



# Personal Excess Policy

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## Your Personal Excess Policy - Quick Reference

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This policy is issued by Privilege Underwriters Reciprocal Exchange (PURE), a reciprocal insurance company. By purchasing this policy, you are a Subscriber to PURE. You are subject to the Subscriber's Agreement and Power of Attorney. This is a non-assessable policy. The liability of the Subscriber to PURE is limited to the costs associated with the insurance policies only. This is a participating policy and you are entitled to dividends as may be declared by PURE. PURE may annually allocate a portion of surplus to subscriber savings accounts. Amounts allocated to subscriber savings accounts remain a part of PURE's surplus. They may be used to support the operations of PURE. Your right to the balance in the subscriber savings account is limited as set forth in the Subscriber's Agreement.

## Insuring Agreement

Privilege Underwriters Reciprocal Exchange will provide the insurance described in this policy in return for payment of the premium and compliance with all applicable provisions of the policy.

## I - DEFINITIONS

In this policy, "you" and "your" refer to the "named insured" shown in the Declarations and if the "named insured" is an individual, the spouse if a resident of the same household. "We", "us" and "our" refer to the Company providing this insurance.

In addition, certain words and phrases are defined below. When used throughout the policy the defined words will be bolded.

### **Aircraft**

**Aircraft** means any device used or designed for flight. **Aircraft** does not include model or hobby craft not used or designed to carry people or cargo.

### **Auto**

**Auto** means any self propelled land vehicle which requires motor vehicle registration or operator licensing. It includes a trailer or semi-trailer which is being carried on, towed by or hitched for towing by a vehicle.

### **Bodily Injury**

**Bodily Injury** means physical bodily harm, sickness or disease. This includes required care, loss of services and resulting death.

### **Business**

**Business** means a trade, occupation or profession engaged in on a full-time, part-time or occasional basis. **Business** also means any other activity engaged in for money or other compensation. **Business** does not include **incidental business**.



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## **Damages**

**Damages** means the monetary amount required to settle a claim.

## **Deductible**

**Deductible** means the amount of any covered **damages** that you are responsible for.

## **Discrimination**

**Discrimination** means the violation of a person's rights with respect to such person's:

- a) Race;
- b) Color;
- c) National origin;
- d) Religion;
- e) Gender;
- f) Marital status;
- g) Age;
- h) Sexual orientation or preference;
- i) Physical or mental condition; or
- j) Any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.

## **Family Member**

**Family member** means a person that lives in your household and is related to you by blood, marriage, or adoption.

## **Follow Form**

We will cover **damages** to the extent they are both covered by the required **underlying insurance** and not excluded by this policy. The provisions of this policy supersede and replace similar provisions in the underlying policy. We will not provide broader coverage than the underlying policy. When coverage is provided on a **follow form** basis and no **underlying insurance** exists, coverage will be determined as if we had sold the required **underlying insurance**.

It is hereby understood and agreed that, notwithstanding anything in this policy to the contrary, with respect to such insurance as is afforded by this policy, the terms of this policy, as respects coverage for operations in the State of New York, shall conform to the coverage requirements of the applicable insurance laws of the State of New York, or the applicable regulations of the New York Insurance Department; provided, however, that the company's limit of liability, as stated in this policy, shall be excess of the limits of liability of any underlying insurance, or self-insurance, as stated in the Declarations, or in any endorsement attached hereto."

## **Incidental Business**

**Incidental Business** means a **business** activity that:



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- a) Has no employees subject to workers' compensation or other similar disability laws;
- b) Conforms to federal, state and local laws; and
- c) Does not generate more than \$10,000 of gross annual revenues.

**Incidental Business** includes the **business** of renting to others:

- a) Any one to four family dwelling; or
- b) A condominium, cooperative or apartment unit

listed as a location on your Declarations.

## **Insured**

**Insured** means you or a **family member**. **Insured** also means any individual or other legal entity given permission by you or a **family member** to use a **vehicle** or **watercraft** covered by this policy with respect to their legal responsibility arising out of its use.

## **Occurrence**

**Occurrence** means an accident or offense, including continuous or repeated exposure to substantially the same harmful conditions, which result in **bodily injury** or **property damage** during the policy period.

## **Personal Injury**

**Personal Injury** means resulting injury or death from one or more of the following:

- a) **Bodily Injury**;
- b) Unlawful detention, false imprisonment or false arrest;
- c) Shock or emotional distress;
- d) Invasion of privacy;
- e) Defamation, libel or slander;
- f) Malicious prosecution;
- g) Wrongful entry or eviction; or
- h) Assault and battery when committed with the intent of protecting persons.

## **Pollutant**

**Pollutant** means any man-made or naturally occurring solid, liquid, gaseous or thermal irritant or contaminant, including:

- a) Smoke;
- b) Vapor;
- c) Soot;
- d) Fumes;



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- e) Acids;
- f) Alkalis;
- g) Chemicals; and
- h) Waste that pollutes.

Waste includes materials to be recycled, reconditioned, or reclaimed.

## Private Staff

**Private Staff** means a person employed to perform duties related to your personal affairs or **incidental business**. **Private staff** are paid by you or a **family member** to perform labor or services at your direction. **Private staff** includes temporary workers. **Private staff** also includes persons employed by a firm under an agreement between you and the firm. Independent contractors and persons hired by you who work 15 hours or less per week are not **private staff**.

## Property Damage

**Property Damage** means physical injury to, destruction of, or loss of use of tangible property.

## Recreational Motor Vehicle

**Recreational Motor Vehicle** means a motorized land vehicle designed for use off public roads, not subject to motor vehicle registration or operator licensing.

**Recreational Motor Vehicle** includes a golf cart used as a means of travel about your residence, your residence community or a golf course for golfing purposes or community or other private activities. **Recreational Motor Vehicle** also includes vehicles used to assist the handicapped that are not designed for or required to be registered for use on public roads.

## Sexual Harassment

**Sexual Harassment** means unwelcome sexual advances, a direct or implied request for sexual favors, or other conduct of a sexual nature when such conduct:

- a) Is linked to a **private staff's** employment or used as a condition of such employment.
- b) Interferes with the performance of any **private staff's** duties; or
- c) Creates an intimidating, hostile or offensive workplace.

## Underlying Insurance

**Underlying insurance** means all liability insurance providing coverage for **damages** that are covered by this policy. **Underlying insurance** does not include this policy or insurance specifically purchased to be excess of this policy.

## Watercraft



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**Watercraft** means a boat or craft principally designed to be propelled on, over or under water. A model boat or hobby craft not used or designed to carry people is not considered a **watercraft**.

## Wrongful Employment Act

**Wrongful Employment Act** means actual or alleged employment-related **wrongful termination, sexual harassment, or discrimination**.

## Wrongful Termination

**Wrongful Termination** means;

- a) Violation of the rights or your **private staff**, other than rights based on an agreement of employment; or
- b) The failure of you or a **family member** to exercise duty and care; when terminating an employment relationship.

## II - COVERAGES

### A. Excess Liability

We will pay for **damages** that an **insured** is legally obligated to pay as a result of **property damage** or **personal injury** caused by an **occurrence** to which this coverage applies:

- a) In excess of the **underlying insurance** or the minimum required underlying limits, whichever is greater; or
- b) From the first dollar where coverage provided by required **underlying insurance** does not apply or **underlying insurance** is not required.

This Paragraph b) does not apply to an **occurrence** involving an **auto**.

This coverage applies to an **occurrence** anywhere in the world during the policy period.

### Additional Coverages

These Additional Coverages do not increase the coverage limit shown on your Declarations.

#### 1. Rented or Borrowed Autos

We will pay for **damages** that an **insured** is legally obligated to pay as a result of **property damage** or **personal injury** caused by an **occurrence** arising from an **insured's** use of a rented or borrowed **auto**. This coverage applies only if the rental or loan of the **auto** does not exceed 45 days.



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This coverage applies in excess of the **underlying insurance**.

This coverage applies to an **occurrence** anywhere in the world during the policy period.

## 2. Rented, Borrowed or Newly Acquired Watercraft

We will pay for **damages** that an **insured** is legally obligated to pay as a result of **bodily injury** or **property damage** caused by an **occurrence** arising from an **insured's** use of a rented, borrowed or newly acquired **watercraft** provided:

- a) You give us notice within 45 days of becoming the owner of a **watercraft**;  
or
- b) The **watercraft** is furnished or rented to you for less than 45 days.

We will provide this coverage:

- a) In excess of the **underlying insurance** or the minimum required underlying limits, whichever is greater; or
- b) From the first dollar where coverage provided by required **underlying insurance** does not apply.

This coverage applies to an **occurrence** anywhere in the world during the policy period.

## 3. Limited Employers' Liability

We will pay **damages** which are not compensable under worker's compensation or similar laws an **insured** is legally obligated to pay as a result of **bodily injury** to **private staff**. We will provide this coverage in excess of any **underlying insurance** or the minimum required underlying limits, whichever is greater.

## B. Excess Supplementary Uninsured and Underinsured Motorists Coverage

This coverage is only in effect if a coverage limit is shown for Excess Supplementary Uninsured / Underinsured Motorists on your Declarations.

We will pay **damages** for **bodily injury** an **insured** is legally entitled to receive from the owner or operator of an uninsured or underinsured **auto**. We will only pay those **damages** in excess of the **underlying insurance** or the minimum required underlying limits, whichever is greater. The most we will pay as a result of an **occurrence** is the coverage limit for Excess Supplementary Uninsured / Underinsured Motorists shown



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on your Declarations. This limit is the most we will pay, regardless of the number of claims, vehicles or people involved in the **occurrence**, or vehicles you own.

This coverage only applies for an **occurrence** during the policy period. This coverage will **follow form**.

## C. Limited Employment Practices Liability Coverage

This coverage is only in effect if a limit is shown for Limited Employment Practices Liability on your Declarations.

We will pay **damages** you or a **family member** are legally obligated to pay to **private staff** as a result of a covered **wrongful employment act** that occurs during the policy period. This coverage applies only if the number of **private staff** you employ at the start of the policy period is not more than five (5).

All continuous, repeated or related **wrongful employment acts** will be treated as a single **wrongful employment act** occurring at the time of the first **wrongful employment act**.

The most we will pay is the coverage limit for Limited Employment Practices Liability shown on your Declarations. This limit is the most we will pay regardless of the number of **occurrences** during the policy period. Each and every payment we make under this coverage during the policy period will reduce the amount of coverage available for future claims.

## D. Defense Coverage

### 1. Defense Coverage and Claims Expenses

We will provide a defense against any claim made or suit brought against an **insured** for **damages** covered by this policy and where;

- a) The **underlying insurance** has been exhausted by payment of claims;
- b) No **underlying insurance** is required; or
- c) The required **underlying insurance** does not apply.

We will provide a defense even if the suit is groundless, false or fraudulent.

You may choose counsel from a panel of firms that we have selected. We reserve the right to assign counsel if a panel has not been selected in the jurisdiction where the suit is brought or the claim is made. We may investigate, negotiate and settle any claim or suit at our discretion.





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In addition, we will pay:

- a) Expenses we incur and costs taxed against an **insured** in any suit we defend;
- b) Reasonable expenses incurred by an **insured** at our request. This includes actual loss of earnings, but not loss of other income. We will pay up to \$10,000 for assisting us in the investigation or defense of a claim or suit;
- c) The expenses related to bail bonds required of an **insured** due to a covered loss;
- d) Premiums on bonds required in a suit we defend, but not for bond amounts to the extent that they exceed our coverage limit. We need not apply for or furnish any bond;
- e) All expenses we incur;
- f) Interest on our share of the judgment. We will pay the interest which accrues after entry of the judgment and before we pay our share of the judgment. This only applies to the extent the judgment does not exceed the coverage limit that applies;
- g) All prejudgment interest awarded against an **insured** that we pay or offer to pay. We will not pay any prejudgment interest for that period of time after we make an offer to pay the amount of coverage.

Our duty to defend any **insured** against any claim or suit ends when the amount we pay for **damages** in judgment or settlements resulting from the **occurrence** equals the coverage limit shown on your Declarations.

Payments under this Defense Coverage and Claim Expense provision, except a settlement payment, are in addition to the limit shown on your Declarations.

We have the right, but not the duty, to:

- a) Defend any **insured** against any suit seeking **damages** for excess liability covered under this policy and also covered by the **underlying insurance**; and
- b) Participate, at our expense, with the **insured** or insurer of any underlying policy in the investigation, defense or settlement of any claim. We will not contribute to any costs and expenses incurred by underlying insurer which they are obligated to pay.



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## E. Limits of Liability

### 1. Excess Liability Coverage

The most we will pay for all **damages** resulting from one **occurrence** is the coverage limit for Excess Liability shown on your Declarations. This limit is the most we will pay regardless of the number of **insureds**, claims made, persons injured or vehicles involved in the **occurrence**.

### 2. Excess Supplementary Uninsured/Underinsured Motorist Coverage

The most we will pay for all **damages** resulting from one **occurrence** is the coverage limit for Excess Supplementary Uninsured/Underinsured Motorist Coverage shown on your Declarations. This limit is the most we will pay regardless of the number of **insureds**, claims made, persons injured or vehicles involved in the **occurrence**.

No one will be entitled to a duplicate payment for the same elements of a loss. This applies to this coverage and any other part of this policy. This includes no-fault coverage and **auto** medical payments.

We will not pay any part of a loss when a person is entitled to payment for the same part of the loss under Workers' Compensation law or any other similar disability law.

### 3. Limited Employment Practices Liability

The most we will pay for all covered **damages** that occur during the policy period is the coverage limit for Limited Employment Practices Liability shown on your Declarations. This limit is the most we will pay regardless of the number of **wrongful employment acts**. Each and every payment we make during the policy period will reduce the coverage limit. In no event will we pay more than the annual aggregate. This is regardless of how many claims are made or people are involved.

This coverage is subject to a \$10,000 **deductible** per **occurrence**. This **deductible** does not reduce the policy limits available. Our right to investigate and negotiate a claim or suit and your duty to let us know of any claim or suit apply regardless of the application of the **Deductible**.

## III – EXCLUSIONS

### A. General Exclusions

We will not provide coverage for **damages**, defense costs or any other costs or expenses:



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## 1. **Aircraft**

Arising out of the:

- a) Ownership;
- b) Maintenance;
- c) Operation;
- d) Use;
- e) Loading;
- f) Unloading; or
- g) Towing;

of any **aircraft**.

## 2. **Assessments**

Arising from any assessment charged against an **insured** as a member of an:

- a) Association;
- b) Corporation; or
- c) Community

of property owners.

## 3. **Motorized Land Vehicles**

Arising out of the ownership, maintenance, loading or unloading of:

- a) Any motorized land vehicle other than an **auto** or **recreational motor vehicle**; or
- b) Any **auto** or **recreational motor vehicle** not covered by **underlying insurance**.

This exclusion does not apply to coverage provided under Additional Coverage, Rented or Borrowed **Autos**.

## 4. **Auto Services**

Arising out of the use of an **auto** by any **insured** while employed or engaged in the **business** of: selling; repairing; servicing; storing; parking; testing or delivering **autos**.

## 5. **Business**

Arising out of or in connection with an **insured's business** property or **business** pursuits. However, this exclusion does not apply to:

- a) **Incidental business** property or **incidental business** pursuits; or



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- b) **Personal injury** or **property damage** arising out of the physical condition of a location listed on your Declarations when **business** or professional activities are legally conducted by any **insured** at that location; and:
  - 1) There are no employees conducting **business** activities at that location who are subject to workers' compensation or other similar disability laws;
  - 2) You are not a home day care provider; and
  - 3) There is no other valid collectible insurance.
- 6. **Claims Settled Without Our Consent**  
Any claim settled with a third party without our written consent. This applies regardless of the cause of loss, or any related expenses such as:
  - a) Court costs;
  - b) Legal expense; or
  - c) Judgment.
- 7. **Communicable Disease**  
Arising out of the transmission of a communicable disease by an **insured**.
- 8. **Contracts or Agreement**  
Arising from any contract or agreement entered into by an **insured**. However, this exclusion does not apply to any contracts:
  - a) That directly relate to the ownership, maintenance, or use of a location listed on your Declarations; or
  - b) Where the liability of others is assumed by you prior to an **occurrence**.
- 9. **Controlled Substance(s)**  
Arising out of the
  - a) Use;
  - b) Sale;
  - c) Manufacture;
  - d) Delivery; or
  - e) Transfer or possession

by any person of a controlled substance as defined under federal law.

Controlled substances include but are not limited to cocaine, LSD, marijuana, and all narcotic drugs. This exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

- 10. **Damage to Insured's Property**  
For **property damage** to property owned by an **insured**.



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## 11. Director's Errors or Omissions

Arising out of an **insured's** actions, errors or omissions as a director or officer of any corporation or organization. This exclusion does not apply to **personal injury** or **property damage** arising out of an **insured's** non-compensated activities;

- a) For a Condominium or Cooperative Association; or
- b) For a not for profit corporation or organization.

## 12. Expected or Intended Injury

Resulting from any criminal; willful; intentional; or malicious act or omission by any **insured**. We will not cover any loss resulting from acts or omissions of any person which are intended to result in, or would be expected by a reasonable person to cause **personal injury** or **property damage**. This exclusion applies even if the injury or damage is of a different kind or degree, or is sustained by a different person than expected or intended. This exclusion does not apply to **bodily injury** if the **insured** acted with reasonable force to protect any person or property.

## 13. Fuel Leakage

Arising from the escape of fuel from a fuel system. A fuel system includes any combination of containers; tanks; pipes; hoses; or pumps used to store or dispense fuel for any purpose.

## 14. Insured

For **personal injury** to you or an **insured** under this policy. This exclusion does not apply to coverage provided under Excess Supplementary Uninsured/Underinsured Motorist Coverage, if a limit for this coverage is shown on your Declarations.

## 15. Nuclear

For **personal injury** for which an **insured** under this policy:

- a) Is also an insured under a nuclear energy liability policy issued by the:
  - 1) Nuclear Energy Liability Insurance Association;
  - 2) Mutual Atomic Energy Liability Underwriters; or
  - 3) Nuclear Insurance Association of Canada;

or any of their successors; or

- b) Would be an insured under that policy but for the exhaustion of its limit of liability.

## 16. Pollution

Arising directly or indirectly out of any:



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- a) Actual, alleged or threatened existence, discharge, dispersal, seepage, migration, release or escape of **pollutants**;
- b) Request, demand, order or statutory or regulatory requirement that any **insured** or others test for, monitor, clean up, remove or in any way respond to, or assess the effects of **pollutants**; or
- c) Claim or suit by or on behalf of a government authority for **damages** because of testing for, monitoring, cleaning up, removing or in any way responding to or assessing the effects of **pollutants**.

The intent and effect of this exclusion is to exclude any coverage in any way arising out of or by **pollutants**. The exclusion applies however such occurs.

This exclusion does not apply to;

- a) Heat, smoke or fumes from a fire which becomes uncontrollable or breaks out;
- b) Fuels, lubricants, fluids, exhaust gases or similar **pollutants** which;
  - 1) Are needed for, or result from, the normal functioning of any **auto** covered by **underlying insurance**; and
  - 2) Escape or released directly from an **auto** part. The **auto** part must be designed by its manufacturer to hold, receive, or dispose of such **pollutants**; or
- c) **Pollutants** not in or upon any **auto** covered by **underlying insurance** if:
  - 1) The **pollutants** or any property in which the **pollutants** are contained are upset, overturned or damaged. This must be as a result of the maintenance or use of any **auto** covered by **underlying insurance**; and
  - 2) The discharge or escape of the **pollutants** is caused directly by such upset.

## 17. Professional Services

Arising out of the rendering of or failure to render professional services.

## 18. Property in Your Care

For **property damage** to property in the custody, care or control of an **insured**. This exclusion does not apply to **property damage**:

- a) Caused by fire, smoke or explosion; or
- b) To a residence that you rent to live in.

## 19. Racing



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Arising out of the use by an **insured** of any **auto, recreational motor vehicle, or watercraft** while being operated in, or practicing for:

- a) Any prearranged or organized race;
- b) Speed contest; or
- c) Other similar competition.

This exclusion does not apply to sailboats.

## 20. Uninsured/Underinsured Motorists

For any claim for uninsured/underinsured motorists coverage or no fault insurance benefits. This exclusion does not apply if a limit is shown for Excess Supplementary Uninsured / Underinsured Motorist Protection on your Declarations.

## 21. War

Caused directly or indirectly by war, including the following and any consequence of the following:

- a) Undeclared war, civil war, insurrection, rebellion or revolution;
- b) Warlike acts by military forces or military personnel; or
- c) Destruction, seizure or use of property for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act, even if accidental.

## 22. Watercraft

Arising out of the ownership, maintenance, operation, use, loading or unloading, or towing of any **watercraft**:

- a) That is over 26 feet in length or has more than 50 horsepower and is owned by, furnished or rented to an **insured** for more than 45 days and is not listed on the Declarations; or
- b) Used for any **business** or commercial purpose.

## 23. Workers Compensation or Disability

For any **damages** or benefits an **insured** is legally obligated to provide under any:

- a) Workers' compensation;
- b) Disability benefits;
- c) Jones Act or General Maritime Law;
- d) Unemployment compensation; or
- e) Occupational disease;

Law.

## 24. Punitive Damages



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We will not cover any:

- a) Fines;
- b) Penalties;
- c) Punitive;
- d) Exemplary; or
- e) Multiplied **damages**.

## **B. Exclusions Specific to Excess Liability**

We will not provide coverage for **damages**, defense costs or any other costs or expenses:

1. **Wrongful Employment Acts**  
Arising out of any **wrongful employment act**.
2. **Discrimination**  
Arising out of actual, alleged or threatened **discrimination**.
3. **Sexual Misconduct**  
Arising out of actual, alleged or threatened:
  - a) Sexual molestation;
  - b) Corporal punishment; or
  - c) Sexual, physical or mental abuse.

## **C. Exclusions Specific to Employment Practices Liability**

We will not provide coverage for **damages**, defense costs or any other costs or expenses:

1. **Property Damage or Bodily Injury**  
Arising out of **Property Damage** or **Bodily Injury**.
2. **Uninsurable Losses**  
For any matter deemed uninsurable by any law of the United States.
3. **Breach of an Employment Contract**  
Arising out of a **wrongful employment act** where the **insured** is required to pay **damages** due to an express, written, implied, or oral agreement of employment.
4. **Non-Monetary Relief**  
Arising out of any claim or suit, or part of any claim or suit, seeking non-monetary relief. This includes but is not limited to:





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- a) Injunctive or declaratory relief;
- b) Disgorgement;
- c) Job reinstatement; or
- d) Other equitable remedies.

## 5. Violations of Laws Applicable to Employers

Arising out of a breach of any of the obligations or duties imposed by the following:

- a) Employment Retirement Income Security Act of 1974;
- b) Fair Labor Standards Act (except the Equal Pay Act);
- c) Workers' Adjustment and Retraining Notification Act;
- d) National Labor Relations Act;
- e) Consolidated Omnibus Budget Reconciliation Act;
- f) Occupational Safety and Health Act;
- g) Immigration Reform & Control Act of 1986; or
- h) Any laws disseminated from any of the above, and their amendments or any similar terms of any law of the United States.

## 6. Social Security Benefits

Arising out of any duty under the Social Security Act. This includes, but is not limited to, any claim for lost or lessened Social Security benefits. This also includes changes to that law, or any other similar law.

## IV – UNDERLYING INSURANCE

### A. Required Underlying Insurance

1. It is a condition of this policy that you and your **family members** maintain primary **underlying insurance** in full effect for the Minimum Required Underlying Limits shown on your Declarations covering:
  - a) You and your **family members** personal liability for **personal injury** or **property damage**; and
  - b) Liability for **Bodily injury** or **property damage** arising from all vehicles and **watercraft** you or a **family member** own or rent, lease or have furnished for use for longer than 45 days.
2. We will not be liable under this policy for more than we would have been liable if the required **underlying insurance** was in effect if:
  - a) You or a **family member** fail to maintain the required **underlying insurance**;
  - b) You or a **family member** fail to meet your contractual responsibilities under the required **underlying insurance**; or
  - c) The underlying insurer is bankrupt, insolvent or in receivership.



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When an **occurrence** involving an **auto** or **watercraft** is covered by this policy and not covered by an **underlying** policy, this policy will **follow form** and step down as primary coverage. We will proceed as though the **underlying insurance** was sold by us.

## V – DUTIES AFTER A LOSS

- A.** In case of an **occurrence** or **wrongful employment act** likely to involve the insurance under this policy, the **insured** or someone acting for the **insured** must give written notice to us or any of our agents in this state as soon as reasonably possible. Any written notice given by any claimant to us or any of our agents in this state, containing particulars sufficient to identify the **insured**, will be deemed notice to us. We have no duty to provide coverage under this policy if your failure to comply with the following duties is prejudicial to us, except as provided in Paragraph **E**. You will help us by seeing that these duties are performed.
- B.** Such notice in Paragraph **A**. shall set forth:
1. The identity of the policy and named **insured** shown in the Declarations;
  2. Reasonably available information about the time, place and circumstances of the **occurrence** or **wrongful employment act**; and
  3. The names and addresses of any claimants and witnesses.
- C.** If a claim is made or a suit is brought against an **insured**, the **insured** or someone acting for the **insured** must:
1. Notify us or any of our agents in this state in writing as soon as reasonably possible;
  2. Cooperate with us in the investigation, settlement or defense of any claim or suit;
  3. Forward to us every notice, demand, summons or other process relating to the **occurrence** or **wrongful employment act** as soon as reasonably possible;
  4. At our request, help us:
    - a. To make settlement;
    - b. To enforce any right of contribution or indemnity against any person or organization who may be liable to an **insured**;
    - c. With the conduct of suits and attend hearings and trials; and
    - d. To secure and give evidence and obtain the attendance of witnesses.
- D.** Any voluntarily made payment or assumption of duty or expense by the **insured** will be at the **insured's** own cost. This does not apply to first aid to others at the time of an **occurrence**.
- E.** Failure to give notice to us as required under this policy within the time specified shall not invalidate any claim made by the **insured**, injured person or any other claimant, unless the



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failure to provide timely notice has prejudiced us. However, no claim made by the **insured**, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

## VI – GENERAL PROVISIONS

### A. Policy Period and Territory

The policy period is listed on your Declarations. This policy applies only to an **occurrence** or **wrongful employment act** which takes place during the policy period. The policy territory is anywhere in the world, unless otherwise limited by this policy. A **wrongful employment act** taking place anywhere in the world is only covered if the claim is made and a suit is brought in the United States, its territories or possessions.

### B. Suit Against Us.

1. No legal action may be brought against us;
  - a) Unless there has been full compliance with all the terms of this policy; and
  - b) Until the obligation of the **insured** has been determined by final judgment or agreement signed by us.
2. No person or organization has any right under this policy to join us as a party to any legal action against an **insured**.
3. We will not be liable for the **insured**'s share of any payment due because of a settlement or judgment for which the **insured** is responsible under any **deductible** provision. If we make any such payment, we will seek reimbursement the **insured**.
4. With respect to **personal injury** claims, if we deny coverage or do not admit liability because an **insured**, the injured person, someone acting for the injured person or other claimant fails to give us or any of our agents in this state notice as soon as reasonably possible, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial or non-admission of liability is based on the failure to provide notice as soon as reasonably possible.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after we deny coverage or do not admit liability, we or an **insured**:

- a) Brings an action to declare the rights of the parties under the policy; and



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- b) Names the injured person, someone acting for the injured person or other claimant as a party to the action.
- 5. If we fail to pay damages for **personal injury** or **property damage** for which an **insured** is legally liable due to an **occurrence** within 30 days from the date notice of entry of judgment is served on the **insured** or the **insured's** attorney and us, then an action may be maintained against us for the amount of judgment, up to the limit of liability shown in the Declarations of this policy.

## C. Excess Supplementary Uninsured/Underinsured Motorists Coverage Arbitration

Either party may demand arbitration if we and an **insured** do not agree;

- 1. Whether an **insured** is legally entitled to recover **damages**; or
- 2. As to the amount of **damages** which are recoverable by that **insured**; from the owner or operator of an uninsured or underinsured **auto**. The demand must be in writing.

Both parties must agree to arbitration. Each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request a selection be made by a judge of a court of the jurisdiction. Each party will pay the expenses it incurs. Each party will equally bear the expenses of the third arbitrator.

Arbitration will take place in the county that the **insured** lives unless both parties agree otherwise. Local laws as to procedure and evidence will apply. A decision agreed to by two arbitrators will be binding as to:

- 1. Whether the **insured** is legally entitled to recover **damages**; and
- 2. The amount of **damages**.

The most we will pay is the coverage limit for Excess Supplementary Uninsured/Underinsured Limit shown on the Declarations.

Disputes concerning coverage under the Excess Supplementary Uninsured / Underinsured Motorist provision may not be arbitrated.

This provision supersedes any arbitration provision in any **underlying insurance** policy.

## D. Appeals

If the **insured** or any insurer providing **underlying insurance** does not appeal a judgment which is more than the amount that would require payment by this policy, we may do so. We will pay all costs of the appeal at our own expense. Amounts we pay will be in addition to our limits of liability.



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## E. Recovery

If the **insured** has rights to recover all or part of any payment we made under this policy, those rights are transferred to us. The **insured** must do nothing to impair such rights. At our request, the **insured** will bring suit or transfer those rights to us and help us enforce them.

## F. Assignment

Assignment of this policy will not be valid unless we give our written consent.

## G. Waiver or Change of Policy Provisions

This policy contains all the agreements between you and us. Its terms may only be changed or waived by a written endorsement we issue. If a change results in a premium change, we will adjust the premium as of the date the change to the policy was made.

## H. Conformity to Law

If any part of this policy conflicts with state or local law, this policy is amended to conform to those laws.

## I. Concealment or Fraud

We do not provide coverage to an **insured** who, whether before or after a loss, has:

1. Intentionally concealed or misrepresented any material fact or circumstance;
2. Engaged in fraudulent conduct; or
3. Made false statements relating to this insurance.

## J. Liberalization

If we make a change which broadens coverage under this edition of the policy without premium charge, we will apply the change to your policy as of the date we made the change.

## K. Disclosure of Operators

You must inform us of every **family member** who is licensed to operate an **auto** or who operates a **watercraft** or **recreational motor vehicle**. If a **family member** becomes licensed or first operates a **watercraft** or **recreational motor vehicle** during the policy term you must inform us within 365 days. Your failure to disclose all operators during the required period may result in cancellation of this policy.

## L. Bankruptcy

Bankruptcy or insolvency of an **insured** will not relieve us of our duties under this policy.

## M. Death of an Insured



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In the event of the death of an **insured**, this policy will cover the legal representative of the deceased for the remainder of the Policy Period unless cancelled. We will cover the legal representative of the deceased only with respect to personal excess liability of the deceased covered under this policy at the time of death.

## **N. Other Valid and Collectible Insurance**

This policy is excess over any other valid and collectible insurance, except when the coverage is specifically written to apply in excess of the coverages provided by this policy.

## **O. Transfer of Control**

You may take over control of any outstanding claim or suit previously reported to us only if we both agree that you should, or if a court orders you to do so. If your limits are exhausted, we will notify you of all outstanding claims or suits so that you can take over control of the defense. We will help transfer control to you. We shall take whatever steps are necessary to continue the defense of any outstanding claim, and avoid a default judgment during the transfer of control to you. If we do so, we shall not waive or give up any of our rights. You shall pay all reasonable expense we incur for taking such steps after the limits have been exhausted.

## **P. Cancellation**

1. You may cancel this policy by mailing us notice. Let us know in writing of the date of the cancellation. Any premium refund will be computed pro rata.
2. We may cancel the entire policy only for the reasons stated in this condition. The cancellation notice will be mailed to you at the address shown in the Declarations. Proof of mailing will be sufficient proof of notice.
  - a) When you have not paid the premium, we may cancel the entire policy at any time by mailing to you at least 15 days notice of cancellation.
  - b) When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel the entire policy for any reason by letting you know at least 30 days before the date of cancellation takes place.
  - c) When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel the entire policy only for one or more of the following reasons by notifying the **insured** at least 30 days prior to the proposed cancellation date:
    - 1) Conviction of a crime arising out of acts increasing the hazard insured against;
    - 2) Discovery of fraud or material misrepresentation in obtaining the policy or in the presentation of a claim thereunder;
    - 3) Discovery of willful or reckless acts or omissions increasing the hazard insured against;
    - 4) Physical changes in the property insured occurring after issuance or last annual anniversary date of the policy which result in the property becoming uninsurable in accordance with our objective, uniformly applied underwriting



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standards in effect at the time the policy was issued or last voluntarily renewed;  
or

- 5) A determination by the Superintendent of Insurance that the continuation of the policy would violate or would place us in violation of the New York Insurance Law.

If one of the reasons listed in this Paragraph c) exists, we may cancel the entire policy.

- d) If we have the right to cancel, we may, instead of canceling this policy, amend the limits of liability or reduce coverage not required by law. If we take this action, we will notify you by mail at least 20 days prior to the date of such change.

Delivery of such written notice by us to the **insured** at the mailing address shown in the Declarations or at a forwarding address will be equivalent to mailing.

3. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.
4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it within a reasonable time after the date cancellation takes effect.

## Q. Non-Renewal

We will not refuse to renew or condition our renewal of this policy except as allowed by the laws of the State of New York. The conditions may include, but are not limited to, amending the limits of liability or reducing coverage not required by law. If we take this action, we will notify you by mail at least 45 days, but not more than 60 days, prior to the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

Delivery of such written notice by us to the **insured** at the mailing address shown in the Declarations or at a forwarding address will be equivalent to mailing.



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## **Privilege Underwriters Reciprocal Exchange**

In witness whereof, we have caused this policy to be executed and attested. If required by state law this policy will not be valid unless countersigned by our authorized representative.

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Attorney-in-fact

DRAFT





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## CONTACT INFORMATION

If you would like to obtain information about your coverage or if you need assistance in resolving an issue relating to your insurance policies with us, please contact us at:

Privilege Underwriters Reciprocal Exchange  
800 Corporate Dr., Suite 420  
Fort Lauderdale, FL 33334  
888-813-7873

Please include your name and policy number in any correspondence.

DRAFT