Personal Umbrella Liability Insurance

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Personal Umbrella Liability Insurance

Introduction

A huge liability loss can strike an insured at any time, in a variety of ways. Large liability losses can impose serious financial hardship on an insured.

Personal umbrella liability insurance provides individuals and families with high limits of liability protection, which is excess over any personal, automobile and other liability insurance. Personal umbrella coverage is designed to cover damages arising out of activities of a personal or family nature, as distinguished from business and professional activities. Commercial umbrellas are available to handle their business and professional exposures.

Features and Provisions

Umbrella insurance is also called "excess" insurance because the coverage is not usually triggered until the protection provided by an auto, home or other policy is exhausted. In addition to their excess feature, however, personal umbrella policies have broad insuring agreements that extend to claims not covered by underlying liability insurance, in which case the umbrella policy responds to the loss on a primary basis.

The personal umbrella policy is activated once the underlying limits of the primary policy are exhausted. The umbrella policy also provides broader protection, subject to a specified deductible, when the primary policy is narrower than the umbrella policy. The umbrella policy pays only if the insured is legally responsible for damages due to an agreed settlement or a judgment. The only exception applies to a covered uninsured/underinsured motorist's loss, which only a few umbrella policies cover.

The insured is covered for "personal injury" liability (broader in scope than "bodily injury") and for damage to property belonging to others. Personal Umbrella Liability insurance is written with a minimum limit of liability of $1 million and higher limits are available. Payments for occurrences not covered by the insured's primary insurance are subject to a Self-Insured Retention (SIR) ranging between $250 and $10,000 which represent an out-of-pocket expense for the insured.
Personal umbrella policies have not been standardized to the extent of homeowners and personal auto policies. Because of the number of programs filed, considerable differences often exist between one personal umbrella policy and another. This section describes the usual and typical provisions that may be found in a personal umbrella policy. It is very important for the agent to review each contract for its differences.

Until recently, there was no standard form for personal umbrella liability insurance. Insurance Services Office (ISO) has now developed one, but because most companies offering this line have already filed their own forms, ISO will not be filing it on behalf of its member companies. Member companies can decide whether or not to adopt the form, and set their own underlying limits, deductibles, retention amounts, and coverage limits.

ISO developed its form referred to as the PUP (Personal Umbrella Policy) to complement its homeowners and personal auto programs. Most insurers already have their own personal umbrella forms and now have an option to adopt ISO’s form, or continue using their own forms.

**PURPOSE**

The personal umbrella liability policy provides high limits of liability to protect an insured against a catastrophic liability loss. The policy covers bodily injury, property damage, and personal injury, including libel, slander, false arrest, invasion of privacy, and others. It provides liability coverage on top of the primary liability coverage provided by the insured's homeowners, personal auto, watercraft, and other scheduled underlying liability policies. The umbrella policy also provides some coverage over a specified deductible (called a retained limit) for claims not covered by the underlying policies.

Professional liability insurance is almost never included under a personal umbrella policy. Many companies have restricted the professional categories for which they will write the coverage and others have eliminated this coverage altogether.

Personal umbrella policies are growing in popularity. In the past, only wealthy individuals and families purchased this coverage. Today, many middle-income families also purchase this protection. As the tendency to sue for damages rises and awards granted by the courts grow, the personal umbrella policy is increasingly seen as an insurance necessity.

While the concept of umbrella coverage has always been to handle catastrophic exposures, such as the "deep pocket" liability exposures of wealthy individuals and those in high profile professions such as entertainers, doctors, lawyers, politicians and professional athletes, umbrellas are now a common response to the growth in the number of lawsuits and the trend of higher jury awards.

Persons with very high incomes are not the only ones who should carry umbrella insurance. Traditionally, executives, management people, professionals and recognized community leaders would rank high on a list of those especially vulnerable to high dollar lawsuits. It is also becoming increasingly common for individuals and families to suffer catastrophic liability losses from the following exposures:

- Automobiles
- Travel activities
- Seasonal and rental property
- Involvement in civic affairs
- Boating accidents
- Libel and slander

The above factors combine to represent a widespread need for umbrella policies.

Many insurance agents and financial planners recommend personal umbrella policies for people who have certain characteristics or engage in certain activities such as those who:

- Have total assets greater than underlying liability limits.
- Are financially responsible for the actions of a young, inexperienced driver.
- Perform extensive volunteer work for nonprofit organizations.
- Live in a high profile neighborhood.
- Have a high profile career or high income.
- Frequently host guests on the property.
- Have a swimming pool on the residence.
- Own waterfront property, a farm, or a ranch.
- Own a watercraft or aircraft.
- Own one or more rental properties.
- Engage in extensive travel.

**Tailoring The Personal Umbrellas Liability Policy To Restrict, Broaden, Or Clarify Coverage**

Because of the nature of the Personal Umbrella Liability Policy, in many instances adding wording or eliminating exclusions in underlying policies may modify coverage under the umbrella policy. Since much of the need to modify coverage may be initiated by endorsing underlying coverage, options for direct changes to the umbrella are fairly limited. There are options to eliminate coverage for indicated persons, vehicles or crafts. An insurer also has the ability to convert the umbrella policy to, basically, an extension of existing coverage by use of a "following form" endorsement.

**Scrutiny of Underlying Endorsements**

An agent must look carefully at the underlying coverage, especially if the umbrella carrier is different from the carrier writing the underlying coverage. It is prudent to request a copy of the underlying policies to obtain full details regarding any endorsements attached to the policies. After determining what coverage is granted by the underlying policies, the agent should recommend umbrella or excess coverage over the underlying policies as necessary for each individual client’s situation.

**LIMIT OF INSURANCE**

The most the insurer will pay, for the total of all damages that results from any one covered accident, is the Limit Of Insurance shown in the declarations. This limit is the maximum amount of coverage available, no matter how many insureds are shown, how many vehicles/crafts,
properties or persons are covered, how many claimants are involved in the accident, the premium paid, or the number of claims made.

Personal umbrella liability insurance provides liability insurance protection over and above that available through typical auto, home, and watercraft policies. This additional liability coverage is usually available in multiples of $1 million, from $1 million up to $10 million. Such high limits are especially important due to extreme jury awards.

The proper limit of liability an insured should carry is difficult to determine since the umbrella limit is designed for catastrophic loss protection. It should, however, bear some relationship to an insured's net worth and future earnings.

**THE UMBRELLA DEDUCTIBLE**

Umbrella policies usually contain the following, or similar, terminology:

- Deductibles
- Retained limit(s)
- Self-insured retention

These terms all refer to the point at which coverage starts under the umbrella policy. There are two specific situations in which the umbrella responds to claims: when underlying coverage applies, and when the umbrella provides protection on a primary basis.

**Claims With Underlying Coverage**

In most cases when an insured files a claim, the claim involves personal liability coverage under the primary auto, watercraft, or homeowners policies, which contain their own limit of insurance. The coverage under these polices can be considered as retained limits since their limits must be exceeded before the umbrella policy is required to fulfill any obligation. Once they have paid their full limit, then the umbrella coverage comes into play.

**Claims Without Underlying Coverage**

When an eligible claim that is not covered by underlying insurance occurs, the umbrella policy responds to the loss on a primary basis. The umbrella policy requires that any payment made on these type of claims under the personal umbrella policy is subject to a specified Self-Insured Retention (SIR). Umbrella claims that involve the application of a SIR are situations not covered by primary insurance, but eligible for umbrella coverage, for example worldwide auto coverage, or personal injury coverage. Once the claim exceeds the SIR, the umbrella coverage responds.

**SELF-INSURED RETENTION**

Most companies require a minimum retention or deductible of $250 per occurrence for claims not covered by underlying policies, except where modified by state law.
UNDERLYING INSURANCE REQUIREMENTS

A schedule of primary insurance is made a part of the umbrella contract. Underlying insurance for the limits specified in the declarations must be maintained during the term of the umbrella insurance. This includes Automobile and Comprehensive Personal Liability, Watercraft, Owned Recreational Vehicle, and Professional Liability insurance.

Underlying limits required by insurers vary somewhat. The minimum required limits may be expressed as split limits or as combined single limits and vary by insurance carrier.

If the insured fails to maintain this underlying coverage, the umbrella insurer is not liable for more than it would have been if the underlying insurance were in effect. The following underlying limits are typically required.

- **Personal auto policy:** $300,000/300,000 bodily injury and $100,000 property damage or $325,000 combined single limits. This is often increased to $500,000 bodily injury if there are drivers under age 21 in the household. Some insurers require $250,000/500,000 or $500,000 combined single limits.

- **Homeowners:** $300,000 for personal liability and $50,000 for liability loss assessment on the HO 6 (Unit-Owners Form); some insurers require only $100,000 for personal liability

- **Employers liability:** underlying limits usually range from $100,000 to $300,000, and underlying liability insurance for business exposures varies according to the type of coverage offered by the insurer.

  Some insurers will provide excess coverage over certain classes of commercial exposures (such as rental property) in which case underlying limits of $100/300/50,000 or $300/300/50,000 may be required. Other insurers will cover only incidental business as covered under an underlying homeowners policy.

- **Watercraft liability:** $300,000 to $500,000 depending on the length and horsepower of the boat

- **Recreational vehicles:** $300,000/$300,000 for bodily injury and $25,000 to $100,000 for property damage, depending on the type of vehicle; $325,000 for combined single limits

- **Rental properties:** $300,000 liability coverage

- **Certain exposures that the underlying policy does not cover:** $250 retention; in some cases, the retention is $1,000, based on the jurisdiction

When the named insured carries higher limits than the minimum, he or she usually receives a premium credit on the umbrella policy. Some umbrella insurers provide excess coverage for uninsured/underinsured motorists (UM/UIM) coverage in certain states. The insurer usually requires UM underlying limits comparable to those required on the personal auto policy.
**Functions of a Personal Umbrella Policy**

A personal umbrella policy is generally designed to fulfill two basic functions:

1. To extend the limits of the primary (underlying) liability policies.
2. To afford broader coverage (in some areas) than primary policies provide, subject to a retention amount.

When umbrella policies were first introduced, it was common to structure the limits of liability on the basis of the difference between the underlying limits and the stated umbrella limit. Virtually all umbrella policies today provide coverage on an "excess of the retained limit" basis, meaning the umbrella limit is in addition to the underlying limit.
"Umbrella" versus "Excess" Insurance

Unfortunately, insurers and consumers often use the terms "umbrella" and "excess" interchangeably. An "excess" policy, however, differs from an "umbrella" policy. An excess liability policy provides liability coverage above a specified amount of underlying coverage. The umbrella policy grants broad blanket excess liability coverage and applies to certain exposures not covered by underlying policies. An excess policy does not provide this extra coverage.

Just because one form is called "excess" and another "umbrella" does not necessarily mean the excess policy is more restrictive than the umbrella policy. Some insurers provide extremely broad underlying coverage so their "excess" form is as broad as or broader than some "umbrella" forms. This is especially true if the umbrella insurer also writes the primary policies.

Excess liability coverage is broader than the primary coverage in some areas and narrower in others. An example of broader coverage would be worldwide coverage territory; while an example of narrower coverage would be uninsured motorist coverage not covered on excess.

In the first diagram below, the excess coverage is narrower than the primary coverage. In the second diagram, straight excess coverage applies over the primary coverages, and covers whatever the primary insurance covers. The third diagram illustrates broader excess coverage in some areas and more restrictive coverage in other areas. The fourth diagram illustrates true umbrella coverage, which grants broader coverage than the primary.

**EXCESS AND UMBRELLA COVERAGE ILLUSTRATION**

- **Excess Narrower Than Primary**
  - Primary

- **Straight Excess**
  - Primary

- **Excess Broader In Some Coverages, Narrower In Others**
  - Primary

- **Umbrella**
  - Primary
In addition, some insurers offer excess policies that provide a liability layer on top of the standard personal umbrella policy. These are typically sold to individuals or families whose assets and/or future earnings are greater than the existing personal umbrella limits. These types of policies can extend total liability coverage up to $10 million, or perhaps more.

Excess policies are also occasionally used to fill the gap (gap layers) between the underlying and umbrella policies. For example, an insured with low liability limits on the PAP may be able to purchase an excess policy to bring the auto limits up to the point that the umbrella insurer will provide coverage.
Umbrella Insurance Pricing

There is no set or standard rating practice for personal umbrella policies, and rates vary considerably. Rating of personal umbrella coverage is difficult because there is often limited loss experience upon which to base an estimate of appropriate insurance cost.

The most common approach is to start with a basic charge that covers the exposures not insured by underlying policies and assuming one residence and one personal auto. Charges for any additional exposures are added to this. Companies use from one to four rating territories. Credits are usually allowed for higher underlying limits or for higher retentions. Increased limits factors are low. An insured with a $1 million umbrella can increase coverage to $2 million for a modest additional charge. Often a second million of coverage can be purchased for under $50.00.

For most insureds, premiums will generally range from $80 to $225 for the first $1 million layer of umbrella coverage. As the limits on the umbrella policy are increased, the premium for each successive layer decreases.

Premiums vary by company according to various factors such as:

- Personal umbrella limit
- Amount of underlying limits
- Number of insured properties
- Number of vehicles in the household
- Territory
- Optional endorsements.
- Age of drivers
- Driving records
- Uninsured/underinsured motorists coverage (where available)
- Watercraft—length and horsepower
- Recreational vehicles
- Location of primary residence
- Child care activities
- Business in the home

Some insurers add surcharges for households with young drivers, due to the higher risk. (Auto exposures account for the biggest portion of risk on the personal umbrella policy.) For boats, there is an additional premium, based on length and horsepower.
The territory or location of the exposure can affect the rate. Another factor concerns the number, type, and additional or reduced exposure of optional endorsements.

In general, the premium for a personal umbrella policy is relatively low and therefore a good purchase for most consumers. It generally costs less to buy a $1 million umbrella (gaining many additional benefits in the process) than to increase the liability limits of several underlying policies.

When selecting a personal umbrella liability policy, the primary consideration should be to cover as many of the insured's specific exposures as possible. The umbrella policy should, to the greatest extent possible, be free of exclusions that leave potential sources of liability uninsured. Since cost for umbrella policies is usually low, price should be of least importance.
THE PERSONAL UMBRELLA POLICY

This section provides an in-depth discussion of the personal umbrella policy, with a special emphasis on the differences between forms. It analyzes and compares the five major components (agreement, definitions, coverages, exclusions, and conditions) used in most personal umbrella forms. Representative language is shown from various policies. Following this section is a discussion of the ISO Personal Umbrella Form.

State-by-state provisions can vary since most jurisdictions regulate personal insurance closely including the personal umbrella policy, and again, producers are cautioned to closely review the policies they sell to determine if they meet the client's needs.

Structure of a Personal Umbrella Policy

Although variations among personal umbrella forms are common, the personal umbrella policy is generally structured on either a "stand alone" or a "following form" basis. A stand-alone form relies exclusively on its own policy terms, conditions, and exclusions, and is normally a longer form. A following form policy incorporates the terms, conditions, and exclusions of the underlying policies and therefore is usually shorter.

A typical umbrella policy following form provision reads as follows:

Except to the extent the insuring agreements, terms, definitions, conditions and exclusions of this policy differ, the coverage provided by this policy shall follow the insuring agreements, definitions, conditions and exclusions of the first underlying insurance policy as shown in the schedule of underlying policies.

Following form coverage assures that the excess policy follows the primary coverage with respect to insuring agreements, conditions, and exclusions. This is advantageous to the insured when primary coverage is broad. Nearly all personal umbrella policies, however, are stand-alone forms.

Personal umbrella policies usually include the following major components:

- Agreement
• Definitions
• Coverages
• Exclusions
• Conditions

Some policies separate the coverages into two distinct sections: the liability coverage section and the defense coverage section. Some insurers place the maintenance-of-underlying-insurance provision and the duties-after-a-loss provision in the conditions section, but others have separate sections for each. A provision found in the conditions section of one form may have its own section in another form.

Each of these sections will be analyzed in detail with samples of language from umbrella policies currently in use. Since the coverages and language of policies can vary, this analysis focuses primarily on the variations of wording in these forms.
The agreement section describes the consideration of the insurer and the named insured. Consideration refers to the value that each party to a contract provides to the other. The insurer provides payment for covered losses, including defense costs, and the named insured promises to pay the premium and comply with the policy terms, before and after a loss. Some umbrella forms also include the insurer’s reliance on the information the named insured provides as part of the insured’s consideration.

**UMBRELLA AGREEMENT PROVISIONS**

In return for payment of the premium and subject to all the terms of this policy, we agree with you as follows:

We will provide the insurance described in this policy, which includes the Declarations, relying on the facts the named insured has given us. In return, the named insured will pay the premium and comply with all policy provisions.

We agree to provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy. The limit of our liability and the premiums are shown in the Declarations, which becomes a part of this policy.

Some policies do not specify the consideration at the beginning of the form.

This part of your Policy provides you with liability coverage in excess of your underlying insurance anywhere in the world, unless stated otherwise or an exclusion applies.

The insuring agreement defines the scope of coverage to which the policy will respond. That scope will be narrowed in a number of other parts of the policy. Personal umbrella forms address two categories of liability: personal injury and property damage. Personal injury liability includes bodily injury, and non-bodily injuries (libel, slander, invasion of privacy, etc.) classified as personal injury, under the homeowners policy. Increasingly, however, umbrella insurers have adopted the terminology of underlying coverage, differentiating between bodily injury and personal injury in the same manner as underlying policies.
The insuring agreement is normally the portion of the form that grants coverage for an "occurrence" or an "offense." In many forms, "bodily injury" or "property damage" is categorized as an "occurrence" and "personal injury" is categorized as an "offense." The insuring agreement usually stipulates that the bodily injury or property damage must occur during the policy term.

In most forms, the insurer agrees to either pay-based-on-legal-obligation, or pay-on-behalf of the insured. An umbrella that is pay-based-on-legal-obligation implies there is no obligation to provide payment for damages until the insured is legally required to pay such damages. This means that insureds may be obligated to use their own funds for defense, damages, or for supplementary payments before the insurer becomes obligated to reimburse them.

It is unlikely, however, that the insured would have to provide these funds upfront. In most loss situations, the primary insurer provides the defense until its limits are exhausted, based on a settlement being reached or a judgment rendered. The umbrella then pays the amount in excess of the underlying limit. In the event that the umbrella form covers a loss that is subject only to the insured's retained limit, the insurer does not normally require the named insured to advance defense costs and expenses under pay-based-on-legal-obligation policies.

The pay-on-behalf insuring agreement contains an insuring agreement under the terms of which the insurer will pay on behalf of the insured all covered damages within the umbrella limits that the insured becomes obligated to pay. In practice, there is not a great deal of difference between the pay-based-on-legal-obligation and pay-on-behalf insuring agreements. However, pay-on-behalf insuring agreements may give the insurer stricter control over investigation, defense, and out-of-court settlements.

Some states require the umbrella policy to provide coverage on an indemnity basis, in order to give the insured greater control over his or her defense. Indemnity provisions are usually softened with wording that requires the insured's obligation to pay, rather than the actual payment of damages, to trigger indemnity. Under most indemnity contracts, therefore, insureds do not actually have to pay damages before reimbursement from the insurer; the insured must only be obligated to pay.

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**UMBRELLA INSURING AGREEMENTS**

**PAY-BASED-ON-LEGAL-OBLIGATION**

We will pay for damages an insured is legally obligated to pay in excess of:

a) the retained limit; plus,

b) any other liability insurance available to an insured which applies to an occurrence.
PAY-ON-BEHALF

We will pay on behalf of the insured * net loss in excess of the primary limit or the retained limit when no primary policy applies, because of bodily injury, personal injury or property damage to which this insurance applies, caused by an occurrence.

(The asterisk * footer on the policy states: "Where we may be prevented by law from paying on behalf the insured, the words "pay on behalf of the insured" are replaced by "'indemnify the insured for'.")

INDEMNIFY

We will indemnify the insured for the ultimate net loss in excess of the retained limit which the insured is legally obligated to pay as damages because of covered personal injury or property damage caused by an occurrence.

Ultimate Net Loss: all sums which an insured becomes legally obligated to pay as damages for personal injury or property damage by reason of a judgment or by an agreement made with the written consent of the insurer, as well as reasonable expenses which an insured incurs in the investigation, settlement and defense of any claim for such damages.

The term does not include:

- Expenses covered by a primary insurance policy,
- Wages of any insured's employees or
- Covered costs that are related to defense coverage, including expenses incurred by and at the request of the insurance company.

Some umbrella liability policies use the term "net loss" to define the sums payable under the policy, however, the meaning of "net loss" can vary significantly from one umbrella policy to another. The definition usually does not include the insured's claims-related expenses in its definition. Other policy provisions provide for the payment of such costs.

Most personal umbrella policies, however, do not use the term "net loss" in defining the subject of insurance. They simply promise to pay sums "in excess" of the retained limit, as defined, and describe the extent to which payment will be made for defense and other legal costs. Since the definition of "net loss" is almost always dependent on the context of numerous other policy provisions, it is difficult at times to determine the precise meaning of the term.
UMBRELLA DEFINITIONS OF AMOUNTS PAYABLE

Coverage L—Personal Liability. If you are legally obligated to pay damages for a loss, we will pay your net loss minus the retained limit. Our payment will not exceed the amount shown on the Declarations as Policy Limits—Coverage L—Personal Liability.

"net loss" means:

a. the amount you are legally obligated to pay as damages for personal injury or property damage; and

b. all reasonable expenses you incur in the investigation, settlement and defense of a claim or suit at our request. This does not include expenses covered by another policy, expenses we cover under the Defense and Settlement section of this policy, and salaries of your employees.

Insuring Agreement

We will pay damages, in excess of the "retained limit", for:

1. "Bodily injury" or "property damage" for which an "insured" becomes legally liable due to an "occurrence" to which this insurance applies; and

2. "Personal injury" for which an "insured" becomes legally liable due to one or more offenses listed under the definition of "personal injury" to which this insurance applies.
Definitions

Most personal umbrella forms, just prior to the body of definitions, stipulate that any words that are defined in the policy are bolded or placed in quotation marks. This facilitates the reading and understanding of the policy.

The definitions section of the personal umbrella policy is a critical part of the form. These definitions play a major role in determining what is and is not covered by the form. They help clarify the exact meaning of the terms, and reduce ambiguity. When interpreting provisions containing defined terms, it is important to review carefully not only the provision itself but also the definitions of the terms contained in the provision.

Although most personal umbrella policies have a separate definitions section, the number of defined terms can vary, and a few forms do not have a separate definitions section. Instead, definitions are provided in the section in which the term is used. This approach has advantages and disadvantages. It is easier to refer to the term if it is in the same section as the coverage provision, however, the term may be difficult to locate on its own.

Policy definitions have evolved over the years with the various revisions of the personal umbrella form. A particular definition in one edition of the policy may be quite different from one in another edition from one even with the same insurer.

Many umbrella forms of many insurers have adopted the terminology and definitions found in their underlying policies. This approach facilitates claims coordination between the underlying coverage and the umbrella coverage.

The following definitions are representative of those found in personal umbrella forms. The first two definitions are normally found at the beginning of the section. The remaining definitions usually follow in alphabetical order.

"You" and "Your" Definition

Many forms specify that "you" or "your" refer to the named insured listed in the declarations along with a resident spouse. Other forms however, state that "you" or "your" refer to any "insured", rather than just the named insured.

The named insured is the person who purchases the personal umbrella policy and he or she has broad rights and obligations, compared to a party that is simply considered an insured.
The following are requirements and rights of the named insured, as distinguished from those of an insured.

- Responsible for paying the premium
- Receives any premium return
- May cancel the policy
- Receives cancellation and non-renewal notice

"We," "Us," and "Our" Definition

The insurer providing coverage under the policy is referred to as "we," "us," and "our." Some policies refer to the insurer listed in the declarations. Other insurers refer directly to their company name.

**UMBRELLA "WE," "US," AND "OUR" DEFINITIONS**

"We", "us" and "our" refer to the Company listed in the Declarations.

"We," "us" and "our" mean the insurance company.

"Aircraft" Definition

This term is sometimes included in the definitions section of a personal umbrella policy, since most forms exclude losses from aircraft. The following is a representative definition from the form.

**Aircraft** — means any device used or designed for flight including self-propelled missiles and spacecraft, except model or hobby aircraft not used or designed to carry people or cargo.

A hang glider is considered an aircraft since it is designed to carry people, but a radio-controlled airplane is not, since it is a hobby aircraft not designed to carry people or property. Many forms include similar language, but some define it within the aircraft liability exclusion, rather than in the definitions section.

"Auto" Definition

Land motor vehicle, trailer or semitrailer; a farm tractor, trailer and implements, or a motorcycle. The term may or may not include recreational vehicles.
This definition is important, since auto accidents are the largest personal umbrella exposure. It may also include other vehicles not traditionally viewed as autos, such as trailers. Some forms also have a separate "recreational motor vehicle" definition.

<table>
<thead>
<tr>
<th><strong>&quot;Automobile&quot;</strong></th>
<th>means a land motor vehicle, trailer, or semi-trailer designed for use mainly on public roads. This does not include <strong>recreational motor vehicles</strong>, farm tractors, trailers or implements.</th>
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</table>

| **"auto"** means: | 1. a motor vehicle or trailer designed for travel on public roads; 2. a farm tractor, trailer or implement; or 3. a golf cart, snowmobile, moped or other land motor vehicle owned by any **insured** and designed for pleasure used, if covered by a **primary policy**. |

Most forms define auto, in part, as a private passenger motor vehicle, so a commercial-type truck is not included in this category. Umbrella protection for these vehicles is covered under a commercial umbrella policy.

| **"A private passenger motor vehicle motorcycle moped or motor home or while towed by a private passenger motor vehicle, a trailer, farm wagon or farm implement."** | The umbrella’s term "auto" also includes mopeds, motor homes and motorcycles, because of the need to provide coverage in excess of the underlying liability limits of more than just an auto policy. However, the umbrella’s definition of "auto" does not include a reference to pickup trucks or vans, but rather to the undefined term **private passenger motor vehicle**. |

Some forms define "motor vehicle" rather than "auto." (See the "Motor Vehicle" Definition later in this section).

**"Bodily Injury" Definition**

The term "bodily injury" is used extensively throughout the personal umbrella policy. One of the primary purposes of an umbrella policy is to cover liability resulting from "bodily injury".

Some personal umbrella forms often define "bodily injury" succinctly while others are quite lengthy.

| **"Bodily injury"** | means bodily harm sickness or disease which occurs during the **policy term** including resulting death required care or loss of services. |

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Some courts have held that mental injuries, such as anguish and emotional distress are included in the definition of bodily injury. These rulings, however, usually required either a physical event causing, or physical injury resulting from, the mental injury.

A few courts have determined that bodily injury includes emotional distress even without physical impact, physical harm, or physical manifestation. Most courts, however, hold that pure mental anguish unaccompanied by physical injury is not bodily injury. Courts have also held that humiliation does not constitute bodily injury without related or resulting physical manifestation.

"Bodily injury" means bodily harm to a person and includes sickness, disease, or death. This also includes required care and loss of services.

"Bodily injury" does not mean bodily harm, sickness, disease, or death that arises out of:

a. a communicable disease;

b. the actual, alleged, or threatened sexual molestation of a person;

c. mental or emotional injury, suffering, or distress that does not result from physical injury;

d. physical abuse;

e. corporal punishment; or

f. the use, sale, manufacture, delivery, transfer or possession by any person of controlled substances. However, this does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

a) Bodily injury includes disability, shock, mental anguish and mental injury.

Unlike other personal lines forms, "bodily injury" is often included within the umbrella’s "personal injury" definition, as shown below:

"Personal injury" means:

a. bodily injury, sickness or disease, disability or shock including required care, loss of services and death resulting there from;

b. mental anguish or mental injury;

c. injury arising out of one or more of the following offenses:
   
   (1) false arrest, detention or imprisonment, or malicious prosecution or humiliation;
(2) libel, slander or defamation of character; or
(3) invasion of privacy, wrongful eviction or wrongful entry.

"Business" Definition; "Business Pursuits"

Generally, personal umbrella liability insurance does not apply to business activities. There are exceptions such as a loss involving business activity, for which coverage is provided by underlying personal insurance by endorsement.

Nearly all personal umbrella policies exclude business-related activities of the insured. Personal umbrella liability insurance is applicable to volunteer, work in church, school, civic and service organizations, as long as no remuneration is received by the insured.

1. "business" means a trade, profession or occupation.

The concept of "business" is not always clear. A hobby can eventually turn into a business. Courts normally rule that a business must encompass both continuity and profit. An incidental activity is normally not considered business use, however the courts are not consistent on this issue. What does and does not constitute business use can therefore vary.

Many personal umbrella forms add language to the business definition to stipulate what constitutes business use and what does not.

a. Part time or seasonal activities that are performed by minors; or
b. Activities that are related to "business", but are usually not viewed as "business" in nature.

Many insurers have separate endorsements to add liability coverage under their personal umbrella policy for businesses and farms.

Some forms include farming within the business exclusion, and a few forms do not consider farming a "business"; therefore, farming activities are covered.

"Family Member" Definition

Family member: a person who is a resident of the named insured's household who is:

- Related to the named insured by blood, marriage or adoption; or
- A ward or foster child; or
- Any other person under 21 years of age who is in the care of one of the foregoing persons.
Some personal umbrella forms have a separate definition for family members or members of the household, in order to clarify who is an insured. Losses to these persons is excluded under most personal umbrella forms, due to the intra-family exclusion.

"Family member" means a resident of your household who is:

1. Your relative, including a ward or foster child; or
2. Under the age of 21 and in the care of you or an "insured" who is age 21 or over.

Confusion can result regarding a son or daughter who lives elsewhere the majority of the time, such as a college student or a son or daughter in the military. A child who is supported by the family, who has the majority of his or her possessions in the home, or who has retained the home as a legal residence is usually considered a family member for coverage purposes. However, one who is older, self-supporting, has the majority of his possessions, and his legal and official address elsewhere, is generally not considered a family member.

Questions of "family member" and "residency" sometimes arise regarding children who move between the homes of divorced parents. Courts often recognize that a child has a "dual residency" in both households, which brings the children under the insurance policies of both parents.

"Fuel System" Definition

The ISO form defines and excludes a loss caused by a "fuel system." Most personal umbrella forms do not include this definition or exclusion.

"Fuel system" means:

1. One or more containers, tanks or vessels that have a combined storage capacity of 100 or more U.S. gallons of liquid fuel; and:
   a. Are, or were, located on any location covered by "underlying insurance"; and
   b. Are, or were, used to hold liquid fuel that is intended to be used solely for one or more of the following:
      (1) To heat or cool a building;
      (2) To heat water;
      (3) To cook food; or
      (4) To power motor vehicles, other motorized land conveyances or watercraft owned by an "insured";
2. Any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes
3. Filler pipes and flues connected to one or more containers, tanks or vessels
4. A boiler, furnace or a water heater
5. Fittings and pipes
6. A structure that is specifically designed and built to hold the liquid fuel that escapes from the [defined fuel containers]

Some umbrella forms contain a "pollution" or "pollutants" definition.

"Insured" Definition

Insured:
- The named insured or a family member;
- Any person using an auto, watercraft or recreational vehicle, which is owned or leased by, or is furnished or available for the regular use of, the named insured; with the insured's permission;
- Any person or organization legally responsible for animals owned by the named insured or a family member, except someone using or having custody of such animals in the course of any business or without the permission of the owner;
- Any person legally responsible for acts or omissions of an insured as defined above.

A personal umbrella policy virtually always states that the persons insured include the named insured and resident relatives, and other residents of the household under the age of 21 who are in the care of the named insured or a resident relative.

It is quite common for the umbrella to cover permissive users of automobiles owned or used by the named insured, as well as any person or organization responsible for such persons’ use of these automobiles. Policies should be reviewed to determine if permissive users of watercraft and recreational vehicles owned or used by the named insured are also covered. The policy definitions of "automobile," "watercraft," and "recreational vehicle," etc., are also of importance in determining the extent of the coverage provided.

If the named insured or resident relatives own animals that may incur liability, the policy should be checked to see whether it covers other persons who may have custody of such animals. This is often worded to exclude persons or organizations who may have custody of the animal for business purposes, such as veterinarians and kennels.

Automobile and boat businesses are normally excluded, as are the owners of vehicles rented to or borrowed by the insured.
Most umbrellas include 5 categories of insureds, as follows:

1. The named insured (including resident spouse).

2. A family member

3. Any person using an owned and covered (a) auto, (b) recreational vehicle (RV), or (c) watercraft, including any person using a temporary substitute for such auto or RV

4. Any other person or organization with respect to the legal liability for acts or omissions of the named insured or family member while the named insured or family member is using an auto or RV covered under the personal umbrella policy; however, the owner or lessor of an auto or RV loaned to or hired for use by an insured is not an insured.

5. Any person or organization responsible for animals owned by the named insured or a family member; however, a person or organization using or in custody of such animals (a) in the course of any business or (b) without the owner's consent, is not an insured.

The third category is often referred to as the omnibus insured clause because it provides broad coverage to individuals using the covered vehicle or craft, with a reasonable belief that they are entitled to use it.

The fourth category includes any person or organization for liability arising out of an insured's use of the covered auto or RV on behalf of that person or organization. It broadens the concept of insured to include a wide variety of entities, such as employers and nonprofit organizations.

The fifth category pertains to any outside person or organization responsible for animals owned by the named insured or a family member. However, if the use or custody by this person or organization is (a) in the course of any business or (b) without the insured's consent, this outside party has no protection under most personal umbrella forms. (Not all forms include persons listed in category five.)

Some forms simply stipulate that an insured includes all persons or entities covered by "underlying insurance," with an exception regarding certain motorized vehicles.

Other forms state who are not insureds:

- Owner or lessee of any auto or watercraft loaned to, or hired for use by, the named insured and resident relatives
- Parties, besides the named insured and resident relatives, using covered autos or watercraft while in the auto or watercraft business
- Parties, besides the named insured and resident relatives, without implied permission to use the covered autos
Some forms include a separate definition for "named insured" and "insured". Other forms use different terminology, such as "covered person," instead of "insured".

"Motor Vehicle" Definition

Many forms define "motor vehicle" or "motorized vehicle," rather than "auto", and most define it broadly. Others define a vehicle by explaining what it is not. Some define the terms "registered vehicle" and "unregistered vehicle".

"Motorized vehicle" means a self-propelled land or amphibious vehicle regardless of method of surface contact. This does not include vehicles that are designed and used to assist the handicapped and are not required to be licensed for road use.

"Registered vehicle" means any motorized land vehicle not described in "unregistered vehicle".

"Unregistered vehicle" means:

- Any motorized land vehicle not designed for or required to be registered for use on public roads;
- Any motorized land vehicle which is in dead storage at your residence;
- Any motorized land vehicle used solely on and to service a residence premises shown in the Coverage Summary; or
- Golf carts.

Some forms have separate definitions for "auto" and "recreational motor vehicle", including a detailed definition for "private automobile."

Negligent Entrustment

Most umbrella policies exclude claims based on "negligent entrustment," as do most HO and personal auto policies. These claims generally involve aircraft, automobiles, boats, miscellaneous vehicles and other potentially dangerous items. To circumvent the exclusions contained in the personal liability section policies that barred coverage for injuries caused by the use of automobiles and high-powered boats, lawsuits are based on the "negligent entrustment" to a minor child or another party.

"Occurrence" Definition

The definition of an "occurrence" is important in determining the scope of a personal umbrella policy's coverage. While there is no standard definition as such, many policies' definitions are similar. Many forms define "occurrence" as "an accident, including repeated exposures to similar conditions, that results in "bodily injury" or "property damage" during the policy period."
An "accident" is often interpreted as an event, which is unusual and not expected by the person to whom it happens. An occurrence, however, can be sudden and definite in place and time. It can also involve one that is constant, repeated, and unclear as to place and time.

The occurrence must result in bodily injury or property damage during the policy period. Some insurance professionals are under the mistaken understanding that the policy in effect when an occurrence takes place is triggered for losses stemming from that occurrence. In fact, it is the policy in effect when the bodily injury or property damage occurs that is triggered. It is possible for an occurrence to take place during one policy period and the damage or injury to occur during another policy period, in which case it is the subsequent policy that will respond to the loss.

Under some forms, the term "occurrence" does not apply to situations within the personal injury category. These forms use the term "offense" when referring to a personal injury loss. The offense that gives rise to a personal injury liability claim is considered an intentional tort and it does not meet the common definition of an "accident."

"Occurrence" means:

a. With regard to bodily injury or property damage, an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in bodily injury or property damage during the policy period; or

b. With regard to personal injury, offenses committed during the policy period, even if the resulting injury takes place after the policy expires.

"Personal Injury" Definition

Most personal umbrella forms separate the terms "personal injury" from "bodily injury." These forms usually include the following offenses under personal injury:

1. False arrest, detention, or imprisonment
2. Malicious prosecution
3. Wrongful eviction
4. Oral or written publication of material that slanders or libels a person or organization
5. Oral or written publication of material that violates a person's privacy

Some insurers broaden the definition of "personal injury" to include "bodily injury."

Personal Injury: bodily injury, shock, mental anguish, or sickness or disease, including resulting death, as well as false arrest, detention or imprisonment, malicious prosecution, wrongful entry or eviction, humiliation, libel or slander, defamation of character, or invasion of privacy.
"Personal injury" means the following injuries, and resulting death:

- Bodily injury;
- Shock, mental anguish, or mental injury;
- False arrest, false imprisonment, or wrongful detention;
- Wrongful entry or eviction;
- Malicious prosecution or humiliation; and
- Libel, slander, defamation of character, or invasion of privacy.

Several forms of personal injury arise from the intended result of intentional acts, such as libel or slander. For this reason, they are called "intentional torts". The policy includes many intentional torts in its "personal injury" definition.

We will not provide insurance:

2. for personal injury or property damage:

   a. which is either expected or intended by you; or
   b. to any person or property which is the result of your willful and malicious act, no matter at whom the act was directed.

Some insurers provide a premium credit on the umbrella policy if the personal injury (HO 24 82) or similar insurer endorsement is added to the homeowners policy, since this endorsement reduces the chance that the umbrella policy may have to respond to a personal injury claim. Some umbrella carriers won’t even write the policy without the personal injury endorsement on the HO policy.

"Pollution" Definition

Since many personal umbrella forms exclude pollution or pollutants, they include a definition for it similar to the following:

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste materials. Waste materials include those, which are intended to be or have been recycled, reconditioned or reclaimed.

"Property Damage" Definition

All personal umbrella forms have a "property damage" definition, similar to the following:

Property damage means physical injury to or destruction of tangible property. It includes resulting loss of its use.
There is actual physical injury to the property, loss of use resulting from this physical injury is also covered.

Some forms are more specific as to the definition of tangible property:

Tangible property includes the cost of recreating or replacing stocks, bonds, deeds, mortgages, bank deposits, and similar instruments, but does not include the value represented by such instruments.

A limited number of the umbrella forms contain a broader definition of "property damage" providing coverage for loss of use of tangible property that is not physically injured, similar to:

"Property damage" means:

a. physical injury or destruction of tangible property; or
b. the loss of use of tangible property whether or not it is physically damaged.

Another form defines property damage this way:

“Property damage” means physical injury to or destruction of tangible property and the resulting loss of its use.

"Retained Limit" Definition

Retained Limit: the portion of a loss that is paid by an underlying policy or as an out-of-pocket expense. The available limits that exist, some specified limit that is expressed in the declarations or the sum of the scheduled/listed primary policies, plus any other insurance available that applies to the occurrence.

Virtually all personal umbrella forms include a definition of "retained limit," since coverage under the policy will not begin until the specified retained amount has been met. This amount usually equals the limits of underlying insurance; or when no underlying coverage applies, the SIR is the amount the insured assumes before insurance becomes payable.

Retained limit means the greater of:

a) The total amount of the limit of liability of the Required Underlying Insurance; or
b) If the occurrence is not covered by the Required Underlying Insurance but is covered by this policy, a deductible amount shown on this policy's Declarations.

The retained limit is usually $250; however, in some forms a retained limit of $500 - $1,000 or higher, is required.

"Underlying Insurance" Definition

Many personal umbrella policies also contain a definition for "underlying insurance," "listed underlying policy," or "primary policy," as shown below:

**Underlying Insurance**—means the insurance scheduled in the Declarations.

"Underlying insurance" means the liability insurance coverage provided under policies shown in the Schedule of Underlying Insurance on the "declarations" for the "limits" and policy periods indicated. It includes any policies issued to replace those policies during the term of this policy that provide:

a. At least the same "limits"; and

b. The same hazards insured against, except as modified by general program revisions or as agreed to by "us" in writing.

Sometimes an insurer will refer to “primary” instead of “underlying” insurances.

Primary insurance or Primary Insurance Policy: the insurance policies shown in the declarations that pay for a loss before the umbrella policy pays including renewal and replacement policies.

Other Definitions

There is substantial variation among personal umbrella forms concerning defined terms. Additional definitions found in umbrella policies include:

- Business property
- Business property
- Covered person
- Damages
- Declarations
- Domestic employee
- Follow form
- Incidental business
- Incidental farming
  Insured premises
  Loss
- Named insured
- Policy period
  Policy term
- Real property
  Relatives
  Residence premises
- Suit
  Terms
  Ultimate net loss
- Underlying insurer
- Watercraft
Coverages

While the coverage found in an umbrella varies by insurer and by scope of coverage written under the primary policies, some standardization among umbrella policies has occurred due to:

- The entry of the Insurance Services Office’s Personal Umbrella Liability Policy (PUP)
- The increasing number of companies offering umbrella coverage
- The increasing volume of umbrella coverage written

The coverages section is often subdivided into the insuring agreement, the defense coverage, and the additional coverages.

A personal umbrella policy typically covers the insured’s liability for “personal injury,” defined to include: as bodily injury, sickness, or disease (including death), disability, shock, mental anguish, mental injury, false arrest, false imprisonment, wrongful entry, wrongful detention, malicious prosecution, humiliation, libel, slander, defamation of character, or invasion of the right of privacy, and sometimes others.

Although found in few umbrella policies, the broadest possible definition of personal injury is one that says “including but not limited to”, which includes the terms listed, but also states that personal injury is not limited to those terms. With this type of definition, virtually any kind of personal injury is covered, subject to policy exclusions.

All personal umbrella policies cover liability for “property damage,” usually defined as injury to or destruction of tangible property, including loss of use thereof. Occasionally a policy will provide protection for damage to intangible property, such as loss of goodwill.

UMBRELLA COVERAGE FEATURES

Umbrellas generally offer more than excess limits coverage, although different umbrella polices have different coverage. Besides providing excess insurance limits ranging between $1 and $5 million, they may also include the following:

- Protection that applies worldwide
- Coverage in certain instances for non-owned automobiles or watercraft (and sometimes chartered aircraft)
- Coverage for damage to property of others in the possession or control of an insured
- Coverage for liability assumed by the insured under a contract or agreement (oral, written, express or implied)
- Coverage for personal injury hazards such as libel, slander, false arrest, humiliation, defamation of character, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution or invasion of privacy
• Full payment of defense costs when primary insurance does not apply, unless the umbrella excludes the loss.

**Personal Liability Coverage**

The key protection provided by personal umbrella policies is bodily injury-personal injury and property damage liability coverages in excess of the insured's underlying coverages, or in excess of the insured's retention when the umbrella policy is broader than the basic policies. Most companies make higher limits available in multiples of $1 million, with some insurers offering up to $10 million.

This coverage applies on a primary basis when no underlying liability insurance is applicable to the loss, and is subject to specific exclusions and conditions in the policy.

All policies provide excess coverage over underlying automobile, homeowners, and watercraft liability policies. Some policies also offer excess coverage over underlying liability insurance covering certain business pursuits or business property. A very few policies can be written to provide excess coverage over underlying aircraft liability when the aircraft is chartered with crew, but none cover physical damage to the aircraft itself. Only a few umbrella carriers today extend over umbrella coverage.

When an umbrella policy provides coverage that is broader than the underlying insurance, it is sometimes referred to as "drop down" coverage. The umbrella "drops down" to cover the loss on a primary basis, minus the retention, which is usually $250 - $1,000.

**Uninsured or Underinsured Motorists coverage**

UM/UIM coverage pays for bodily injuries sustained by an insured in an auto accident for which the insured has a legal right to recover from the owner or operator of an uninsured or underinsured auto. The insurer's responsibility to pay is subject to the terms and conditions of coverage in the insured's primary policy as well as the applicable state law. When this coverage applies to the umbrella, the umbrella insurer will pay an amount of loss in excess of either:

- The total amount of insurance any insured is entitled to receive under any other uninsured, underinsured motorists or auto liability insurance, or
- The minimum limit for bodily injury liability required by law in the state in which the accident occurs.

Many umbrella policies do not include excess uninsured/underinsured coverage.

**Defense Coverage**

The policy promises to pay the cost to defend any claim or suit for damages because of personal injury or property damage arising out of an occurrence covered by the policy.

Defense costs are normally covered in addition to the liability limits, *not* subtracted from the liability limits.
An umbrella policy generally pays legal costs only when (a) there is an absence of coverage under the primary policy but coverage under the umbrella policy or (b) the underlying policy has been exhausted by the payment of the claim.

In addition to the liability limit, most policies also pay for defense of suits that are not payable by the underlying policies, all expenses incurred by the company, all costs taxed against the insured, interest on unpaid judgments, premiums on appeal bonds and release of attachment bonds, and reasonable expenses incurred by the insured at the company’s request, usually other than loss of earnings. Some policies also cover loss of earnings up to a specified limit per day and a maximum limit overall. Most also cover the cost of bail bonds for accidents or traffic law violations.

Virtually all personal umbrella policies cover defense and other legal costs, however, they vary in their location within the form. Some policies include this provision in their supplementary payments section, while others have a separate section for defense coverage.

**EXCESS DEFENSE PROVISION**

- We will defend a covered person against any suit seeking the covered damages for personal injury or property damage that is either:
  - Not covered by any underlying insurance; or
  - Covered by an underlying policy as each Defense Coverage has been exhausted by payment of claims.

When there is primary coverage, the umbrella insurer is not obligated to pay any legal costs, but may elect to participate in the defense at its option until the primary insurer's obligations have ended.

Many personal umbrella forms stipulate that defense coverage applies, even if the suit is groundless, false, or fraudulent. The policy, however, does not provide a defense for any allegations that are clearly outside the coverage of the policy. The key factors the insurer considers when determining its duty to defend are:

- The nature of the complaint and
- The specific coverage of the policy.

If the lawsuit involves only allegations that are clearly excluded, there is no duty to defend. In some jurisdictions, the insurer has an obligation to look "behind" the complaint. If the complaint alleges an excluded act, but the factual basis for the claim brings it within coverage, the insurer must defend the insurer. If the lawsuit is frivolous in nature, but the allegations fall within the scope of the policy, the duty to defend exists. If a lawsuit includes both covered and non-covered claims, there is a duty to defend.

Under nearly all personal umbrella forms, insurer's duty to defend or settle ends when the limit of liability has been exhausted by the payment of a judgment or a settlement agreement.
The purpose of this part of the defense provision is to ensure that the insurer will not simply tender (offer) its policy limits to the claimant(s) in an attempt to avoid its separate duty to defend the insured.

Nearly all personal umbrella policies pay defense costs in addition to the policy limits. Some forms, however, pay defense costs as part of the limits of insurance, under certain circumstances.

Any expense we incur as the result of providing a defense or settling a claim or suit outside the United States of America (including its territories or possessions) or Canada will be part of and not in addition to the limit of liability.

Supplementary Payments

Most personal umbrella policies also include supplementary payments coverage in the coverages section or a separate defense section. A few personal umbrella forms have a separate section entitled "supplementary payments."

This section normally includes additional coverages, which are also payable in addition to the limit of liability. Some forms refer to these as defense costs, instead of supplementary payments.

If the insurer defends a suit or claim for damages under the policy, it will pay the following amounts in addition to its specified limit of insurance:

- Expenses it incurs in defense
- Costs taxed against an insured in the suit
- Interest accrued on a judgment after it is entered in a suit defended by the insurer
- Premiums on bonds required in the suit defended by the insurer
- A daily dollar and maximum limit for actual loss of earnings from attending hearings or trials at the request of the insurance company
- Reasonable expenses incurred by an insured, at the request of the insurance company, to assist in the investigation or defense of a claim or suit.
- Reasonable expenses an insured incurs at the insurer's request, including loss of earnings, with various monetary limitations
- Expenses the insurer incurs
- Post-judgment interest and, in some cases, prejudgment interest

These payments are almost always in addition to the policy limits, and these expenses are payable in full even though the policy limits have been exhausted by judgments or settlements.
Exclusions And Limitations

There is no standard set of personal umbrella exclusions, however, many forms incorporate exclusions patterned after those contained in standard underlying liability policies (e.g., homeowners and personal auto policies).

Exclusionary language is found not only in the exclusions section, but can be found in the definitions and coverages sections as well. Sometimes, related exclusions are merged into one, while other forms keep them separate. Also, many of these exclusions vary by state.

Personal umbrella liability policies differ more from each other regarding their exclusions than in any other aspect, and the policy exclusions go further in defining coverage than any other policy section or provision.

The following discussion analyzes the more important and prevalent personal umbrella policy exclusions. Representative policy language is included from several variations in contracts.

Exclusions and limitations define the coverage under an umbrella. Since provisions and conditions of umbrellas are not standardized, the language of each insurer's policy must be carefully analyzed. A personal umbrella policy usually does not cover:

WORKERS COMPENSATION

Nearly all personal umbrella forms contain workers compensation exclusions similar to those in the underlying liability coverage. Some forms explicitly specify exceptions under which coverage applies.

Umbrella policy exclusions are of two basic types: conditional exclusions and absolute exclusions. Conditional exclusions do not apply if there is underlying coverage for that exposure scheduled on the declarations page. Absolute exclusions apply regardless of the existence of underlying coverage.

In all policies no coverage applies to obligations for which the insured may be held liable under any workers compensation, unemployment compensation, disability benefits, or similar law. The exclusion does not, however, eliminate employers liability coverage.

Excess liability and additional coverages do not apply to:

2. Any insured's obligation, including benefits required to be paid, under any of the following laws:
a) Workers’ compensation;
b) Unemployment compensation;
c) Occupational disease;
d) Disability benefits; or
e) Any similar law.

**Workers' compensation or disability.** We do not cover any damages a covered person is legally obligated to provide under any workers' compensation, disability benefits, unemployment compensation or similar laws. But we do provide coverage in excess over any other insurance for damages a covered person is legally obligated to pay for bodily injury to a domestic employee of a residence shown in the Coverage Summary which are not compensable under workers' compensation, unless another exclusion applies.

A few states require workers compensation coverage for domestic employees to be added to the homeowners policy, in which case coverage may also be endorsed onto the personal umbrella policy.

**EMPLOYERS LIABILITY COVERAGE**

How This Coverage Applies

This Coverage applies to bodily injury by accident or bodily injury by disease sustained by your residence employees.

(a) The bodily injury must arise out of and in the course of the residence employee's employment by you.

(b) The employment must be necessary or incidental to work in the state of the residence premises or a state listed in the Schedule.

(c) Bodily injury by accident must occur during the policy period.

(d) Bodily injury by disease must be caused or aggravated by the conditions of your residence employee's employment by you. The residence employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
Exclusions

This Coverage does not apply to:

(a) Bodily injury arising out of any of your business pursuits.
(b) Bodily injury intentionally caused or aggravated by you.
(c) Any obligation imposed by a workers compensation or occupational disease law or any similar law.

Care, Custody, or Control

Many personal umbrella policies exclude coverage for non-owned property in the care, custody, or control of the insured. Many potential exposures exist in this area, including rental equipment, personal property of others; property used or borrowed by the insured, and leased premises. The care, custody, or control exclusion can be important to an insured who frequently borrows or rents property or equipment from others.

There are various approaches to restricting umbrella coverage for care, custody, or control exposures:

- Exclusion of liability for property in the care, custody, or control of the insured, for contractually assumed liability only
- No standard care, custody, or control exclusion, except for aircraft
- No standard care, custody, or control exclusion, unless property covered by underlying insurance

The coverages provided by this policy do not apply to:

"Property damage" to property rented to, occupied or used by, or in the care, custody or control of, the "insured" to the extent that the "insured" is obligated by contract to provide insurance for such property. However, this Exclusion does not apply to "property damage" caused by fire, smoke or explosion.

This policy will not apply to property damage to any:

a. Property owned by any insured; or
b. Property owned by others an insured agreed to insure or be responsible for.

The care, custody, or control liability exclusion is also found in most homeowners policies, except that it normally makes an exception for property damage caused by fire, smoke, or explosion, as shown in this excerpt from the ISO homeowners forms.
Coverage E does not apply to:

"Property damage" to property rented to, occupied or used by or in the care of an "insured". This exclusion does not apply to "property damage" caused by fire, smoke or explosion.

There may be cases in which the loss is excluded under the homeowners policy, but covered under the personal umbrella. Most insurers require the insured purchase both the underlying liability and umbrella policies from them. Therefore, the care, custody, or control language of the primary and umbrella forms usually correspond.

Personal umbrella policies often exclude damage to property rented to, used by, or in the care of an insured, but usually only when the insured has an obligation under an agreement to provide insurance on this property. The exclusion applies only to the extent that the insured’s liability exceeds that required by common law or statute.

All personal umbrella policies exclude damage to property owned by the insured, but there are variations. Most policies completely exclude property damage to non-owned aircraft in the care, custody, or control of the insured. Some policies also exclude property damage to non-owned watercraft in the insured’s possession. The presence or absence of these exclusions may be quite important depending on the individual insured’s exposures.

**Contractual Liability**

Most homeowners policies normally exclude contractual liability coverage, with some exceptions. Coverage often applies to written contracts relating directly to the ownership, maintenance, or use of an insured location or in which the liability of others is assumed by the insured prior to the occurrence.

Most personal umbrella forms also exclude contractual liability, although the exclusionary language varies.

The Personal Umbrella Liability Coverage does not apply to:

"Bodily injury", "property damage", or "personal injury" assumed by an "insured" under any contract or agreement. However, this exclusion does not apply:

(a) Where the liability of others is assumed by an "insured" under a written contract that directly relates to the ownership, maintenance, or use of an "insured premises", or
(b) To the extent that such "bodily injury", "property damage", or "personal injury" is covered by "underlying insurance" at the time of the "occurrence" or offense.
**Contractual liability.** We do not cover any assessments charged against a covered person as a member of a condominium or cooperative association. We also do not cover any damages arising from contracts or agreements made in connection with any covered person's business. Nor do we cover any liability for unwritten contracts, or contracts in which the liability of others is assumed after a covered loss.

Contractual liability language is also found in numerous other exclusions, such as the care, custody, or control exclusion or the motor vehicle or watercraft exclusions. Agents must carefully read any related exclusions and definitions in order to fully understand the form's coverage and exclusions for contractual liability.

This policy will not apply:

to any liability of another person assumed by an **insured** under any contract.

Some personal umbrella contractual liability exclusions only apply to certain types of property:

We will not provide insurance:

for any **loss** arising out of:

(d) any liability assumed through an unwritten or written agreement by any **insured**;

with regard to the ownership, maintenance or use of any aircraft, watercraft or motorized land conveyance unless underlying insurance described in the **Declarations** provides coverage for the loss.

**Directors and Officers**

Most personal umbrella policies exclude liability arising out of the insured's activities as a director or officer of any corporation or association. A common exception provides coverage for directors and officers of not-for-profit organizations. The absence of a directors and officers exclusion from a policy does not mean that that policy covers the directors and officers exposure. The business pursuits exclusion usually eliminates coverage for the exposure.

Since most suits against officers and directors of a corporation are for misuse of funds, malfeasance, or failure to perform some fiduciary duty, and the umbrella covers only bodily injury, property damage, and personal injury, most directors and officers suits would be excluded anyway.

An unendorsed homeowners policy only provides liability coverage for bodily injury or property damage. Directors and officers (D&O) liability is **not** covered by the homeowners policy, since this exposure normally involves personal injury type losses and are often business related.
Although most personal umbrella forms exclude losses arising out of the insured's activities as a director or officer of a for-profit organization, they include an exception for nonprofit organizations:

This policy does not apply to:

Any act or omission of any insured as an officer or member of the board of directors of any corporation or organization except a nonprofit corporation or organization.

Some personal umbrella forms specify that in order for coverage to apply to losses from nonprofit activities, the insured cannot receive remuneration, and other forms add additional exceptions under which coverage applies.

This Personal Umbrella Liability Coverage does not apply to:

"Bodily injury", "property damage", or "personal injury" resulting from an "insured's" service as an officer or member of a board of directors. However, this exclusion does not apply to "bodily injury", "property damage", or "personal injury" resulting from an "insured's" service as an officer or member of a board of directors for a not for profit organization for which the "insured" is not compensated.

With respect to this exclusion, reimbursement for expenses is not considered compensation.

**Director's liability.** We do not cover any damages for any covered person's actions or failure to act as an officer or member of a board of directors of any corporation or organization. This exclusion does not apply to a "not for profit" corporation or organization, or to a condominium or cooperative association.

Just because an exception is allowed for losses arising from nonprofit organization-related activities does not necessarily mean there is adequate D&O coverage under the personal umbrella policy. The form's "personal injury" definition is limited to the items below and would not cover the type of losses usually incurred by Directors and Officers, even without an exclusion.

- False arrest, false imprisonment, wrongful eviction, wrongful entry
- Wrongful detention, malicious prosecution, misrepresentation, or humiliation
- Libel, slander, defamation of character, or invasion of rights of privacy

**Aircraft**
Most personal umbrellas exclude all liability arising out of the ownership, maintenance, use, loading, or unloading of an aircraft. Exceptions in some policies relate to aircraft chartered with crew by the insured, and bodily injury to an employee of the insured. Most policies also make an exception for model, toy, or hobby aircraft that do not carry people or cargo. The few policies that provide excess aircraft liability coverage do so only for aircraft covered by an underlying policy described in the umbrella. An underlying limit of $1,000,000 or more may be required.

An aircraft liability exclusion is contained in most personal umbrella forms, most of which are quite broad and usually provide no exceptions.

We do not cover damages:

Arising out of any Insured's ownership, maintenance, use, chartering, operation, loading or unloading, entrustment to others or supervision of any aircraft; or arising out of vicarious parental liability, whether or not statutorily imposed, for the actions of a minor child using aircraft.

Aircraft. We do not cover any damages arising out of the ownership, maintenance, use, loading, unloading, or towing of any aircraft, except aircraft chartered with crew by you.

This Personal Umbrella Liability Coverage does not apply to:

"Bodily injury" or "property damage" that results from the ownership, leasing, operation, maintenance, use, occupancy, renting, loaning, entrusting, supervision, loading, or unloading of aircraft. However, this exclusion does not apply to:

a. "Bodily injury" to a person while performing duties as a "domestic employee"; or
b. Model aircraft not designed or used to carry people or cargo.

Losses from aircraft are excluded because they are not traditional personal exposures, since most people do not own or charter their own planes. Persons with this exposure should be advised to purchase separate specialty insurance with high limits.

Motor Vehicles, Watercraft, and Recreational Vehicles

Some personal umbrella forms include a motor vehicle or auto exclusion, normally applicable only when the damages are covered by the underlying liability policy.

We do not cover damages:
Arising out of the ownership, maintenance, use, operation, entrustment to others, supervision, loading or unloading of any **auto** owned by an **insured**. This exclusion does not apply if such **damages** are covered by **underlying insurance** scheduled in the Declarations of this policy.

The who-is-an-insured provision is also important in determining coverage for personal automobiles. The form should stipulate that the named insured, spouse, and family members are covered, as well as persons using a covered auto with the insured’s permission.

**Insured** means:

Any person or organization who is insured under a **listed underlying policy**, but only to the extent that such person or organization is provided insurance by the **listed underlying policy**. However, if coverage is for the use of a vehicle or watercraft this use must be with **your** expressed or implied consent.

Under most policies if the driver uses the car with a "reasonable belief" he is entitled to do so, then he is insured, regardless of whether he has actual permission.

**UMBRELLA WATERCRAFT EXCLUSIONS**

Treatment of watercraft varies widely. In many policies the exclusion is basically the same as under standard homeowners liability provisions -- inboard or inboard-outboard watercraft of greater than 50 horsepower, sailing vessels of 26 feet or more, and outboard motorboats with more than 25 total horsepower are excluded. The personal umbrella covers watercraft which normally have underlying insurance in the insured’s homeowners policy or with separate watercraft policy, or unless they are acquired after policy inception and added to the umbrella policy for an additional premium within 30 or 45 days.

- The exclusion of larger watercraft may apply to owned and rented watercraft, or only to owned watercraft, in which case, the insured has coverage for larger watercraft rentals, without underlying coverage in effect. The insurance company may stipulate that the coverage applies only for some limited period, such as 30 days.

- Personal injury or property damage arising from environmental pollution or contamination (Some policies will cover this exposure to the extent it is covered by an underlying policy).

Some forms allow exceptions for rented or borrowed watercraft.

We will not cover any liability arising from:

The ownership, maintenance, or use of:

b. Any watercraft owned by or rented to any **insured** that:

(1) has (an) outboard motor(s) totaling more than 25 horsepower;
(2) has any other type of motor of more than 50 horsepower; or

(3) is a sailboat 26 feet or more in length.

Paragraph b. above does not apply:

(1) if a primary policy covers such watercraft; or

(2) with respect to additional watercraft, if you give us written notice within 45 days after you acquire such watercraft.

We will, however, cover any insured while operating a borrowed or rented watercraft regardless of size or horsepower, as long as it is with the owner’s permission and used for the purpose intended.

Recreational Motor Vehicles

Most personal umbrella forms cover recreational motor vehicles, if the vehicles are covered by underlying insurance. Sometimes watercraft and recreational vehicles are in the same exclusion. Optional endorsements to exclude coverage for designated RVs, autos, or watercraft may be used by some insurers.

Racing

Personal injury or property damage arising out of ownership or use of an auto, watercraft or recreational vehicle while used in any organized racing, speeding, demolition, or stunting activity (including any related practices) is almost always excluded. This exclusion does not apply to a sailboat, nor to a recreational vehicle covered for such activity by a primary insurance policy.

Many personal umbrella policies have racing liability exclusions, such as:

We will not provide insurance:

for any loss arising out of your participation in, preparation or practice for any race, speed or demolition contest, or similar competition involving a motorized land vehicle or motorized watercraft.

Many of these exclusions, however, make exceptions for certain sailing vessels, such as “a sailing vessel less than 25 feet in overall length with or without auxiliary power.” Only a few forms do not contain a racing exclusion.

Business/Business Property
Business exclusions are common in personal umbrella policies. If there is a substantial business exposure, separate commercial coverage should be purchased to provide this protection. Most personal umbrella forms provide a variety of exceptions to the business exclusion.

One exception found in nearly all personal umbrella forms is loss from a private passenger auto used for business (if underlying insurance applies). However, does not include loss from a private passenger auto used as a taxi or livery service is excluded.

Liability arising out of advertising, broadcasting, or telecasting by or for the insured. Like the directors and officers exclusion, this exclusion overlaps the business pursuits exclusion.

We do not cover damages:

Arising out of business or business property of an insured unless covered by underlying insurance described in the Declarations. Our coverage is no broader than the underlying insurance, except for our Limit of Liability.

This policy will not apply:

1. To any act, or failure to act, of any person in performing functions of that person's business.
2. To any occurrence arising out of a business or business property.

**Business pursuits.** We do not cover any damages arising out of a covered person's business pursuits, investment or other for-profit activities, for the account of a covered person or others, or business property except on a follow form basis.

But we do cover damages arising out of volunteer work for an organized charitable, religious or community group, an incidental business away from home, incidental business at home, incidental business property, incidental farming, or residence premises conditional business liability unless another exclusion applies. We also cover damages arising out of your ownership, maintenance, or use of a private passenger motor vehicle in business activities other than selling, repairing, servicing, storing, parking, testing, or delivering motorized land vehicles.

"Incidental business away from home" is a self-employed sales activity, or a self-employed business activity normally undertaken by persons under the age of 18 such as newspaper delivery, babysitting, caddying, and lawn care. Either of these activities must:

- Not yield gross revenues in excess of $5,000 in any year;
- Have no employees subject to worker's compensation or other similar disability laws;
- Conform to local, state, and federal laws.
"Incidental business at home" is a business activity, other than farming, conducted on your residence premises which must:

- Not yield gross revenues in excess of $5,000 in any year, except for the business activity of managing one's own personal investments;
- Have no employees subject to workers' compensation or other similar disability laws;
- Conform to local, state, and federal laws.

Some personal umbrella forms address these types of situations within their definition of "business":

"Business" does not include:

a. Part time or seasonal activities that are performed by minors; or
b. Activities that are related to "business", but are usually not viewed as "business" in nature.

Determining the extent of the umbrella business exclusion often requires a review of both the "business" and "business property" definitions.

A potential gap in coverage can arise when the named insured purchases a home business endorsement for his homeowners policy. The agent must be sure to endorse business coverage on the umbrella policy as well.

**Owned Property**

All personal umbrella forms contain an owned property exclusion, since an insured cannot collect on liability for himself due to his negligent actions. It may be a separate exclusion or it may be merged with the care, custody, or control exclusion.

This Personal Umbrella Liability Coverage does not apply to:

"Property damage" to property owned by an "insured".

Excess liability and additional coverages do not apply to:

**Property damage** to:

a. Property owned by an **insured** or
b. Property owned by others when an **insured** has physical control of it or agreed to be responsible for or insure it.
• Property damage to property used by, rented to or in the care, custody or control of any insured; also, any liability which an insured assumes under a contract or agreement.
• Personal injury or property damage arising out of ownership, maintenance or use (including loading or unloading) of any aircraft by an insured. Incidental use of an aircraft by the named insured or a family member as a passenger is not subject to this exclusion. Most umbrella policies exclude liability arising out of the ownership, maintenance, use, loading, or unloading of an aircraft.

**Professional Services**

The professional services exclusion removes coverage for personal injury or property damage arising out of rendering or failing to render professional services.

Most personal umbrella forms exclude losses arising from professional services, since this exposure should be covered under a separate professional liability policy.

We will not provide insurance:

For any **loss** caused by providing or failing to provide a professional service.

Many insurers will cover business pursuits and business property on an excess basis to the extent that an underlying policy does. Personal umbrella insurers usually limit liability coverage for business pursuits and business property to apartment houses, home offices, home studios, and so on.

A few companies will insure certain professional exposures by endorsement, for a significant additional premium. This is normally on a purely excess basis with no broadening of the underlying coverage.

Personal injury or property damage arising out of business pursuits of any insured or the rental or holding for rental of premises by an insured. There are various exceptions to this exclusion such as:

- Activities that are ordinarily incident to non-business pursuits
- Part-time jobs of family members who are minors or students under age 21
- Civic activities performed by an insured without pay
- Share-the-expense car pool arrangements
- The occasional rental or holding for rental of a residence premises for residential premises garage for private garage purposes
- Rental of a residence premises garage for private garage purposes.
Personal injury or property damage arising from an insured's activities as an officer or member of the board of directors of any corporation or organization. The exclusion does not apply to a not-for-profit organization.

Personal injury arising from advertising, broadcasting or telecasting activities by or for an insured, except for activities incident to pursuits not otherwise excluded.

**Pollution**

Most personal umbrella forms have some type of pollution exclusion. Some of these exclusions contain lengthy exclusions, often including a definition of "pollutants".

We will not provide insurance:

For a **loss** caused by pollution to land, water or air unless it is sudden and accidental.

This policy does not apply to:

Any liability arising, in whole or in part, out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, escape, emission, transmission, absorption, ingestion or inhalation of **pollutants** at any time. This includes any loss, cost or expense arising out of any:

a. Request, demand or order that any **insured** or others test for, monitor, abate, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to, or assess, the effects of **pollutants**;

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, neutralizing, or in any way responding to, or assessing, the effects of **pollutants**;

"Pollutants" means:

a. Liquid fuels;

b. Lead or any materials containing lead;

c. Asbestos or any materials containing asbestos;

d. Radon;

e. Formaldehyde or any materials containing formaldehyde;

f. Electric fields, magnetic fields, electromagnetic fields, power frequency fields, electromagnetic radiation or any other electric or magnetic energy of any frequency;

g. Carbon monoxide; or
h. Any other irritant or contaminant, including vapor, fumes, acids, alkalis, chemicals, radioactive substances and waste.

The coverages provided by this policy do not apply to:

- "Bodily injury", "personal injury" or "property damage" caused by an "occurrence" or offense involving the escape of fuel from a "fuel system";
- "Bodily injury", "personal injury" or "property damage" caused by an "occurrence" or offense involving the absorption, ingestion, or inhalation of lead;
- "Personal injury" or "property damage" caused by an "occurrence" or offense of lead contamination.

A few umbrella forms include particular exceptions to the pollution exclusion. One form stipulates the exclusion does not "apply to bodily injury arising out of routine lawn and garden care of the residence premises." Another form contains a pollution exception if the loss results from the "heat, smoke, or fumes of a fire on the insured premises that becomes uncontrollable..." Some umbrella policies include coverage for pollution losses stemming from covered motor vehicles (escape of pollutants such as gasoline and engine oil associated with the operation of an insured vehicle, and escape of pollutants from other property caused by collision with an insured vehicle), provided coverage is included in the underlying policy.

**Intra-Family Exclusion**

Virtually all personal umbrella forms contain an intra-family exclusion. Some are short, while others are longer.

Intra-family lawsuits are legal actions initiated by one family member against another family member. Intra-family exclusions are becoming more common under personal auto and homeowners policies. The main purpose of the intra-family exclusion is to eliminate the potential for fraud and collusion, which is often difficult for an insurer to prove.

Some states prohibit intra-family exclusions altogether and some limit recovery only to the state's financial responsibility limit. Some insurers have three tiers of intra-family coverage in their personal auto policies as follows:

- Complete exclusion
- Limited exclusion (recovery only up to the state's financial responsibility limit)
- No exclusion

This policy will not apply:
To **personal injury** to an **insured.**

- **Covered person's or dependent's personal injury.** We do not cover any damages for personal injury for any covered person or their dependents where the ultimate beneficiary is the offending party or defendant. We also do not cover any damages for personal injury for which you can be held legally liable in any way, to a family member or your spouse or for which a family member or your spouse can be held legally liable, in any way, to you.

- Any claim for personal injury to any insured who does not have any underlying uninsured or underinsured motorists insurance, if such insurance was rejected by or for the insured. (If the policy includes coverage for the uninsured or underinsured motorists exposure).

- If the policy includes coverage for the uninsured or underinsured motorist's exposure, any uninsured or underinsured motorist's personal injury claim not covered by the uninsured or underinsured motorists coverage contained in the primary insurance policies.

**Uninsured/Underinsured Motorists**

The applicable state law defines an uninsured motor vehicle (UMV) for which UM coverage is triggered in that jurisdiction. Depending on the particular jurisdiction, uninsured motorists (UM) coverage may apply to accidents involving the following situations:

- No liability insurance applies to the auto driven by the negligent party.
- There is liability insurance on the auto, but the limits are less than the amounts required by law.
- The liability insurer denies coverage.
- An insurer is or becomes insolvent.
- An insurer refuses to admit coverage except conditionally or with reservation.

For underinsured motorist (UIM) coverage to apply, the accident must involve an auto that is insured but the limit is inadequate in some manner.

UM/UIM coverage is optional in most states, however in many states the named insured has to sign a form rejecting this coverage if it is not desired. In some states, the insured may not reject this coverage. Umbrella insurers often restrict UIM coverage, if allowed to by the state. In this circumstance insureds should be encouraged to purchase $1 million auto BI/PD liability limits on their PAP in order to obtain $1 million UM/UIM protection on the PAP.

Some personal umbrella policies contain a total exclusion of UM/UIM claims.

We will not cover any liability arising from:

Any claim for Uninsured Motorists or Underinsured Motorists coverage, unless this policy is endorsed to provide such coverage.
Excess uninsured/underinsured motorists protection

This coverage is in effect only if excess uninsured/underinsured motorist protection is shown in the Coverage Summary.

Amount of coverage. The maximum amount of excess uninsured/underinsured motorist protection available for any one occurrence is the excess uninsured/underinsured motorist protection amount shown in the Coverage Summary regardless of the number of vehicles shown in the Coverage Summary.

Discrimination

Some policies exclude damages due to discrimination because of race, creed, age, sex, color, or national origin, or for just some of these reasons. Some policies will cover certain types of discrimination if permitted by law.

Two common approaches to restricting discrimination claims in umbrella policies are (1) to exclude all discrimination, and (2) to provide discrimination coverage by including it as a form of personal injury, and then limiting the scope of coverage within the definition.

Discrimination. We do not cover any damages arising out of discrimination due to age, race, color, sex, creed, national origin, or any other discrimination.

“Personal injury” —means:

- Discrimination and violation of civil rights, where recovery is permitted by law. Fines and penalties imposed by law are not included.

Some discrimination exclusions are narrower than others, as shown in this example:

We do not cover damages:

Due to discrimination in any way connected with a violation of any State, Federal or local governmental Civil Rights law.

Certain types of discrimination may not be in violation of federal, state, or local laws, and may not be excluded under the form.
Determining the scope of discrimination coverage requires analyzing the following parts of the policy:

- Definitions of "personal injury" and "occurrence"
- Intentional damage exclusion
- Business exclusion
- Discrimination exclusion
- Employment-related exclusion
- Endorsements
- State statutes

**Intentional Acts/Injury**

There are several variations regarding the exclusion of intentional injury. Some companies exclude injuries or damage expected or intended from the point of view of the insured. Others exclude acts committed by or at the direction of the insured with intent to cause injury or damage.

Some contain an exception for acts arising from the prevention or elimination of danger, or protection of persons or property. In some policies this exception applies only to personal injury; in others to property damage as well.

Some have no intentional injury exclusion, but define "accident" or "occurrence," in the insuring agreement, as an event not expected or intended by the insured, except for assault and battery committed to save life or property. Some policies also provide an exception for intentional acts performed "to prevent or eliminate danger in the operation of automobiles or boats," and others include "aircraft" in that exception.

Some forms cover this issue in their "occurrence" definition as follows:

"**Occurrence**" means an accident including exposure to conditions which results in **bodily injury personal injury** or **property damage** that the **insured** did not expect or intend. It includes an act which results in **bodily injury personal injury** or **property damage** while protecting persons or property.

Many personal umbrella forms are patterned after the homeowners policy.

**Intentional acts.** We do not cover any damages arising out of an act intended by any covered person to cause personal injury or property damage, even if the injury or damage is of a different degree or type than actually intended or expected. An intentional act is one whose consequences could have been foreseen by a reasonable person. But we do cover such damages if the act was intended to protect people or property unless another exclusion applies.

This policy does not apply to:
Any act or damage which is expected or intended by any insured, or which is the foreseeable result of an act or omission intended by any insured, which causes personal injury or property damage. But this exclusion does not apply to personal injury resulting from a reasonable action by any insured in:

a. Preventing or eliminating danger in the operation of motor vehicles or aircraft; or
b. Protecting persons or property.

Some personal umbrella forms' intentional acts/injury exclusions do not apply to particular offenses, such as false arrest, wrongful detention, libel, slander, discrimination, and related offenses. Other forms address this issue in their "occurrence" definition. The form splits the "occurrence" definition into two parts, as follows.

**Occurrence** means:

a. With regard to bodily injury or property damage, an accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results in bodily injury or property damage during the policy period; or
b. With regard to personal injury, offenses committed during the policy period, even if the resulting injury takes place after the policy expires.

**Nuclear Energy**

Nearly all personal umbrella policies include a nuclear energy liability exclusion, since it is a highly unusual, catastrophic exposure.

This policy will not apply:

To personal injury or property damage for which an insured is also covered under a nuclear energy liability policy, even if the limits of that policy have been exhausted.

**Nuclear or radiation hazard.** We do not cover any damages caused directly or indirectly by nuclear reaction, radiation, or radioactive contamination, regardless of how it was caused.

Excess liability and additional coverages do not apply to:

An occurrence for which the insured is covered by a nuclear energy liability policy. This applies even if the limits of that policy have been exhausted. This exclusion does not apply to motor vehicles registered or principally garaged in New York State.
War

Most personal umbrella forms contain a war exclusion. Many forms also refer to the discharge of a nuclear weapon in the war exclusion.

**Acts of war.** We do not cover any damages caused directly or indirectly by war, undeclared war, civil war, insurrection, rebellion, revolution, warlike acts by military forces or personnel, the destruction or seizure of property for a military purpose, or the consequences of any of these actions.

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

None of these war exclusions refers to acts of terrorism, although terrorism exclusion endorsements have been filed in many states.

**Communicable Disease**

In recent years, many personal umbrella forms have added a communicable disease exclusion, some of which are brief and some expansive. This was due to the dramatic increase in the incidence of lawsuits over the transmission of genital herpes and HIV/AIDS. Some policies exclude the transmission of any communicable disease, while others limit the exclusion to sexually transmitted diseases only. One policy even excludes the transmission of a hereditary disease.

Excess liability and additional coverages do not apply to:

**Bodily injury** or **personal injury** resulting from an **insured** transmitting a communicable disease.

**Illness.** We do not cover personal injury or property damage resulting from any transmitted illness, sickness or disease transmitted intentionally or unintentionally by a covered person to anyone, or any consequence resulting from that illness, sickness or disease. We also do not cover any damages for personal injury resulting from the fear of contracting any transmitted illness, sickness or disease, or any consequence resulting from the fear of contracting any transmitted illness, sickness or disease.

Some states, such as Washington, reject a specific communicable disease exclusion. As a result, insurers often address communicable disease within the definition of "bodily injury," as shown by the following example:
Bodily injury is amended to read as follows:

a) Mental or bodily injury, shock, sickness or disease, except a disease, which is transmitted by an insured through sexual contact.

Punitive Damages

A few personal umbrella policies exclude punitive damages. "Punitive damages" are "damages awarded in addition to actual damages when the defendant acted with recklessness, malice, or deceit" (Black's Law Dictionary, 7th ed.). These damages are intended to punish the wrongdoer for his or her outrageous actions and set an example for others.

This policy does not apply to:

Any punitive damages awarded against any insured.

We do not cover damages:

Which are punitive or exemplary.

Restrictive language regarding punitive damages may also be found in the insuring agreement, where an insurer may only agree to pay compensatory damages.

A minority of states have ruled that the payment of punitive damages by an insurer is against public policy or is illegal by statute. When a policy is silent with respect to coverage for punitive or exemplary damages, the policy usually is interpreted as including such protection in jurisdictions where such damages are not considered to be against public policy.

Miscellaneous Exclusions

Exclusionary language is often found in other parts of the personal umbrella form, such as the definitions and the insuring agreement. Some umbrella forms merge related exposures into one exclusion while others apply separate exclusions to each. Exclusions may also vary, due to state-specific laws. These are some of the titles of exclusions appearing in various umbrella liability policies on the market today:

- Advertising or broadcasting liability
- Auto no-fault coverage
- Civic or public activities
- Controlled substances
- Criminal act (only applies to personal injury)
- Dependent care
- Employment-related act (only applies to personal injury)
- Entrustment of a motorized land vehicle, large watercraft, or aircraft
- Financial guarantees
- Home care services
- Libel or slander due to a willful violation of a penal statute or ordinance
- Libel or slander with knowledge of its falsity or which was published before the policy inception date
- Loss assessment, unless provided by underlying insurance
- No reasonable belief to operate autos, recreational motor vehicles, or watercraft
- Non-permissive use
- Owned motorcycles and owned motor homes, unless shown in declarations
- Ownership of a dog, unless covered by underlying insurance
- Parental liability for specified vehicles
- Residential association assessments
- Sale or transfer of real property
- Sexual molestation, corporal punishment, or physical or mental abuse
- Vicarious parental liability
- Willful and malicious acts
- Willful violation of a law or ordinance
Conditions

The conditions section is normally the last section in the form. It includes 12 to 20 conditions, which set the rules for the insured and the insurer. Some of these are so important, that many personal umbrella forms include an individual section for each.

Common conditions include the following:

- Appeals
- Assignment
- Bankruptcy of an insured
- Bankruptcy of an underlying insurer
- Cancellations
- Concealment or Fraud
- Death
- Insolvency
- Legal Action Against Us
- Liberalization clause
- Limit of Liability
- Maintenance of Underlying Insurance
- Non-renewal
- Other insurance
- Payment of Loss
- Policy period and territory
- Reduced Underlying Coverage
- Subrogation
- Suit against insurer
- Waiver or change of policy provisions

The conditions in personal umbrella liability policies do not vary greatly among insurers. Most are quite similar to the conditions found in standard underlying liability policies.

Appeals

The umbrella insurer may elect to participate with the insured and the underlying insurers in the investigation, defense, and settlement of all claims and suits, although it is not responsible for such costs covered by the underlying policies.
In the event the insured or the insured's underlying insurer elects not to appeal a judgment in excess of the underlying limits, the umbrella carrier may elect to do so at its own expense. The company bears liability for the costs and interest related to the appeal.

**Assignment**

The assignment or transfer of the personal umbrella policy to another party is invalid unless the insurer provides its written consent. This relationship is considered "personal" and the insurer underwrites it accordingly.

**Bankruptcy of an Insured and/or Insurer**

Virtually all personal umbrella policies address the potential bankruptcy or insolvency of an insured. Bankruptcy or insolvency of an insured does not release the insurer from its contractual obligations under the policy, however if the insured is unable to pay his or her deductible, the umbrella policy does not drop down to become primary. It pays only the amount exceeding the deductible.

The same applies if one of the underlying insurers becomes insolvent or goes bankrupt:

**Bankruptcy Of Underlying Insurer**—In the event of bankruptcy or insolvency of any "underlying insurer,” the insurance provided by this policy will not replace such "underlying insurance” but will apply as if the "underlying insurance" were valid and collectible.

**Cancellation**

The cancellation clause allows the named insured to cancel the policy by notifying the insurer in writing of the date cancellation is to be effective. The insurer may also cancel the policy when written notice is given at least a specified number of days (usually 30) prior to the cancellation date. If the insurer cancels the policy for nonpayment of premium, notice time is reduced (usually 10 days). Notice of non-renewal is normally 30 days. Many states have specific cancellation and non-renewal requirements. An increasing number of states require that personal umbrella policies have termination provisions similar to the homeowners policy.

Most cancellation conditions state that proof of mailing of the cancellation notice is proof of notice. The provision also stipulates that if the policy is canceled, premium computation is on a pro rata basis. A few personal umbrella forms specify that if the insured initiates the cancellation, the premium computation is on a short-rate basis. Many states however, have restricted the use of short-rate cancellation calculations for personal lines policies.

**Concealment or Fraud**

Most personal umbrella forms include the condition that coverage is void to all insureds if any insured has intentionally concealed or misrepresented a material fact. A material fact is one that may increase the risk and that, if known, might cause the insurer either to decline to insure or to
require a higher premium. Insurers are reluctant to deny losses under this clause unless they have very convincing evidence against the insured.

**Duties After Loss**

Nearly all personal umbrella forms contain a duty-after-loss condition. This provision describes the named insured's obligations after a loss occurs, such as providing written notice, assisting in all aspects of the trial, and not making voluntary payments.

One of the more important duties is the notification of the insurer of a loss. This notice requirement allows the insurer to investigate the accident or loss promptly, while memories are fresh and information is easier to gather. In a short time following an accident, witnesses may move, die, or become inaccessible, details may be forgotten, and attitudes may become belligerent.

<table>
<thead>
<tr>
<th>Duties After Occurrence, Claim or Suit.</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. if an occurrence is likely to involve coverage under this policy, you shall promptly advise us or our agent of:</td>
</tr>
<tr>
<td>(1) How, when and where the occurrence took place; and</td>
</tr>
<tr>
<td>(2) Names and addresses of the injured and all witnesses.</td>
</tr>
<tr>
<td>b. If information regarding a claim is received or if legal action is begun, the Insured must immediately send us a copy of every notice, demand, report, summons or other legal papers.</td>
</tr>
</tbody>
</table>

The insured is required to give the company written notice as soon as practicable of an occurrence likely to involve the company. The insured is also required to furnish copies of legal documents and to assist and cooperate with the company.

This condition is particularly important to the umbrella insurer when it does not write the primary (underlying) liability policies. The notification of loss provision should be stressed with the named insured in this circumstance, since some claims may not initially appear to exceed the underlying liability limits but end up doing so. If the umbrella insurer is not notified until very late in the claims process, it may attempt to deny coverage, based on this condition.

**Liberalization Clause**

Virtually all umbrella policies include if the insurer makes a change that expands coverage under the policy form without an additional premium charge, that change automatically applies to the named insured's policy on the date the change is implemented.
Limit of Liability

This condition stipulates that the insurer's limit of liability will not exceed the per occurrence amount listed on the declarations. This limit applies regardless of the:

- Number of insureds
- Claims made
- Persons injured
- Vehicles involved in an accident

In some personal umbrella forms, this condition is merged with the severability of interests condition.

Maintenance of Underlying Insurance

One of the most important conditions is the requirement that the insured must maintain the required underlying insurance. If the required underlying coverage is not in force, the umbrella policy will pay no more than it would have paid if the underlying coverage had remained in force. The umbrella coverage does not drop down to the primary level.

The named insured must maintain the primary insurance at the full limits specified in the umbrella policy declarations. If this coverage is canceled or non-renewed, the named insured must notify the insurer at once. If the named insured fails to maintain this underlying insurance, the insurer is not liable under this policy for more than its liability if the underlying coverage was in force, leaving a large gap in coverage.

The insured must promptly reimburse the company for any amount paid on the insured's behalf under the supplemental benefits insuring agreement and the liability coverage insuring agreement within the specified retained limit. Reimbursement is not required for:

- Premiums paid for bonds, and
- Expenses incurred by the company.

The insurer providing the umbrella coverage is not obligated to indemnify an insured for any one occurrence unless and until the insured or the insured's underlying insurer has paid the amount of the underlying limit.

Required Underlying Insurance. If an insured has the liability exposure you must maintain liability coverages and limits of liability at least equal to those shown on the Declarations to cover the exposure. If you fail to maintain this Required Underlying Insurance, the coverage (including additional coverages) under this policy will not apply until the damages exceed the coverage and limits required. You will be responsible for the amount of the loss up to the Required Underlying Insurance limits of liability.
Other Insurance

It is possible for more than one policy to apply to a covered loss. The "other insurance" provision is included in umbrella policies to establish the manner in which the policy will coordinate or contribute with other policies in effect.

The umbrella policy is excess over any other collectible insurance available to the insured, whether listed in the umbrella policy or not. It contributes only with another umbrella policy. It typically contains language similar to the following:

**Excess**: This insurance is excess over any other insurance except that written specifically to cover excess over the amount of coverage that applies in this policy.

If other insurance provides for payment only in excess of a stated amount of liability for each occurrence, we will pay only our share. Our share is the proportion that our limit of liability bears to the total limits of all applicable policies providing insurance on that basis.

Severability of Interests

Most personal umbrella policies contain a condition that addresses severability of interests (separation of insureds). The condition stipulates that insurance applies separately to each insured as if each had a separate policy. The insurer's limit of liability however, is the most that will be paid, regardless of the number of insureds covered by the policy. Some forms include this provision in the limit of liability condition.

Subrogation

Subrogation (sometimes referred to as "our right to recover payment"), gives the insurer the right to recover damages from a third party, after paying its insured's claim. A typical subrogation provision stipulates that when the umbrella insurer pays, the insured's rights of recovery from another party become the insurer's rights, up to the amount the insurer paid. The insured must also protect these rights and help the insurer enforce them.

Some forms are very specific concerning the order in which recoveries are allocated, such as:

Any recoveries will be applied as follows:

FIRST, to reimburse the **insured** and any insurer for amounts each may have paid for liability in excess of our limit of liability.

SECOND, to reimburse us up to the amount we have paid under this policy.

THIRD, to reimburse the **insured** and any underlying insurer to the extent that each is entitled to claim the remaining amount, if any.
This is one reason why umbrella policies are so much less expensive than primary liability policies they are usually the last to pay out and the first to be reimbursed under subrogation.

**Suit Against Insurer**

Virtually all personal umbrella forms contain a condition stipulating that no legal action can be brought against the insurer unless there has been compliance with the policy terms and not until the obligation of the insured has been determined by a final judgment or agreement. Some forms also specify that no one has the right to name the insurer as a party to any legal action against an insured. The suit-against-insurer condition is intended to avoid direct third-party actions against the insurer.

The right to sue the insurer exists only after the liability of the insured has been established by trial or agreed to in a settlement.
PERSONAL UMBRELLA LIABILITY DECLARATIONS PAGE

Each insurance company develops and modifies its own Umbrella Liability Declarations, however most of these items are found on the Umbrella Liability Declarations include:

- The name and address of the insurer (and company logo)
- Policy number
- Name and mailing address of the insurance agent or agency
- Name and mailing address of the insured
- Policy period including effective and expiration date with month, day and year, as well as time of day
- Primary residence address if different from the listed mailing address
- Limits of insurance per accident and the applicable aggregate amount, if any
- Self-insured retention
- Rates for coverages
- List of the forms and endorsements (both mandatory & optional forms) that apply to the homeowners policy or coverage section (including edition dates)
- Total umbrella premium
- Schedule of underlying coverages

Umbrella declarations generally include a separate page showing the underlying or primary protection that must be kept in force in order for the excess coverage to apply. The schedule usually includes the type of coverages required and the minimum limits of insurance accepted.
SAMPLE UMBRELLA LIABILITY DECLARATIONS

<table>
<thead>
<tr>
<th>INSURER NAME</th>
<th>INSURER LOGO</th>
<th>INSURER ADDRESS</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>POLICY NUMBER: XXXXXXXXXX</th>
<th>Type of Policy (New/Renewal)</th>
</tr>
</thead>
</table>
Type of Billing (Annual, monthly, etc.)

| POLICY PERIOD: FROM XX-XX-XX TO XX-XX-XX AT 12.01 A.M. AT THE |
|-------------------|-----------------------------|

<table>
<thead>
<tr>
<th>INSURED'S MAILING ADDRESS</th>
<th>AGENCY NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSURED MAILING ADDRESS</td>
<td>AGENCY MAILING ADDRESS</td>
</tr>
<tr>
<td>AGENCY PHONE NUMBER</td>
<td>AGENCY CODE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PRIMARY RESIDENCE ADDRESS</th>
<th>(if different from the insured's mailing address)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>LIMIT OF INSURANCE: $XXXXXXX, Each Accident</th>
</tr>
</thead>
<tbody>
<tr>
<td>$XXXXXXX, Annual Aggregate</td>
</tr>
<tr>
<td>SELF-INSURED RETENTION: $_____ Each Occurrence</td>
</tr>
</tbody>
</table>

Forms and Endorsements Applicable to This Excess Liability Coverage:
(All that apply to policy)
AA XX XX XX, AA XX XX XX, AA XX XX XX

In return for your payment of the premium, and subject to all of the terms of this policy, We agree with you to provide insurance as stated in this policy.

<table>
<thead>
<tr>
<th>TOTAL UMBRELLA PREMIUM: $</th>
<th></th>
</tr>
</thead>
</table>

Countersigned by: __________________________

**Authorized Representative Authorized Company Officer**

These declarations together with the coverage form(s), policy conditions, forms, any applicable endorsements, and the attached underlying insurance schedule, issued to form a part therefore, complete the above numbered policy.
SCHEDULE OF UNDERLYING INSURANCE

The person named in this policy agrees to the following:

- That any underlying applicable coverage is in force and will be kept in force.
- The insurance limits will be at or greater than the minimums shown below.
- The coverage is to apply to any covered property (automobiles, premises, watercraft, recreational vehicles, etc.) that is owned, leased, or used by the insured.

<table>
<thead>
<tr>
<th>Policy</th>
<th>Coverage</th>
<th>Required (Minimum) Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Automobile</td>
<td>Bodily Injury</td>
<td>$xxxxxx per person</td>
</tr>
<tr>
<td></td>
<td>Property Damage</td>
<td>$xxxxxx per occurrence</td>
</tr>
<tr>
<td></td>
<td>(If Combined Single Limit)</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>Personal Liability</td>
<td>Single Limit</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>Farm Personal Liability</td>
<td>Single Limit</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>Recreational Vehicle Liability</td>
<td>Combined Single Limit</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>Watercraft Liability:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No more than 25 feet or 50 HP</td>
<td>Bodily Injury</td>
<td>$xxxxxx per person</td>
</tr>
<tr>
<td></td>
<td>Property Damage</td>
<td>$xxxxxx per occurrence</td>
</tr>
<tr>
<td></td>
<td>(If Combined Single Limit)</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>More than 25 feet or 50 HP</td>
<td>Bodily Injury</td>
<td>$xxxxxx per person</td>
</tr>
<tr>
<td></td>
<td>Property Damage</td>
<td>$xxxxxx per occurrence</td>
</tr>
<tr>
<td></td>
<td>(If Combined Single Limit)</td>
<td>$xxxxxxx per occurrence</td>
</tr>
<tr>
<td>Miscellaneous Liability</td>
<td>Combined Single Limit</td>
<td>$xxxxxx per occurrence</td>
</tr>
</tbody>
</table>
ISO PERSONAL UMBRELLA LIABILITY POLICY

Insurance Services Office (ISO) has developed a personal umbrella form. Since many member companies have already developed their own forms, this program will not be filed on behalf of member companies. Each individual company can determine whether or not to adopt the form. Individual companies will also determine their underlying limit requirements, deductibles, retention amounts, and coverage limits.

The following is a detailed analysis of the ISO (Insurance Services Office) Umbrella Coverage Form, DL 98 01 06 98 edition, referred to as the PUP. Where applicable, the correlation between the HO3, the PAP and the PUP will be discussed.

Coverage under the Insurance Services Office (ISO) Personal Umbrella Liability Policy (PUP) consists of bodily injury, property damage and personal injury liability coverages. The minimum forms necessary for a complete Personal Umbrella Liability Policy are the Policy Declarations, and the Personal Umbrella Liability Policy Form, DL 98 01. These forms may be accompanied by a supplemental declarations page or policy index as well as by any mandatory state endorsement(s). Optional endorsements may be used to broaden, restrict, or clarify coverage, or to meet state specific requirements. There are very few umbrella program endorsements, due to the fact that most of the need to modify coverage is done by endorsing the primary policies.

The personal umbrella policy (DL 98 01 06 98) is a true umbrella in that it provides excess limits following underlying coverage forms, as well as coverage for situations not covered by underlying forms.

PURPOSE

The ISO PUP shares the goals of all personal excess coverage to do the following:

- Provide additional coverage above the limits of liability provided by the personal auto, homeowners and personal liability policies and endorsements,
- Provide broader coverage to protect against liability for exposures that are not covered by underlying policies.

FORMAT OF POLICY

The Personal Umbrella Liability Policy Form DL 98 01 consists of an agreement, definitions, liability coverages, exclusions, additional coverages and conditions.
AGREEMENT

Since an umbrella works in conjunction with underlying policies, the terms used by the policies should work together to provide the anticipated coverage. The PUP agrees to provide the coverage listed in exchange for receiving payment from the policy owner.

Definitions

A number of words of particular importance are defined in the ISO Personal Umbrella Liability Policy and are referenced throughout. The defined terms include the following:

I. Definitions

"You" and "your"

A. Throughout this policy, "you" and "your" refer to:
   1. The "named insured" shown in the Declarations; and
   2. The spouse if a resident of the same household.

The terms "you" and "your" are used when discussing the "named insured" appearing on the Declarations page and the named insured's spouse (if the spouse lives in the same household).

While the PUP and the HO3 share the same definition for "You" and "your," the PAP has a broader definition. The PAP considers a spouse who has moved into a new residence to be an insured for up to 90 days after the move, but not the PUP.

"We", “Us”, and “Our”

B. “We”, “Us” and “Our” refer to the Company providing this insurance.

The terms "our," "us," and "we" refer to the company writing the umbrella coverage.

“Private Passenger Auto

C. For purposes of this policy, a private passenger type auto, pickup or van shall be deemed to be owned by a person if leased:
   1. Under a written agreement to that person; and
   2. For a continuous period of at least 6 months.
Both the PUP and the PAP consider private passenger autos, pickup trucks or vans which are in the custody of an insured under a written lease for at least six months to be "owned" vehicles and are eligible for coverage.

The PUP defines any private passenger auto, pickup truck or van that an insured controls under a long-term, written lease as an owned vehicle.

Other words and phrases are defined. They are in quotation marks when used.

**Auto**

D. "Auto" means:

1. A private passenger motor vehicle, motorcycle, moped or motor home; or
2. While towed by a private passenger motor vehicle, a trailer, farm wagon or farm implement.

The definition of an "auto" in the umbrella is much broader than in the PAP. An "auto" includes a private passenger motor vehicle, motorcycle, moped, motor home, or a trailer, farm wagon or farm implement while being towed by a private passenger motor vehicle. Many companies permit a motorcycle or moped to be endorsed onto the auto policy; others write separate motorcycle policies. If the umbrella insurer does not wish to cover any of these vehicles, they may be excluded by endorsement.

The definition for "trailer" from the PAP has been included in the umbrella definition of "auto." The definition of "auto" in the personal umbrella policy encompasses vehicles that may be covered by endorsement to the ISO auto policy -- a motor home, motorcycle, or moped.

**Bodily Injury**

E. "Bodily injury" means bodily harm, sickness or disease, including required care, loss of services and resulting death.

"Bodily injury" refers to sickness, disease, or bodily harm, including any resulting death, as well as any related loss of service or needed care.

**Business**

F. "Business" includes trade profession or occupation.
"Business" means any trade, profession or occupation (any regular activity that is pursued for income).

**Family members/insured**

G. "Family member" means a resident of your household who is:

1. Your relative, including a ward or foster child; or

2. Under the age of 21 and in the care of you or an "insured" who is age 21 or over.

"Family member" includes a resident relative, a ward or foster child, or a person under age 21 in the care of either the named insured, or an insured over the age of 21. While there is no coverage for a person using an auto or recreational motor vehicle without a reasonable belief that that person is entitled to do so, the exclusion of coverage does not apply to a "family member" using a covered auto or recreational motor vehicle.

In the PUP, "family member" refers to a household resident who is:

- A relative, including a ward or foster child
- A person younger than 21 who is in the care of an "insured" who is at least 21 years old.

The ISO Personal Auto Policy (06 98 edition) defines "family member" as a person related to you by blood, marriage or adoption who is a resident of your household. This includes a foster child or ward.

The HO3 does not refer to family member, but "insured" is defined as:

You and residents of your household who are:

a) Your relatives; or
b) Other persons under the age of 21 and in the care of any person named above.

Because of the difference in definitions, a distinction may exist regarding an adopted child. Such persons can still be covered under the umbrella for a driver operating a covered car with an insured’s permission.

Because the policy applies to an "occurrence" anywhere in the world, the umbrella form provides liability coverage for the named insured and "family members" while driving in most foreign countries. However, the policy covers bodily injury and property damage only. There is no no-fault or medical payments coverage.

**Fuel Systems**
H. "Fuel System" means:

1. One or more containers, tanks or vessels which have a total combined storage capacity of 100 or more U.S. gallons of liquid fuel; and:
   a) Are, or were, located on any single location covered by "underlying insurance"; and
   b) Are, or were, used to hold liquid fuel that is intended to be used solely for one or more of the following:
      1) To heat or cool a building;
      2) To heat water;
      3) To cook food; or
      4) To power motor vehicles, other motorized land conveyances or watercraft owned by an "insured";

2. Any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes that are, or were, connected to one or more containers, tanks or vessels described in paragraph H.1.;

3. Filler pipes and flues connected to one or more containers, tanks or vessels described in paragraph H.1.;

4. A boiler, furnace or a water heater, the liquid fuel for which is stored in a container, tank or vessel described in Paragraph H.1.;

5. Fittings and pipes connecting the boiler, furnace or water heater to one or more containers, tanks or vessels described in Paragraph H.1.; or

6. A structure that is specifically designed and built to hold the liquid fuel that escapes from one or more containers, tanks or vessels described in Paragraph H.1.

The ISO Umbrella is the only one that includes a lengthy definition of fuel systems. This is probably because the ISO Homeowners Policy also contains the same definitions and exclusions. This exclusion precludes coverage for bodily injury, personal injury, or property damage caused by the escape of fuel from a fuel system.

"Fuel system" refers to:

- One or more containers (of any type) which have a capacity of 100 or more gallons of liquid fuel which either did or do exist on an insured location and are used for heating/cooling, heating water, cooking food or powering motorized vehicles, watercraft or land conveyances

- Motors, nozzles, gauges, pipes, hoses or apparatus attached to the defined fuel containers
• Filler pipes and flues connected to the defined fuel containers

• Boilers, furnaces or water heaters, including any fittings and pipes, which are supplied to the defined fuel containers

• Any structure that is specifically designed and built to hold the liquid fuel that escapes from any defined fuel container.

**Insured**

1. "Insured" means:
   1. You
   2. A "family member"
   3. Any person using an "auto," recreational motor vehicle," or watercraft, which is owned by you and covered under this policy. Any person using a temporary substitute for such "auto" or recreational motor vehicle" is also an "insured."
   4. Any other person or organization but only with respect to the legal responsibility for acts or omissions of you or any "family member" while you or any "family member" is using an "auto" or "recreational motor vehicle" covered under this policy. However, the owner or lessor of an "auto" or "recreational motor vehicle" loaned to or hired for use by an "insured" or on an "insured's" behalf, is not an "insured."
   5. With respect to animals owned by you or any "family member," any person or organization legally responsible for such animals. However, a person or organization using or having custody of such animals in the course of any "business" or without the consent of the owner is not an "insured."

"Insured" refers to the person named on the Declarations, a "family member," and any person using an "auto," "recreational motor vehicle," or watercraft that is either owned by the named insured or is a temporary substitute for an insured’s vehicle or craft. Entities can also be insureds, to the extent of their legal liability created by an insured’s use of a covered auto. The term extends to animals owned by an insured. However, two classes of entities are specifically not “insureds”:

• The owner/lessor of either an "auto" or a "recreational motor vehicle" which is loaned or rented to an insured
• Any entity that has custody of an insured’s animal as a result of a "business" or without an insured’s permission.

The umbrella provides broad coverage since any person using an auto, watercraft, or recreational motor vehicle owned by the insured and covered by the umbrella is an insured for that vehicle or a temporary substitute for such a vehicle.
If an insured uses his vehicle to do voluntary work for an organization and negligently causes an accident, the organization is also an insured if it is held liable for the driver’s accident. However, if an insured rents or borrows a vehicle and causes an accident, the owner or lessor of the vehicle is not an insured.

One difference between the umbrella and the Homeowners Policy is the definition of an insured regarding an owned animal. The homeowners form responds to bodily injury caused by an animal owned by or in the care of an insured. The umbrella however, will not provide coverage for any person or organization using or having custody of such an animal in the course of any business.

**Occurrence**

J. "Occurrence" means:

1. An accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in:
   a. "Bodily injury"; or
   b. "Property damage.”

"Occurrence" involves either "bodily injury" or "property damage" that takes place during the policy period. Damage caused by exposure to repeated or continuous circumstances is also defined as an occurrence.

**Personal Injury**

K. "Personal injury" means injury arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. 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.
4. Oral or written publication of material that slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services; or
5. Oral or written publication of material that violates a person’s right of privacy.

The umbrella provides protection for "personal injury" (injuries other than bodily injury and property damage), including libel and slander, false arrest, malicious prosecution, wrongful
eviction or wrongful entry into a private room, dwelling or premises committed by or on behalf of its owner, landlord, or lessor.

The ISO umbrella separates coverage for bodily injury from that for personal injury in the same manner as the ISO Homeowners form.

**Property Damage**

L. "Property damage" means physical injury to destruction of or loss of use of tangible property.

"Property damage" refers exclusively to tangible property that has been physically injured, lost or destroyed, including the loss of the use of tangible property. Claims involving intangible or intellectual property would not qualify for coverage under "property damage."

**Recreational MotorVehicle**

M. "Recreational motor vehicle" means:

1. All-terrain vehicle;
2. Dune buggy;
3. Golf cart;
4. Snowmobile; or
5. Any other motorized land vehicle which is designed for recreational use off public roads.

"Recreational motor vehicle" includes all-terrain vehicles, dune buggies, golf carts, snowmobiles or any other motorized land vehicle meant for off-the-road recreation. Golf carts and dune buggies are frequently endorsed onto the auto policy, and the umbrella provides excess liability over the underlying limits of insurance for those vehicles.

**Retained Limit**

N. "Retained limit" means:

1. The total limits of any "underlying insurance" or any other insurance that applies to an "occurrence" or offense which:
   a. Are available to an "insured"; or
b. Would have been available except for the bankruptcy or insolvency of an insurer providing "underlying insurance"; or

"Retained Limit" means the total of the limits for any "underlying insurance" or other insurance available to an insured; including coverage which would have been available if the insurer providing the underlying insurance had not become bankrupt or insolvent.

2. The deductible, if any, as stated in the Declarations, if the "occurrence" or offense:  
   a) Is covered by this policy; and
   b) Is not covered by "underlying insurance" or any other insurance.

Retained limit also means the deductible shown on the declarations page, which applies when a loss that qualifies for coverage under the PUP is not covered by any other source of insurance.

**Underlying Insurance**

O. "Underlying insurance" means any policy providing the "insured" with primary liability insurance covering one or more of the types of liability listed in the Declarations and at limits no less than the retained policy limits shown for those types of liability listed in the Declarations.

The definition of "underlying insurance" is a reference to the requirements that the insured maintain certain limits of liability insurance, as set forth in the insurer’s underwriting guidelines.

**Coverages**

**II. Coverages**

**Insuring Agreement**

**AGREEMENT**

A. Insuring Agreement

We will pay damages, in excess of the "retained limit," for:
a. "Bodily injury" or "property damage" for which an "insured" becomes legally liable due to an "occurrence" to which this insurance applies; and

b. "Personal injury" for which an "insured" becomes legally liable due to one or more offenses listed under the definition of "personal injury" to which this insurance applies

Damages include prejudgment interest awarded against the "insured."

The policy’s intent is to provide coverage that is excess in these situations:

- To extend the coverage of the primary insurance policies such as auto, homeowners, recreational vehicles and similar policies appear on the Declarations page, with required limits.
- When a valid source of coverage exists but is not listed on the Declarations, which applies to a loss on a primary basis.
- For a primary policy with limits that are lower than those shown on a Declarations page.

The insurer will pay damages in excess of the retained limit for covered loss.

The umbrella also covers any prejudgment interest.

**Defense**

B. **Defense Coverage**

1. If a claim is made or a suit is brought against an "insured" for damages because of "bodily injury" or "property damage" caused by an "occurrence" or "personal injury" caused by an offense to which this policy applies, we:

   a) Will provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or fraudulent. However, we are not obligated to defend any suit or settle any claim if:

      1) The "occurrence" or offense is covered by other "underlying insurance" available to an "insured";

      2) There is no applicable "underlying insurance" in effect at the time of the "occurrence" or offense and the amount of damages claimed or incurred is less than the applicable deductible amount shown in the Declarations.

   b) May join, at our expense, with the "insured" or any insurer providing "underlying insurance" in the investigation, defense or settlement of any claim or suit which we believe may require payment under this policy.

   However, we will not contribute to the costs and expenses incurred by any insurer providing "underlying insurance"; and
c) Will pay any expense incurred for the "insured's" defense, with our written consent, in any country where we are prevented from defending an "insured because of laws or other reasons.

2. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when the amount we pay for damages in judgments or settlements resulting from the "occurrence" or offense equals our limit of liability.

This provision highlights the worldwide coverage provided by the umbrella with defense coverage applicable in any country. Since homeowners liability coverage applies anywhere in the world, but auto liability coverage does not, the umbrella, with its worldwide coverage, is an important addition to the personal insurance portfolio.

The insurer will pay the cost to defend an insured against lawsuits, even when a suit or allegation has no merit, with the following limitations:

- The source of the suit must be the result of damages or offenses that are eligible for coverage under the PUP
- The insurer doesn't have to defend
  - When coverage is provided by underlying insurance
  - When the claim is not covered by underlying insurance, but the amount is less than the policy's deductible.

The insurer may also join in the defense of a claim which has the potential to exceed the underlying carrier's limits without contributing to the primary carrier's defense costs.

The umbrella provider must pay any legal expenses incurred by an insured when a different country's laws or regulations prevents it from defending an insured.

The insurer may also choose to investigate or settle any claim it decides is appropriate. The company's obligation to provide any defense ends when it pays out its limit.

Additional Coverages

C. Additional Coverages

In addition to our limit of liability, we will pay:

1. Expenses we incur and costs taxed against an "insured" in any suit we defend;

2. Premiums on bonds required in a suit we defend, but not for bond amounts to the extent they exceed our limit of liability. We need not apply for or furnish any bond; and

3. Reasonable expenses incurred by an "insured" at our request, including actual loss of earnings (but not loss of other income) up to $250 per day, for assisting us in the investigation or defense of a claim or suit; and
4. Interest on our share of the judgment which accrues after entry of the judgment and before we pay or tender, or deposit in court, that part of the judgment which does not exceed the limit of liability that applies.

The umbrella provides four additional coverages, in addition to payment for covered damages and defense expense. These are expenses incurred by the insurer (including any taxes imposed against the insured in a suit defended by the insurer); premiums on bonds in a defended suit, unless they exceed the limit of liability; reasonable expenses, including loss of wages, incurred by an insured at the insurer’s request; and interest on any settlement accruing after entry of the judgment order but before payment is actually made.

Expense for defense is in addition to the amount payable for damages.

**Limit Of Liability**

**D. Limit of Liability**

Our total liability under this policy for all damages resulting from any one "occurrence" or offense will not be more than the limit of liability as shown in the Declarations of this policy. This limit is the most we will pay regardless of the number of "insureds," claims made, persons injured, or vehicles involved in an accident.

The limit of liability shown on the policy Declarations is the maximum amount that will be paid for a single "occurrence" and is not affected by any of the following:

- The number of "insureds"
- The number of claims made
- The number of persons injured.

All eligible damages resulting from any one accident or of continuous or repeated exposure to substantially the same general harmful conditions are considered to be one "occurrence."

**Exclusions**

**III. Exclusions**

A. The coverages provided by this policy do not apply to:
Intentional Injuries

1. Bodily injury” or “property damage” arising out of an act which is expected or intended by an "insured" to cause "bodily injury" or "property damage." This exclusion (A.1.) applies even if the "bodily injury" or "property damage":

   a) Is of a different kind, quality or degree than expected or intended; or

   b) Is sustained by a different person or entity than expected or intended.

However, this exclusion (A.1.) does not apply to:

   a) "Bodily injury" resulting from the use of reasonable force by an "insured" to protect persons or property; or

   b) "Bodily injury" or "property damage resulting from the use of reasonable force by an "insured" to prevent or eliminate danger in the operation of "autos," "recreational motor vehicles" or watercraft.

There is no coverage for intentionally inflicted injury or property damage even if the injury or property damage is not what was expected or intended, or happens to a different person other than the intended victim.

The umbrella provides coverage for intentional bodily injury resulting from reasonable force to protect persons or property. There is coverage as well if an insured acts to prevent or eliminate danger in the operation of motor vehicles, watercraft, or recreational vehicles. Otherwise, acts resulting in expected or intended injury are not covered.

Personal Injury

2. Personal injury”:

   a. Arising out of oral or written publication of material, if done by or at the direction of the "insured" with knowledge of its falsity;

   b. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;

   c. Arising out of a criminal act committed by or at the direction of one or more "insureds"; or

   d. Sustained by any person as a result of an offense directly or indirectly related to the employment of this person by the insured.

The policy does not cover any personal injury such as libel or slander if the insured knows that the libel or slander is false. Also, if the libel or slander takes place prior to the policy’s inception, there is no coverage. Any criminal act committed by or at the direction of the insured is not
covered, nor is any offense against an employee of the insured which excludes coverage for charges of discrimination in hiring, firing, or promotion.

**Rental Property**

3. "Bodily injury," "personal injury" or "property damage" arising out of the rental or holding for rental of any part of any premises by an "insured." However, this exclusions (A.3.) does not apply to the rental or holding for rental of:

a) The residence premises shown in the Declarations;

(1) On an occasional basis if used only as a residence;

(2) In part, for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or

(3) In part, as an office, school, studio or private garage;

b) Any part of a one to four family dwelling other than the residence premises to the extent that personal liability coverage is provided by "underlying insurance";

c) A condominium, cooperative, or apartment unit other than the residence premises to the extent that personal liability coverage is provided by "underlying insurance";

Rental property is not covered unless an underlying policy provides coverage. The umbrella language mirrors the homeowners language, wherein coverage is excluded with certain exceptions.

Coverage is extended to any of the following situations:

- Occasionally renting out the insured premises for use as a residence
- Rental of part of the insured premises as a residence, even if on a long-term basis, if rental occurs to no more than two roomers or boarders
- Partial rental of the insured premises for use as a school, private office, private garage or studio.
- When the personal liability is covered by the underlying insurance for renting a structure other than the insured's residence.
- Where the underlying insurance provides coverage for a secondary or seasonal residential condo, co-op or apartment.

**Business**
4. “Bodily injury,” "personal injury" or "property damage" arising out of or in connection with a "business" engaged in by an "insured." This exclusion (A.4.) applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business."

The PUP excludes all damages connected to an insured's business, including professional services, except:

- An insured’s public or civic functions that involve no more than reimbursement of expenses
- Losses created by a minor’s business activity
- The occasional or part-time business pursuit involving minors
- Home day care that represents a mutual exchange of similar services or when a covered person is caring for a relative
- An insured using a covered auto in connection with selling, repairing, servicing, storing or parking vehicles made for use on public roads
- The use of an auto for business purposes, unless it is used to transport persons or property for income

However, this exclusion (A.4.) does not apply to:

a. Civic or public activities performed by an "insured" without compensation other than reimbursement of expenses;

The ISO umbrella provides liability coverage for an insured engaging in unpaid public or civic duties or activities, so long as the insured performs the activities without monetary compensation other than reimbursement of expenses.

b. An "insured" minor involved in self-employed "business" pursuits, which are occasional or part-time and customarily undertaken on that basis by minors. A minor means a person who has not attained his or her:

1) 18th birthday; or
2) 21st birthday if a full-time student;

Although bodily injury, property damage, or personal injury arising out of a “business” is excluded from coverage, self-employed activities normally associated with youngsters -- mowing lawns, paper delivery, babysitting, and pet minding -- are exempt from the exclusion.
c. The providing of home day care service, but only when:

1) An "insured" renders such service to a relative of an "insured"; or

2) A mutual exchange of home day care services agreement exists which involves no monetary or other compensation;

d. The use of an "auto" you own, or a temporary substitute for such "auto, by you, a "family member" or a partner, agent or employee of you or a "family member" while employed or otherwise engaged in the "business" of:

1) Selling;

2) Repairing;

3) Servicing;

4) Storing; or

5) Parking;

Vehicles designed for use mainly on public highways;

e. The use of an "auto" for "business" purposes, other than an auto business, by an "insured." However, we do not provide coverage for liability arising out of the ownership or operation of an "auto" while it is being used as a public or livery conveyance. This exclusion (A.4.e.) does not apply to a share-the-expense car pool.

The umbrella does not exclude the ownership, maintenance, or use of a covered auto or covered temporary substitute auto while the insured, a family member, partner, agent, or employee is employed or otherwise engaged in the auto business.

Professional

5. "Bodily injury," "personal injury" or "property damage" arising out of the rendering of or failure to render professional services;

There is no coverage for bodily injury, property damage or personal injury arising out of performing or failing to perform professional services. Coverage for these activities are properly insured elsewhere, under an errors and omissions or medical malpractice policy.
### Aircraft, Watercraft, & Auto

6. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of an aircraft;
   b. The entrustment by an "insured" of an aircraft to any person; or
   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using an aircraft.

   An aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo;

   There is no coverage under the umbrella for any bodily injury or property damage for any activity including entrustment or vicarious liability, connected with any aircraft. The umbrella defines an aircraft as any contrivance used or designed for flight except models or hobby aircraft not designed to carry persons or cargo. The definition includes hot air balloons and ultralight aircraft, which should be insured elsewhere.

6. There is no coverage under the PUP for aircraft-related "bodily injury" or "property damage." This exclusion extends to allegations of negligent entrustment or vicarious liability.

7. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of any watercraft;
   b. The entrustment by an "insured" of any watercraft to any person; or
   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any watercraft.

   However, this exclusion (A.7.) does not apply to the extent that watercraft coverage is provided by "underlying insurance" at the time of the "occurrence" or offense.

   There is no coverage under the PUP for watercraft-related "bodily injury" or "property damage." This exclusion extends to allegations of negligent entrustment or vicarious liability. Coverage does exist, however, to the extent of any underlying coverage.

8. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of any "recreational motor vehicle" owned by you or any "family member";
b. The entrustment by an "insured" of any "recreational motor vehicle" owned by you or any "family member," to any person; or

c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any "recreational motor vehicle" owned by you or any "family member."

   However, this exclusion (A.8.) does not apply to the extent that "recreational motor vehicle" coverage is provided by "underlying insurance" at the time of the "occurrence" or offense.

Also excluded is coverage for activities involving watercraft and recreational motor vehicles, unless covered in the underlying insurance.

There is no coverage under the PUP for recreational motor vehicle-related "bodily injury" or "property damage." This exclusion extends to allegations of negligent entrustment or vicarious liability. Coverage does exist, however, to the extent of any underlying coverage.

**War**

9. "Bodily injury" or property damage" caused directly or indirectly by war, including the following and any consequence of any of the following:

   a. Undeclared war, civil war, insurrection, rebellion or revolution;
   
   b. Warlike act by a military force or military personnel; or
   
   c. Destruction, seizure or use for a military purpose.

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

The exclusion of coverage for actions caused either directly or indirectly by war are common. Even an "accidental" detonation of a nuclear weapon is still considered a warlike act, and therefore excluded.

**Permissive Use**

10. A person using an "auto" "recreational motor vehicle" or watercraft without a reasonable belief that that person is entitled to do so. This Exclusion (A.10.) does not apply to a "family member" using an "auto" "recreational motor vehicle" or watercraft you own;

Although there is no coverage for a person using an auto, watercraft, or recreational motor vehicle without a reasonable belief they are entitled to do so, there is coverage for a family member using such a vehicle if it is owned by the insured.
Racing

11. The use of "autos," "recreational motor vehicles" or watercraft while they are being operated in, or practicing for, any prearranged or organized race, speed contest or other similar competition. However, this exclusion (A.11.) does not apply to:

b. Sailboats; or

c. Watercraft involved in predicted log cruises;

12. “Bodily injury" or “personal injury” to you or any “family member”;

Except for sailboats and log cruises, any use of a vehicle or watercraft in an organized race or competition is excluded.

Communicable Disease

13. “Bodily injury" or personal injury” arising out of:

a. The transmission of a communicable disease by an “insured”;

b. Sexual molestation, corporal punishment or physical or mental abuse; or

c. The use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance(s) as defined by the Federal Food and Drug law at 21 U.S.C.A. Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

The PUP denies coverage for losses related to communicable diseases, sexual molestation, corporal punishment, abuse and unauthorized or illegal activity involving controlled substances.

Director or Officer

14. “Bodily injury," "personal injury" or "property damage" arising out of an act or omission of an "insured" as an officer or member of a board of directors of a corporation or organization. However, this exclusion (A.14.) does not apply if the corporation or organization is not-for-profit and the "insured" receives no compensation other than reimbursement of expenses;

Coverage for any damages connected to an insured’s actions as a corporate or organization officer or director is excluded unless it is a not-for-profit organization, and the only compensation is reimbursement of expenses.
Owned Property

15. "Property damage" to property owned by the "insured";

No coverage is available under the PUP for damage to an insured's property.

Care, Custody, or Control

16. "Property damage" to property rented to, occupied or used by, or in the care, custody or control of, the "insured" to the extent that the "insured is obligated by contract to provide insurance for such property. However, this exclusion (A.16.) does not apply to "property damage" caused by fire, smoke or explosion;

Unless the damage is caused by fire, smoke or explosion, the umbrella excludes coverage for property damage to property rented to, occupied or used by, or in the care, custody or control of the insured, but only to the extent that the insured is obligated by contract to provide insurance for such property. If the insured is not obligated by contract to provide insurance on property in his or her care, custody, or control, the umbrella does provide coverage.

Worker's Compensation

17. "Bodily injury" to any person eligible to receive any benefits:

a. Voluntarily provided; or

b. Required to be provided;
   
   by an "insured" under any:
   
   - Workers compensation law;
   - Non-occupational disability law; or
   - Occupational Disease law;

The PUP does not cover "bodily injury" losses when the person suffering the loss should be reimbursed under a workers comp, non-occupational disability or occupational disease law.
**Nuclear**

18. "Bodily injury" or "property damage" 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;

Coverage is excluded under the PUP for an insured who should be protected under a nuclear energy liability policy.

**Fuel System**

19. "Bodily injury," "personal injury" or "property damage" caused by an "occurrence" or offense involving the escape of fuel from a "fuel system";

Liability under the PUP is excluded for "bodily injury" or "property damage" losses due to fuel escaping a "fuel system."

An endorsement, such as the **HO 05 80**, can be attached to provide limited coverage for property remediation caused by a fuel leak, and limited coverage for liability caused by a fuel leak under the HO policy, however the exclusion in the umbrella policy means it still will not provide excess coverage.

**Lead**

20. "bodily injury" or "personal injury" caused by an "occurrence" or offense involving the absorption, ingestion or inhalation of lead;

No coverage is provided for "bodily or personal injury" damages connected to the absorption, inhalation or ingestion of lead.
Lead Contamination

21. “Personal injury” or “property damage” caused by an “occurrence” or offense of lead contamination.

The PUP also excludes "personal injury" or "property damage" losses caused by lead contamination.

Loss Assessment

B. Liability coverage does not apply to any loss assessment charged against you as a member of an association, corporation or community of property owners.

Loss assessments to an insured as a member of ANY form of organization of property owners are excluded.

No-Fault and UM/UIM

C. We do not provide:

1. Automobile no-fault or any similar coverage under this policy; or

Excess or first dollar coverage for losses involving either no-fault or uninsured/underinsured motorist liability are excluded, unless the policy is explicitly added by endorsement.

2. Uninsured Motorists Coverage, Underinsured Motorists Coverage, or any similar coverage unless this policy is endorsed to provide such coverage.

There is no uninsured or underinsured motorist coverage unless the policy is endorsed to provide it. Some states have mandated that UM/UIM coverage be provided under the umbrella. If UM is not available under the umbrella, care should be taken to point this out to the insured and to recommend higher limits of coverage under the primary auto policy.

Maintenance of Underlying Insurance

IV. Maintenance of Underlying Insurance
You must maintain the "underlying insurance" at the full limits stated in the Declarations with no change to more restrictive conditions during the term of this policy. If any "underlying insurance" is cancelled or not renewed and not replaced, you must notify us at once.

If you fail to maintain "underlying insurance," we will not be liable under this policy for more than we would have been liable if that "underlying insurance" was in effect.

This portion of the policy obligates an insured to maintain the "underlying" insurance, not to change coverage to a more restrictive basis and to notify the insurer if any portion of the "underlying insurance" is lost and is not replaced.

If for any reason the insured fails to maintain the required underlying insurance, the umbrella will not “drop down” and provide insurance. The umbrella will not be triggered until a claim for damages exceeds what the insured should have carried as underlying insurance. It will not “drop down” to act as an underlying liability policy.

Duties After Loss

V. Duties After Loss

A. In the case of an "occurrence" or offense likely to involve the insurance under this policy, the "insured" must give written notice to us or our agent as soon as is practical. Such notice shall set forth:

2. The identity of the policy and "insured";

3. Reasonably available information about the time, place, and circumstances of the "occurrence" or offense; and

3. The names and addresses of any claimants and witnesses.

The insured must give written notice to the insurance company or the agent as soon as it is practical. The loss notification should include:

(1) The insured’s name and specific policy information such as policy number and effective dates

(2) Details regarding the time, place and circumstances of the accident or "occurrence"

(3) Claimant and witness names, addresses, contact information, etc.
It is critical that an insurer be notified quickly of possible losses in order to begin its evaluation of the evidence in the claim.

B. If a claim is made or a suit is brought against an "insured," the "insured" must:

1. Notify us immediately in writing;
2. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence" or offense;
3. 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.

Besides notifying the insurer of a claim in writing, the insured must send the insurance company every notice, demand, summons, or other process relating to the accident or "occurrence," so that the insurer is able to properly evaluate and handle a possible claim.

When the insurance company requests cooperation, the "insured" must help:

- With making a settlement
- Pursue other parties who have an obligation to either share or reimburse the insurance company for a loss payment that it makes on behalf of an insured
- With lawsuit details, attending hearings and trials
- Gather and give evidence and help to secure witnesses.

C. The "insured" will not, except at the "insured's" own cost, voluntarily make payment, assume obligation or incur expense to others.

If the "insured" volunteers to make a payment under any other circumstance, it is at his or her own expense. Making voluntary payments could compromise the rights of the insurance company, since it could be interpreted as admitting responsibility for causing injury or damage.
General Provisions

VI. General Provisions

Appeals

A. Appeals

If the "insured" or any insurer providing "underlying insurance" elects not to appeal a judgment which exceeds the "retained limit," we may do so at our own expense. We will pay all costs, taxes, expenses and interest related to our appeal. The amounts we pay will be in addition to our limit of liability.

The umbrella insurer reserves the right to appeal a judgment that exceeds the "retained limit at its own expense. Such expenses would be in addition to the policy's limit of insurance.

Bankruptcy Of An Insured

B. Bankruptcy of an Insured

Bankruptcy or insolvency of an "insured" will neither:

1. Relieve us of our obligations under this policy; nor

2. Operate to cause this policy to become primary in the event the "insured" is unable to satisfy the "retained limit" either because of insufficient "underlying insurance" or insufficient personal assets.

Bankruptcy of an insured will not relieve the umbrella insurer of its duty to provide coverage. The umbrella, however, will not act as primary insurance even if the insured’s bankruptcy means that underlying coverage is no longer in effect because the insured failed to pay premium.
Bankruptcy Of An Underlying Insurer

C. Bankruptcy of an Underlying Insurer

In the event of bankruptcy or insolvency of any "underlying insurer," the insurance afforded by this policy shall not replace such "underlying insurance," but shall apply as if the "underlying insurance" was valid and collectible.

If an underlying insurer declares bankruptcy, the excess policy will still respond as though primary coverage was in effect. The umbrella’s coverage will still not become primary.

Fraud

D. Fraud

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any "occurrence" or offense for which coverage is sought under this policy.

An insured’s fraudulent statements or acts could prevent coverage for a loss.

Liberalization Clause

E. Liberalization Clause

If we make a change, which broadens coverage under this edition of our policy without additional premium charge, that change will automatically apply to your insurance as of the date we implement the change in your state, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

This Liberalization Clause does not apply to changes implemented through introduction of a subsequent edition of our policy.

The change applies on a statewide basis for a policy form that has the same edition date as their policy, then the change will automatically apply to the insured’s policy on the SAME DATE the change becomes effective.

Any change that broadens coverage without additional premiums will automatically apply to the insured’s coverage.
If the company makes a change under the following circumstances:

- The change creates additional coverage
- No additional money has to be paid to secure the coverage
- The change is made up to 60 days before the insured’s policy effective date and

Other Insurance

F. Other Insurance

The coverage afforded by this policy is excess over any other insurance available to an "insured," except insurance written specifically to be excess over this policy.

The insurance provided by this policy is excess over any other insurance available to the insured. This provision does not mean that the umbrella is only an excess liability policy. If other insurance is available for a covered occurrence or offense, then that insurance is primary; however, if no other insurance applies to a covered occurrence or offense, the umbrella then becomes primary.

Our Right To Recover Payment

G. Our Right to Recover Payment

If we make a payment under this policy, we are entitled to exercise the "insured's" rights of recovery against any person liable for the loss. The "insured" must do nothing after loss to prejudice those rights.

Once the insurer has made payment for an "occurrence", it claims the "insured's" rights to pursue any person or entity which may bear responsibility for the loss. The insured is obligated to preserve the insurer’s right to be reimbursed from a party responsible for the loss.

Policy Period And Territory

H. Policy Period and Territory

The policy period is stated in the Declarations. This policy applies to an "occurrence" or offense which takes place anywhere in the world.

The umbrella’s coverage territory is anywhere in the world. An insured driving in Europe therefore has coverage for bodily injury and/or property damage. (However, the policy does not provide medical payments or no-fault coverage under any circumstances.) Many policies also exclude or limit coverage in Mexico.
Coverage under this insurance contract applies only to losses taking place during the policy period shown in the policy Declarations.

**Severability Of Insurance**

I. Severability of Insurance

This insurance applies separately to each "insured." However, this provision will not increase our limit of liability for any one "occurrence" or offense.

Should all of the losses exceed the underlying coverage, the PUP is obligated to provide coverage, up to its full insurance limit, for each occurrence.

This insurance applies separately to each "insured." This provision does not, however, increase the total limit of liability for any one "occurrence."

**Suit Against Us**

J. Suit Against Us.

1. No legal action can 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."

Concerning suits against the insurer:

- A suit can’t be filed without first complying with the policy provisions
- No other parties can join the insurance company in any action against an "insured"
- The insurer may not be sued until the obligation of the "insured" has been determined by final judgment or agreement

**Termination**

K. Termination

This provision addresses both cancellation and non-renewal of an umbrella policy.
Cancellation By The Insured

1. Cancellation by You

   You may cancel this policy by:

   a. Returning it to us; or
   
   b. Giving us advance written notice of the date cancellation is to take effect

The insured must either return the policy to the company or send prior written notice of the date the policy is to be canceled. The insured may request cancellation at any time during the policy period. These provisions are often amended by state requirements. Individual companies may adopt their own rules requiring return of original policy, a lost policy receipt, or other stipulations.

Cancellation By The Insurer

2. Cancellation by Us

   We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing 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 at any time by letting you know at least 10 days before the date cancellation takes effect.

   b. When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.

   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 by letting you know at least 30 days before the date cancellation takes effect.

For the insurer to cancel coverage, they must mail written notice to the named insured at the address shown on the policy Declarations page. The insurer must give 10 days advance notice of cancellation if the cancellation is for non-payment of premium or if it is cancelled within the first 60 days of coverage.

After the policy has been in effect for 60 days or if it is a renewal policy, cancellation may take place only if the insurer gives 30 days advance notice of cancellation.
Non-renewal

3. Non-renewal

We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

If a company doesn't want to continue coverage, it must give an insured at least 30 days advance notice of non-renewal, prior to expiration.

Other termination provisions

4. Other Termination Provisions

a. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.

b. 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.

Transfer Of Your Interest In This Policy

L. Transfer of Your Interest in this Policy

1. Your rights and duties under this policy may not be assigned without our written consent. However, if you die, coverage will be provided for:

a. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations;

b. Any member of your household who is an "insured" at the time of your death, but only while a resident of the "residence premises"; or

c. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative’s legal responsibility to maintain or use your "autos" or premises covered under this policy.

2. Coverage will only be provided until the end of the policy period.

A policyholder cannot assign his rights and duties under the PAP to another person, without the written permission of the insurer.
If the insured dies, then the surviving spouse, if a resident in the same household at the time of death, is provided the same coverage as the named insured. A legal representative of the deceased named insured is provided coverage, but only regarding the representative’s legal responsibility to maintain or use the covered property.

**Waiver Or Change Of Policy Provision**

<table>
<thead>
<tr>
<th>M. Waiver or Change of Policy Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us. If a change requires a premium adjustment, we will adjust the premium as of the effective date of the change.</td>
</tr>
</tbody>
</table>

Policy provisions may only be changed by an endorsement and any premium adjustment is effective on the date of change.
PERSONAL UMBRELLA ENDORSEMENTS

Personal umbrella insurers often modify their basic umbrella forms through the attachment of endorsements. These endorsements may address only one specific exposure or a group of exposures.

Personal umbrella endorsements can be used to tailor the coverage for a particular insured by limiting or restricting coverage to reflect the risk characteristics of the insured.

Each insurance company usually creates its own wording endorsements. The endorsements included here are so-called “standard” endorsements and should be viewed as examples only. Agents should carefully review the wording of a particular endorsement, and consider how it interacts with the particular policy form to which it is attached. Failure to review the umbrella policy and endorsements can lead to catastrophic results for the agent as well as the client.

Modifications to the Personal Umbrella Liability Policy are required in order to change coverage to accommodate a particular set of circumstances. These optional forms are designed primarily for handling coverage concerns represented by underlying coverages. Seven endorsements are currently available for use in connection with the ISO umbrella.

**DL 98 10 06 98 - Personal Umbrella Liability Policy Change Endorsement**

The first of these, **DL 98 10 (06 98)**, personal umbrella change endorsement, is used by the insurer to issue policy changes.

This is merely a form to facilitate making a policy change after the umbrella policy has been issued.

**DL 98 11 06 98 - Personal Umbrella Liability Policy Auto Liability Exclusion Endorsement**

This form should be used when an insured needs an umbrella, but doesn’t have any auto liability exposure. This endorsement excludes any "bodily injury" or "property damage" loss that
is related to an insured’s ownership or operation of an "auto," including any liability stemming from negligent entrustment or vicarious liability.

This endorsement allows an insurer to exclude nearly all automobile liability coverage under the personal umbrella policy for an insured who has no owned or non-owned automobile exposures. It is recommended only for insureds who do not own an automobile and do not drive, but may still need the liability protection afforded by a personal umbrella or excess policy for their other exposures.

The endorsement is not applicable to losses involving trailers that are neither towed or carried by an "auto," or to any "auto" that does not have to be registered as a motor vehicle if used to service an insured's residence, assist the handicapped or is held at an insured location in dead storage.

Since this endorsement eliminates coverage for auto-related liability, the reduced exposure should result in a premium credit.

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**PERSONAL UMBRELLA LIABILITY POLICY AUTO LIABILITY EXCLUSION ENDORSEMENT DL 98 11 06 98**

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

**III. Exclusions**

The following exclusion is added:

The coverages provided by this policy do not apply to "bodily injury" or "property damage" arising from:

- The ownership, maintenance, use, loading or unloading of "autos" owned or operated by or rented or loaned to an "insured";
- The entrustment by an "insured" of an "auto" to any person; or
- Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using an "auto".

This exclusion does not apply to:

- A trailer not towed by or carried on an "auto"; or
- An "auto" not subject to motor vehicle registration which is:
  - Used to service an "insured's" residence;
(2) Designed for assisting the handicapped; or

(3) In dead storage on an "insured location".

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

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DL 98 12 06 98 - Personal Umbrella Liability Policy Auto Liability Following Form Endorsement

This endorsement allows an umbrella insurer to provide coverage for an insured who has a driver’s license, but does not own or lease an auto, but who may occasionally rent or borrow an auto. Endorsement DL 98 12 (06 98), personal umbrella liability policy auto liability following form endorsement allows the coverage provided by the umbrella to apply "to the extent that ‘auto’ coverage is provided by ‘underlying insurance’ at the time of the ‘occurrence’ or offense." Often the umbrella insurer will require that a named non-owner auto policy be purchased to provide the required underlying insurance.

This endorsement excludes bodily injury or property damage from:

- The ownership, maintenance, use, loading, or unloading of autos owned, operated, rented, or loaned to an insured, except to the extent as provided by the underlying personal auto policy (PAP). If the underlying PAP covers the loss, the personal umbrella covers it, on an excess basis.

- The entrustment by an insured of an auto to any party, unless it is covered by the underlying personal auto coverage.

- The vicarious liability, whether or not statutorily imposed, concerning the actions of a minor using an auto, no matter what (or whose) auto is involved, unless insurance is provided by the underlying personal auto coverage.

PERSONAL UMBRELLA LIABILITY POLICY AUTO LIABILITY FOLLOWING FORM ENDORSEMENT DL 98 12 06 98

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

III. Exclusions

The following exclusion is added:
The coverages provided by this policy do not apply to "bodily injury" or "property damage" arising from:

a. The ownership, maintenance, use, loading or unloading of "autos" owned or operated by or rented or loaned to an "insured";

b. The entrustment by an "insured" of an "auto" to any person; or

c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using an "auto".

However, this exclusion does not apply to the extent that "auto" coverage is provided by "underlying insurance" at the time of the "occurrence" or offense.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

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**DL 98 13 06 98 - Personal Umbrella Liability Policy Exclusion - Designated Auto Endorsement**

Endorsement DL 98 13 (06 98), personal umbrella liability policy exclusion -- designated auto endorsement, may be attached to the umbrella if either the insured or the insurer wish to exclude a specific auto. The endorsement provides a space to schedule the auto, and excludes all coverage for the described auto.

This endorsement permits the umbrella insurer to exclude liability coverage for one or more designated autos for cases in which the umbrella insurer does not want to cover exposures it deems riskier than normal.

This endorsement excludes bodily injury or property damage from:

- The ownership, maintenance, use, loading, or unloading of any auto described in the endorsement schedule. Virtually any type of auto loss regarding this designated vehicle is excluded with this endorsement attached.

- The insured's entrustment of any auto described in the endorsement schedule to any party. Any loss alleging negligent entrustment of this auto is excluded under the insured's personal umbrella policy, when this vehicle is listed in the endorsement schedule.

- Vicarious liability, whether or not statutorily imposed, concerning the actions of a minor using any auto described in the endorsement schedule.

A premium credit normally applies to this endorsement, since a relatively significant exposure is eliminated.
PERSONAL UMBRELLA LIABILITY POLICY EXCLUSION –
DESIGNATED AUTO ENDORSEMENT DL 98 13 06 98

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

SCHEDULE

Description Of Designated Auto(s):

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

III. Exclusions

The following exclusion is added:

The coverages provided by this policy do not apply to "bodily injury" or "property damage" arising from:

   a. The ownership, maintenance, use, loading or unloading of any "auto" described in the Schedule of this endorsement;

   b. The entrustment by an "insured" of any "auto" described in the Schedule of this endorsement to any person; or

   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any "auto" described in the Schedule of this endorsement.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

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DL 98 14 06 98 - Personal Umbrella Liability Policy Exclusion -
Designated Recreational Motor Vehicle Endorsement

This endorsement allows the insurer to exclude liability coverage for one or more designated recreational motor vehicles. The ISO personal umbrella form stipulates that a "recreational motor vehicle" means (a) all-terrain vehicles, such as a three- or four-wheeler, (b) dune buggies,
(c) golf carts, (d) snowmobiles, or (e) any other motorized land vehicle designed for recreational use off public roads.

The form includes a schedule for describing the vehicle(s) that are being precluded for excess liability protection. The exclusion applies on a specific, rather than a blanket basis, so a policy that has this endorsement attached may exclude one particular recreational vehicle, while providing full coverage to others.

This endorsement excludes bodily injury or property damage from:

The ownership, maintenance, use, loading, or unloading of any recreational motor vehicle described in the endorsement schedule.

The entrustment by an insured of any recreational motor vehicle described in the endorsement schedule to any party.

Vicarious liability, whether or not statutorily imposed, concerning the actions of a minor using any recreational motor vehicle described in the endorsement schedule.

A premium credit normally applies to this endorsement, since an exposure is eliminated.

PERSONAL UMBRELLA LIABILITY POLICY EXCLUSION – DESIGNATED RECREATIONAL MOTOR VEHICLE ENDORSEMENT DL 98 14 06 98

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

SCHEDULE

| Description Of Designated Recreational Motor Vehicle(s): |

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

III. Exclusions

The following exclusion is added:

The coverages provided by this policy do not apply to "bodily injury" or "property damage" arising from:
This endorsement allows the umbrella insurer to exclude liability coverage from one or more designated watercraft.

This endorsement is flexible in that only losses from listed watercraft are excluded.

This endorsement excludes bodily injury or property damage from:

The ownership, maintenance, use, loading, or unloading of any watercraft described in the endorsement schedule is excluded. Virtually any type of loss regarding this designated watercraft is not covered, with this endorsement attached.

The entrustment by an insured of any watercraft described in the endorsement schedule to any party is excluded.

Vicarious liability, whether or not statutorily imposed, concerning the actions of a minor using any watercraft described in the endorsement schedule.

A premium credit normally applies to this endorsement, since an exposure is eliminated.

-----

PERSONAL UMBRELLA LIABILITY POLICY EXCLUSION – DESIGNATED WATERCRAFT ENDORSEMENT DL 98 15 06 98

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.
SCHEDULE

Description Of Designated Watercraft(s):

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

III. Exclusions

The following exclusion is added:

The coverages provided by this policy do not apply to "bodily injury" or "property damage" arising from:

  a. The ownership, maintenance, use, loading or unloading of any watercraft described in the Schedule of this endorsement;

  b. The entrustment by an "insured" of any watercraft described in the Schedule of this endorsement to any person; or

  c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any watercraft described in the Schedule of this endorsement.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

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DL 98 16 06 98 - Personal Umbrella Liability Policy Exclusion - All Hazards In Connection With Designated Premises Endorsement

An insured may own a particular premises which either the insured or the insurer may not wish to cover in the personal umbrella policy. This endorsement excludes any loss arising from one or more of these designated premises.

This form excludes coverage for "property damage", "bodily injury" and "personal injury" liability connected to the location described in the endorsement.

A premium credit normally applies to this endorsement, since an exposure is eliminated.
PERSONAL UMBRELLA LIABILITY POLICY EXCLUSION – ALL HAZARDS IN CONNECTION WITH DESIGNATED PREMISES ENDORSEMENT DL 98 16 06 98

With respect to the coverage provided by this endorsement, the provisions of the policy apply unless modified by the endorsement.

SCHEDULE

Description And Location Of Designated Premises:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

III. Exclusions
The following exclusion is added:
The coverages provided by this policy do not apply to "bodily injury", "personal injury" or "property damage" arising from:

a. The ownership, maintenance, or use, of the premises shown in the Schedule or any property located on these premises;

b. Operations on those premises or elsewhere which are necessary or incidental to the ownership, maintenance or use of those premises.

This endorsement must be attached to the Change Endorsement when issued after the policy is written.

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Other Endorsements

The following endorsements, although not standard, are also common to personal umbrella policies.

Designated Business Activities

This endorsement can be used to replace the business exclusion in the umbrella form, adding an exception that turns the umbrella coverage into "follow form" with respect to a designated business operation for which an underlying liability policy has been endorsed. Some of these endorsements may add an employment practices exclusion.
Designated Farm Activities

This endorsement can be used to extend the umbrella coverage to apply to designated farming operations. This endorsement distinguishes the designated farming operations from the umbrella policy's "business" definition, and thus removes the farm from the policy's business exclusion. Various exclusions are added or modified to properly address the farm's liability exposures.

Business Activities

This endorsement may be used to replace the business exclusion in the form in general, as compared to covering only a designated farm or business. The endorsement grants an exception, which turns the umbrella coverage into "follow form" as respects any business for which an underlying liability policy has been endorsed. The endorsement also adds particular exclusions concerning farm and business exposures, including product liability, work performed, employment-related practices, fellow employee injury, and animal competitions.

Designated Driver Exclusion

This endorsement allows an insurer to exclude losses from the direct or vicarious liability of a designated driver. The exclusion applies to vehicles that are subject to motor vehicle registration and designed for use on public roads, so excess coverage is still granted for the designated driver's use of an incidental vehicle, such as a golf cart. This endorsement cannot apply to the named insured or a resident spouse.

Some states do not permit this exclusion on personal auto policies or personal umbrella policies as it is deemed to be against public policy.

Punitive Damages Exclusion

This endorsement allows an insurer to exclude punitive or exemplary damages under the personal umbrella policy. "Punitive damages" are "damages awarded in addition to actual damages when the defendant acted with recklessness, malice, or deceit" (Black's Law Dictionary, 7th ed.). These damages are intended to punish the wrongdoer for his or her egregious actions. A minority of states (e.g., California and New York) have ruled that the payment of punitive damages by an insurer is adjudicated to be against public policy or is illegal by statute.
PERSONAL UMBRELLA LIABILITY PROGRAM
UNDERWRITING CONSIDERATIONS

Risk Selection

There is a drastic difference among carriers in the risk selection philosophy of various umbrella carriers. Some companies aggressively seek this class of business, regarding it as profitable. Other insurers write it to accommodate their HO & PAP clients. Most umbrella insurers require that the underlying coverages also be written in the same company or group of companies, or at least that the agent writing the umbrella also controls the underlying business.

Most insurers apply approximately the same selection criteria to their umbrella program as they do to their basic business. Due to the scope of the umbrella coverage, however, a few additional types of insureds may be considered too hazardous: advertisers, writers, radio and television commentators, labor leaders, politicians, celebrities, actors, authors, columnists, athletes, entertainers, and journalists.

UNDERWRITING

The following underwriting guidelines are common to carriers providing umbrella coverage:

- All new and renewal policies will be issued on a one year basis
- Risks with known aircraft exposures, either owned or non-owned, will not be written as either new or renewal business
- Excess Major Medical Expense coverage will no longer be included in an Umbrella Policy
- Professional coverage will no longer be available in a contract providing Personal Umbrella Liability insurance
- It is important that insureds be informed of any reduction in coverage on renewal
- Watch changes in exclusions and limitations in connection with underlying policies.

Most insurers offer personal umbrella coverage only to insureds for whom they provide the underlying homeowners, personal auto, and other liability policies. This requirement has several advantages for the insurer. First, much of the underwriting investigation pertaining to an umbrella policy is performed when writing the underlying policies. Since the ordering of motor vehicle records (MVRs) and loss reports is performed at the primary level, it is not necessary to order additional reports for the umbrella. Second, the umbrella insurer is assured that the underlying policies are in place since it also writes them. Third, writing the underlying policies
also facilitates an umbrella insurer's coordination and monitoring of claims. These policies should have common effective and expiration dates.

Umbrella insurers will often waive the requirement that they write the primary insurance for an underlying exposure that they choose not to provide, such as high-powered boats or personal aircraft. The underlying insurer is usually required to have a financial rating of A− or better. The insurer may also require, on an annual basis, copies of the declarations of any underlying coverage it does not insure.

The personal umbrella underwriter needs a complete picture of the applicant's overall exposures in order to make an underwriting decision. The underwriter's goal is to establish a pool of insureds whose loss experience is better than the projected loss experience of a group of so-called average insureds.

Following is a list of factors the underwriter should evaluate for a personal umbrella applicant.

- Underlying limits, which must equal or exceed the insurer's requirements for the umbrella policy
- Additional lines of insurance covered by the umbrella insurer for the named insured
- Property exposures, including property owned, leased, rented, or occasionally occupied by an insured; the condition of the home is also a consideration
- Automobile exposures, including autos owned, leased, rented, or furnished for the regular use of the insured
- Driver information, including age, sex, and driving record
- Recreational vehicle exposures, such as motorcycles, snowmobiles, and all-terrain vehicles
- Watercraft exposures including all owned, leased, or chartered boats; details about the length, type, and horsepower of the boats are necessary. Verifying all watercraft exposures is important as many consumers insure these with specialty insurers and do not mention them to their insurance agent, but perhaps assume there is coverage under the umbrella policy.
- Aircraft exposures including all owned, leased, or chartered planes. Verifying all aircraft exposures is important as many consumers insure these with specialty insurers and do not mention them to their insurance agent, but perhaps assume there is coverage under the umbrella policy.
- Unusual exposures, including sports-related activities (e.g., hunting, sky-diving, mountain climbing, etc.)
- Miscellaneous exposures, such as residence employees and international exposures
- Loss experience under the primary policies and previous umbrella policies for the last 3 to 5 years. Some applications also ask about any pending civil or criminal charges against a household member.
- Coverage gaps the umbrella policy insures
- Litigious environment of the jurisdiction in which the primary residence is located

There are many sources of information to assist underwriters in the decision-making process. These include the application, loss exposure survey, checklists, loss runs on the underlying policies and previous umbrella policies, insurer underwriting guidelines, personal inspections of the home and/or automobiles, motor vehicle records, and credit checks. The survey and checklists are particularly important in uncovering unique exposures.
The underwriter can choose from three different options after gathering information and reviewing the exposures and factors. They are as follows.

- To accept the applicant
- To reject the applicant
- To accept with modifications, such as a restrictive endorsement, amendment of underlying limits, or loss control recommendations

The first two options may be fairly easy, based on the strict interpretation of underwriting rules. When the decision is not straightforward, the third option is necessary.

In the last few years, insurers have begun utilizing expert system technology to assist the underwriting decision-making process in order to supplement and/or replace the human underwriter, particularly on the personal lines side. In this technology, expert systems attempt to simulate the human underwriter's decision-making. There are many subjective factors in umbrella underwriting which the technology cannot assess or consider. Because of this, expert systems are normally involved only in routine decision-making. Complex or borderline applicants are usually handled by a human underwriter.

**ELIGIBILITY**

**Vehicle/Craft**

Most properly licensed operators of a private passenger vehicle, van or pickup truck who qualify for underlying auto coverage, such as the ISO Personal Auto Policy, are eligible for coverage under the ISO Personal Umbrella Liability Policy Form. This is also true of operators who are insureds in good standing under recreational vehicle, motor home and watercraft liability policies. The PUP Form, DL 98 01 is broadly designed to provide excess coverage for most personal driving exposures such as:

- Personal transportation (including cross-country travel)
- Commuting
- Limited business use
- Limited use of substitute vehicles
- Personal use of recreational vehicles, motorcycles, motor homes and other motorized methods of travel, including certain types of boats.

**Comprehensive Personal Liability (Homeowner Section II)**

The PUP Form, DL 98 01 is meant to provide excess coverage for personal liability, particularly in connection with residential ownership and for personal injury. Since the PUP is an excess policy, its scope of coverage is strongly defined by the exposure accepted by the underlying carrier. Eligibility mirrors the type of liability associated with the ownership and use of a one or two family residence. The PUP is intended to extend the liability protection to persons owning a well-maintained home which does not include any significant business or farm exposure. The PUP could be exposed to a broader range of losses if the underlying coverage has been endorsed to provide such coverage.
The PUP excludes exposures that are more appropriately rated and covered elsewhere. The form has its own set of exclusions, and endorsements to bar coverage for inappropriate exposures including those, which should be covered by either commercial lines umbrellas or specialty policies.

**WHICH AUTOS ARE COVERED**

The definitions section of the Personal Umbrella Liability Policy explains which vehicles are eligible for coverage. The PUP declarations page includes descriptions, coverages and limits for all vehicles covered in the policy. Generally coverage is available for:

- Private passenger automobiles
- Pickups and vans with a gross vehicle weight no greater than 10,000 pounds
- Any private passenger auto, pickup truck or van that an insured controls under a long-term (six months or longer) written lease
- Motorcycles
- Private passenger motor vehicles
- Mopeds
- Motor homes
- And, only while being towed by a private passenger motor vehicle:
  - Trailers,
  - Farm wagons, and
  - Farm implements

**VEHICLE INFORMATION**

The underwriting of a Personal Umbrella Liability Policy includes the consideration of several factors:

- The classification of each vehicle to be covered.
- Model, manufacturer, and serial number of each vehicle
- The use of each vehicle
- Vehicle’s age, cost new or stated value

Other items, such as custom features, special equipment or expensive accessories are important considerations.

A standard or preferred carrier should be careful to write vehicles that have characteristics that fit its rates. Private passenger autos that have very high values fall outside the rating norm and are often avoided. However, persons who are attracted to purchasing umbrella coverage are likely to be owners of higher-valued vehicles.
OPERATOR INFORMATION

It is critical to have a complete list of all operators including family members and relatives who are members of the insured’s household, including wards and foster children, who may be using the vehicles. It is also important to have the following information:

- Where permitted, each driver’s gender and marital status
- Each driver’s name, date of birth, and driver’s license number
- The vehicle operated by person (on a primary and secondary basis)
- Each operator’s motor vehicle record:
  - Existence of any accidents or violations
  - Frequency of infractions
  - Severity of infractions
- Each operator’s level of experience
- The existence of and reasons for any driving restrictions.
- Where applicable, each driver’s occupation

The above factors are the minimal required to fully evaluate the vehicle related portion of a personal umbrella liability exposure. When applicable, underwriters must gather additional information on youthful and senior operators.

When underwriting a PUP applicant, it is critical that the exposure to all vehicles is understood. The PUP uses a defined term, "private passenger motor vehicle," which is broader than "private passenger automobile." There may be situations where a vehicle that doesn’t qualify for underlying coverage could be a "drop down" exposure under the PUP. Look for indicators of an increased exposure concerning hobbies or interests.

**Liability**

Generally, liability coverage is available for the named insured, spouse and relatives who are residents of the insured household. Coverage is extended for damages arising out of the legal liability in causing bodily injury, property damages or personal injury to others.

In order to qualify for personal liability coverage, the damages must be the result of a covered act by an eligible insured. The Personal Umbrella Liability Policy Declarations page includes a coverage limit causing bodily injury, property and personal injury damages.

The underwriting information that is typically pertinent to the liability portion of a personal umbrella exposure is a selected combination of the concerns found under the residence/structure and applicant categories:

- The applicant’s occupation
- Employer information
- Number and type of additional or "other" structures at the described location
- The type of security and safety devices installed in the structure
- Number of household residents
- General housekeeping
- Existence of swimming pools and whether they're in ground or above ground
- Existence of any other attractive nuisances
- Information on additional insureds
- Requests for additional coverages

The above factors can give an underwriter some insight regarding a particular exposure. Very old premises and other structures may indicate a higher probability of persons being injured on the insured property because of poorer maintenance or general conditions such as old pathways or walks.

Employer and occupation information may provide clues to unacceptable situations or ones which bear additional scrutiny. Self-employed persons may have an unacceptable in-home business exposure. Celebrities, athletes or public figures may present higher than desired exposures to liability.

**Loss and Violation History**

The driving record showing loss and violation history is quite important in underwriting a personal umbrella liability account. Loss history should include the date, time of day, driver, vehicle identification, description of the accident or loss, and the final amount of the settlement. The focus should be on both loss severity, and loss frequency. A severe loss due to some freak occurrence should be less of an underwriting concern than a smaller loss that might indicate factors that could contribute to a future, severe loss.

**Other considerations**

Gathering detailed information may be even more important for evaluating umbrella business than for writing underlying coverage. The effort must be balanced, however, against the rights of the applicant (new business) and insured (renewal business). Individual insurers must be certain that their procedures for collecting underwriting information comply with any regulations for securing it. Insurers must stay informed about legal developments concerning individual privacy rights. They must also be sure that vendors who provide them with supplemental underwriting information operate in a manner that respects individual privacy. Compliance with regulations is especially critical whenever a company includes health or personal finances as part of its underwriting criteria.
APPENDIX

Personal Umbrella Policy - ISO Coverage Form

I. Definitions

A. Throughout this policy, "you" and "your" refer to:
   1. The "named insured" shown in the Declarations; and
   2. The spouse if a resident of the same household.

B. "We," "us" and "our" refer to the Company providing this insurance.

C. For purposes of this policy, a private passenger type auto, pickup or van shall be deemed to be owned by a person if leased:
   1. Under a written agreement to that person; and
   2. For a continuous period of at least 6 months.

Other words and phrases are defined. They are in quotation marks when used.

D. "Auto" means:
   1. A private passenger motor vehicle, motorcycle, moped or motor home; or
   2. While towed by a private passenger motor vehicle, a trailer, farm wagon or farm implement.

E. "Bodily injury" means bodily harm, sickness or disease, including required care, loss of services and death that results.

F. "Business" includes trade, profession or occupation.

G. "Family member" means a resident of your household who is:
   1. Your relative, including a ward or foster child; or
   2. Under the age of 21 and in the care of you or an "insured" who is age 21 or over.

H. "Fuel System" means:
   1. One or more containers, tanks or vessels which have a total combined storage capacity of 100 or more U.S. gallons of liquid fuel; and:
      a. Are, or were, located on any single location covered by "underlying insurance"; and
      b. Are, or were, used to hold liquid fuel that is intended to be used solely for one or more of the following:
         (1) To heat or cool a building;
         (2) To heat water;
         (3) To cook food; or
(4) To power motor vehicles, other motorized land conveyances or watercraft owned by an "insured";

2. any pumping apparatus, which includes the motor, gauge, nozzle, hose or pipes that are, or were, connected to one or more containers, tanks or vessels described in paragraph H.1.;

3. filler pipes and flues connected to one or more containers, tanks or vessels described in paragraph H.1.;

4. A boiler, furnace or a water heater, the liquid fuel for which is stored in a container, tank or vessel described in Paragraph H.1.;

5. Fittings and pipes connecting the boiler, furnace or water heater to one or more containers, tanks or vessels described in Paragraph H.1.; or

6. A structure that is specifically designed and built to hold the liquid fuel that escapes from one or more containers, tanks or vessels described in Paragraph H.1.

I. "Insured" means:

1. You.

2. A "family member."

3. Any person using an "auto," recreational motor vehicle," or watercraft, which is owned by you and covered under this policy. Any person using a temporary substitute for such "auto" or recreational motor vehicle" is also an "insured."

4. Any other person or organization but only with respect to the legal responsibility for acts or omissions of you or any "family member" while you or any "family member" is using an "auto" or "recreational motor vehicle" covered under this policy. However, the owner or lessor of an "auto" or "recreational motor vehicle" loaned to or hired for use by an "insured" or on an "insured's" behalf, is not an "insured."

5. With respect to animals owned by you or any "family member," any person or organization legally responsible for such animals. However, a person or organization using or having custody of such animals in the course of any "business" or without the consent of the owner is not an "insured."

J. "Occurrence" means:

1. An accident, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in:

   a. "Bodily injury"; or

   b. "Property damage."

K. "Personal injury" means injury arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;

2. Malicious prosecution;
3. 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.

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

5. Oral or written publication of material that violates a person's right of privacy.

L. "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

M. "Recreational motor vehicle" means:
   1. All-terrain vehicle;
   2. Dune buggy;
   3. Golf cart;
   4. Snowmobile; or
   5. Any other motorized land vehicle which is designed for recreational use off public roads.

N. "Retained limit" means:
   1. The total limits of any "underlying insurance" or any other insurance that applies to an "occurrence" or offense which:
      a. Are available to an "insured"; or
      b. Would have been available except for the bankruptcy or insolvency of an insurer providing "underlying insurance"; or
   2. The deductible, if any, as stated in the Declarations, if the "occurrence" or offense:
      a. Is covered by this policy; and
      b. Is not covered by "underlying insurance" or any other insurance.

O. "Underlying insurance" means any policy providing the "insured" with primary liability insurance covering one or more of the types of liability listed in the Declarations and at limits no less than the retained policy limits shown for those types of liability listed in the Declarations.

II. Coverages

A. Insuring Agreement

   We will pay damages, in excess of the "retained limit," for:

   1. "Bodily injury" or "property damage" for which an "insured" becomes legally liable due to an "occurrence" to which this insurance applies; and
   2. "Personal injury" for which an "insured" becomes legally liable due to one or more offenses listed under the definition of "personal injury" to which this insurance applies

   Damages include prejudgment interest awarded against the "insured."
B. Defense Coverage

1. If a claim is made or a suit is brought against an "insured" for damages because of "bodily injury" or "property damage" caused by an "occurrence" or "personal injury" caused by an offense to which this policy applies, we:

   a. Will provide a defense at our expense by counsel of our choice, even if the suit is groundless, false or fraudulent. However, we are not obligated to defend any suit or settle any claim if:

      (1) The "occurrence" or offense is covered by other "underlying insurance" available to an "insured";

      (2) There is no applicable "underlying insurance" in effect at the time of the "occurrence" or offense and the amount of damages claimed or incurred is less than the applicable deductible amount shown in the Declarations.

   b. May join, at our expense, with the "insured" or any insurer providing "underlying insurance" in the investigation, defense or settlement of any claim or suit which we believe may require payment under this policy.

      However, we will not contribute to the costs and expenses incurred by any insurer providing "underlying insurance";

   c. Will pay any expense incurred for the "insured’s" defense, with our written consent, in any country where we are prevented from defending an "insured because of laws or other reasons.

2. We may investigate and settle any claim or suit that we decide is appropriate. Our duty to settle or defend ends when the amount we pay for damages in judgments or settlements resulting from the "occurrence" or offense equals our limit of liability.

C. Additional Coverages

   In addition to our limit of liability, we will pay:

   1. Expenses we incur and costs taxed against an "insured" in any suit we defend;

   2. Premiums on bonds required in a suit we defend, but not for bond amounts to the extent they exceed our limit of liability. We need not apply for or furnish any bond; and

   3. Reasonable expenses incurred by an "insured" at our request, including actual loss of earnings (but not loss of other income) up to $250 per day, for assisting us in the investigation or defense of a claim or suit; and

   4. Interest on our share of the judgment which accrues after entry of the judgment and before we pay or tender, or deposit in court, that part of the judgment which does not exceed the limit of liability that applies.

D. Limit of Liability

   Our total liability under this policy for all damages resulting from any one "occurrence" or offense will not be more than the limit of liability as shown in the Declarations of this policy. This limit is the most we will pay regardless of the number of "insureds," claims made, persons injured, or vehicles involved in an accident.
III. Exclusions

A. The coverages provided by this policy do not apply to:

1. "Bodily injury" or "property damage" arising out of an act which is expected or intended by an "insured" to cause "bodily injury" or "property damage." This exclusion (A.1.) applies even if the "bodily injury" or "property damage":
   a. Is of a different kind, quality or degree than expected or intended; or
   b. Is sustained by a different person or entity than expected or intended.

   However, this exclusion (A.1.) does not apply to:
   a. "bodily injury" resulting from the use of reasonable force by an "insured" to protect persons or property; or
   b. "Bodily injury" or "property damage resulting from the use of reasonable force by an "insured" to prevent or eliminate danger in the operation of "autos," "recreational motor vehicles" or watercraft.

2. "Personal injury":
   a. Arising out of oral or written publication of material, if done by or at the direction of the "insured" with knowledge of its falsity;
   b. Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
   c. Arising out of a criminal act committed by or at the direction of one or more "insureds"; or
   d. Sustained by any person as a result of an offense directly or indirectly related to the employment of this person by the insured.

3. "Bodily injury," "personal injury" or "property damage" arising out of the rental or holding for rental of any part of any premises by an "insured." However, this exclusions (A.3.) does not apply to the rental or holding for rental of:
   a. The residence premises shown in the Declarations;
      (1) On an occasional basis if used only as a residence;
      (2) In part, for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or
      (3) In part, as an office, school, studio or private garage;
   b. Any part of a one to four family dwelling other than the residence premises to the extent that personal liability coverage is provided by "underlying insurance";
   c. A condominium, cooperative, or apartment unit other than the residence premises to the extent that personal liability coverage is provided by "underlying insurance";

4. "Bodily injury," "personal injury" or "property damage" arising out of or in connection with a "business" engaged in by an "insured." This exclusion (A.4.) applies but is not limited to an act
or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the "business."

However, this exclusion (A.4.) does not apply to:

a. Civic or public activities performed by an "insured" without compensation other than reimbursement of expenses;

b. An "insured" minor involved in self-employed "business" pursuits, which are occasional or part-time and customarily undertaken on that basis by minors. A minor means a person who has not attained his or her:
   (1) 18th birthday; or
   (2) 21st birthday if a full-time student;

c. The providing of home day care service, but only when:
   (1) An "insured" renders such service to a relative of an "insured"; or
   (2) A mutual exchange of home day care services agreement exists which involves no monetary or other compensation;

d. The use of an "auto" you own, or a temporary substitute for such "auto, by you, a "family member" or a partner, agent or employee of you or a "family member" while employed or otherwise engaged in the "business" of:
   (1) Selling;
   (2) Repairing;
   (3) Servicing;
   (4) Storing; or
   (5) Parking;

   vehicles designed for use mainly on public highways;

e. The use of an "auto" for "business" purposes, other than an auto business, by an "insured." However, we do not provide coverage for liability arising out of the ownership or operation of an "auto" while it is being used as a public or livery conveyance. This exclusion (A.4.e.) does not apply to a share-the-expense car pool;

5. "Bodily injury," "personal injury" or "property damage" arising out of the rendering of or failure to render professional services;

6. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of an aircraft;
   b. The entrustment by an "insured" of an aircraft to any person; or
   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using an aircraft.
An aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo;

7. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of any watercraft;
   b. The entrustment by an "insured" of any watercraft to any person; or
   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any watercraft.

   However, this exclusion (A.7.) does not apply to the extent that watercraft coverage is provided by "underlying insurance" at the time of the "occurrence" or offense.

8. "Bodily injury" or "property damage" arising from:
   a. The ownership, maintenance, use, loading or unloading of any "recreational motor vehicle" owned by you or any "family member";
   b. The entrustment by an "insured" of any "recreational motor vehicle" owned by you or any "family member," to any person; or
   c. Vicarious liability, whether or not statutorily imposed, for the actions of a child or minor using any "recreational motor vehicle" owned by you or any "family member."

   However, this exclusion (A.8.) does not apply to the extent that "recreational motor vehicle" coverage is provided by "underlying insurance" at the time of the "occurrence" or offense.

9. "Bodily injury" or property damage" caused directly or indirectly by war, including the following and any consequence of any of the following:
   a. Undeclared war, civil war, insurrection, rebellion or revolution;
   b. Warlike act by a military force or military personnel; or
   c. Destruction, seizure or use for a military purpose.

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

10. A person using an "auto," "recreational motor vehicle" or watercraft without a reasonable belief that that person is entitled to do so. This Exclusion (A.10.) does not apply to a "family member" using an "auto," "recreational motor vehicle" or watercraft you own;

11. The use of "autos," "recreational motor vehicles" or watercraft while they are being operated in, or practicing for, any prearranged or organized race, speed contest or other similar competition. However, this exclusion (A.11.) does not apply to:
   a. Sailboats; or
   b. Watercraft involved in predicted log cruises;

12. "Bodily injury" or "personal injury" to you or any "family member";

13. "Bodily injury" or "personal injury" arising out of:
   a. The transmission of a communicable disease by an "insured";
b. Sexual molestation, corporal punishment or physical or mental abuse; or

c. The use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance(s) as defined by the Federal Food and Drug law at 21 U.S.C.A. Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician;

14. "bodily injury," "personal injury" or "property damage" arising out of an act or omission of an "insured" as an officer or member of a board of directors of a corporation or organization. However, this exclusion (A.14.) does not apply if the corporation or organization is not-for-profit and the "insured" receives no compensation other than reimbursement of expenses;

15. "Property damage" to property owned by the "insured";

16. "Property damage" to property rented to, occupied or used by, or in the care, custody or control of, the "insured" to the extent that the "insured is obligated by contract to provide insurance for such property. However, this exclusion (A.16.) does not apply to "property damage" caused by fire, smoke or explosion;

17. "Bodily injury" to any person eligible to receive any benefits:
   a. Voluntarily provided; or
   b. Required to be provided;
      by an "insured" under any:
      a. Workers compensation law;
      b. Non-occupational disability law; or
      c. Occupational Disease law;

18. "Bodily injury" or "property damage" 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;

19. "Bodily injury," "personal injury" or "property damage" caused by an "occurrence" or offense involving the escape of fuel from a "fuel system";

20. "bodily injury" or "personal injury" caused by an "occurrence" or offense involving the absorption, ingestion or inhalation of lead;

21. "Personal injury" or "property damage" caused by an "occurrence" or offense of lead contamination.
B. Liability coverage does not apply to any loss assessment charged against you as a member of an association, corporation or community of property owners.

C. We do not provide:
   1. Automobile no-fault or any similar coverage under this policy; or
   2. Uninsured Motorists Coverage, Underinsured Motorists Coverage, or any similar coverage unless this policy is endorsed to provide such coverage.

IV. Maintenance of Underlying Insurance

You must maintain the "underlying insurance" at the full limits stated in the Declarations with no change to more restrictive conditions during the term of this policy. If any "underlying insurance" is cancelled or not renewed and not replaced, you must notify us at once.

If you fail to maintain "underlying insurance," we will not be liable under this policy for more than we would have been liable if that "underlying insurance" was in effect.

V. Duties After Loss

A. In the case of an "occurrence" or offense likely to involve the insurance under this policy, the "insured" must give written notice to us or our agent as soon as is practical. Such notice shall set forth:
   1. The identity of the policy and "insured";
   2. Reasonably available information about the time, place, and circumstances of the "occurrence" or offense; and
   3. The names and addresses of any claimants and witnesses.

B. If a claim is made or a suit is brought against an "insured," the "insured" must:
   1. Notify us immediately in writing;
   2. Promptly forward to us every notice, demand, summons or other process relating to the "occurrence" or offense;
   3. 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.

C. The "insured" will not, except at the "insured’s" own cost, voluntarily make payment, assume obligation or incur expense to others.

VI. General Provisions

A. Appeals
If the "insured" or any insurer providing "underlying insurance" elects not to appeal a judgment which exceeds the "retained limit," we may do so at our own expense. We will pay all costs, taxes, expenses and interest related to our appeal. The amounts we pay will be in addition to our limit of liability.

B. Bankruptcy of an Insured

Bankruptcy or insolvency of an "insured" will neither:

1. Relieve us of our obligations under this policy; nor

2. Operate to cause this policy to become primary in the event the "insured" is unable to satisfy the "retained limit" either because of insufficient "underlying insurance" or insufficient personal assets.

C. Bankruptcy of an Underlying Insurer

In the event of bankruptcy or insolvency of any "underlying insurer," the insurance afforded by this policy shall not replace such "underlying insurance," but shall apply as if the "underlying insurance" was valid and collectible.

D. Fraud

We do not provide coverage for any "insured" who has made fraudulent statements or engaged in fraudulent conduct in connection with any "occurrence" or offense for which coverage is sought under this policy.

E. Liberalization Clause

If we make a change which broadens coverage under this edition of our policy without additional premium charge, that change will automatically apply to your insurance as of the date we implement the change in your state, provided that this implementation date falls within 60 days prior to or during the policy period stated in the Declarations.

This Liberalization Clause does not apply to changes implemented through introduction of a subsequent edition of our policy.

F. Other Insurance

The coverage afforded by this policy is excess over any other insurance available to an "insured," except insurance written specifically to be excess over this policy.

G. Our Right to Recover Payment

If we make a payment under this policy, we are entitled to exercise the "insured’s" rights of recovery against any person liable for the loss. The "insured" must do nothing after loss to prejudice those rights.

H. Policy Period and Territory

The policy period is stated in the Declarations. This policy applies to an "occurrence" or offense which takes place anywhere in the world.

I. Severability of Insurance
This insurance applies separately to each “insured.” However, this provision will not increase our limit of liability for any one "occurrence" or offense.

J. Suit Against Us.
1. No legal action can 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."

K. Termination
1. Cancellation by You
   You may cancel this policy by:
   a. Returning it to us; or
   b. Giving us advance written notice of the date cancellation is to take effect
2. Cancellation by Us
   We may cancel this policy only for the reasons stated below by letting you know in writing of the date cancellation takes effect. This cancellation notice may be delivered to you, or mailed to you at your mailing 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 at any time by letting you know at least 10 days before the date cancellation takes effect.
   b. When this policy has been in effect for less than 60 days and is not a renewal with us, we may cancel for any reason by letting you know at least 10 days before the date cancellation takes effect.
   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 by letting you know at least 30 days before the date cancellation takes effect.
3. Nonrenewal
   We may elect not to renew this policy. We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.
4. Other Termination Provisions
   a. When this policy is cancelled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.
   b. 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.
L. Transfer of Your Interest in this Policy

1. Your rights and duties under this policy may not be assigned without our written consent. However, if you die, coverage will be provided for:
   a. The surviving spouse if resident in the same household at the time of death. Coverage applies to the spouse as if a named insured shown in the Declarations;
   b. any member of your household who is an "insured" at the time of your death, but only while a resident of the "residence premises"; or
   c. The legal representative of the deceased person as if a named insured shown in the Declarations. This applies only with respect to the representative’s legal responsibility to maintain or use your "autos" or premises covered under this policy.

2. Coverage will only be provided until the end of the policy period.

M. Waiver or Change of Policy Provisions

This policy contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us. If a change requires a premium adjustment, we will adjust the premium as of the effective date of the change.
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