

## Unusual Forms in the Surplus Lines Insurance Industry

### STANDARD CRAWL-OUT CLAUSE

In consideration of the premium charged, it is hereby understood and agreed, anything in this policy to the contrary notwithstanding, that in the event of a claim being made under this policy, the company shall have the right, nay, the obligation to the best of its ability to crawl out of the mess and avoid paying the loss. It being further understood and agreed that any money saved by the application of this crawl-out clause, shall remain the sole property of the company underwriting this risk. However, the option shall be on the part of the company, should it wish to do so, to distribute, share and share alike, said saved monies, between the adjuster and the underwriter who was, at the time of the issuance of the this policy, sharp enough to attach this standard crawl-out clause.

Nothing contained in this policy shall operate to obligate the company to pay any loss hereunder.

### SYMPATHY CLAUSE

Attached to and forming part of Policy No. \_\_\_\_ of the (Name of Insurance Company) issued at its \_\_\_\_\_ Agency.

Date: \_\_\_\_\_ Agent

In consideration of the premium for which this policy is written, and subject to the terms and conditions in the policy to which this clause is attached, it is hereby expressly stipulated and agreed that, in the event of occurrence of loss and/or damage to the property insured hereunder as a result of perils not covered under this policy, or in the event of occurrence of loss and/or damage to other property of the insured not insured hereunder, the Company does hereby extend its deepest sympathy and regret in respect to all such losses and/or damages.

\_\_\_\_\_  
Agent

### THE ASSAULT AND BATTERY EXCLUSION

The coverage under this policy does not apply to any claim, suit, cost or expense arising out of assault and/or battery, or out of any act or omission in connection with the prevention or suppression of such acts, whether caused by or at the instigation or direction of any Insured, Insured's employees, patrons or any other person. Nor does this insurance apply with respect to any charges or allegations of negligent hiring, training, placement or supervision. Furthermore, assault and/or battery includes "bodily injury" resulting from the use of reasonable force to protect persons or property....

### THE WATER OR MOISTURE EXCLUSION

This insurance does not apply to 'bodily injury', 'property damage', 'personal injury', 'advertising injury' or any injury, loss, or damages, including consequential injury, loss or damage, arising out of, caused by or contributed to:

or resulting from water or moisture, and/or due to discharge, leakage, seepage, backup or overflow from sewers, mains, drains, pipes, plumbing, heating, refrigeration, air conditioning, standpipes, appliances, sprinkler systems, or ditches, streams, levees, or rain or snow admitted to the building interior; or....

### CONTRACTOR LIMITATION ENDORSEMENT

- The coverage under this policy does not apply to "bodily injury," "property damage," "personal injury," "advertising injury," or any injury, loss or damage arising out of inadequate, improper, faulty or defective construction:
1. Which first occurred, began to occur, or is alleged to have occurred prior to, or is alleged to be in the process or occurring to any degree, as of the inception date of this policy;

2. Causing incremental, continuous or progressive damage arising from an occurrence which first occurred, began to occur or is alleged to have occurred prior to the inception date of this policy;
3. Caused or resulting in the invasion or existence of water or moisture including but not limited to mold, mildew, rot and deterioration of the property;

The Commercial General Liability Coverage Form is amended as follows:

The last paragraph of Exclusions:

j. **Damage to Property**, and

l. **Damage to Your Work**

are deleted in their entirety.

## Work Exclusions

Exclusions j and l provides as follows:

2. **Exclusions**  
This insurance does not apply to:
- j. **Damage To Property**

"Property damage" to:

- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

- l. **Damage to Your Work**

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

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

## SUBSIDENCE EXCLUSION

This policy does not cover claims, loss, costs or expense for "Bodily Injury," "Personal Injury," disease or illness, including death, or to loss of, damage to, or loss of use of property, for past, present or future claims, caused by, resulting from, attributable or contributed to, or aggravated by the subsidence of land as a result of landslide, mud flow, earth sinking, shift or shrinking, resulting from your operations or any contractor or subcontractor regardless of whether the first manifestation of same occurs during the policy period or prior [or] subsequent thereto.

## INTELLECTUAL PROPERTY EXCLUSION

- This insurance does not apply to 'bodily injury', 'property damage', 'personal injury', 'advertising injury', or any injury, loss, or damages, including consequential injury, loss or damage, arising out of, caused by or contributed to:
- from intellectual property, proprietary property rights, patent, trademark and/or copyright infringement, misappropriation of trade secret and/or practice, piracy, fraudulent concealment, unjust enrichment, misrepresentation or negligent misrepresentation; and/or deceptive, false, fraudulent, misleading, unfair, unlawful or untrue business act or practice with respect to advertising; or

## TELECOMMUNICATIONS EXCLUSION

This insurance does not apply to "bodily injury", "property damage", "personal injury", "advertising injury", or any injury, loss or damage, arising out of, caused by or contributed to:

from any act or omission that violates or is alleged to violate the Telephone Consumer Protection Act (TCPA), the CAN-SPAM Act of 2003, including any amendment of or addition to such laws, or any analogous local, state or federal statute, ordinance or regulation, other than the foregoing, that prohibits or limits sending, transmitting, communicating, solicitation, or distribution of material or information using e-mails, telephone, telephone facsimile machine, computer or other electronic device; or