



Endurance American Insurance Company

(Hereinafter referred to as the "Insurer")
Wilmington, Delaware

FOLLOW FORM EXCESS MANAGEMENT LIABILITY INSURANCE

NOTICE: PLEASE READ CAREFULLY

This Policy shall follow all the terms and conditions of the **Followed Form** except as stated herein. Terms defined in the **Followed Form** are used herein with the meaning assigned to them in the **Followed Form** unless otherwise indicated.

DECLARATIONS

POLICY NO:

Item 1. **Named Insured:**
Address:

Item 2. **Policy Period:** From: To:
(12:01 A.M. local time at the address stated in Item 1.)

Item 3. **Limit of Liability:**
(including defense costs)

Item 4. Pending & Prior Litigation Date:
This policy follows the pending & prior litigation exclusion in the **Followed Form**, except that the applicable date in such exclusion shall be the date indicated in this Item 4.

Item 5. Premium:

Item 6. Producer's Name and Address:

Item 7. **A. Underlying Policy(ies):**

<u>Insurer</u>	<u>Policy Number</u>	<u>Limit of Liability</u>	<u>Attachment</u>
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B. Followed Form:

Item 8. Forms and Endorsements at Issuance:

<u>Title</u>	<u>Form No.</u>
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Item 9. Notice: Mail E-Mail

A. Claims: Vice President and Manager – Claims
Endurance American Insurance Company
333 Westchester Avenue, West Building
White Plains, NY 10604
ERSclaims@enduranceservices.com

B. All Other: Endurance Risk Solutions Management Liability
Underwriting Department
Endurance American Insurance Company
767 Third Avenue, 33rd Floor, New York, NY. 10017
EPS@enhinsurance.com

This Declarations Page, together with the Application (including all information furnished by the **Insureds** in the underwriting of this Policy), the attached Policy form and any written endorsements thereto, shall constitute the contract between the **Insureds** and the Insurer ("Policy").

The Insurer hereby causes this Policy to be signed on the Declarations page by a duly authorized representative of the Insurer.

Authorized Representative

Date

SAMPLE

Policy Issuance Date:
Policy Issuance Office: 767 Third Avenue, New York, NY. 10017

Endurance American Insurance Company
EML 0001 0110

FOLLOW FORM
EXCESS MANAGEMENT LIABILITY INSURANCE POLICY

THIS POLICY CONTAINS CLAIMS MADE COVERAGES. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES AND WHAT IS AND WHAT IS NOT COVERED.

In consideration of premium paid or payable and in reliance on all statements made and information furnished by the **Insureds** in the Application or the underwriting of this Policy, and subject to the terms, conditions and limitations of this Policy, Endurance American Insurance Company (herein referred to as the "Insurer") agrees as follows:

I. INSURING CLAUSE

Subject to the terms and conditions of this Policy, the Insurer shall provide to the **Insureds** insurance coverage for Claims first made during the **Policy Period**, including the Discovery Period if exercised. Liability for any covered Loss resulting from covered Claims shall attach to the Insurer only after (i) the insurers of the **Underlying Policy(ies)**, the **Insureds**, and/or any other party shall have paid in legal currency the full amount of the **Underlying Limit** pursuant to Section II.B.1 below, and (ii) the **Insureds** shall have paid the retention or deductible, if any, applicable under the **Primary Policy**. The Insurer shall then be liable to pay only covered Loss in excess of such **Underlying Limit** up to its **Limit of Liability** as set forth in Item 3 of the Declarations, which shall be the maximum aggregate liability of the Insurer under this Policy with respect to all Claims first made in each **Policy Period**, including the Discovery Period if exercised, against all **Insureds** irrespective of the time of payment by the Insurer.

II. TERMS AND CONDITIONS

A. FOLLOWING FORM

This Policy, except as stated herein, is subject to all terms, conditions, representations and limitations as contained in the **Followed Form** as of inception of this Policy, and to the extent coverage is further limited or restricted thereby, in any other **Underlying Policy(ies)**. In no event shall this Policy grant broader coverage than would be provided by any of the **Underlying Policy(ies)**. In the event of any conflict between the terms, conditions, and limitations of this Policy and any **Underlying Policy**, the terms, conditions and limitations of this Policy shall control.

B. UNDERLYING POLICIES

1. In the event and only in the event of the erosion or exhaustion of the **Underlying Limit** by reason of:
 - a. the insurer(s) of the **Underlying Policy(ies)**, the **Insureds**, and/or any other party paying in legal currency Loss covered under the respective **Underlying Policy(ies)**; and/or
 - b. the insurer(s) of the **Underlying Policy(ies)** paying loss under another policy(ies) issued by such underlying insurer to the **Named Insured** or any of its affiliates; but only to the extent such **Underlying Policy(ies)** explicitly requires that such loss payment erodes the limit of liability of such **Underlying Policy(ies)**.

this Policy shall: (i) in the event of erosion, pay excess of the eroded **Underlying Limit**, and (ii) in the event of exhaustion, continue in force as primary insurance; provided always that in the latter event this Policy shall only pay excess of the retention or deductible, if any, applicable under the **Primary Policy**, which retention or deductible shall be applied to any subsequent Loss in the same manner as specified in the **Primary Policy**.

2. Notwithstanding any of the terms of this Policy which might be construed otherwise, this Policy shall drop down only in the event of erosion or exhaustion of the **Underlying Limit** as described above, and shall not drop down for any other reason including, but not limited to, uncollectability (in whole or in part) of any **Underlying Policy(ies)**. The risk of uncollectability of the **Underlying Policy(ies)** (in whole or in part) whether because of financial impairment or insolvency of an underlying insurer or for any other reason, is expressly retained by the **Insureds** and is not in any way or under any circumstances insured or assumed by the Insurer.

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3. If any **Underlying Policy(ies)** contains a specific grant of coverage that is subject to a sublimit of liability, then coverage under this Policy shall not apply to any Claim which is otherwise subject to such grant of coverage. However, any Loss paid under the **Underlying Policies** on account of such Claim shall erode or exhaust the **Underlying Limit**, as provided in Section II.B.1 above, for purposes of this Policy.
4. If any **Underlying Policy(ies)** is canceled or terminated during the **Policy Period** including the Discovery Period if exercised, the Insurer shall not be liable under this Policy to a greater extent than it would have been had such **Underlying Policy(ies)** been so maintained. To the extent the terms, conditions or limitations of any of the **Underlying Policy(ies)** are changed to limit or restrict coverage, this Policy shall become subject to such changes upon the effective date of the change in the **Underlying Policy(ies)**. To the extent the terms, conditions or limitations of any of the **Underlying Policy(ies)** are changed to expand or broaden coverage, this Policy shall become subject to such changes only if and to the extent the Insurer agrees to such changes in writing and the **Insureds** pay any additional premium reasonably required by the Insurer for such changes.

C. NOTICE

All notices under this Policy shall be in writing and properly addressed to the appropriate party. Notice to the **Insureds** may be given to the **Named Insured** at the address as shown in Item 1. of the Declarations. Notice to the Insurer of any Claim or potential Claim under this Policy shall be given to the Insurer at the address as shown in Item 9.A. of the Declarations. All other notices to the Insurer under this Policy shall be given to the Insurer at the address as shown in Item 9.B. of the Declarations.

Any notice to the insurer of an **Underlying Policy(ies)** shall not constitute notice to the Insurer unless also given to the Insurer as provided in this Section II.C.

D. CLAIMS PROVISIONS

1. The Insurer may, at its sole discretion, participate in the investigation, defense or settlement of any Claim or potential Claim reported to the Insurer under this Policy even if the **Underlying Limit** has not been exhausted.
2. No action by any other insurer shall bind the Insurer under this Policy. The Insurer shall not be liable under this Policy for any settlements, stipulated judgments or defense costs to which the Insurer has not consented, which consent shall not be unreasonably withheld.

E. DISCOVERY PERIOD

The Insureds shall have the right to elect a Discovery Period under this Policy as described in, and subject to the terms of, the **Followed Form**. The additional premium for the Discovery Period shall be the same percentage of this Policy's annual premium as the percentage stated in the **Followed Form** for calculating the Discovery Period premium thereunder. The Discovery Period shall not be available unless the **Insured** has elected the Discovery Period in all unexhausted **Underlying Policies** and has provided proof thereof to the Insurer.

F. DEFINITIONS

1. Terms defined in the **Followed Form** are used herein with the meaning assigned to them in the **Followed Form** unless otherwise stated herein. Other words and phrases that appear in bold have special meaning and can be found below or in any endorsement or the specific Policy provision where they appear.
2. **Followed Form**, **Underlying Policy(ies)** and **Limit of Liability** have the meanings attributed to them in the Declarations.
3. **Insured(s)** means all natural persons and entities insured by the **Followed Form**.
4. **Named Insured** means the entity named in Item 1 of the Declarations.
5. **Primary Policy** means the first listed policy in Item 7.A of the Declarations.
6. **Policy Period** means the period of time specified in Item 2. of the Declarations, subject to prior termination in accordance with the **Followed Form**.

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7. **Underlying Limit** means an amount equal to the aggregate of all limits of liability, as set forth in Item 7. of the Declarations, for all **Underlying Policies**, plus the retention or deductible, if any, applicable under the **Primary Policy**.

SAMPLE