**ENDORSEMENT**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# This endorsement, effective 12:01 a.m.

# Forms a part of Policy No.

COVERAGE D – RECYCLERS PROFESSIONAL LIABILITY COVERAGE ENDORSEMENT – New York

This endorsement modifies insurance provided by under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**SCHEDULE**

|  |  |  |
| --- | --- | --- |
| **Coverage D – Recyclers Professional Liability Coverage** | **Limits of Insurance** | |
| Aggregate Limit | **$** |  |
| Each Wrongful Act Limit | **$** | Each “wrongful act” |
| Deductible: **$** each and every “wrongful act” | | |
|  | | |
| Information required to complete this Schedule, if not shown above, will be shown on the Declarations. | | |

1. The following exclusions are added to the policy and are applicable to “bodily injury” and “property damage” under **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** (**SECTION I – COVERAGES**) and “personal and advertising injury” under **COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY** (**SECTION I – COVERAGES**):

This insurance does not apply to:

* 1. Any claim or “suit” for which coverage is provided under **COVERAGE D – RECYCLERS PROFESSIONAL LIABILITY COVERAGE**.
  2. Any claim or “suit” arising out of the performance of or failure to perform “professional services” of any kind or description, or any act, error, or omission, malpractice or mistake of a professional nature committed by you or on your behalf in the conduct of your business.
     + 1. The following is added to **SECTION I – COVERAGES**:

**COVERAGE D - RECYCLERS PROFESSIONAL LIABILITY COVERAGE (Coverage D)**

1. **Insuring Agreement**
   1. We will pay those sums that the insured becomes legally obligated to pay as damages because of a “wrongful act” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those damages even if the allegations of the “suit” are groundless, false or fraudulent. However, we will have no duty to defend the insured against any “suit” seeking damages for a “wrongful act” to which this insurance does not apply. We may, at our discretion, investigate any “wrongful act” and settle any claim or “suit” that may result. But:
      1. The amount we will pay for damages under this Coverage **D** is limited as described in **SECTION III - LIMITS OF INSURANCE**; and
      2. Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of:
         1. judgments and/or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**; or
         2. judgments and/or settlements under Coverage **D**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS – Coverages **A**, **B** or **D**.

* 1. This insurance applies to a “wrongful act” only if:
     1. The “wrongful act” takes place in the “coverage territory”;
     2. The “wrongful act” commences to occur during the policy period; and
     3. Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no “employee” authorized by you to give or receive notice of a “wrongful act”, claim or “suit”, knew that the “wrongful act” or circumstance that reasonably could give rise to a claim under thispolicy had occurred, in whole or in part. If such a listed insured or authorized “employee” knew, prior to the policy period, that the “wrongful act” or circumstance that reasonably could give rise to a “claim” under thispolicy occurred, then any continuation, change or resumption of such “wrongful act” during or after the policy period will be deemed to have been known prior to the policy period.
  2. “Wrongful acts” which occur during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any “employee” authorized by you to give or receive notice of a “wrongful act”, claim or “suit”, includes any continuation, change or resumption of that “wrongful act” after the end of the policy period.
  3. A “wrongful act” will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any “employee” authorized by you to give or receive notice of a “wrongful act”, claim or “suit”:
     1. Reports all, or any part, of the “wrongful act” to us or any other insurer;
     2. Receives a written or verbal demand or claim for damages because of the “wrongful act”; or
     3. Becomes aware by any other means that “wrongful act” has occurred or has begun to occur.

1. **Exclusions**

This insurance does not apply to:

* 1. **Intentional, Dishonest, Fraudulent, Criminal or Malicious Act**

“Wrongful acts” arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error, or omission committed by any insured, including the willful or reckless violation of any statute.

**b. Intellectual Property**

Actual or alleged infringement or violation of any of the following rights or laws, or any other damages alleged in any claim or “suit” that also alleges any such infringement or violation:

1. Copyright;
2. Patent;
3. Trade dress;
4. Trade name;
5. Trademark;
6. Trade secret; or
7. Other intellectual property rights or laws.

**c. Cost Guarantees or Estimates**

Cost guarantees, estimates of probable costs or cost estimates being exceeded.

**d. Securities and Anti-Trust**

Any actual or alleged violation of any:

**(1)** Antitrust, restraint of trade or other law, rule or regulation which protects competition; or

**(2)** Statutory, common law, rule or regulation that regulates or imposes liability in connection with the offer to sell or purchase, or the sale or purchase of securities.

**e. Fines and Penalties**

Fines and penalties.

1. **Failing to Perform Services in Accordance with Law**

Damages arising out of services performed in violation of any federal, state, municipal or other local law, rule or regulation.

1. **Other Insurance Covering Property Owned By Others**

Based on or arising out of any actual or alleged liability which would otherwise be covered under a physical loss or damage insurance policy with respect to property owned by others in the care, custody and control of the insured.

1. **Misuse or Mishandling**

Based upon or arising out of your misuse or mishandling of any client records .

**j. Coverage Provided Under Coverages A or B**

Any claim or “suit” for which coverage is provided under **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** or **COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY** of this policy.

All Exclusions pertaining to “bodily injury” and “property damage” under **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and “personal and advertising injury” under **COVERAGE B - PERSONAL AND ADVERTISING INJURY** **LIABILITY** shall apply equally to “wrongful acts” under this **COVERAGE D – RECYCLERS PROFESSIONAL LIABILITY COVERAGE**.

1. With respect to **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY**, Subparagraph **1.a.(2)** of each Coverage is deleted and replaced with the following:
   * + - 1. Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of :
       1. judgments and/or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**; or
       2. judgments and/or settlements under Coverage **D**.

**IV.** The title **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is deleted in its entirety and replaced with the new title **SUPPLEMENTARY PAYMENTS – COVERAGES A, B, AND D**.

**V.** For the purposes of this Coverage **D** only (the “Endorsement”), Paragraph **3.** of **SECTION II – WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

**3.** Any organization you newly acquire or form, other than a partnership, joint venture, limited liability company or trust, and over which you maintain ownership or majority interest, will qualify as a Named Insured under Coverage **D** if there is no other similar insurance available to that organization. However:

**a.** Coverage under this provision is afforded only:

1. Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form the organization; or
2. Until the end of the policy period, if you report such organization in writing to us within 180 days after you acquire or form the organization, even if there are more than 180 days remaining until the end of the policy period; and

**b.** Coverage provided under Coverage **D** does not apply to damages because of “wrongful acts” committed before you acquired or formed the organization.

**VI.** For the purposes of this Endorsement only, Paragraphs **1.** and **2.** of **SECTION III – LIMITS OF INSURANCE** are deleted in their entirety and replaced with the following:

**1.** The Limits of Insurance shown in the Schedule of the Recyclers Professional Liability Coverage Endorsement (the “Schedule”), the Declarations and the rules below fix the most we will pay regardless of the number of:

**a.** Insureds;

**b.** Claims made or “suits” brought;

**c.** Persons or organizations making claims or bringing “suits”; or

**d.** “Wrongful acts”.

**2**. The General Aggregate Limit is the most we will pay for the sum of:

* 1. Medical Expenses under Coverage **C;**
  2. Damages under Coverage **A**, except damages because of “bodily injury” or “property damage” included in the “products‑completed operations hazard”;
  3. Damages under Coverage **B**; and
  4. Damages under Coverage **D**.

1. The following Paragraphs are added to **SECTION III – LIMITS OF INSURANCE**:
2. The Aggregate Limit shown in the Schedule is the most we will pay for the sum of all damages for “wrongful acts” under Coverage **D**.
3. Subject to Paragraphs **2** or **8.** above, whichever amount remaining is less, the Each Wrongful Act Limit shown in the Schedule is the most we will pay for the sum of damages under Coverage **D** arising out of any one “wrongful act”.

**10.** The Deductible amount shown in the Schedule is applicable to each and every “wrongful act” and shall be applied to the payment of judgments and/or settlements.

The Limits of Insurance shown in Schedule are in addition to and in excess of the Deductible. We may advance payment of part or all of the Deductible and upon notification by us of such payment made, you shall promptly reimburse us for the Deductible amounts advanced by us.

All “wrongful acts” resulting from related or interrelated “wrongful acts” will be deemed to be a single “wrongful act”.

1. Subparagraph **a.** of Paragraph **2.** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted in its entirety and replaced with the following:
   1. **Duties in the Event of a “Wrongful Act”, Occurrence, Offense, Claim or Suit**
      1. You must see to it that we are notified as soon as practicable of a “wrongful act”, “occurrence” or an offense which may result in a claim. To the extent possible, notice should include:
         1. How, when and where the “wrongful act”, “occurrence” or offense took place; and
         2. The names and addresses of any injured persons and witnesses; and
         3. The nature and location of any injury or damage arising out of the “wrongful act”, “occurrence” or offense.

IX. For the purposes of this endorsement only, paragraph 3. of Section IV – Commercial General Liability Conditions is replaced by the following:

3. Legal Action Against Us

a. Except as provided in Paragraph b., no person or organization has a right under this Coverage Part:

(1) To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

(2) To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

b. With respect to "wrongful acts" claims, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

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

(1) Brings an action to declare the rights of the parties under the policy; and

(2) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

1. For the purposes of this Endorsement only, Paragraph **4.** **Other Insurance** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted in its entirety and replaced with the following.

Insurance provided by **COVERAGE D - RECYCLERS PROFESSIONAL LIABILITY COVERAGE** shall be excess over any other valid and collectible insurance provided to any insured whether such insurance is provided on a primary, excess, contingent, or any other basis, unless such insurance is written to be specifically excess of this policy.

1. Paragraph **18.** in **SECTION V – DEFINITIONS** is deleted in its entirety and replaced with the following:
   1. “Suit” means a civil proceeding in which damages because of “bodily injury”, “property damage”, “personal and advertising injury”, or a “wrongful act” to which this insurance applies is alleged. “Suit” includes:
      1. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
      2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
2. In addition to the definitions in **SECTION V – DEFINITIONS** which apply to **COVERAGE D - RECYCLERS PROFESSIONAL LIABILITY COVERAGE**, the following additional definitions apply to Coverage **D** only, and with respect to Coverage **D**, supersede any similar definitions in the policy:
3. “Professional services” means those services set forth below if provided by an insured for a fee:
   1. Destruction of records and documents, including computer components and the records contained within said components;
   2. Destruction and /or recycling of computer/office equipment including electronic waste;
   3. Dismantling or deconstruction of computer/office equipment as required for the purpose of recycling; or
   4. Issuance of a certificate of destruction in connection with professional services described herein.
4. “Wrongful act” means any act, error, or omission in the performance of or failure to perform “professional services” that an insured provides to its customers.

All other terms and conditions of the policy remain the same.

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Authorized Representative