 8 (Hired Autos Only)

The named insured has an unendorsed BAP. Using the above information; Indicate which coverage applies in the following scenarios or indicate if there is no coverage.

1. A tree branch falls and damages a company owned 4-door sedan.

2. A rat chews on the electrical wiring of a company owned delivery truck causing damage.

3. A specialized refrigeration truck is severely damaged in a windstorm. It will take six weeks to repair resulting in a loss of income of $60,000.

4. A rental car is damaged by vandalism.

5. A company owned truck overturns.

6. A luxury rental car is damaged in a collision. The rental agency is asking for $10,000 for the loss of market value.

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Business Auto Conditions

Learning Objective 5:

Using knowledge of the Business Auto Conditions including:

- Loss Conditions
- General Conditions

the participant will be able to explain how the conditions apply and the endorsements available to comply with contractual requirements.

The following conditions apply in addition to the Common Policy Conditions

A. Loss Conditions
   1. Appraisal For Physical Damage Loss
   2. Duties In The Event Of Accident, Claim, Suit, or Loss
   3. Legal Action Against Us
   4. Loss Payment – Physical Damage Coverages
   5. Transfer Of Rights Of Recovery Against Others To Us

B. General Conditions
   1. Bankruptcy
   2. Concealment, Misrepresentation Or Fraud
   3. Liberalization
   4. No Benefit To Bailee – Physical Damage Coverage
   5. Other Insurance
   6. Premium Audit
   7. Policy Period, Coverage Territory
   8. Two Or More Coverage Forms Or Policies Issued By Us

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Loss Conditions Selected for Discussion

A. Loss Conditions

…

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
   (1) How, when and where the "accident" or "loss" occurred;
   (2) The "insured's" name and address; and
   (3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:
   (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
   (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
   (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
   (4) Authorize us to obtain medical records or other pertinent information.
   (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:
   (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
   (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
   (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
   (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

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Duties In The Event Of Accident, Claim, Suit, Or Loss

a. Prompt notice is required

b. Assume no obligation, make no payment, send copies of demands, summons or legal papers. Cooperate with the insurer. Grant medical authorization and submit to medical examination.

c. Notify police in event of theft, protect damaged property, permit the insurer to inspect before repair or disposition, give statement under oath

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SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

…

4. Loss Payment – Physical Damage Coverages

At our option, we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

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3

Loss Payment – Physical Damage Coverages

At the insurer's option, the insurer will:

a. Pay for, repair, or replace damaged or stolen property; or

b. Return stolen property; or

c. Take property at agreed or appraised value

Note:
Payment includes the applicable sales tax for the damaged or stolen property

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SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

…

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

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Transfer Of Rights Of Recovery Against Others To Us

- The insurer has the right to subrogate against the responsible party
- Do nothing after an accident or loss to impair the insurer's rights

Note:
There may be a contractual insurance obligation requiring the named insured to add a waiver of subrogation endorsement

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) CA 04 44 10 13

– Used to state that no subrogation action will be taken against the person or organization listed in the schedule

Waiver Of Transfer Of Rights Of Recovery Against Others To Us (Waiver Of Subrogation) – Automatic When Required By Written Contract Or Agreement CA 04 43

– Used to state that no subrogation action will be taken against the person or organization if the named insured is required to waive subrogation in a written contract or written agreement and subrogation is waived prior to the accident or loss

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POLICY NUMBER:

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

SAMPLE

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General Conditions Selected for Discussion

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

B. General Conditions

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

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Concealment, Misrepresentation Or Fraud

- Coverage voided for fraud committed by the named insured

- Coverage voided for intentionally concealment or misrepresentation by any other insured

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5. Other Insurance

a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

(1) Excess while it is connected to a motor vehicle you do not own; or

(2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

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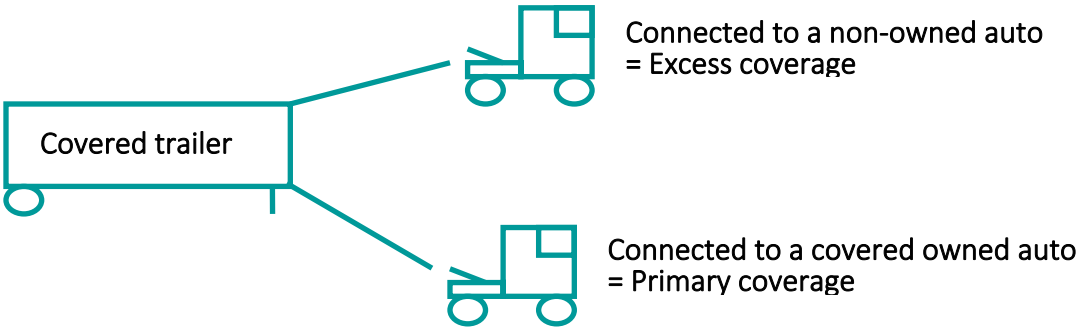
3

Other Insurance

a. Primary/excess coverage

- Covered owned auto – primary coverage provided
- Covered non-owned auto – excess coverage provided
- Covered trailer
  - (1) Excess, if connected to non-owned auto
  - (2) Primary, if connected to owned covered auto



b. Primary coverage provided for hired auto physical damage

- Hired cars *with a driver* are not considered covered autos
- **Autos Leased, Hired, Rented Or Borrowed With Drivers – Physical Damage Coverage – CA 20 33 11 20**

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B. General Conditions

…

5. Other Insurance

c. Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

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c. Primary coverage provided for an insured contract

d. Pro rata when other insurance applies on same basis

Pro Rata Share Example			
Scenario: There are two policies in force that cover an accident on the same basis. A covered accident in the amount of $300,000 occurs. The insurer's share is the proportion that the Limit of Insurance of the Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.			
	Insurer A	Insurer B	Total
Limits	$500,000	$1,000,000	$1,500,000
Pro Rata %	33.3% of total	66.7% of total	
Pro Rata payment	$100,000	$200,000	$300,000

Note:
There may be a contractual insurance obligation requiring the named insured to provide coverage on a primary and noncontributory basis

Primary And Noncontributory – Other Insurance Condition CA 04 49 11 16

– Used to comply with written contract or agreement requirements to include an endorsement to indicate that coverage be provided on a primary and noncontributory basis

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

B. The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

SAMPLE

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SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

B. General Conditions

…

6. Premium Audit

a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

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Premium Audit

- Premium is estimated based on the exposures when this policy began

- The first named insured gets the final bill if any balance is owed or will get any refund due

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7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

a. During the policy period shown in the Declarations; and

b. Within the coverage territory.

The coverage territory is:

(1) The United States of America;

(2) The territories and possessions of the United States of America;

(3) Puerto Rico;

(4) Canada; and

(5) Anywhere else in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

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Policy Period, Coverage Territory

a. Policy period – shown in Declarations

b. Coverage territory

- U.S., its territories and possessions, Puerto Rico and Canada,
- Anywhere else in the world if non-owned PPT auto is leased, hired, rented or borrowed, without a driver, for 30 days or less,

AND

- Suit must be brought in the U.S., its territories and possessions, Puerto Rico and Canada; OR settlement is agreed to

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Auto Medical Payments Coverage CA 99 03 10 13

Learning Objective 6:
Using knowledge of Auto Medical Payments Coverage, the participant will be able to explain the coverage available and to whom the coverage applies; including applicable exclusions.

Coverage

AUTO MEDICAL PAYMENTS COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. Coverage

We will pay reasonable expenses incurred for necessary medical and funeral services to or for an "insured" who sustains "bodily injury" caused by "accident". We will pay only those expenses incurred, for services rendered within three years from the date of the "accident".

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- Pays reasonable expenses for necessary medical and funeral
- To or for an insured
- Expenses must be incurred within three years
- Must be caused by accident

Note:
Do not confuse Auto Medical Payments Coverage with CGL Medical Payments

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Who Is An Insured

B. Who Is An Insured

1. You while "occupying" or, while a pedestrian, when struck by any "auto".
2. If you are an individual, any "family member" while "occupying" or, while a pedestrian, when struck by any "auto".
3. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, loss or destruction.

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3

1. Named insured while occupying any auto or struck by any auto

2. If named insured is individual, includes family member

3. Anyone occupying covered auto or temporary substitute auto

Exclusions

C. Exclusions

This insurance does not apply to any of the following:

1. "Bodily injury" sustained by an "insured" while "occupying" a vehicle located for use as a premises.
2. "Bodily injury" sustained by you or any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by you or furnished or available for your regular use.
3. "Bodily injury" sustained by any "family member" while "occupying" or struck by any vehicle (other than a covered "auto") owned by or furnished or available for the regular use of any "family member".

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1. Occupying vehicle used as a premises

2. Vehicle owned or furnished for regular use (other than a covered auto)

3. Owned or furnished for regular use of family member (other than a covered auto)

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C. Exclusions

This insurance does not apply to any of the following:

…

4. "Bodily injury" to your "employee" arising out of and in the course of employment by you. However, we will cover "bodily injury" to your domestic "employees" if not entitled to workers' compensation benefits. For the purposes of this endorsement, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.
5. "Bodily injury" to an "insured" while working in a business of selling, servicing, repairing or parking "autos" unless that business is yours.
6. "Bodily injury" arising directly or indirectly out of:
   a. War, including undeclared or civil war;
   b. 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
   c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
7. "Bodily injury" to anyone using a vehicle without a reasonable belief that the person is entitled to do so.
8. "Bodily Injury" sustained by an "insured" while "occupying" any covered "auto" while used in any professional racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply to any "bodily injury" sustained by an "insured" while the "auto" is being prepared for such a contest or activity.

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4. Bodily injury to employee, except non-covered domestic workers

5. Auto business, except named insured's business

6. War

7. Using without permission

8. Racing

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Limit Of Insurance

D. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for "bodily injury" for each "insured" injured in any one "accident" is the Limit Of Insurance for Auto Medical Payments Coverage shown in the Declarations.

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage and any Liability Coverage Form, Uninsured Motorists Coverage Endorsement or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

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- The most paid per each insured in any one accident is the Limit of Insurance for Auto Medical Payments limit shown in the Declarations
- No duplication of coverage

Changes In Conditions

E. Changes In Conditions

The **Conditions** are changed for **Auto Medical Payments Coverage** as follows:

1. The **Transfer Of Rights Of Recovery Against Others To Us** Condition does not apply.
2. The reference in **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form to "other collectible insurance" applies only to other collectible auto medical payments insurance.

F. Additional Definitions

As used in this endorsement:

1. "Family member" means a person related to you by blood, marriage or adoption who is a resident of your household, including a ward or foster child.
2. "Occupying" means in, upon, getting in, on, out or off.

or Underinsured Motorists Coverage Endorsement attached to this Coverage Part.

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1. The Transfer Of Rights Of Recovery Against Others To Us Condition does not apply
2. Other Insurance Condition applies only to other collectible auto medical payments insurance

Additional Definitions

1. Family member
2. Occupying

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State-Specific No Fault Coverage/Personal Injury Protection

A few states have some type of no-fault law which may require insurers to provide certain types of first party benefits/coverage regardless of fault. In some states, no-fault coverage is commonly referred to as Personal Injury Protection (PIP). Types of coverage varies by these few states and may be either compulsory no-fault, add-on (compulsory), add-on optional, or choice.

Benefits vary by state specific endorsement, but may include

- Necessary medical expenses
- Wage or other income loss benefits
- Funeral expenses
- Replacement services expenses

Note:
Further discussion is beyond the scope of this course

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Uninsured and Underinsured Motorists – Overview

Learning Objective 7:
Using knowledge of the purpose for uninsured and underinsured motorists coverage, the participant will be able to explain the need for this coverage, and describe the coverage and exclusions that typically apply.

General purpose:
To allow motorists to receive protection for themselves in a case where they suffer injury or damage due to a negligent third party who has no liability insurance or inadequate liability insurance limits.

Purchasing decision by commercial clients. Why buy?

1. In many states, it is mandatory
2. Other coverage may not be available, or this coverage may fill some gaps
3. Persons, other than employees, who regularly occupy the auto
4. Property damage – in those states where it is available, advantageous where no collision coverage carried. Deductible applies.

Reasons why some commercial clients do not purchase

1. Cost of coverage
2. Persons bringing claims frequently are employees who are covered under Workers Compensation Insurance or group medical

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Definition of UM and UIM Varies by Jurisdiction

Uninsured Motorists (UM)

- Typically means a land motor vehicle or trailer for which no liability bond or policy at the time of an accident provides at least the amounts required by the applicable law where the covered auto is garaged;
- For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- That is a hit-and-run vehicle and neither the driver nor owner can be identified

Underinsured Motorists (UIM)

- Majority of states define within the uninsured motorists definition
- Typically means a land motor vehicle or trailer for which the sum of all liability bonds or policies at the time of an accident provides a limit that is less than the amount an insured is legally entitled to recover as damages caused by the accident

Damages paid varies by state. Depending on the state, coverage may apply because of:

- Bodily injury only – majority of states
  - Optional property damage coverage may be purchased in some states
- Bodily injury and property damage

Stacking Of Limits

- Not all states allow stacking of limits
- Insurers are reluctant
- Some by court decree

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UM/UIM Coverage Varies by Endorsement

Insuring Agreement – Varies by state

- Pays sums the insured is legally entitled to recover
- Addresses the type of damages paid
- The majority of states provide for compensatory damages, not punitive damages

Who Is An insured. Most endorsements typically include:

1. Named insured
2. Individual named insured's family members
3. Anyone occupying a covered auto
4. Anyone entitled to coverage because of bodily injury to above-mentioned insureds

Exclusions. Typical exclusions include:

1. Claim settled without insurer's consent
2. Anyone using a covered auto without reasonable belief of entitlement
3. Benefit of workers compensation insurer
4. Could still collect for pain and suffering under UM as long as there is no exclusion for non-economic loss
5. Bodily injury from owned-but-not-covered auto
6. Damage to property in covered auto

Limits Of Insurance

- The most paid typically is the limit shown on the Schedule; HOWEVER, optional endorsements may be available for split limits

Conditions

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Review of Learning Objectives

1. Using knowledge of Section I – Covered Autos including:
   - designation symbols
   - endorsements that modify covered auto status
   - newly acquired autos
   - certain trailers, mobile equipment, temporary substitute autos

   the participant will be able to distinguish whether a vehicle is a covered auto under a Business Auto Policy for liability, physical damage, and/or other particular coverages.

2. Using knowledge of Who Is An Insured under the Business Auto Coverage Form the participant will be able to explain whether or not a person or organization qualifies as an insured for covered auto liability coverage and if not, what endorsements may be needed to provide insured status.

3. Using knowledge of the Section II – Covered Autos Liability Coverage including:
   - the Insuring agreement
   - Supplementary Payments
   - Exclusions
   - Limit Of Insurance

   the participant will be able to determine if liability coverage applies in a given accident situation and the endorsements, if any, that may be used to provide the necessary liability coverage.

4. Using knowledge of Section III – Physical Damage Coverage including:
   - types of physical damage coverage available
   - Coverage extensions
   - Exclusions
   - Limit of Insurance

   the participant will be able to determine if physical damage coverage applies in a given loss situation and the endorsements, if any, that may be used to provide the necessary coverage and/or limits to pay for physical damage.

5. Using knowledge of the Business Auto Conditions including:
   - Loss Conditions
   - General Conditions

   the participant will be able to explain how the conditions apply and the endorsements available to comply with contractual requirements.

6. Using knowledge of Auto Medical Payments Coverage, the participant will be able to explain the coverage available and to whom the coverage applies; including applicable exclusions.

7. Using knowledge of the purpose for uninsured and underinsured motorists coverage, the participant will be able to explain the need for this coverage and describe the coverage and exclusions that typically apply.

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Knowledge Check 1 – ANSWERS

1. The Named Insured has a Business Auto Policy with Symbol 1, Any Auto, indicated for liability coverage and Symbol 2, Owned Autos Only, indicated for Physical Damage Coverage. An additional auto is purchased. Indicate the correct answer.

   a. **Liability and physical damage coverage both automatically apply until the remainder of the policy period.**

2. The Named Insured owns five delivery vans. The Business Auto Policy is written with Symbol 1, Any Auto, indicated for liability coverage and Symbol 7, Specifically Described Autos, is indicated for physical damage on all the vans. The named insured decides to purchase another van. Indicate the correct answer.

   b. **Liability coverage is automatically provided until the end of policy period. Physical damage is automatically provided but only if notice is given that physical damage coverage is wanted within 30 days after acquisition.**

3. The Named Insured owns five trucks. The Business Auto Policy is written with Symbol 1, Any Auto, indicated for liability coverage and Symbol 7, Specifically Described Autos, is indicated for physical damage but only on three trucks that have a model year of 2014 or newer. The named insured decides to trade in a 2008 truck with a 2018 truck. Indicate the correct answer.

   a. **Liability coverage is automatically provided until the end of policy period; however, no physical damage coverage is automatically provided.**

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Knowledge Check 2 – ANSWERS

	True	False
1. The Drive Other Car Coverage – Broadened Coverage For Named Individuals, CA 99 10, provides Covered Auto Liability Coverage for the personal use of owned and non-owned autos by the person named in the schedule and their resident spouse.		X
2. The named insured has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage, and Symbol 2, Owned Autos, for Physical Damage Coverage. An employee on a business trip rents a vehicle. The BAP has a contractual liability exclusion; however, the exclusion has an exception for insured contracts. Rental car agreements are included as an insured contract. Therefore, the BAP provides coverage for damage to the rental vehicle itself in the event of an accident.		X
3. A corporation, has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage. The president is texting while driving a covered company vehicle and causes an accident injuring his/her executive assistant. The BAP will provide coverage if the injured employee files a suit against the president for damages that are not covered under Workers Compensation.		X
4. The named insured, has an unendorsed BAP with Symbol 1, Any Auto, for Covered Auto Liability Coverage. The unendorsed BAP excludes liability resulting from movement by mechanical device; however, there is an exception if the mechanical device is attached to a covered auto. Therefore, any damage caused to cargo during the unloading process by a company owned truck with an attached boom is covered.		X
5. The named insured's self-propelled vehicle used to provide mobility to permanently mounted shovel/drill is subject to motor vehicle law while on a public road. While excavating at a construction site, the drill hits and damages a utility cable. The unendorsed BAP with Symbol 1, Any Auto, provides liability coverage to the damaged cable since this vehicle is considered an auto.		X
6. The named insured, a landscaper, has an unendorsed BAP with Symbol 7. A truck, with an attached tank and spraying apparatus used to spray mosquito repellant, is specifically described for Covered Auto Liability Coverage. The BAP will provide coverage if the discharge of mosquito repellant causes bodily injury to nearby pedestrians.		X

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Knowledge Check 3 – ANSWERS

Coverages	Covered Autos
Physical Damage Comprehensive Coverage	3 (Owned Private Passenger Autos Only) 8 (Hired Autos Only)
Physical Damage Specified Causes Of Loss Coverage	4 (Owned Autos Other Than PPA Only)
Physical Damage Collision Coverage	2 (Owned Autos Only), 8 (Hired Autos Only)

The named insured has an unendorsed BAP. Using the above information; Indicate which coverage applies in the following scenarios or indicate if there is no coverage.

1. A tree branch falls and damages a company owned 4-door sedan.

   Comprehensive Coverage

2. A rat chews on the electrical wiring of a company owned delivery truck causing damage.

   No coverage. Damage by animals is not included as a Specified Cause of Loss

3. A specialized refrigeration truck is severely damaged in a windstorm. It will take six weeks to repair resulting in a loss of income of $60,000.

   Specified Causes of Loss – windstorm damage to truck –covered; Loss of income – No coverage

4. A rental car is damaged by vandalism.

   Comprehensive Coverage

5. A company owned truck overturns.

   Collision Coverage

6. A luxury rental car is damaged in a collision. The rental agency is asking for $10,000 for the loss of market value.

   Collision Coverage for the physical damage;
   No coverage for the diminution of value due to the exclusion

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EXHIBITS

Form Number	Form Name
CA 00 01	Business Auto Coverage Form

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BUSINESS AUTO 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. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **V** – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the Policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the Policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the Policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the Policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the Policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

SAMPLE

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19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this Policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

B. Owned Autos

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire after the policy period begins of the type described for the remainder of the policy period.

2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire after the policy period begins will be a covered "auto" for that coverage only if:

a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and

b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

3. An "auto" that is leased or rented to you without a driver, under a written agreement for a continuous period of at least six months that requires you to provide primary insurance covering such "auto", will be considered a covered "auto" you own.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a registered Gross Vehicle Weight Rating of 3,000 pounds or less designed primarily for travel on public roads.

2. "Mobile equipment" while being carried or towed by a covered "auto".

3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:

a. Breakdown;

b. Repair;

c. Servicing;

d. "Loss"; or

e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

a. You for any covered "auto".

b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:

(1) The owner or anyone else from whom you hire or borrow a covered "auto".

SAMPLE

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

(1) All expenses we incur.

(2) Up to $2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $250 a day because of time off from work.

(5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

(1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

SAMPLE

b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

a. An "employee" of the "insured" arising out of and in the course of:

(1) Employment by the "insured"; or

(2) Performing the duties related to the conduct of the "insured's" business; or

b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

(1) Whether the "insured" may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or

b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or

b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

(1) When all of the work called for in your contract has been completed;

(2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or

SAMPLE

(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

(1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

a. War, including undeclared or civil war;

b. 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

c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

14. Unmanned Aircraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance or use of "unmanned aircraft".

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

SAMPLE

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

a. Comprehensive Coverage

From any cause except:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

b. Specified Causes Of Loss Coverage

Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

c. Collision Coverage

Caused by:

(1) The covered "auto's" collision with another object; or

(2) The covered "auto's" overturn.

2. Towing And Labor

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" that is a private passenger type, light truck or medium truck is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

a. Glass breakage;

b. "Loss" caused by hitting a bird or animal; and

c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extensions

a. Transportation Expenses

We will pay up to $30 per day, to a maximum of $900, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the Policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

(1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";

(2) Specified Causes of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

SAMPLE

(3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is $30 per day, to a maximum of $900.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

   a. Nuclear Hazard

   (1) The explosion of any weapon employing atomic fission or fusion; or

   (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

   b. War Or Military Action

   (1) War, including undeclared or civil war;

   (2) 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

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

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:

   a. Wear and tear, freezing, mechanical or electrical breakdown.

   b. Blowouts, punctures or other road damage to tires.

   This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

   a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

   b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.

   c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.

   d. Any accessories used with the electronic equipment described in Paragraph **c.** above.

5. Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

   a. Permanently installed in or upon the covered "auto";

   b. Removable from a housing unit which is permanently installed in or upon the covered "auto";

   c. An integral part of the same unit housing any electronic equipment described in Paragraphs **a.** and **b.** above; or

   d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for:

   a. "Loss" to any one covered "auto" is the lesser of:

   (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

   (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

SAMPLE

b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is $1,000, if, at the time of "loss", such electronic equipment is:

(1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

(2) Removable from a permanently installed housing unit as described in Paragraph **b.(1)** above; or

(3) An integral part of such equipment as described in Paragraphs **b.(1)** and **b.(2)** above.

2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations prior to the application of the Limit Of Insurance, provided that:

1. The Comprehensive or Specified Causes Of Loss Coverage deductible applies only to "loss" caused by:

a. Theft or mischief or vandalism; or

b. All perils.

2. Regardless of the number of covered "autos" damaged or stolen, the maximum deductible applicable for all "loss" in any one event caused by:

a. Theft or mischief or vandalism; or

b. All perils,

will be equal to five times the highest deductible applicable to any one covered "auto" on the Policy for Comprehensive or Specified Causes Of Loss Coverage. The application of the highest deductible used to calculate the maximum deductible will be made regardless of which covered "autos" were damaged or stolen in the "loss".

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this Policy unless there has been full compliance with the following duties:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:

(1) How, when and where the "accident" or "loss" occurred;

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:

(1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

(2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

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(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".

(4) Authorize us to obtain medical records or other pertinent information.

(5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:

(1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

(2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

(3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

(4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

a. There has been full compliance with all the terms of this Coverage Form; and

b. Under Covered Autos Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this Policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option, we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

(1) Excess while it is connected to a motor vehicle you do not own; or

SAMPLE

(2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

c. Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this Policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this Policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the Policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

a. During the policy period shown in the Declarations; and

b. Within the coverage territory.

The coverage territory is:

(1) The United States of America;

(2) The territories and possessions of the United States of America;

(3) Puerto Rico;

(4) Canada; and

(5) Anywhere else in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any 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

SAMPLE

2. Any 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".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

(b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

H. "Insured contract" means:

1. A lease of premises;

2. A sidetrack agreement;

3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or

SAMPLE

6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or

c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

J. "Loss" means direct and accidental loss or damage.

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

2. Vehicles maintained for use solely on or next to premises you own or rent;

3. Vehicles that travel on crawler treads;

4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

a. Power cranes, shovels, loaders, diggers or drills; or

b. Road construction or resurfacing equipment such as graders, scrapers or rollers;

5. Vehicles not described in Paragraph **1., 2., 3.** or **4.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or

b. Cherry pickers and similar devices used to raise or lower workers; or

6. Vehicles not described in Paragraph **1., 2., 3.** or **4.** above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

a. Equipment designed primarily for:

(1) Snow removal;

(2) Road maintenance, but not construction or resurfacing; or

(3) Street cleaning;

b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

L. "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.

M. "Property damage" means damage to or loss of use of tangible property.

N. "Suit" means a civil proceeding in which:

1. Damages because of "bodily injury" or "property damage"; or

2. A "covered pollution cost or expense";

to which this insurance applies, are alleged.

SAMPLE

"Suit" includes:

a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.

O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

P. "Trailer" includes semitrailer.

Q. "Unmanned aircraft" means an aircraft that is not:

1. Designed;

2. Manufactured; or

3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

SAMPLE

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Section 4

WORKERS COMPENSATION AND EMPLOYERS LIABILITY

Workers Compensation and Employers Liability

Section Goal

In this section, participants will gain an understanding of Workers Compensation law and will analyze the Workers Compensation and Employers Liability Insurance Policy to determine what is and is not covered; and how coverage may be modified.

Learning Objectives

1. Using knowledge of the common law system, purpose for Workers Compensation (WC) laws, employer obligations for providing WC, and solutions to provide coverage for those that are exempt, the participant will be able to describe the WC System.

2. Using knowledge of the Information Page, the participant will be able to explain how Item Three of the Information Page is used to activate coverage for Workers Compensation Insurance, Employers Liability Insurance, and Other States Insurance.

3. Using knowledge of Item 3.A. of the Information Page and Part One – Workers Compensation Insurance, the participant will be able to describe how coverage applies, the benefits required by WC law, the payments that the insured is responsible for paying in excess of those benefits, and the rights of the insurer to recover from a liable party.

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4. Using knowledge of Item 3.B. of the Information Page and Part Two – Employers Liability Insurance the participants will be able to describe the types of claims that coverage applies to, and how much is paid, if any.

5. Using knowledge of Item 3.C. of the Information Page and Part Three – Other Insurance the participants will be able to describe how Other Insurance applies and the potential coverage issues that may arise.

6. Using knowledge of the Workers Compensation and Employers Liability Insurance Policy, the participant will be able to explain the need for and the coverages provided by selected endorsements to the Workers Compensation and Employer Liability Insurance Policy.

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The Workers Compensation System

Learning Objective 1:
Using knowledge of the common law system, purpose for Workers Compensation (WC) laws, employer obligations for providing WC, and solutions to provide coverage for those that are exempt, the participant will be able to describe the WC System.

Common Law System

Prior to the 1900's, there were no Workers Compensation (WC) laws in the U.S. An injured worker had to sue his/her employer for damages (tort action). This is what we are referring to as the common law system. (Common law – laws derived from court decisions based on custom and precedent.)

Five Employer Common Law Obligations

An injured employee had to prove his/her employer was negligent in failing to meet one or more of what are known as an employers' common law obligations to their employees

1. Reasonably safe place to work
2. Reasonably safe tools
3. Competent (safe and sober) fellow employees
4. Safety rules established and enforced
5. Warn workers of any known dangers

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Three Employer Common Law Defenses

Even though an injured employee had the right to file a suit against his/her employer, the injured employee rarely won as the employer could use one or more common law defenses

1. Assumption of risk

   - Common law doctrine which finds by doing certain acts an employee assumes the risk of injury

   Example:
   Agreeing to work at substantial heights or agreeing to work in trenches

2. Contributory negligence

   - Common law doctrine holding that if an employee was injured in part due to his/her own negligence, the injured employee would not be entitled to collect any damages from his/her employer who supposedly caused, in part, the injury

   Example:
   Employee knowingly using unsafe tools and riggings such as fall protection apparatus

3. Fellow-servant rule (aka fellow employee rule)

   - Common law doctrine holding if a worker was injured because of the actions of a coworker as opposed to the negligence of the employer, the employer was not liable.

   Example:
   An employee drops a load of lumber causing injury to a nearby employee. The employer would not be held responsible for this injury.

Common law held that only the injured employee, not the spouse nor dependents, had the right to sue for an employee's work-related injury. If the employee died, the spouse and dependents had no right to sue.

Since employers won most of the suits, seriously injured workers and their families were left without any means of support that could lead them to becoming impoverished. This led to public pressure to enact WC laws and modification of common law.

The current system based on WC Law (statutes) supersedes common law; however, the common law system is not totally eliminated. Tort action can still arise in certain circumstances, which will be addressed during the discussion on Part Two – Employers Liability Insurance.

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Purposes of Current Workers Compensation Law

Today, each jurisdiction has WC legislation. Even though legislation varies, there are **five common purposes:**

1. Negligence is no longer a basis for determining liability or recovery

   - No fault system

2. Provides for prompt and reasonable payment of benefits

   - Statutory benefits are paid to an injured employee (benefits are discussed in more detail later)

     – Statute may require payment of benefits within a stated number of days

   - Benefits are primarily partial and final

     Example:
     Only a percentage of wages are paid for a compensable injury according to state law and there is no payment for pain and suffering; hence partial and final

   - Employee's Injury or disease must "arise out of" and "arise in the course of" employment

     – "Arising out of" generally means an injury/disease was caused by a worker's employment

     – "Arising in the course of" generally means the injury/disease must be factually linked to a worker's employment in terms of time, place, and circumstances (activity)

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- Compensable work-related injuries

  – WC law describes what type of injuries are compensable

  Example:
  A work-related Injury due to intoxication may not be considered a compensable injury

  Example.
  Depending on the circumstances, mental injury may or may not be included as a compensable injury

- Compensable occupational diseases

  – Characteristic of occupation

  – Peculiar to occupation

3. Establishes what is categorized as Exclusive or Sole Remedy – WC law generally provides protection for the employers and insurance companies from tort actions. This is known as the "exclusive remedy".

   - Exists to protect the employers from additional exposure after being legally required to provide benefits on a no-fault basis per statute

   - The protection generally extends to co-workers (fellow servants) who may have caused injury to another worker

   - There are exceptions in various states to the exclusive remedy provision that allow an injured worker to bring suit

4. Employers gain predictability for the cost of providing WC benefits

5. Encourages loss prevention and promotes interest in safety

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Compliance with WC Law

States have various rules and regulations regarding WC. A knowledge and understanding of the rules and regulations are needed in order to ensure that employers are complying with WC laws in the state(s) where employers have business operations. The obligation to provide WC varies by state, type of business/industry, employer status, number and type of employees. WC laws also vary regarding who has the obligation to provide benefits to other types of workers such as independent contractors, volunteers, and leased workers. Failure to comply may result in penalties to the employer and possible tort action.

Compulsory vs. Elective States

All states, except Texas and New Jersey, have WC laws that require employers to accept the law and provide for the payment of WC benefits to an injured employee

New Jersey and Texas have elective WC laws

- New Jersey has many rules and regulations which for all practical purposes makes them more of a compulsory state than an elective state

- Employers in Texas can accept the law or may choose to non-subscribe to the law

  Note:
  Texas WC law has some exceptions that require certain employers to provide WC coverage, such as the State of Texas, cities, counties, school districts

- If an employer chooses not to accept the state's WC law, and an injured worker files a suit, the employer is denied the use of the three common law defenses

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Three Common Funding Methods Used to Comply with WC Laws

1. Private carriers

   - Purchase a Workers Compensation And Employers Liability Insurance Policy from an insurance company

2. State funds

   - Competitive state funds

     – Employers in many states have the option of purchasing WC Insurance and Employers Liability Insurance from a state fund that competes with the private carriers

     – Some of these competitive state funds may also be the market of last resort

   - Monopolistic state (territory) funds

     – North Dakota, Ohio, Washington, Wyoming (NOWW)

     – The fund in each of these states is the only provider of workers compensation insurance, which is why they are referred to as monopolistic state funds

     – How does an employer obtain Workers Compensation Insurance for operations in a monopolistic state?

       Workers Compensation Insurance is purchased directly from the state fund

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– How does an employer obtain Employers Liability Insurance for exposures in a monopolistic state?

*Add **Employers Liability Coverage Endorsement (WC 00 03 03 C)** to a separate existing WC Policy or to a stand-alone EL Policy*

*For Ohio, add **Ohio Employers Liability Coverage Endorsement (WC 34 03 01 C)***

OR

Add a Stop Gap – EL Endorsement to a CGL Policy

North Dakota	***CG 04 40***
Ohio	***CG 04 41***
Puerto Rico	***CG 04 51***
Washington	***CG 04 42***
Wyoming	***CG 04 44***

3. Self-insurance where permitted

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Potential Penalties for an Employer's Non-Compliance with WC Laws

1. Cease work orders

2. Fines

3. Misdemeanors

4. Imprisonment

5. Injured employees allowed to sue employer for WC benefits

6. Employer loses common law defenses

Understanding Employer Status

Some employer/employee relationships are straight forward and in a traditional setting it is easy to determine who the employer is. However, in today's work environment with the use of independent contractors, temporary workers, borrowed workers, and/or leased employees, it may be difficult to distinguish who the "real" employer is that has the obligation to provide WC benefits in order to comply with WC law.

1. Primary or direct employer

   - Traditional employer/employee relationship
   - The employer directly hires an employee
     - Includes part-time or seasonal that are direct hires
   - The employer has an obligation to provide WC benefits to an injured employee according to the WC law

   Note:
   Employees vs. leased or temporary workers to be discussed later

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2. De facto employer

- De facto – Latin for in fact or in reality
- Some employers hire workers and classify them as independent contractors when in fact they qualify as employees
- The de facto employer has an obligation to provide WC benefits to the de facto employee according to the state WC law

Note:
Employees vs. Independent contractors to be discussed later

3. Statutory employer or de jure employer (synonymous in this context)

- Statutes – Laws determined by each state's legislature
- De Jure – Latin for by right or according to the law
- Some WC laws are specific as to when a person/organization who does not directly hire a worker is considered the employer with the obligation to provide WC benefits

  Example:
  An employee of an uninsured subcontractor gets injured arising out of and in the course of employment while working at a jobsite for a general contractor. According to some WC laws, the general contractor becomes the statutory/de jure employer and has the obligation to provide WC benefits to the injured worker according to that state's WC law.

- Some statutes are silent in certain situations, and determination is based on common law to determine who has the legal obligation to provide WC benefits to an injured worker

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4. Regular/general employer and special employers

- A person/organization is referred to as a regular or general employer when they lend, rent, or lease an employee to another employer. The other employer is referred to as the special employer.

- When the statute is silent and/or there is no written contract, under common law, the special employer has the obligation to provide WC benefits to the injured worker

  Example:
  A member of Joint Venture (JV) borrows an employee of the JV (regular employer) for a job not related to the course or scope of the JV's business. Under common law, the JV member (special employer) has the obligation to provide WC benefits if the borrowed employee gets injured while working for the member.

- Where allowed by statute, a written contractual arrangement can be made between the regular and special employer indicating who is responsible for providing WC benefits to an injured worker, such as in an employee leasing arrangement

Note:
Employee leasing arrangement to be discussed later

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Covered vs. Exempt Employments

Now that we have addressed employer status, we now need to address to whom the employer is required to provide WC benefits to.

Each state's WC law dictates as to whom an employer is obligated to provide benefits as a result of a compensable injury.

Most types of employments are covered under the WC law; however, some states have exceptions to WC law that may exempt employers from having to provide WC insurance for employees and/or other types of workers.

Exemptions to WC Law

1. Numeric exemptions
2. General exemptions
3. Specific positions
4. Others, such as independent contractors, volunteers, leased workers

Let's examine each of these in more detail.

1. Numeric exemptions in some states

- Some states exempt employers from WC law if that employer has less than a specific number of employees
- This numeric exemption may not apply to certain types of industries, such as construction

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2. General exemptions for certain types of employees

General exemptions included in various statutes are as follows:

- Domestic Employees
- Agricultural or farm workers
- Real estate salespersons
- Casual laborers

- Domestic employees

  Generally, means employees hired to perform duties in or around a residence such as housekeepers, maids, butlers, babysitters, and chauffeurs that are typically employed directly by the residence owner

  Example:
  A residence owned by a LLC or a corporation, furnished to a key employee or officer, could have domestic workers employed to maintain the residence and/or to perform other domestic duties

- Agricultural or farm workers

  The exemption varies by state and may apply depending on varying circumstances such as:

Gross annual payroll	Pay level
Full time or part-time	Number of agricultural or farm workers
Family member	Migrant or seasonal

- Real estate salespersons

- Casual laborers

  Generally, means a worker that is hired to perform work that is not in the usual course or furtherance of the business. Should NOT be confused with seasonal, part-time, or temporary employees

  Example:
  Hiring a worker to help move furniture to a new office

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Voluntary Compensation and Employers Liability WC 00 03 11 A

- This is an optional endorsement available to an employer who may voluntarily choose to provide statutory benefits for employees not covered under a WC act because of an exempt occupation (e.g. agriculture or domestic workers) or employed by an employer not subject to WC law. (Employer does not meet numerical requirement)

3. Specific positions may be exempt

Sole proprietors and partners are usually not considered employees and, therefore, are not subject to the WC law

Executive officers on the other hand are typically defined as employees and are covered under most state's WC law

Opt-out/Opt-in rules and applicable endorsements for these vary by state

Partners, Officers, and Others Exclusion WC 00 03 08

- Only permitted in certain states
- Added when a person elects not to be covered as permitted by WC law
- Those individuals who elect not be covered must be indicated in the endorsement Schedule

CAUTION!
Be aware that with the endorsement, both WC and EL Insurance does not apply for those scheduled individuals.

Sole Proprietors, Partners, Officers, and Others Coverage WC 00 03 10

- Only permitted in certain states
- This endorsement is added when a person elects to be covered when not automatically covered by WC law
- Those individuals must be designated in the endorsement Schedule for coverage to apply

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4. Others such as independent contractors, volunteer workers, and leased workers may or may not be exempt

Who is responsible for providing WC benefits to a worker in the event of injury?

Employee vs. independent contractor

WC Statute:

- Some statutes define the difference and indicate whether or not an individual qualifies as an independent contractor or as an employee
- Statutes may also describe other special employments as to whether they qualify as employees or not

  Example:
  Owner-operator truckers and contractors

- Some states may have an independent contractor "test" that may be used in addition to what is indicated in the statute

Common Law:

- Common law criteria are used when a statute is silent
- Some states use the current IRS criteria to determine employee vs. independent contractor status. The current IRS criteria includes three main categories:
  1) Behavioral control
  2) Financial control
  3) Relationship of the parties

Note:
For more information on the IRS criteria, visit:
https://www.irs.gov/pub/irs-pdf/p1779.pdf

- Some states still use the former IRS 20 Factor Test or a version of it as a guide to determine if a worker is an employee or an independent contractor.

Example:
The Texas Workforce Commission uses a 20-point comparative approach. For more information, visit:
https://twc.texas.gov/files/businesses/form-c-8-employment-status-comparative-approach-twc.pdf

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Volunteer Workers

Volunteer workers in the private sector typically are not entitled to benefits under WC law as they are not considered employees. However, there are some jurisdictions that have WC laws that grant benefits to volunteer fire fighters, emergency personnel, or certain other persons that provide voluntary services to public entities.

Leased Workers (**BEWARE!** E & O danger zone)

Parties in a leasing arrangement

1) Professional Employment Organization (PEO) aka Labor Contractor, Employee Leasing Company, Lessor, Regular Employer

2) Client – Special Employer

So, who is responsible for providing WC benefits in the event a leased worker suffers bodily injury?

- The employer with the exclusive remedy protection is typically responsible for providing the WC benefits to the leased worker

  Note:
  The party to a contract not protected under exclusive remedy can still be sued for bodily injury to a leased worker

- Some states consider both the labor contractor/PEO and the client as co-employers. The exclusive remedy protection then applies to both.

- Where permitted, an employee leasing agreement will stipulate who is responsible for securing the insurance coverage.

- If WC law is silent, common law usually dictates the client company (special employer) is the employer responsible for providing benefits in the event a leased worker incurs bodily injury

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Alternate Employer Endorsement WC 00 03 01 A

Attach to the regular employer's policy to provide protection to the alternate employer from claims brought against the alternate employer due to injuries to an employee who is loaned or leased to them from their regular employer

Examples:

Temporary staffing company (regular employer) is the insured and the client (special employer) is the alternate employer;

Property manager (regular employer) is the insured and the property owner (special employer) is the alternate employer

Coverage applies only with respect to compensable injury to employees of the insured when in the course of special or temporary employment by the alternate employer in the state(s) listed in Item 2. of the Schedule

Part One (WC) and Part Two (EL) apply to the alternate employer as though they were an insured

The alternate employer must be named in the endorsement Schedule

Item 3 of the endorsement Schedule limits coverage to apply only to the specific jobs or contracts of the insured as scheduled – does not apply in Wisconsin

Note:

This endorsement does not satisfy the Alternate Employer's duty to purchase Workers Compensation Insurance

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ALTERNATE EMPLOYER ENDORSEMENT

This endorsement applies only with respect to bodily injury to your employees while in the course of special or temporary employment by the alternate employer in the state named in Item 2 of the Schedule. Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply as though the alternate employer is insured. If an entry is shown in Item 3 of the Schedule the insurance afforded by this endorsement applies only to work you perform under the contract or at the project named in the Schedule.

Under Part One (Workers Compensation Insurance) we will reimburse the alternate employer for the benefits required by the workers compensation law if we are not permitted to pay the benefits directly to the persons entitled to them.

The insurance afforded by this endorsement is not intended to satisfy the alternate employer's duty to secure its obligations under the workers compensation law. We will not file evidence of this insurance on behalf of the alternate employer with any government agency.

We will not ask any other insurer of the alternate employer to share with us a loss covered by this endorsement.

Premium will be charged for your employees while in the course of special or temporary employment by the alternate employer.

The policy may be canceled according to its terms without sending notice to the alternate employer.

Part Four (Your Duties If Injury Occurs) applies to you and the alternate employer. The alternate employer will recognize our right to defend under Parts One and Two and our right to inspect under Part Six.

Schedule

1. Alternate Employer Address
2. State of Special or Temporary Employment
3. Contract or Project

Notes:

1. This endorsement may be used when the insured named in Item 1 of the Information Page has agreed to provide insurance against workers compensation and employers liability claims made by employees of the insured against a special or temporary employer named in the endorsement Schedule
2. This endorsement may be used only if the state of temporary or special employment is a state shown in Item 3.A. of the Information Page.
3. If the insured is in the business of providing temporary workers for others, the insurer may show the alternate employer in the Schedule by the words "all" or "any."
4. Three uses of this endorsement are illustrated here:
   a. Use this endorsement if the policy is issued to a contractor (the insured) who is required by an oil company (as alternate or special employer to provide workers compensation and employers liability insurance to protect the oil company from claims brought by the contractor's employees.
   b. Use this endorsement if the policy is issued to a business that operates and manages property for others (the insured) who is required by the property owner (the alternate employer) to provide this insurance to protect the owner from claims brought by employees of the operator/manager.
   c. Use this endorsement if the policy is issued to a supplier of temporary office help (the insured) who is required by its customer (the user of the temporary office help - the alternate employer) to provide this insurance to protect the customer from claims brought by the insured's employees against the alternate employer.
5. Show an appropriate entry to Item 3 to limit the endorsement to apply only to specific jobs or contracts of the insured. This endorsement may not be used to limit coverage to specific jobs or contracts in Wisconsin.
6. If this endorsement is used because of temporary or special employment in Illinois, the carrier must send a written notice of cancellation to all Illinois Alternate Employers shown in the Schedule.

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Employee Leasing Endorsements

Other NCCI endorsements are available for use in employee leasing arrangements

State WC rules vary as to the approved NCCI endorsement forms and edition dates used for PEO type risks, including labor contractor entities. Be sure to check the specific jurisdictions on a risk-by-risk basis. State specific endorsements may apply.

Following are examples on arranging WC Insurance in the WC voluntary market

For illustration only.

Leasing Agreement Examples	
If Leasing Company is responsible for purchasing WC Coverage	
Leasing Company Policy	Client Policy
Add Alternate Employer Endorsement WC 00 03 01 A	Add Employee Leasing Client Exclusion Endorsement WC 00 03 22
If Client is responsible for purchasing WC Coverage	
Leasing Company Policy	Client Policy
Add Labor Contractor Exclusion Endorsement WC 00 03 21 or Employee Leasing Client Endorsement WC 00 03 19	Add Labor Contractor Endorsement WC 00 03 20 A

Note:

Jurisdictions may have specific laws related to the use of one or more of these employee leasing endorsements

Jurisdictions may have specific endorsements that apply

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Introduction to the Policy Coverages

Workers Compensation and Employers Liability Insurance (Short Summary)	
Workers Compensation (WC) Insurance	**Employers Liability (EL) Insurance**
Purpose is to provide statutory benefits, required of an employer by WC law, to an employee as a result of an employee's work-related injury or occupational disease	Purpose is to protect the employer against claims for employee work-related injuries and occupational diseases not covered under a state's WC law Subject to the limits of liability indicated in the Information Page
WC Benefits Determined by each state's WC Law • Medical Payments • Disability • Death or Survivorship • Rehabilitation Expenses	**Four specified types of EL Claims:** • Third Party or Action Over • Care and Loss of Services • Dual Capacity Suits • Consequential BI Suits Coverage not limited to the 4 specified types of EL claims

Policy Structure

1. Information Page (would be called Declarations under other policies)

2. **Workers Compensation and Employers Liability Insurance Policy WC 00 00 00 C** (Only a 6-page policy)

   - General Section
   - Part One – Workers Compensation Insurance
   - Part Two – Employers Liability Insurance
   - Part Three – Other States Insurance
   - Part Four – Your Duties If Injury Occurs
   - Part Five – Premium
   - Part Six – Conditions

3. Endorsements

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WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY WC 00 00 01 A

Original Printing *Issued May 1, 1988* Standard

INFORMATION PAGE

Insurer: Policy Number:

1. The Insured:

   _____ Individual ____ Partnership

   _____ Corporation or _____

   Mailing address:

   Other workplaces not shown above:

2. The policy period is from _____ to _____ at the insured's mailing address.

3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers' Compensation Law of the states listed here:

   B. Employers Liability insurance: Part Two of the policy applies to work in each state listed in Item 3.A. The limits of our liability under Part Two are:

   Bodily Injury by Accident $_____ each accident
   Bodily Injury by Disease $_____ policy limit
   Bodily Injury by Disease $_____ each employee

   C. Other States insurance: Part Three of the policy applies to the states, if any, listed here:

   D. This policy includes these endorsements and schedules:

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plan. All information required below is subject to verification and change by audit.

Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rate Per $100 of Remuneration	Estimated Annual Premium

Total Estimated Annual Premium $

Minimum Premium $ Expense Constant $

Countersigned by _____

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The Information Page

Learning Objective 2:
Using knowledge of the Information Page, the participant will be able to explain how Item Three of the Information Page is used to activate coverage for WC Insurance, Employers Liability Insurance, and Other States Insurance.

4

Item 1: The Insured

The insured is the person or organization designated to be covered under the Policy

Type of business

- The employer may be an individual, partnership, joint venture, corporation, limited liability company, association, other legal entity, or a fiduciary such as a trustee, receiver or executor

Mailing address

Other workplaces, other than indicated in the mailing address

Item 2: Policy Period

- At the insured's mailing address

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Item 3: Activation Of Coverages (Triggers)

3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers' Compensation Law of the states listed here:

   B. Employers Liability insurance: Part Two of the policy applies to work in each state listed in Item 3.A. The limits of our liability under Part Two are:

      Bodily Injury by Accident $_____ each accident

      Bodily Injury by Disease $_____ policy limit

      Bodily Injury by Disease $_____ each employee

   C. Other States insurance: Part Three of the policy applies to the states, if any, listed here:

   D. This policy includes these endorsements and schedules:

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Item 3.A: Part One – Workers Compensation Insurance

- List all states in which insured has operations known or expected
- Activates compensation laws for those states
- Cannot list monopolistic states
  (North Dakota, Ohio, Washington, Wyoming)

Item 3.B: Part Two – Employers Liability Insurance

- Applies <u>only</u> for those states listed under Item 3.A.
- Limits of liability
- Standard limits

  BI by Accident – $100,000 each accident

  BI by Disease – $500,000 policy limit

  BI by Disease – $100,000 each employee

  May be increased

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REMINDERS

1. How does an employer obtain Workers Compensation Insurance for operations in a monopolistic state?

   - Workers Compensation Insurance is purchased directly from the state fund

2. How does an employer obtain Employers Liability Insurance for exposures in a monopolistic state?

   - Add Employers Liability Coverage Endorsement **(WC 00 03 03 C)** to a separate existing WC Policy or to a stand-alone EL Policy. For Ohio, add Ohio Employers Liability Coverage Endorsement **(WC 34 03 01 C)**

     OR

   - Add a Stop Gap – EL Endorsement to a CGL Policy

North Dakota	**CG 04 40**
Ohio	**CG 04 41**
Puerto Rico	**CG 04 51**
Washington	**CG 04 42**
Wyoming	**CG 04 44**

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Item 3.C: Part Three – Other States Insurance

- Activates both WC and EL Insurance for states where work begins ***after*** the effective date
  - Include states where unexpected work or incidental exposures subject to the WC act may arise ***after*** the effective date
- States must be listed in 3.C. for Other States Insurance coverage to apply
- Suggested wording

All states except North Dakota, Ohio, Washington, Wyoming, and the states designated in Item 3.A. of this Information Page

- Some states, such as New York and Florida, may require their states be listed under 3.A. in lieu of 3.C. under certain situations

Note:
The actual insurance protection provided will be discussed in detail later in this Section

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Item 3.D. – Lists the endorsements and schedules applicable

- State Specific Amendatory Endorsements
- Various Optional Endorsements

Item 4.: Classifications, Payrolls, and Premiums

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plan. All information required below is subject to verification and change by audit.

Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rate Per $100 of Remuneration	Estimated Annual Premium

Total Estimated Annual Premium $

Minimum Premium $ Expense Constant $

Countersigned by _____

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General Section

The Policy may be modified by specific state endorsements. The analysis that follows is of the standard NCCI Policy.

Partial copy page 1 of WC 00 00 00 C

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY WC 00 00 00 C
Effective January 1, 2015

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

In return for the payment of the premium and subject to all terms of this policy, we agree with you as follows:

GENERAL SECTION

A. The Policy
This policy includes at its effective date the Information Page and all endorsements and schedules listed there. It is a contract of insurance between you (the employer named in Item 1 of the Information Page) and us (the insurer named on the Information Page). The only agreements relating to this insurance are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by us to be part of this policy.

B. Who Is Insured
You are insured if you are an employer named in Item 1 of the Information Page. If that employer is a partnership, and if you are one of its partners, you are insured, but only in your capacity as an employer of the partnership's employees.

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The Policy

- Contract between named employer and the insurance company
- Agreement cannot be changed or waived except by endorsement

Who Is Insured

- Insured named on the Information Page
- If partnership, includes individual partners as employer
- If insured is a joint venture, add **Joint Venture As Insured Endorsement WC 00 03 05**

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Partial copy page 1 of WC 00 00 00 C

GENERAL SECTION

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C. Workers Compensation Law

Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

D. State

State means any state of the United States of America, and the District of Columbia.

E. Locations

This policy covers all of your workplaces listed in Items 1 or 4 of the Information Page; and it covers all other workplaces in Item 3.A. states unless you have other insurance or are self-insured for such workplaces.

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Workers Compensation Law

- Applies for those states listed in Item 3.A.
- Excludes Federal Workers Compensation Laws and Federal Occupational Disease Laws

Note:
Endorsements to provide coverage to work subject to federal law will be discussed later

- Excludes any law that provides nonoccupational disability benefits
  - This exclusionary wording is necessary because there are some states such as CA, Hawaii, NJ, NY, and RI that have laws that require payment of benefits for disabilities that are NOT employment related

State

- Means any state of the U.S., and the District of Columbia

Locations

- Covers the insured's workplaces listed in Items 1 or 4 of the Information Page; and all workplaces in states listed in Item 3.A. unless there is other insurance or self-insurance in place

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Part One – Workers Compensation Insurance

Learning Objective 3:
Using knowledge of Item 3.A. of the Information Page and Part One – Workers Compensation Insurance, the participant will be able to describe how coverage applies, the benefits required by WC law, the payments that the insured is responsible for paying in excess of those benefits, and the rights of the insurer to recover from a liable party.

Partial copy page 1 of WC 00 00 00 C

PART ONE – WORKERS COMPENSATION INSURANCE

A. How This Insurance Applies

This workers compensation insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the policy period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay promptly when due the benefits required of you by the workers compensation law.

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How This Insurance Applies

Applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death

- Bodily injury by accident must occur during the policy period

- Bodily injury by disease must be caused by or aggravated by conditions of employment
  - Last day of exposure must occur during policy period

4

Insurer's Promise to Pay

- Pays benefits promptly when due as required by workers compensation law

Note:
Since WC benefits are determined by WC law, no standard limit of liability applies to Part One – Workers Compensation Insurance. The Insuring Agreement incorporates the law by specific reference.

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Four Categories of Benefits as required by WC Law

1. Medical benefits

- Pays for the necessary medical care to treat a compensable work-related injury or occupational disease
- May be subject to reasonable & necessary provisions and medical guidelines
- Choice of physician by employee or employer varies by state

2. Compensation for lost wages (disability benefits)

- Typically, four types – titles and description to qualify varies by jurisdiction
  1) Temporary partial
  2) Permanent partial
  3) Temporary total
  4) Permanent total
- Amount paid varies by statute
- Length of payment varies by statute
- Waiting period (how long before benefits begin) and retroactive period, if any (how long before goes back and pays for waiting period) varies by statute

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3. Rehabilitation benefits

- Usually included under medical benefits – may have a separate provision
- Physical rehabilitation to restore the injured employee to maximum physical capacity
- Vocational training may or may not be included

4. Death or survivorship benefits

- Burial expenses – amount varies statute
- Income benefits to eligible dependents
  - Dependents as defined in statute
  - Amount and payment period varies by statute

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Partial copy page 1 of WC 00 00 00 C

PART ONE – WORKERS COMPENSATION INSURANCE

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C. We Will Defend

We have the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance.

D. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

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Insurer's Promise to Defend

- Right and duty to defend at the insurance company's expense any claim for benefits
- Right to investigate and settle claims
- No coverage – no defense

Insurer's Promise to Pay Additional Costs

- Supplementary payments made by the insurance company as part of any claims, proceeding or suit that the insurer is defending

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Partial copy page 2 of WC 00 00 00 C

PART ONE – WORKERS COMPENSATION INSURANCE

…

E. Other Insurance

We will not pay more than our share of benefits and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

F. Payments You Must Make

You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

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Other Insurance

Payments <u>the insured</u> must make

These payments are *<u>in excess of benefits</u>* regularly provided by the law because of:

- the insured's serious and willful misconduct
- the insured knowingly employed an employee in violation of law
- the insured's failure to comply with health or safety law
- the insured's discharge, coercion, or discrimination against an employee in violation of the WC law

Note:

The named insured employer is responsible for reimbursing the insurance company for any payment in excess of the benefits regularly provided by the WC law

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Recovery From Others

Partial copy page 3 of WC 00 00 00 C

PART ONE – WORKERS COMPENSATION INSURANCE

…

G. Recovery From Others

We have your rights, and the rights of persons entitled to the benefits of this insurance, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

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- The insurance company has the rights (subrogation rights) of the named insured, or the person or persons to whom payment is made under the policy, to recover from anyone liable for the injury
- Must protect the subrogation rights of the insurance company
- There may be a contractual insurance obligation requiring the named insured to waive subrogation
- No waiver allowed before or after a loss without an endorsement

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- An endorsement is required as the policy has no implied right to waive subrogation before a loss as under the CGL Policy or BAP

- **Waiver of Our Rights to Recover From Others Endorsement WC 00 03 13**

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

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- Used in states, where it is permitted, to waive the insurance company's right to recovery against anyone liable for an employee's injury

- Sentence in parenthesis is optional by carrier. Including the sentence makes it a viable endorsement for construction contracts only.

- **CAREFUL!**
  Only applies to the person/organization named in the endorsement Schedule

- The underwriter may agree to attach a non-standard "blanket" endorsement when a waiver is required by written contract to avoid having to schedule each time. No NCCI "blanket" form available. Failure to schedule can lead to an E & O claim.

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Notes

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Statutory Provisions

Partial copy page 2 of WC 00 00 00 C

PART ONE – WORKERS COMPENSATION INSURANCE

…

H. Statutory Provisions

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you or your estate will not relieve us of our duties under this insurance after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this insurance. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers compensation law. We are bound by decisions against you under that law, subject to the provisions of this policy that are not in conflict with that law.
5. This insurance conforms to the parts of the workers compensation law that apply to:
   a. benefits payable by this insurance;
   b. special taxes, payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this insurance that conflict with the workers compensation law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this policy.

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- Since WC laws vary by jurisdiction, this section of the Policy makes it possible for the Policy to apply as required by law

- A discussion of extraterritorial provisions is provided later in this Section

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Part Two – Employers Liability Insurance

Learning Objective 4:
Using knowledge of Item 3.B. of the Information Page and Part Two – Employers Liability Insurance the participants will be able to describe the types of claims that coverage applies to, and how much is paid, if any.

Employers Liability Insurance claims are not frequent but when made and paid tend to be high-dollar losses. Plus, as with any liability exposure, direct defense is an important protection.

Partial copy page 2 of WC 00 00 00 C

PART TWO – EMPLOYERS LIABILITY INSURANCE

A. How This Insurance Applies

This employers liability insurance applies to bodily injury by accident or bodily Injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in a state or territory listed in Item 3.A. of the Information Page.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
5. It you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

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How This Insurance Applies

Applies to bodily injury by accident or bodily injury by disease including resulting death

1. Must arise out of and in the course of employment
2. Employment necessary or incidental to named insured's work in a state or territory listed in Item 3.A.
3. Bodily injury by accidental must occur during policy period
4. Bodily Injury by disease must be caused or aggravated by work conditions – last day of exposure must occur during the policy period
5. Original suit must be brought in the U.S., its territories or possessions, or Canada

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Partial copy page 2 - 3 of WC 00 00 00 C

PART TWO – EMPLOYERS LIABILITY INSURANCE

…

B. We Will Pay

We will pay all sums that you legally must pay as damages because of bodily injury to your employees, provided the bodily injury is covered by this Employers Liability Insurance.

The damages we will pay, where recovery is permitted by law, include damages:

1. For which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;
2. For care and loss of services; and
3. For consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
4. Because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

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4

Insurance Company's Promise to Pay

- Will pay all sums the insured legally must pay as damages
- Because of bodily injury to an employee
- Where permitted by law, coverage is included for four types of claims

Let's examine each of these in more detail!

1. Third party over
2. Care and loss of services
3. Consequential bodily injury
4. Dual capacity

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1. Third party over

Lawsuits filed by a third party seeking recovery from the insured because it was held liable for an insured's employee's injury

Employers Liability Insurance vs. CGL Policy. Which policy responds?

- Employers Liability Insurance Part Two
  - Excludes liability assumed under a contract; HOWEVER, EL Insurance provides coverage **if** the third party claim is filed on the basis of tort (negligence). Employee sues third party for employee's injury. Third party alleges that the employer is responsible, in whole or in part, for the employee's injury.

- CGL Policy
  - CGL Policy excludes Employers Liability; HOWEVER, the exclusion does not apply to liability assumed under an insured contract as defined in the CGL Coverage Form.
  - So the CGL Policy provides coverage if the third party claim is filed on the basis of contractual liability triggered by an indemnity agreement that qualifies as an insured contract by definition. *(For example, see insured contract definition Paragraph **f.** of the CGL Coverage Form)*

CG 00 01 04 13 Commercial General Liability Coverage Form
Partial copy of Paragraph **f.** of the insured contract definition

SECTION V – DEFINITIONS

9. "Insured contract" means:
   f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

(See CG 00 01 for exceptions for certain types of contracts, i.e. professional exposures)

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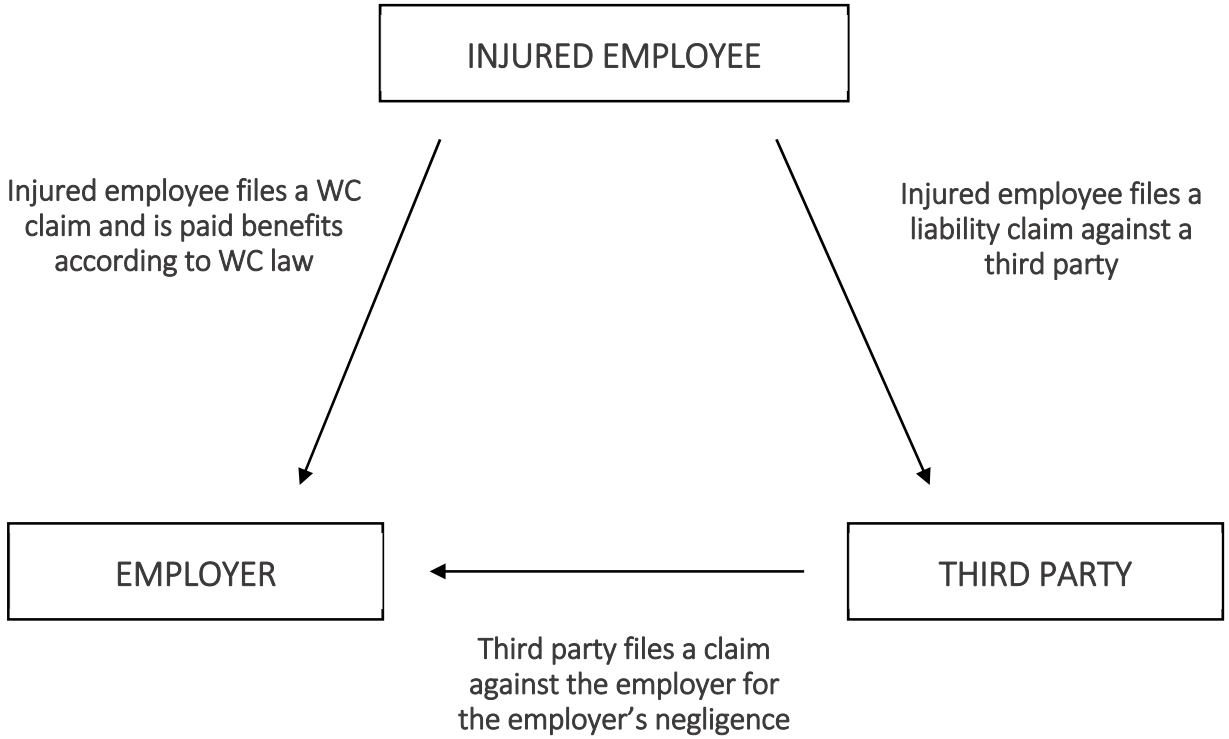
THIRD PARTY OVER EXHIBIT

Scenario:
An employee is injured using a piece of machinery that the employer had not properly maintained. In addition to the benefits received under the workers compensation insurance program, the employee also sues the manufacturer (third party) of the equipment. In turn, the manufacturer (third party) of the equipment sues the employer for contributory negligence due to poor maintenance.



Note:

1. If there is an "insured contract" between the third party and employer and the third party is asking to be indemnified in accordance with a contract provision, look to the CGL Policy for coverage.

2. If there is no contract between the third party and the employer and the third party is alleging negligence of the employer, then look to Part Two – Employers Liability Insurance for coverage

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2. Care and loss of services

- Protects against lawsuits filed by an injured employee's spouse and/or children for loss of the services resulting from injury to the employee in the course of employment

- Services may include sexual relations, companionship, help in performing household chores, etc.

  Example:
  Jane, a marketing rep, is severely injured in an auto accident and is in the rehab hospital. John, her spouse, has to hire a housekeeper to take care of the household and their children. John files a claim against Jane's employer to recover for this loss.

3. Consequential bodily injury

- Protects against a lawsuit filed by a family member for an injury or disease suffered as a consequence of the employee's injury

  Example:
  The spouse of a severely injured employee suffers a heart attack or a nervous breakdown upon learning of the injury to the employee

4. Dual capacity claims

- Protects against lawsuits brought by an injured employee, against the employer when the injury arises from the activities of the employer in a capacity other than as an employer. In such a case, the employer is liable not only as an employer for workers compensation benefits but also as an entity acting in a different capacity.

Note:
Employers Liability Insurance is not limited to the above specified four types of claims.

Example:
Lawsuits may be filed due to certain disease or injuries not covered by WC such as arthritis from repetitive aspects of a job that is not recognized as compensable injury. Or, as previously stated, a suit may be made by an employee not subject to the workers compensation law.

- *Further discussion on other types of EL claims is beyond the scope of this course.*

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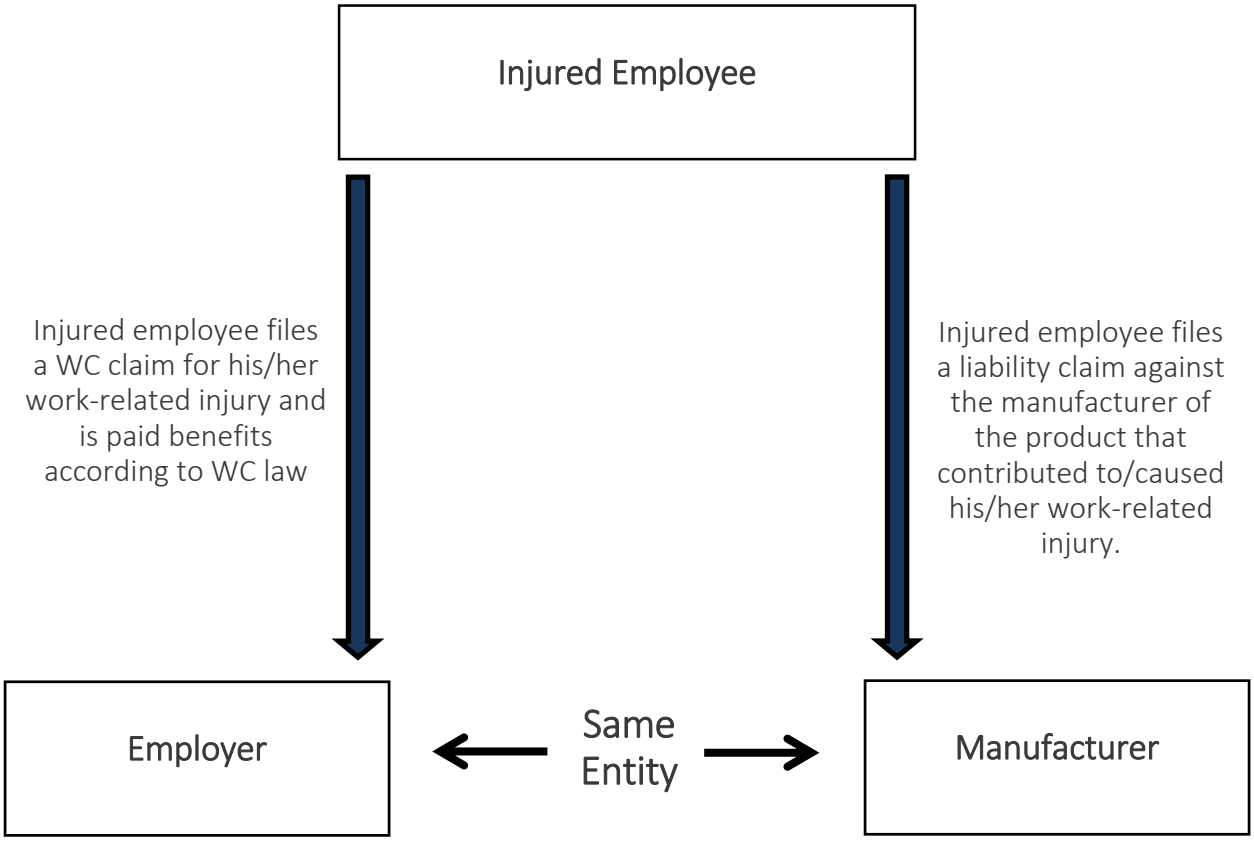
DUAL CAPACITY CLAIM EXHIBIT



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Exclusions

Partial copy page 3 of WC 00 00 00 C

PART TWO – EMPLOYERS LIABILITY INSURANCE

…

C. Exclusions

This insurance does not cover:

1. Liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. Bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;

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1. Contractual liability

   - Look to the BAP and CGL Policy

2. Punitive or exemplary damages

   Note:
   This is different under Employers Liability Insurance. The unendorsed BAP and CGL Policy do not have this exclusion

3. Bodily injury to an employee, while employed in violation of the law, with the named insured's knowledge or with the knowledge of the named insured's executive officers

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Partial copy page 3 of WC 00 00 00 C

C. Exclusions

This insurance does not cover:

…

4. Any obligation imposed by a workers compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. Bodily injury intentionally caused or aggravated by you;
6. Bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
7. Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;

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4. Any obligation under WC or similar law

5. Intentional injury caused or aggravated by the named insured

6. Injury outside the U.S., its territories or possessions, and Canada

   - Exclusion does not apply to those who are temporarily on work assignments outside of this area

7. Employment-related practices

   - Excludes damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions

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Partial copy page 3 of WC 00 00 00 C

C. Exclusions

This insurance does not cover:

…

8. Bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sections 901 et seq.), the Nonappropriated Fund Instrumentalities Act (5 U.S.C. Sections 8171 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.), the Defense Base Act (42 U.S.C. Sections 1651-1654), the Federal Mine Safety and Health Act (30 U.S.C. Sections 801 et seq. and 901-944), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;
9. Bodily injury to any person in work subject to the Federal Employers' Liability Act (45 U.S.C. Sections 51 et seq.), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. Bodily injury to a master or member of the crew of any vessel, and does not cover punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law;
11. Fines or penalties imposed for violation of federal or state law; and
12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sections 1801 et seq) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

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8. Work subject to the Longshore and Harbor Workers' Compensation Act (LHWCA); as well as the following:

- Nonappropriated Fund Instrumentalities Act (NAFIA) *
- Outer Continental Shelf Lands Act (OCSLA) *
- Defense Base Act (DBA) *
- Federal Mine Safety and Health Act (FMSHA) *
- Any other federal workers compensation law or federal occupational disease law, or any amendments

Note:
* Coverage can be added back by endorsement

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9. Work subject to Federal Employers' Liability Act (FELA) *

10. Bodily injury to masters or crew members of any vessel *

    - Also excludes punitive damages related to named insured's duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law

11. Fines and penalties imposed for violation of federal or state law

12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (MSAWPA) *

Note:
* Coverage can be added back by endorsement

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PART TWO – EMPLOYERS LIABILITY INSURANCE

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D. We Will Defend

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this insurance. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this insurance.

E. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. Reasonable expenses incurred at our request, but not loss of earnings;
2. Premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. Litigation costs taxed against you;
4. Interest on a judgment as required by law until we offer the amount due under this insurance; and
5. Expenses we incur.

F. Other Insurance

We will not pay more than our share of damages and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the loss is paid.

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Insurer's Promise To Defend

- Similar to Part One – Workers Compensation Insurance
- No duty to defend after payment of applicable limit of liability

Insurer's Promise To Pay Additional Costs

- Similar to Part One – Workers Compensation Insurance

Other Insurance

- Similar to Part One – Workers Compensation Insurance

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Partial copy page 4 of WC 00 00 00 C

PART TWO – EMPLOYERS LIABILITY INSURANCE

G. Limits of Liability

Our liability to pay for damages is limited. Our limits of liability are shown in Item 3.B. of the Information Page. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident – each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

   A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. Bodily Injury by Disease. The limit shown for "bodily injury by disease – policy limit" is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for "bodily injury by disease – each employee" is the most we will pay for all damages because of bodily injury by disease to any one employee

   Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

H. Recovery From Others

We have your rights to recover our payment from anyone liable for an injury covered by this insurance. You will do everything necessary to protect those rights for us and to help us enforce them.

I. Actions Against Us

There will be no right of action against us under this insurance unless:

1. You have complied with all the terms of this policy; and
2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

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Limits of Liability

- Limits shown on the Information Page are the most that will be paid
- The insurance company will not pay any employers liability claims once the applicable limits of liability are exhausted
- Employers Liability Insurance limits of liability do not apply to workers compensation benefits paid – this is a SEPARATE insurance coverage

Recovery From Others

- Similar to Part One – Workers Compensation Insurance

Actions Against The Insurer

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Part Three – Other States Insurance

Learning Objective 5:
Using knowledge of Item 3.C. of the Information Page and Part Three – Other Insurance the participants will be able to describe how Other Insurance applies and the potential coverage issues that may arise.

Partial copy page 4 of WC 00 00 00 C

PART THREE – OTHER STATES INSURANCE

A. How This Insurance Applies

1. This other states insurance applies only if one or more states are shown in Item 3.C. of the Information Page.
2. If you begin work in any one of those states after the effective date of this policy and are not insured or are not self-insured for such work, all provisions of the policy will apply as though that state were listed in Item 3.A. of the Information Page.
3. We will reimburse you for the benefits required by the workers compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.
4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within thirty days.

B. Notice

Tell us at once if you begin work in any state listed in Item 3.C. of the Information Page.

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How This Insurance Applies

Coverage applies to:

1. States listed under Item 3.C. of the Information Page

2. Must begin work in that state *after the effective date*

   - Employees injured in a **scheduled** 3.C. state will receive the WC benefits prescribed under that state's law if required by application of law or court decision. Thus, the policy pays benefits in listed 3.C. states just as if the state was scheduled under 3.A. (Not listed, no coverage for that state's benefits.)

   - **CAUTION!** If work began in a state on or before the effective date, that state should be listed in Item 3.A.

3. The insurance company will reimburse the named insured if the insurance company is not allowed to pay benefits directly to the injured employee

4. 30 days to notify the insurance company of operations existing on effective date in any state not listed in Item 3.A.

Notice

- Insured is obligated to notify the insurance company at once if any work begins in any state listed in Item 3.C.

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Potential Coverage Issues with Part Three –Other Insurance

- Only 30 days to notify the insurance company of operations existing on effective date in any state not listed in Item 3.A.

- Reliance on Item 3.C. to provide automatic coverage

- Insured should notify the insurance company *at once* if work is begun in any 3.C. state

- It is a challenge if regional carriers and state specific carriers are not licensed in a particular state where insured conducts operations – won't be able to place these states in 3.A. at renewal

Summary of Differences Between 3.A. vs. 3.C.	
3.A. Workers Compensation Insurance	3.C. Other States Insurance
Provides WC benefits according to the WC law in the states listed under 3.A.	Provides WC benefits according to the WC law in the states listed under 3.C.
Provides coverage for known and expected operations in that state but only if listed under 3.A.	Provides coverage for unknown or unexpected operations that develop during the policy period for that state **only if listed and if operations begin after the effective date** of the policy.
After the effective date, named insured must notify the insurance company **at once** if named insured begins operations in any state not listed in 3.A. or 3.C. If not listed, then no coverage for that state.	Must notify the insurance company if named insured begins work in any state listed in 3.C. (Crucial to notify the insurance company by the renewal date or at the latest within 30 days of the renewal date.)
Problem: If a state is listed under 3.C. and NOT under 3.A. and there are existing operations at the inception of the policy period, then there is no coverage provided for that state unless the insurance company is notified within 30 days of the renewal date.	

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Extraterritorial Issues

Most WC laws are extraterritorial

- Many states have an extraterritorial provision in the law that determines how that state's WC law will apply when an employee is injured out of state

- Depending on the circumstances, some, but not all, of these WC statutes will extend coverage to pay the benefit level of a state other than where an employee is hired in the event an injury occurs in that other state

- However, some states, but not all, honor the extraterritorial provisions of other states as long as the other state honors that state's extraterritorial provisions (this is called reciprocity). The permanent employment contract of hire between the worker and employer is established in the other state.

- REMINDER: Employee benefits received are determined by WC statutes or by the courts

- Application of jurisdictional statutes when an "out of state" employee is injured varies

  For example:

  1. *All in-state injuries covered*

  2. *In-state injuries covered subject to statute's conditions*

Minnesota Statute 176.041 *(incomplete)*
Subd. 4.Out-of-state employment. If an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forgo any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.

Scenario:
An out of state employee injured in a work-related accident in Minnesota is covered for Minnesota benefits on the condition that the employee does not try to recover under another state.

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3. *Excludes injuries to transients if coverage available in the other states and the other states grant reciprocity*

California Statute *(incomplete)*

3600.5. (b) (1) An employee who has been hired outside of this state and his or her employer shall be exempted from the provisions of this division while the employee is temporarily within this state doing work for his or her employer if the employer has furnished workers compensation insurance coverage under the workers compensation insurance or similar laws of a state other than California, so as to cover the employee's work while in this state if both of the following apply:

(A) The extraterritorial provisions of this division are recognized in the other state.

(B) The employers and employees who are covered in this state are likewise exempted from the application of the workers compensation insurance or similar laws of the other state.

Scenario:

Utah has a reciprocity agreement with California. A Utah employee is sent to California for computer training and is injured in a work-related accident. Benefits are more expansive in California than in Utah, so the employee tries to recover California benefits. However, since there is a reciprocity agreement between the two states, the injured employee does not qualify for California benefits.

4. *Completely bars recovery*

5. *Some states are silent*

6. *Law leaves the decision up to courts*

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Knowledge Check 1

Donaldson, Inc. is a small but growing business with operations in two locations in Kansas. Donaldson has a Workers Compensation And Employers Liability Insurance Policy with Kansas listed in 3.A. on the Information Page. Depending on the economy, Donaldson may begin operations in Colorado within the next 12 months or may wait for another time. At the recommendation of their agent, Colorado is listed in 3 C. of the Information Page. The Policy was effective April 1.

1. A work-related injury happens to a worker in Kansas on May 22. Will Donaldson's Policy provide coverage for Kansas WC benefits?

   Answer: _____

2. Donaldson begins operations and hires employees in Colorado starting September 12. Will Donaldson's Policy provide coverage for Colorado WC benefits for a worker injured in Colorado on September 30?

   Answer: _____

3. A lucrative opportunity presents itself in Wyoming, so Donaldson rents space, hires employees and begins operations in Wyoming on November 1. Will Donaldson's Policy provide coverage for Wyoming benefits for injury to a worker in Wyoming on November 30?

   Answer: _____

4. Business is very good, so Donaldson expands again, this time hiring employees and beginning operations in Utah on February 10 of the next year. Will Donaldson's Policy provide coverage for Utah benefits for a worker injured in Utah on March 3?

   Answer: _____

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Part Four – Your Duties If Injury Occurs

Partial copy page 4 - 5 of WC 00 00 00 C

PART FOUR – YOUR DUTIES IF INJURY OCCURS

Tell us at once if injury occurs that may be covered by this policy. Your duties are listed here.

1. Provide for immediate medical and other services required by the workers compensation law.
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit.
4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses

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The Insured's Duties are Similar to Other Liability Policies

1. Provide for immediate medical and other services required by the law

2. Provide information on injury

3. Promptly provide the insurance company with notices, demands and legal papers

4. Cooperate

5. Do nothing after an injury to interfere with subrogation rights

6. No voluntary payments or incurring expenses

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Part Five – Premium

Partial copy page 5 of WC 00 00 00 C

PART FIVE – PREMIUM

A. Our Manuals

All premium for this policy will be determined by our manuals of rules, rates, rating plans and classifications. We may change our manuals and apply the changes to this policy if authorized by law or a governmental agency regulating this insurance.

B. Classifications

Item 4 of the Information Page shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the policy period. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and premium basis by endorsement to this policy.

C. Remuneration

Premium for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll and all other remuneration paid or payable during the policy period for the services of:

1. All your officers and employees engaged in work covered by this policy; and
2. All other persons engaged in work that could make us liable under Part One (Workers Compensation Insurance) of this policy. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis. This paragraph 2 will not apply if you give us proof that the employers of these persons lawfully secured their workers compensation obligations.

D. Premium Payments

You will pay all premium when due. You will pay the premium even if part or all of a workers compensation law is not valid.

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Our Manuals

- Premium determined by the insurance company's manuals

Classifications

- Classifications based on estimated exposures

Remuneration

- Remuneration most common premium basis

Premium Payments

- Named insured obligated to pay premium when due

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Partial copy of page 5 of 6 of WC 00 00 00 C

PART FIVE – PREMIUM

…

E. Final Premium

The premium shown on the Information Page, schedules, and endorsements is an estimate. The final premium will be determined after this policy ends by using the actual, not the estimated, premium basis and the proper classifications and rates that lawfully apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final premium will not be less than the highest minimum premium for the classifications covered by this policy.

If this policy is canceled, final premium will be determined in the following way unless our manuals provide otherwise:

1. If we cancel, final premium will be calculated pro rata based on the time this policy was in force. Final premium will not be less than the pro rata share of the minimum premium.
2. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force, and increased by our short-rate cancelation table and procedure. Final premium will not be less than the minimum premium.

F. Records

You will keep records of information needed to compute premium. You will provide us with copies of those records when we ask for them.

G. Audit

You will let us examine and audit all your records that relate to this policy. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the policy period and within three years after the policy period ends. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

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Final Premium

- Final premium determined after policy ends

Records

- Records should be kept and provided upon insurer's request

Audits

- Audits can be conducted during the policy period and within three years after the policy period ends
- **Audit Noncompliance Charge Endorsement WC 00 04 24** (only where permitted) amends Paragraph **G.** Audit to allow the WC carrier to apply a charge if the named insured does not allow the examination and audit of their records. Failure to comply with the audit provision may result in cancellation of the policy.

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Part Six – Conditions

Partial copy of page 6 - 7 of WC 00 00 00 C

PART SIX – CONDITIONS

A. Inspection

We have the right, but are not obliged to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

B. Long Term Policy

If the policy period is longer than one year and sixteen days, all provisions of this policy will apply as though a new policy were issued on each annual anniversary that this policy is in force.

C. Transfer of Your Rights and Duties

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within thirty days after your death, we will cover your legal representative as insured.

D. Cancellation

1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. We must mail or deliver to you not less than ten days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancellation notice.
4. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with the law.

E. Sole Representative

The insured first named in Item 1 of the Information Page will act on behalf of all insureds to change this policy, receive return premium, and give or receive notice of cancellation.

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Inspection

Long Term Policy

Transfer Of Your Rights And Duties

Cancellation

Sole Representative

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Workers Compensation And Employers Liability Insurance Policy Endorsements

Learning Objective 6:
Using knowledge of the Workers Compensation and Employers Liability Insurance Policy, the participant will be able to explain the need for and the coverages provided by selected endorsements to the Workers Compensation And Employer Liability Insurance Policy.

Federal and Maritime Endorsements Selected for Discussion

Maritime Coverage Endorsement WC 00 02 01 B

- Applies to Part Two – Employers Liability Insurance only
  - No statutory benefits
- Provides Employers Liability Insurance for suits/claims brought against the employer due to BI to a master or crew member of any vessel
- Must occur in the operation of a vessel sailing directly between the ports of the continental U.S., Alaska, Hawaii, or Canada
- No coverage for transportation, wages, maintenance, and cure unless a premium is shown on the endorsement Schedule
  - If purchased, excludes punitive damages related to duty or obligation to provide these

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Longshoremen And Harbor Workers Compensation Act Coverage Endorsement (LHWCA)
WC 00 01 06 A

- Provides both WC Insurance and EL Insurance for work subject to the LHWCA
- Covers employees in traditional maritime occupations such as longshore workers, ship-repairers, shipbuilders or harbor construction workers
- Injuries on the job must occur on the navigable waters of the U.S., or in adjoining areas customarily used for loading, unloading, repairing, or building of a vessel
- Does not apply to master/crew member of a vessel

What are navigable waters?

- Navigable waters are usually defined as waters that provide a channel for interstate or international commerce and transportation of people and goods

Examples of navigable waters where employers may have work subject to the LHWCA: Mississippi River, Ohio River, Great Lakes, Gulf of Mexico

TIP

For information on the LHWCA and its extensions, visit the U.S. Department of Labor (OWCP) Division of Longshore and Harbor Workers' Compensation website at: http://www.dol.gov/owcp/dlhwc

Endorsements available:

Outer Continental Shelf Lands Act Coverage Endorsement WC 00 01 09 C

Defense Base Act Coverage Endorsement WC 00 01 01 A

Nonappropriated Fund Instrumentalities Act Endorsement WC 00 01 08 A

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Foreign Coverage Endorsements

There is limited foreign coverage under the unendorsed Workers Compensation And Employer Liability Insurance Policy for U.S. employers with employees working outside of the country. Part One – WC Insurance is limited to each state's WC Law and its extraterritorial provisions. Part Two – EL Insurance only applies while temporarily outside the U.S., its territories, or Canada

Foreign Workers Compensation and Employers Liability Endorsement (varies)

Endorsement coverages typically include

1. Repatriation expenses
   - Cost to bring an injured or deceased employee back to the U.S.

2. Endemic disease
   - Disease prevalent in a country or region

The endorsement limitations typically include

1. Employee must have been hired in the U.S.

2. Covers *temporary* assignments only and can't exceed certain time period, usually 90 days

3. Pays only statutory benefits of the designated state(s)

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Knowledge Check 2

	True	False
1. The Maritime Coverage Endorsement provides workers compensation benefits for injured masters and crew members of a vessel.		
2. The Maritime Coverage Endorsement automatically provides coverage for transportation, wages, maintenance and cure.		
3. The Longshore And Harbor Workers Compensation Act Coverage Endorsement does not provide Employers Liability Insurance for work that is subject to the LHWCA.		
4. The Longshore And Harbor Workers Compensation Act Coverage Endorsement does not apply to master or crew members of a vessel.		
5. A Foreign Workers Compensation and Employers Liability Endorsement is intended to provide coverage for employees hired outside the U.S. on a permanent basis.		
6. A Foreign Workers Compensation and Employers Liability Endorsement typically includes coverage for repatriation expenses and coverage for bodily injury caused by endemic disease.		

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Review of Learning Objectives

1. Using knowledge of the common law system, purpose for Workers Compensation (WC) laws, employer obligations for providing WC, and solutions to provide coverage for those that are exempt, the participant will be able to describe the WC System.

2. Using knowledge of the Information Page, the participant will be able to explain how Item Three of the Information Page is used to activate coverage for Workers Compensation Insurance, Employers Liability Insurance, and Other States Insurance.

3. Using knowledge of Item 3.A. of the Information Page and Part One – Workers Compensation Insurance, the participant will be able to describe how coverage applies, the benefits required by WC law, the payments that the insured is responsible for paying in excess of those benefits, and the rights of the insurer to recover from a liable party.

4. Using knowledge of Item 3.B. of the Information Page and Part Two – Employers Liability Insurance the participants will be able to describe the types of claims that coverage applies to, and how much is paid, if any.

5. Using knowledge of Item 3.C. of the Information Page and Part Three – Other Insurance the participants will be able to describe how Other Insurance applies and the potential coverage issues that may arise.

6. Using knowledge of the Workers Compensation and Employers Liability Insurance Policy, the participant will be able to explain the need for and the coverages provided by selected endorsements to the Workers Compensation and Employer Liability Insurance Policy.

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Knowledge Check 1 – ANSWERS

Donaldson, Inc. is a small but growing business with operations in two locations in Kansas. Donaldson has a Workers Compensation And Employers Liability Insurance Policy with Kansas listed in 3.A. on the Information Page. Depending on the economy, Donaldson may begin operations in Colorado within the next 12 months or may wait for another time. At the recommendation of their agent, Colorado is listed in 3 C. of the Information Page. The Policy was effective April 1.

1. A work-related injury happens to a worker in Kansas on May 22. Will Donaldson's Policy provide coverage for Kansas WC benefits?

   Answer: *Yes, coverage applies automatically since Kansas is already listed in 3.A. WC coverage is state based, not location based.*

2. Donaldson begins operations and hires employees in Colorado starting September 12. Will Donaldson's Policy provide coverage for Colorado WC benefits for a worker injured in Colorado on September 30?

   Answer: *Yes, coverage applies automatically until renewal since Colorado is listed in 3.C. AND the operations started after the effective date of the Policy. Always remember to notify the carrier at once when operations begin and make sure that at renewal Colorado is listed under 3.A. Otherwise coverage is not afforded for that state (Colorado) unless the insurance carrier is notified within 30 days of renewal.*

3. A lucrative opportunity presents itself in Wyoming, so Donaldson rents space, hires employees and begins operations in Wyoming on November 1. Will Donaldson's Policy provide coverage for Wyoming benefits for injury to a worker in Wyoming on November 30?

   Answer: *No, Wyoming is a monopolistic state. WC coverage should be purchased directly from Wyoming. Remember to add the Employers Liability Coverage endorsement either to the existing WC Policy or add the Stop Gap endorsement to a CGL Policy.*

4. Business is very good, so Donaldson expands again, this time hiring employees and beginning operations in Utah on February 10 of the next year. Will Donaldson's Policy provide coverage for Utah benefits for a worker injured in Utah on March 3?

   Answer: *Utah benefits are not provided since Utah was not listed in 3.A. or in 3.C.*

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Knowledge Check 2 – ANSWERS

	True	False
1. The Maritime Coverage Endorsement provides workers compensation benefits for injured masters and crew members of a vessel.		**X**
2. The Maritime Coverage Endorsement automatically provides coverage for transportation, wages, maintenance and cure.		**X**
3. The Longshore And Harbor Workers Compensation Act Coverage Endorsement does not provide Employers Liability Insurance for work that is subject to the LHWCA.		**X**
4. The Longshore And Harbor Workers Compensation Act Coverage Endorsement does not apply to master or crew members of a vessel.	**X**	
5. A Foreign Workers Compensation and Employers Liability Endorsement is intended to provide coverage for employees hired outside the U.S. on a permanent basis.		**X**
6. A Foreign Workers Compensation and Employers Liability Endorsement typically includes coverage for repatriation expenses and coverage for bodily injury caused by endemic disease.	**X**	

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EXHIBITS

Thoughts and Tips

Workers Compensation & Employers Liability Exposure Checklist

4

FORMS

Form Number	Form Name
Information Page	**WC 00 00 01 A**
Workers Compensation and Employers Liability Policy	**WC 00 00 00 C**
Employers Liability Coverage Endorsement	**WC 00 03 03 C**
Voluntary Compensation and Employers Liability	**WC 00 03 11 A**
Partners, Officers, and Others Exclusion	**WC 00 03 08**
Sole Proprietors, Partners, Officers, and Others Coverage	**WC 00 03 10**
Audit Noncompliance Charge Endorsement	**WC 00 04 24**
Maritime Coverage Endorsement	**WC 00 02 01 B**
Longshoremen And Harbor Workers Compensation Act Coverage Endorsement	**WC 00 01 06 A**

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Thoughts and Tips

Thoughts to Consider

Some states draw a distinction between a "statutory employee" and a "borrowed servant". The former's work for the special employer is usually part of his work for the general employer, while the latter is usually working directly for the special employer, as would a temporary employee.

Some states distinguish between dual employment and joint employment. Dual employment occurs when the employee's work is clearly for only one of the employers, while joint employment occurs when the employee's work relates to the business of both employers.

In some states, if a general contractor (principal contractor, prime contractor, owner, business, company) is a statutory or special employer, tort immunity attaches, but the statutory or special employer becomes liable for workers compensation benefits.

The states are split on whether this liability can be discharged by requiring and/or verifying that the direct employer obtain Workers Compensation Insurance. And not all states specify that the statutory or special employer has a right of indemnity against the direct employer, though most do.

(Source: *Larson's Workers' Compensation Law*)

Independent Contractor

- General rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done. (Altered by statute.)

Common Law Employee

- Typically, includes a person hired at a wage or commission where an employer directs and controls what will be done and how it will be done. Employees can be fired. "Direct and Control Test". Other common law factors are considered.

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TIP

Agents should structure "others states" protection to include any state to which the underwriter is willing to extend coverage. However, insurance companies often will limit the list to those states in which the company is licensed.

At minimum, other states (3.C.) status should be extended to:

1. Bordering states. This eliminates the exposure arising from employees that live in one state but work in the primary state.
2. States to which employees may travel to attend classes, conventions or other special meetings.

EXTRATERRITORIAL EXPOSURES AND RECIPROCITY ISSUES – 3.A. & 3.C. Penalty

Penalties for failure to properly schedule a state as a 3.A. or a 3.C. state are potentially severe. The NCCI policy specifically reads: "*If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page,* ***coverage will not be afforded*** *for that state unless we are notified within thirty days*".

Injury occurring in a state that should be listed as a 3.A. state must be paid **strictly by the employer**. Identify potential jurisdictional issues up front to avoid problems for the insured, employee, agency and company. Properly filed documentation is essential if the underwriter refuses to list a state as a primary 3.A. state. Listing it as a 3.C. state when the underwriter refuses to extend primary status may help, but there is no guarantee.

Be sure to document discussions/advice with the named insured on 3.A./3.C. issues, including what the insurance company agreed to do or not do.

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WORKERS COMPENSATION AND EMPLOYERS LIABILITY EXPOSURES CHECKLIST

1. Are all states in which the insured has operations listed under 3.A. of the Information Page? ☐ Yes ☐ No

   If **No**, does the insured have a separate Workers Compensation and Employers Liability Insurance Policy for those locations? ☐ Yes ☐ No

   If **No**, list the other states under 3.A. and provide payroll information to the insurance company.

2. Is Other States Insurance coverage (3.C. on the information page) triggered by "all states except the monopolistic states and the states listed under 3.A."? ☐ Yes ☐ No

   If **No**, request that the insurance company use this wording.

3. Does the insured have any operations in a monopolistic state (North Dakota, Ohio, Washington or Wyoming)? ☐ Yes ☐ No

   If **Yes**:

   a. Purchase Workers Compensation coverage from that state's fund.

   AND

   b. 1. Add the Employers Liability Coverage Endorsement to an existing WC and EL Insurance Policy. If in Ohio, use the Ohio Employers Liability Coverage Endorsement. .

      Or

      2. Add an Employer's Liability Stop Gap Endorsement to the Commercial General Liability policy

4. Does the insured have any employees who are not covered under the state's Workers Compensation statutes, i.e., farm or domestic? ☐ Yes ☐ No

   If **Yes**, does the insured want those employees covered by the Workers Compensation Policy? ☐ Yes ☐ No

   If **Yes**, add WC 00 03 11 A Voluntary Compensation and Employers Liability Coverage Endorsement and provide payroll information to the insurance company.

   Another option where permitted, add WC 00 03 10 Sole Proprietors, Partners, Officers and Others Coverage Endorsement ☐ Yes ☐ No

5. Does the insured have any independent contractors working for them? ☐ Yes ☐ No

   If **Yes**, are they to be included under the Insured's WC policy? ☐ Yes ☐ No

   If **No**, require copies of the WC certificates of insurance.

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6. Are any employees subject to the federal workers compensation laws? ☐ Yes ☐ No

   If yes, add the appropriate endorsement and provide payroll information to the insurance company.
   For work subject to the Longshore and Harbor Workers Compensation Act add WC 00 01 06 A.
   For work subject to the Outer Continental Shelf Lands Act add WC 00 01 09 C.
   For work subject to the Defense Base Act add WC 00 01 01 A.

4

7. Are any employees subject to Maritime Law? ☐ Yes ☐ No

   If **Yes**, are they covered under a Maritime Protection & Indemnity Policy? ☐ Yes ☐ No

   If **No**, add WC 00 02 01 B Maritime Coverage Endorsement.

8. Has the insured entered into any contracts waiving subrogation to other parties for injuries to the insured employees? ☐ Yes ☐ No

   If **Yes**, add WC 00 03 13 Waiver of Our Rights to Recover From Others Endorsement.

9. Has the insured entered into any contract with another entity (temporary agency, PEO, other) for the use of temporary or leased employees? ☐ Yes ☐ No

   If **Yes**, have the other entity add the Alternate Employer Endorsement listing your insured as an alternate employer to their policy and furnish evidence of compliance to your insured.

10. Has the insured entered into any leasing agreement where they are responsible for providing insurance? ☐ Yes ☐ No

    If **Yes**, add the Labor Contractor Endorsement
    (state specific endorsement may apply).

11. Are any other Workers Compensation Endorsements needed? ☐ Yes ☐ No

    If **Yes**, what are they?

    _____

12. Do the Part Two Employers Liability Insurance limits meet the Commercial Umbrella underlying policy requirement? ☐ Yes ☐ No

Disclaimer

The above is intended as general information and might not apply to a specific situation. Editions forms' dates are applicable according to each state rules. Not only are policy forms, statutes, and court decisions constantly changing, but forms vary from company to company, state to state, and year to year.

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INFORMATION PAGE

Insurer:

POLICY NO.

1. The Insured: _____ Individual _____ Partnership

   Mailing address: _____ Corporation or_____

   Other workplaces not shown above:

2. The policy period is from _____ to _____ at the insured's mailing address.

3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here:

   B. Employers Liability Insurance: Part Two of the policy applies to work in each state listed in Item 3.A. The limits of our liability under Part Two are:

Bodily Injury by Accident	$ _____	each accident
Bodily Injury by Disease	$ _____	policy limit
Bodily Injury by Disease	$ _____	each employee

   C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here:

   D. This policy includes these endorsements and schedules:

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.

Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rate Per $100 of Remuneration	Estimated Annual Premium

Total Estimated Annual Premium $

Minimum Premium $ Expense Constant $

Countersigned by _____

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GENERAL INFORMATION PAGE NOTES

1. Insurance carriers may show a renewal agreement statement on the standard Information Page when a policy is renewed. The carrier must show “Renewal Agreement” or a like heading along with the title “Information Page” if a renewal agreement statement is shown on the Information Page.

2. Insurance carriers showing a renewal agreement statement on the Information Page or entering into a renewal agreement not shown on the Information Page may list any or all endorsements in Item 3.D., elsewhere on the Information Page or in an Information Page Schedule. A carrier is not required to attach such listed endorsements to the Information Page and Policy if the endorsements have already been provided to the insured by that carrier.

3. These General Information Page Notes do not affect the standard Information Page entry requirements set forth in the Information Page Notes.

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WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

In return for the payment of the premium and subject to all terms of this policy, we agree with you as follows:

GENERAL SECTION

A. The Policy

This policy includes at its effective date the Information Page and all endorsements and schedules listed there. It is a contract of insurance between you (the employer named in Item 1 of the Information Page) and us (the insurer named on the Information Page). The only agreements relating to this insurance are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by us to be part of this policy.

B. Who Is Insured

You are insured if you are an employer named in Item 1 of the Information Page. If that employer is a partnership, and if you are one of its partners, you are insured, but only in your capacity as an employer of the partnership's employees.

C. Workers Compensation Law

Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

D. State

State means any state of the United States of America, and the District of Columbia.

E. Locations

This policy covers all of your workplaces listed in Items 1 or 4 of the Information Page; and it covers all other workplaces in Item 3.A. states unless you have other insurance or are self-insured for such workplaces.

PART ONE - WORKERS COMPENSATION INSURANCE

A. How This Insurance Applies

This workers compensation insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the policy period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay promptly when due the benefits required of you by the workers compensation law.

C. We Will Defend

We have the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance.

D. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

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E. Other Insurance

We will not pay more than our share of benefits and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

F. Payments You Must Make

You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

G. Recovery From Others

We have your rights, and the rights of persons entitled to the benefits of this insurance, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

H. Statutory Provisions

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you or your estate will not relieve us of our duties under this insurance after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this insurance. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers compensation law. We are bound by decisions against you under that law, subject to the provisions of this policy that are not in conflict with that law.
5. This insurance conforms to the parts of the workers compensation law that apply to:
   a. benefits payable by this insurance;
   b. special taxes, payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this insurance that conflict with the workers compensation law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this policy.

PART TWO - EMPLOYERS LIABILITY INSURANCE

A. How This Insurance Applies

This employers liability insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in a state or territory listed in Item 3.A. of the Information Page.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

B. We Will Pay

We will pay all sums that you legally must pay as damages because of bodily injury to your employees, provided the bodily injury is covered by this Employers Liability Insurance.

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The damages we will pay, where recovery is permitted by law, include damages:

1. For which you are liable to a third party by rea-son of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;
2. For care and loss of services; and
3. For consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
4. Because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

C. Exclusions

This insurance does not cover:

1. Liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. Bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;
4. Any obligation imposed by a workers compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. Bodily injury intentionally caused or aggravated by you;
6. Bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
7. Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;
8. Bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sections 901 et seq.), the Nonappropriated Fund Instrumentalities Act (5 U.S.C. Sections 8171 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. Sections 1331 et seq.), the Defense Base Act (42 U.S.C. Sections 1651–1654), the Federal Mine Safety and Health Act (30 U.S.C. Sections 801 et seq. and 901–944), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;
9. Bodily injury to any person in work subject to the Federal Employers' Liability Act (45 U.S.C. Sections 51 et seq.), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. Bodily injury to a master or member of the crew of any vessel, and does not cover punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law;
11. Fines or penalties imposed for violation of federal or state law; and
12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sections 1801 et seq.) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

D. We Will Defend

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this insurance. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this insurance.

E. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. Reasonable expenses incurred at our request, but not loss of earnings;
2. Premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;

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3. Litigation costs taxed against you;
4. Interest on a judgment as required by law until we offer the amount due under this insurance; and
5. Expenses we incur.

F. Other Insurance

We will not pay more than our share of damages and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the loss is paid.

G. Limits of Liability

Our liability to pay for damages is limited. Our limits of liability are shown in Item 3.B. of the Information Page. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident—each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

   A disease is not bodily injury by accident unless it results directly from bodily injury by accident.
2. Bodily Injury by Disease. The limit shown for "bodily injury by disease—policy limit" is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for "bodily injury by disease—each employee" is the most we will pay for all damages because of bodily injury by disease to any one employee.

   Bodily injury by disease does not include disease that results directly from a bodily injury by accident.
3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

H. Recovery From Others

We have your rights to recover our payment from anyone liable for an injury covered by this insurance. You will do everything necessary to protect those rights for us and to help us enforce them.

I. Actions Against Us

There will be no right of action against us under this insurance unless:

1. You have complied with all the terms of this policy; and
2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

PART THREE - OTHER STATES INSURANCE

A. How This Insurance Applies

1. This other states insurance applies only if one or more states are shown in Item 3.C. of the Information Page.
2. If you begin work in any one of those states after the effective date of this policy and are not insured or are not self-insured for such work, all provisions of the policy will apply as though that state were listed in Item 3.A. of the Information Page.
3. We will reimburse you for the benefits required by the workers compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.
4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within thirty days.

B. Notice

Tell us at once if you begin work in any state listed in Item 3.C. of the Information Page.

PART FOUR - YOUR DUTIES IF INJURY OCCURS

Tell us at once if injury occurs that may be covered by this policy. Your other duties are listed here.

1. Provide for immediate medical and other services required by the workers compensation law.
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit.
4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.

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5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

PART FIVE—PREMIUM

A. Our Manuals

All premium for this policy will be determined by our manuals of rules, rates, rating plans and classifications. We may change our manuals and apply the changes to this policy if authorized by law or a governmental agency regulating this insurance.

B. Classifications

Item 4 of the Information Page shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the policy period. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and premium basis by endorsement to this policy.

C. Remuneration

Premium for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll and all other remuneration paid or payable during the policy period for the services of:

1. All your officers and employees engaged in work covered by this policy; and
2. All other persons engaged in work that could make us liable under Part One (Workers Compensation Insurance) of this policy. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis. This para-graph 2 will not apply if you give us proof that the employers of these persons lawfully secured their workers compensation obligations.

D. Premium Payments

You will pay all premium when due. You will pay the premium even if part or all of a workers compensation law is not valid.

E. Final Premium

The premium shown on the Information Page, schedules, and endorsements is an estimate. The final premium will be determined after this policy ends by using the actual, not the estimated, premium basis and the proper classifications and rates that lawfully apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final premium will not be less than the highest minimum premium for the classifications covered by this policy.

If this policy is canceled, final premium will be determined in the following way unless our manuals provide otherwise:

1. If we cancel, final premium will be calculated pro rata based on the time this policy was in force. Final premium will not be less than the pro rata share of the minimum premium.
2. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force, and increased by our short-rate cancelation table and procedure. Final premium will not be less than the minimum premium.

F. Records

You will keep records of information needed to compute premium. You will provide us with copies of those records when we ask for them.

G. Audit

You will let us examine and audit all your records that relate to this policy. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the policy period and within three years after the policy period ends. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.

PART SIX—CONDITIONS

A. Inspection

We have the right, but are not obliged to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that

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your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

B. Long Term Policy

If the policy period is longer than one year and sixteen days, all provisions of this policy will apply as though a new policy were issued on each annual anniversary that this policy is in force.

C. Transfer of Your Rights and Duties

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within thirty days after your death, we will cover your legal representative as insured.

D. Cancelation

1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancelation is to take effect.
2. We may cancel this policy. We must mail or deliver to you not less than ten days advance written notice stating when the cancelation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancelation notice.
4. Any of these provisions that conflict with a law that controls the cancelation of the insurance in this policy is changed by this statement to comply with the law.

E. Sole Representative

The insured first named in Item 1 of the Information Page will act on behalf of all insureds to change this policy, receive return premium, and give or receive notice of cancelation.

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EMPLOYERS LIABILITY COVERAGE ENDORSEMENT

This endorsement applies only to work in the states shown in the Schedule.

A. Part One (Workers Compensation Insurance) does not apply to work in a state shown in the Schedule.

B. Part Two (Employers Liability Insurance) applies to work in states shown in the Schedule as though they were shown in Item 3.A. of the Information Page.

C. Part Two (Employers Liability Insurance), C. Exclusions is changed by adding these exclusions.

This insurance does not cover:

13. bodily injury to an employee when you are deprived of common law defenses or are subject to penalty because of your failure to secure your obligations under the workers compensation law of any state shown in the Schedule or otherwise fail to comply with that law.

Schedule

States

Notes:

I. Use this endorsement to afford employers liability insurance in any state, including monopolistic state fund states, with the exception of Ohio, where the policy does not provide workers compensation insurance. The states are to be listed in the Schedule. Use the Ohio Employers Liability Coverage Endorsement (WC 34 03 01 B) to afford employers liability insurance in Ohio.

2. The endorsement may be used in a National Council state only if (1) all employees are excluded from the workers compensation law or all employees have elected not to be subject to the law, and (2) there is no state law or regulation making the use of this endorsement illegal. (See the ***Basic Manual User's Guide***-Reference Tables.)

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VOLUNTARY COMPENSATION AND EMPLOYERS LIABILITY COVERAGE ENDORSEMENT

This endorsement adds Voluntary Compensation Insurance to the policy.

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must be sustained by an employee included in the group of employees described in the Schedule.
2. The bodily injury must arise out of and in the course of employment necessary or incidental to work in a state listed in the schedule.
3. The bodily injury must occur in the United States of America, its territories or possessions, or Canada, and may occur elsewhere if the employee is a United States or Canadian citizen temporarily away from those places.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay an amount equal to the benefits that would be required of you if you and your employees described in the Schedule were subject to the workers compensation law shown in the Schedule. We will pay those amounts to the persons who would be entitled to them under the law.

C. Exclusions

This insurance does not cover:

1. any obligation imposed by a workers compensation or occupational disease law, or any similar law.
2. bodily injury intentionally caused or aggravated by you.

D. Before We Pay

Before we pay benefits to the persons entitled to them, they must:

1. Release you and us, in writing, of all responsibility for the injury or death.
2. Transfer to us their right to recover from others who may be responsible for the injury or death.
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the personal entitled to the benefits of this insurance fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

E. Recovery From Others

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons entitled to the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

F. Employers Liability Insurance

Part Two (Employers Liability Insurance) applies to bodily injury covered by this endorsement as though the state of Employment shown in the Schedule were shown in Item 3.A. of the Information Page.

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Schedule

Employees	State of Employment	Designated Workers Compensation Law

Notes:

1. Use this endorsement to afford voluntary compensation coverage pursuant to the ***Basic Manual User's Guide***.
2. Use Voluntary Compensation Maritime Endorsement to provide Voluntary Compensation Coverage under Program II as described in the ***Basic Manual User's Guide***. .
3. Work in a monopolistic state fund state should not be included in the Schedule unless employers liability coverage is provided in that state by the Employers Liability Coverage Endorsement.
4. This endorsement may only be used in accordance wit the provisions of MS 176.041 in Minnesota.
5. Various uses of this endorsement are illustrated below.

Schedule

Employees	State of Employment	Designated Workers Compensation Law
All officers and employees not subject to the workers compensation law.	Any state shown in Item 3.A. of the Information Page.	The state where the injury takes place
All domestics, farm and agricultural workers.	Utah	Utah
All partners of the insured partnership.	Kansas	Kansas

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PARTNERS, OFFICERS AND OTHERS EXCLUSION ENDORSEMENT

The policy does not cover bodily injury to any person described in the Schedule.

The premium basis for the policy does not include the remuneration of such persons.

You will reimburse us for any payment we must make because of bodily injury to such persons.

Schedule

Partners	Officers	Others

Note:

1. Use this endorsement in a state where an Individual has elected pursuant to the workers compensation law not to be covered by the law and to exclude employers liability coverage where the insured is statutorily exempt from workers compensation coverage.
2. Individuals may be designated in this endorsement only when it is proper to do so under the workers compensation law. Individuals may be designated by naming them or by describing them, as, for example:
   a. all partners;
   b. all executive officers except the president;
   c. each person named in Item 4 of the Information Page.
3. This endorsement may be used in Missouri to exclude members of a limited liability company who have rejected workers compensation and employers liability insurance in accordance with Missouri Department of Insurance Bulletin 96-02.
4. Use this endorsement in the state of Missouri to exclude family members, as allowed by Section 287.035.6(2), RSMo. The family members should be individually named (a general statement of "all family members" is not acceptable) within this endorsement and updated annually to avoid any possible disputes over which family members intend to be excluded. In addition, for purposes of Section 287.035.6.(1), RSMo, family members within the third degree of affinity or consanguinity shall mean the following:
   1st Degree Parents or child of the employer, or of the employer's current living spouse.
   2nd Degree Grandparents, grandchildren, brothers or sisters of the employer or of the employer's current living spouse.
   3rd Degree Great grandparents, great grandchildren, aunts, uncles, nieces or nephews of the employer or of the employer's current living spouse.
5. In the commonwealth of Massachusetts, this endorsement can be used only to identify corporate officers or directors who own at lease 25% of the issued and outstanding sock of a corporation and who have elected to exclude themselves from coverage in accordance with Massachusetts General Law, Chapter 152, Section 1(4), as amended, and Regulation 452 CMR 8.00. All excluded corporate officers and directors must be individually named on this endorsement.

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SOLE PROPRIETORS, PARTNERS, OFFICERS AND OTHERS COVERAGE ENDORSEMENT

An election was made by or on behalf of each person described in the Schedule to be subject to the workers compensation law of the state named in the Schedule. The premium basis for the policy includes the remuneration
of such persons.

Schedule

Persons	State
Sole Proprietor:	
Partners:	
Officers:	
Others:	

Notes:

1. Individuals may be designated in this endorsement only when it is proper to do so under the workers compensation law. Individuals may be designated by naming them or by describing them, as, for example:
   a. all partners;
   b. all executive officers except the president;
   c. each person named in Item 4 of the Information Page.

2. In the commonwealth of Massachusetts, this endorsement can be used only to identify sole proprietors who have elected to obtain coverage for themselves as employees on this policy in accordance with Massachusetts General Law, Chapter 152. Section 1(4), as amended, and Regulation 452 CMR 8.00. All included sole proprietors and partners must be individually named on this endorsement.

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AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT

Part Five—Premium, Section G. (Audit) of the Workers Compensation and Employers Liability Insurance Policy is revised by adding the following:

If you do not allow us to examine and audit all of your records that relate to this policy, and/or do not provide audit information as requested, we may apply an Audit Noncompliance Charge. The method for determining the Audit Noncompliance Charge by state, where applicable, is shown in the Schedule below.

If you allow us to examine and audit all of your records after we have applied an Audit Noncompliance Charge, we will revise your premium in accordance with our manuals and Part 5—Premium, E. (Final Premium) of this policy.

Failure to cooperate with this policy provision may result in the cancellation of your insurance coverage, as specified under the policy.

Note:

For coverage under state-approved workers compensation assigned risk plans, failure to cooperate with this policy provision may affect your eligibility for coverage.

Schedule

State(s)	Basis of Audit Noncompliance Charge	Maximum Audit Noncompliance Charge Multiplier

Note:

1. A carrier's application of the Audit Noncompliance Charge is optional.
2. To apply the Audit Noncompliance Charge, the carrier must attach the endorsement to the policy at inception of the policy term being audited to notify employers regarding the potential application of an Audit Noncompliance Charge.
3. *Refer to NCCI's **Basic Manual** for the method of determining the Audit Noncompliance Charge.*

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MARITIME COVERAGE ENDORSEMENT

This endorsement changes how insurance provided by Part Two (Employers Liability Insurance) applies to bodily injury to a master or member of the crew of any vessel.

A. **How This Insurance Applies** is replaced by the following:

A. How This Insurance Applies

This insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to work described in Item 1 of the Schedule of the Maritime Coverage Endorsement.
3. The bodily injury must occur in the territorial limits of, or in the operation of a vessel sailing directly between the ports of, the continental United States of America, Alaska, Hawaii or Canada.
4. Bodily injury by accident must occur during the policy period.
5. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
6. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

C **Exclusions** is changed by removing exclusion 10 and by adding exclusions 13 and 14.

This insurance does not cover:

13. Bodily injury covered by a Protection and Indemnity Policy or similar policy issued to you or for your benefit. This exclusion applies even if the other policy does not apply because of another insurance clause, deductible or limitation of liability clause, or any similar clause.
14. Your duty or obligation to provide transportation, wages, maintenance, and cure. This exclusion does not apply if a premium entry is shown in Item 2 of the Schedule, except that punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law are excluded even if a premium is paid for transportation, wages, maintenance, and cure coverage.

D. **We Will Defend** is changed by adding the following statement:

We will treat a suit or other action in rem against a vessel owned or chartered by you as a suit against you.

G. **Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in the Schedule. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident-each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

   A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. Bodily Injury by Disease. The limit shown for "bodily injury by disease-aggregate" is the most we will pay for all damages covered by this insurance because of bodily injury by disease to one or more employees. The limit applies separately to bodily injury by disease arising out of work in each state shown in Item 3.A. of the Information Page. Bodily injury by disease will be deemed to occur in the state of the vessel's home port.

   Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

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Schedule

1. Description of work:

2. Transportation, Wages, Maintenance, and Cure Premium $

   Exclusion: This insurance does not cover punitive damages related to your duty or obligation to provide transportation, wages, maintenance, and cure under any applicable maritime law even if a premium is paid for transportation, wages, maintenance, and cure coverage.

3. Limits of Liability

Bodily Injury by Accident	$_____	each accident
Bodily Injury by Disease	$_____	aggregate

Notes:

1. Use this endorsement to afford maritime coverage under Program I or II, as described in the ***Basic Manual User's Guide*** in which the employer has maritime exposure and no Protection and Indemnity policy, or has a Protection and Indemnity policy that does not cover all its operations.
2. Use Item 1 of the Schedule to describe the maritime operations that are to be insured by this endorsement. The description may include limitations by size, ownership or name of vessel and limitations by names of waterways to be used by the vessels.
3. Show a premium charge or other appropriate entry in Item 2 to provide coverage for transportation, wages, maintenance, and cure. The premium charge for the exposure shall be determined by the carrier from its evaluation of the exposure presented by the risk.
4. In Arizona, any associated premium charge must be filed and approved by the Arizona Department of Insurance prior to use.

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LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT COVERAGE ENDORSEMENT

This endorsement applies only to work subject to the Longshore and Harbor Workers Compensation Act in a state shown in the Schedule. The policy applies to that work as though that state were listed in Item 3.A. of the Information Page.

General Section C. **Workers Compensation Law** is replaced by the following:

C. **Workers Compensation Law**

> Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page and the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901—950). It includes any amendments to those laws that are in effect during the policy period. It does not include any other federal workers or workmen's compensation law, other federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

Part Two (Employers Liability Insurance), C. Exclusions., exclusion 8, does not apply to work subject to the Longshore and Harbor Workers' Compensation Act.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

Schedule

State	**Longshore and Harbor Workers' Compensation Act Coverage Percentage**

The rates for classifications with code numbers not followed by the letter "F" are rates for work not ordinarily subject to the Longshore and Harbor Workers' Compensation Act. If this policy covers work under such classifications, and if the work is subject to the Longshore and Harbor Workers' Compensation Act, those non-F classification rates will be increased by the Longshore and Harbor Workers' Compensation Act Coverage Percentage shown in the Schedule.

Notes:

1. The Longshore and Harbor Workers' compensation Act is a federal workers compensation law that applies to workers in maritime employments, including longshore, harbor workers, shipbuilders, ship breakers and ship repairers. It does not apply to masters or crews of vessels. See the ***Basic Manual User's Guide*** for additional details.
2. Use this endorsement to provide workers compensation insurance and employer's liability insurance for work subject to the Longshore and Harbor workers' compensation Act in any state, including a monopolistic state fund state.
3. Coverage is provided in a state by naming the state in the Schedule.
4. The following entry may be typed or printed in the Schedule to provide coverage in Item 3.A. states: "Each state named in Item 3.A. of the Information Page."
5. The following entry may be typed or printed in the Schedule to provide coverage in Item 3 and 3.C. states: "Each state named in Item 3.A. or 3.C. of the Information Page."

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Thank
You!