

Taurus Sample Insurance Policy Correction Report

Umbrella Liability Policy (25 M)

National Union Fire Insurance Company of Pittsburgh, Pa.

Policy #: B 841

Policy Term: July 15, 2019 – 20

1. The Schedule of Underlying Insurance is missing several Workers Compensation Policies. This should be corrected immediately.

2. XYZ Company has Employers Liability Coverage as part of underlying Workers Compensation policies that is not concurrent with the Umbrella policy's effective date of July 15, 2013-14. Therefore, an Unimpaired Aggregate Limit Endorsement should be added to the policy. It should be worded as follows:

It is hereby agreed that should any of the policies listed in the Schedule of Underlying Insurance including renewals or replacements thereof be non-concurrent with the policy period of this policy then in the event of reduction or exhaustion of the aggregate limit(s) of the underlying policy or policies because of occurrences taking place during the policy period of such underlying policy, this insurance will:

- a. In the event of reduction, pay in excess of the reduced underlying limits of insurance; or
- b. In the event of exhaustion of the underlying limits of insurance, continue in force as underlying insurance.

However, coverage under this policy applies only to occurrences taking place during the period of this policy.

3. The Named Peril Pollution Self-Insured Retention Endorsement (Products – Completed Operations Hazard Version), #29, replaces Exclusion Q (Pollution Exclusion) in the basic umbrella policy form. It is a Total Pollution Exclusion with certain exceptions.

Section i. on page 1 of the endorsement states endorsement will not apply to bodily injury or property damage arising out of any pollution claim caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, riot or civil commotion, flood, earthquake, automatic sprinkler leakage, collision or upset of then Auto or Mobile Equipment or aircraft.

However, the endorsement now excludes coverage for any pollution claim arising out of 1) Equipment to Cool, Dehumidify, or Heat the Building including equipment used to heat water for personal use by the building's occupants or their guests; 2) claims for which the insured may be held liable if the insured is a contractor and the owner or lessee of such premises, site or location has been added to the insured's policy as an additional insured with respect to the insured's ongoing operations performed for that additional insured at such premises, site or location; 3) other exceptions contained in Exclusion Q of the basic umbrella policy form.

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This endorsement should be amended to reinstate the exceptions to the pollution exclusion contained in Exclusion Q of the basic umbrella policy form.

Section iii. on page 2 of the endorsement should be amended to add the following items:

- a) Ownership, operation, maintenance or use of any heating, cooling, dehumidifying or ventilation system.
- b) Ownership, operation, maintenance or use of any swimming pool, hot tub, sauna, whirlpool, fountain or any other similar type device or structure.
- c) Preparing, serving, distributing, furnishing, or selling of any food, beverage, or other product.
- d) Ownership or use of materials or products to clean, repair, maintain, or operate buildings, facilities or grounds owned, operated, managed, or used by the named insured.

Coverage is provided for these exposures by the underlying insurance. This umbrella policy should follow form to the underlying coverage.

4. Exclusion U. 5. on page 12 of the Umbrella Prime Commercial Umbrella Liability Policy with CrisisResponse policy, Form # 80517 (11/09), excludes coverage for any claim arising out of personal injury assumed any contract or agreement. This exclusion should be deleted. Coverage is provided for these types of claims by the underlying Commercial General Liability Policy. Coverage under this policy should follow form to the underlying insurance.

5. Section N.1. of the Definition of Insured Contract on page 20 of the basic umbrella policy form states Insured Contract does not include that part of any contract or agreement that indemnifies a railroad for bodily injury or property damage arising out of construction or demolition operations, within 50 feet of any railroad property. This section of the policy should be deleted. Coverage for this exposure is provided by the underlying Commercial General Liability Policy. This policy should follow form to the underlying insurance.

6. Exclusion H on page 7 of the basic umbrella policy form states that this insurance does not apply to damages arising out of the loss of, loss of use of, damage to, corruption of, or inability to access, or inability to manipulate electronic data. In addition, the Definition of Property Damage in Section VII. Y. on page 23 of the basic policy form states electronic data is not tangible property. The policy should be amended to delete these exclusions and restrictions on damage to electronic data.

7. Section IV. G. on page 4 of the basic policy form states if the total applicable limits of Scheduled Underlying Insurance are reduced or exhausted by the payment of Loss to which this policy applies and the total applicable limits of applicable Other Insurance are reduced or exhausted, the insurance company will:

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- a. In the event of reduction, pay excess of the remaining total applicable limits of Scheduled Underlying Insurance and any applicable Other Insurance; and
- b. In the event of exhaustion, continue in force as underlying insurance.

The Definition of Loss in Section section VII. P. on page 20 of the basic umbrella policy form means those sums actually paid as judgments or settlements. The underlying Commercial General Liability Policy provides broader coverage than this commercial umbrella policy. The underlying insurance limits can be eroded by payment of claims not covered by this umbrella policy. The Definition of Loss should be amended to include any claim payments made by the underlying insurance.

8. Section IV. M.1. on page 4 of the basic policy form states the insurance company will not make any payment unless and until the total applicable limits of Scheduled Underlying Insurance have been exhausted by the payment of "Loss". The Definition of Loss in Section section VII. P. on page 20 of the basic umbrella policy form means those sums actually paid as judgments or settlements. The underlying insurance limits can be eroded by payment of claims not covered by this commercial umbrella policy. The Definition of Loss should be amended to include any claim payments made by the underlying insurance payments.

9. Exclusion Q on page 10 of the basic umbrella policy form should be amended to add the following words:

"However, this exclusion shall not apply to liability for damages because of **Property Damage** that the insured would have in the absence of any claim, suit, request, demand, order or statutory or regulatory requirement by or on behalf of a governmental authority to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to, or assess the effects of **Pollutants**."

The above wording matches wording contained in the Pollution Exclusion for the ISO Properties, Inc. Comprehensive General Liability Coverage Form. This umbrella policy should match the ISO wording.

10. The policy should be amended to require the insurance company to provide a 90 day written notice of non-renewal or a material change in coverage at renewal. Currently, the policy requires only a 90 day written notice of cancellation under Section VI. D.2. on page 13 of the Umbrella Prime Commercial Umbrella Liability Policy with CrisisResponse policy, Form # 80517 (11/09).

11. The Schedule of Underlying Insurance Form is incorrect. It does not list all of the underlying insurance. The underlying Employers Liability under the named insured's Workers Compensation policies is missing. This should be corrected immediately.

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12. The Duties in the Event of an Occurrence, Claim or Suit and Schedule A Approved Crisis Management Firms Endorsement, #3, requires notice within 24 hours of a Crisis Management Event after a Key Executive becomes first aware of an occurrence. This is in conflict with the manuscript Notice of Occurrence Endorsement, #28. Endorsement #4 should be amended to match the manuscript Notice of Occurrence Endorsement.

13. The New Hampshire Amendatory Endorsement, #8, Form #77226 (7/10), requires insurance company to provide a 60 day written notice of cancellation. The basic umbrella policy form provides a 90 day notice. Policy should provide a 90 day notice of cancellation.

14. The policy does not provide Employee Benefits Liability coverage. The underlying Commercial General Liability policy provides this coverage. This commercial umbrella policy should provide excess coverage this exposure on a following form basis.

15. The Additional Insured Endorsement – Primary and Non-Contributory, #9, Form, # 86395 (8/04), states it only applies to additional insureds for whom the named insured is performing operations. XYZ Company conducts construction operations and could need additional insured coverage for products and completed operations. This umbrella policy should provide coverage to additional insureds on a primary and non--contributory basis whenever the named insured has agreed to do so with no restrictions or limitations.

16. Section B.1. on page 1 of the Employers's Liability Coverage Endorsement, #14, Form #87073 (11/04), states the bodily injury by accident must occur during the Policy Period. XYZ Company has numerous Workers Compensation policies as underlying insurance whose policy terms do not coincide with this policy's term. This section of the endorsement should be deleted.

Section V.h. on page 2 of the Employers's Liability Coverage Endorsement, #14, Form #87073 (11/04), amends the exclusions in the basic umbrella policy form to include an exclusion for any bodily injury to a master or member of the crew of any vessel. The endorsement should be amended to delete this exclusion. The underlying Marine insurance provides coverage for injuries to the master or crewmembers.

17. Section B.1. At the bottom of the page on the Marine Liability Limitation Endorsement (Including Jones Act & U.S. Longshoremen and Harbor Workers) Endorsement, #21, Form #86411 (8/04), states that the insurance does not apply to the cost or expense of, or incidental to, the removal of the wreck of any vessel. This exclusion should be deleted. The underlying Marine insurance policy provides coverage for this exposure. This umbrella policy should follow form to the underlying policy.

18. There is General Aggregate Limit of Insurance per Location Endorsement, #30. The policy should be amended to also provide a General Aggregate Limit of Insurance per Project.

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