MICHIGAN SEXUAL ABUSE OR SEXUAL MOLESTATION  
LIABILITY COVERAGE

N

E

W

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

|  |  |  |
| --- | --- | --- |
| **Description Of Premise(s), Project(s), Contract(s) Or Agreement(s):** (Enter below any limitations on the application of this endorsement. If no limitation is entered, Paragraph **B.2.b.** of this endorsement does not apply.) | | |
|  | | |
| **Limits Of Insurance** | | |
| **Sexual Abuse Or Sexual Molestation Liability Aggregate Limit:** | **$** |  |
| **Sexual Abuse Or Sexual Molestation Liability Each Act Limit:** | **$** |  |
| **Sexual Abuse Or Sexual Molestation Liability Each Act Deductible:** | **$** |  |
| **Sexual Abuse Or Sexual Molestation Liability Premium:** | **$** |  |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | | |

A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability and Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to damages arising out of:

1. The actual, alleged or threatened sexual abuse or sexual molestation of any person committed by anyone; or

2. The negligent:

a. Employment;

b. Investigation;

c. Supervision;

d. Reporting to the proper authorities, or failure to so report; or

e. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by Paragraph **1.** above.

B. The following is added to Section I – Coverages:

Insuring Agreement – Sexual Abuse Or Sexual Molestation Liability

1. We will pay those sums that the insured becomes legally obligated to pay as damages because of "injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "injury" to which this insurance does not apply. We may, at our discretion, investigate any report or allegation of an "act of sexual abuse or sexual molestation" or "interrelated acts" and settle any claim or "suit" that may result. But:

a. The amount we will pay for damages is limited as described in Paragraph F. of this endorsement; and

b. Our right and duty to defend ends when:

N

E

W

(1) We have used up the applicable Limit Of Insurance shown in the Schedule of this endorsement in the payment of judgments or settlements; or

(2) The insured:

(a) Admits to perpetrating or taking part in an "act of sexual abuse or sexual molestation" or "interrelated acts" which caused the "injury"; or

(b) Is found guilty of, or pleads guilty or no contest to, in a legal proceeding, an "act of sexual abuse or sexual molestation" which caused the "injury".

However, with respect to this Paragraph **(2),** our right and duty to defend ends only for the insured that admits to perpetrating or taking part in an "act of sexual abuse or sexual molestation" or "interrelated acts", or is found guilty of, or pleads guilty or no contest to, in a legal proceeding, an "act of sexual abuse or sexual molestation" which caused the "injury".

For the purposes of this Paragraph **(2),** a legal proceeding includes, but is not limited to, a proceeding that results in a criminal conviction, a judgment, decree, ruling or order pronounced or entered by any court of competent jurisdiction or an order or ruling pronounced or entered by any administrative agency.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph **C.** of this endorsement.

2. This insurance applies to "injury" only if:

a. The "injury" is caused by an "act of sexual abuse or sexual molestation" or "interrelated acts" that was committed in the "coverage territory" during the policy period; and

b. The "injury" is caused by an "act of sexual abuse or sexual molestation" or "interrelated acts" that was committed on the premise(s) or arises out of the project(s), contract(s) or agreement(s) shown in the Schedule of this endorsement.

However, this Paragraph **2.b.** applies only if a description of premise(s), project(s), contract(s) or agreement(s) is shown in the Schedule of this endorsement.

3. "Injury" caused by an "act of sexual abuse or sexual molestation" or "interrelated acts" includes any continuation, change or resumption of that "injury" after the end of the policy period.

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

C. Supplementary Payments

With respect to the coverage provided by this endorsement, we will pay, with respect to any claim we investigate or settle or any "suit" against an insured we defend:

1. All expenses we incur.

2. The cost of bonds to release attachments, but only for bond amounts within the applicable Limit Of Insurance shown in the Schedule of this endorsement. We do not have to furnish these bonds.

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

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

5. Prejudgment interest awarded against the insured on that part of the judgment we pay.

6. All interest on the full amount of the judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit Of Insurance shown in the Schedule of this endorsement.

These payments will not reduce the limits of insurance.

D. With respect to the coverage provided by this endorsement, Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability and Section I – Coverage B – Personal And Advertising Injury Liability are replaced by the following:

N

E

W

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Injury" expected or intended from the standpoint of the insured.

b. Perpetrated By The Insured

Damages attributable to the insured who admits to perpetrating or taking part in an "act of sexual abuse or sexual molestation" or "interrelated acts", or is found guilty of, or pleads guilty or no contest to, in a legal proceeding, an "act of sexual abuse or sexual molestation" or "interrelated acts" which caused the "injury".

For the purposes of this exclusion, a legal proceeding includes, but is not limited to, a proceeding that results in a criminal conviction, a judgment, decree, ruling or order pronounced or entered by any court of competent jurisdiction or an order or ruling pronounced or entered by any administrative agency.

c. Injury Or Damage Under Coverage A Or Coverage B

"Injury" or damage, including but not limited to "bodily injury", "property damage" or "personal and advertising injury", to which Coverage **A** or Coverage **B** applies.

d. Contractual Liability

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

(1) To liability for damages that the insured would have in the absence of the contract or agreement; or

(2) To assumption of tort liability in any contract or agreement shown in the Schedule of this endorsement, to the extent the assumption of tort liability is permitted by law.

e. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

f. Employer's Liability

"Injury" to:

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

(a) Employment by the insured; or

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

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

This exclusion applies:

(a) Whether the insured may be liable as an employer or in any other capacity; and

(b) To any obligation to share damages with or repay someone else who must pay damages because of the "injury".

g. Employment-related Practices

"Injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "injury" to that person at whom any of the employment-related practices described in Paragraph (1)(a), (b) or (c) above is directed.

This exclusion applies:

N

E

W

(a) Whether the "injury"-causing event described in Paragraph (1)(a), (b) or (c) above occurs before employment, during employment or after employment of that person;

(b) Whether the insured may be liable as an employer or in any other capacity; and

(c) To any obligation to share damages with or repay someone else who must pay damages because of the "injury".

E. For the purposes of the coverage provided by this endorsement, the following paragraph is added to Section II – Who Is An Insured:

Any person or organization added to this coverage part as an additional insured will automatically be an insured under the insurance provided by this endorsement, but only if the insurance provided by this endorsement is required by:

a. The described contract(s) or agreement(s) shown in the Schedule of this endorsement; or

b. A written contract or agreement, if no described contract(s) or agreement(s) are shown in the Schedule of this endorsement;

to be provided to such additional insured.

However, the insurance afforded to such additional insured:

(1) Only applies to the extent permitted by law; and

(2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

F. With respect to the coverage provided by this endorsement, the following provisions are added to Section III – Limits Of Insurance:

1. Subject to Paragraph 2. of Section III – Limits Of Insurance, the Sexual Abuse Or Sexual Molestation Liability Aggregate Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all damages because of all "injury" arising out of all "acts of sexual abuse or sexual molestation" or "interrelated acts", including any continuation, change or resumption of such "injury" after the end of the policy period.

2. Subject to Paragraph F.1. above, the Sexual Abuse Or Sexual Molestation Liability Each Act Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all damages because of all "injury" arising out of any one "act of sexual abuse or sexual molestation" or "interrelated acts", including any continuation, change or resumption of such "injury" after the end of the policy period.

With respect to "interrelated acts" that occur over more than one policy period under any policy issued by us, only the Sexual Abuse Or Sexual Molestation Liability Each Act Limit applicable to the first policy period:

a. That provides the coverage provided by this endorsement; and

b. In which the "interrelated acts" were committed;

will apply to all damages because of all "injury" for such "interrelated acts".

3. With respect to the insurance afforded to additional insureds described in Paragraph E. of this endorsement, the most we will pay on behalf of the additional insured is the amount of insurance:

a. Required by the contract or agreement you have entered into with the additional insured; or

b. Available under the applicable Limits Of Insurance shown in the Schedule of this endorsement;

whichever is less.

4. Deductible

If a Sexual Abuse Or Sexual Molestation Liability Each Act Deductible is shown in the Schedule of this endorsement, the following provision applies:

a. Our obligation under this endorsement to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount shown in the Schedule of this endorsement as Sexual Abuse Or Sexual Molestation Liability Each Act Deductible. The limits of insurance shall not be reduced by the amount of this deductible.

b. The terms of this insurance, including those with respect to:

N

E

W

(1) Our right and duty to defend any "suits" seeking those damages; and

(2) Your duties, and the duties of any other involved insured, in the event of an "act of sexual abuse or sexual molestation", "interrelated acts", claim or "suit";

apply irrespective of the application of the deductible amount.

c. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

G. With respect to the coverage provided by this endorsement, Paragraphs 2. and 4. of Section IV – Commercial General Liability Conditions are replaced by the following:

2. Duties In The Event Of An Act Of Sexual Abuse Or Sexual Molestation, Claim Or Suit

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

(1) How, when and where the "act of sexual abuse or sexual molestation" or "interrelated acts" took place;

(2) The specific circumstances surrounding the "act of sexual abuse or sexual molestation" or "interrelated acts";

(3) The names and addresses of any injured persons and witnesses; and

(4) The nature and location of any "injury" arising out of the "act of sexual abuse or sexual molestation" or "interrelated acts".

b. If a claim is made or "suit" is brought against any insured, you must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury" to which this insurance may also apply.

d. Failure to give any notice required by this condition within the time period specified shall not invalidate any claim made by you if it shall be shown not to have been reasonably possible to give notice within the prescribed time period and that notice was given as soon as was reasonably possible.

e. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

f. Notice given by or on behalf of the insured to our authorized agent, with particulars sufficient to identify the insured, shall be considered notice to us.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

N

E

W

(1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is liability insurance applicable to an "act of sexual abuse or sexual molestation" or "interrelated acts".

(2) When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits Of Insurance shown in the Schedule of this endorsement.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

H. With respect to the coverage provided by this endorsement, the following definitions are added to the Definitions section:

1. "Act of sexual abuse or sexual molestation" means:

a. The actual, alleged or threatened sexual abuse or sexual molestation of any person committed by anyone; or

b. The negligent:

(1) Employment;

(2) Investigation;

(3) Supervision; or

(4) Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be described by Paragraph **a.** above.

2. "Injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. "Injury" includes mental anguish or other mental injury sustained by any person, whether or not resulting from injury to the body, sickness, disease or death of any person.

3. "Interrelated acts" means a series of interrelated, causally connected or continuous acts of actual, alleged or threatened sexual abuse or sexual molestation of any person or persons committed, or allegedly committed, by one person or two or more persons acting together, which are the subject of or the basis for any claim or "suit".

Such series of interrelated, causally connected or continuous acts shall be considered to be one "act of sexual abuse or sexual molestation", deemed to be committed at the time of the first such act regardless of:

a. The period of time over which the "acts of sexual abuse or sexual molestation" takes place;

b. The number of persons injured or who are alleging "acts of sexual abuse or sexual molestation";

c. The number of persons who committed or allegedly committed "acts of sexual abuse or sexual molestation";

d. The types of "acts of sexual abuse or sexual molestation" involved or alleged; or

e. The number of times the "acts of sexual abuse or sexual molestation" took place.

I. With respect to the coverage provided by this endorsement, the following definitions in the Definitions section are replaced by the following:

"Coverage territory" means the United States of America (including its territories and possessions), Puerto Rico and Canada.

"Suit" means a civil proceeding in which damages because of "injury" to which this insurance applies are alleged. "Suit" includes:

N

E

W

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

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