

Law Enforcement Liability Policy

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words “you” and “your” refer to the law enforcement agency shown as the Named Insured in the Declarations. The words “we”, “us” and “our” refer to the Company providing this insurance.

The word “insured” means any person or organization qualifying as such under WHO IS AN INSURED (SECTION II).

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION V — DEFINITIONS

SECTION I — COVERAGE

1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as compensatory civil damages because of “injury”. This insurance applies only to such “injury” that results from a “wrongful act” to which this insurance applies. We will have the right and duty to defend any “suit” seeking those damages. We may, at our discretion, investigate any incident or “wrongful act” and settle, subject to condition 14., any claim or “suit”. But:

- (1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE AND DEDUCTIBLE (Section III);
- (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS.

- b. This insurance applies to a “wrongful act” only if:

- (1) The “wrongful act” takes place in the “coverage territory”; and

- (2) The “wrongful act” occurs during the policy period.

2. Exclusions.

This insurance does not apply to

- a. Any obligations that insureds or their insurance companies have under workers compensation, unemployment compensation, disability benefits or similar laws.
- b. Damages sustained by any of your law enforcement officers or employees (including those that are auxiliary or volunteer), if such damages are directly or indirectly related to their employment by you.
- c. Damages arising out of the ownership, maintenance, management, operation, use, control, loading or unloading of any “auto”, or motor or propelled vehicle of any kind, watercraft or aircraft:
- (1) Owned or operated by, rented or loaned to any insured; or
- (2) Operated by any person on behalf of, or in the course of employment by, an insured.
- d. Liability assumed under any contract or agreement except mutual law enforcement assistance agreements between political subdivisions.
- e. Claims arising out of any act, “wrongful act”, service or duty for anyone other than you.

This exclusion does not apply if the act or service is a result of a mutual law enforcement assistance agreement or contract between political subdivisions, nor does it apply to any activities approved by you.

- f. Claims arising out of the insured’s employment policies or practices, including, but not limited to application for employment, refusal to employ, termination of employment, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment (including sexual harassment), humiliation, discrimination or violation of civil rights.
- g. Any claim that results in a final legal determination that any insured has:

- (1)** Committed any criminal, dishonest, bad faith or fraudulent act, error or omission or intentional malicious act, error or omission; or
- (2)** Deliberately violated, or had knowledge of or consented to the violation of, any federal, state or local statute, ordinance, rule or regulation.

This exclusion does not apply to any other insured where there is no legal finding that such other insured actively joined in:

- (a)** An act described in g. (1) above;
- (b)** Or had knowledge of, or consented to, the violation described in g. (2) above.

h. "Property damage" to property:

- (1)** Owned, used or occupied by or rented to the insured; or
- (2)** In the care, custody or control of the insured, or over which the insured is, for any purpose, exercising physical control.

This exclusion h. (2) does not apply to property on persons at the time of their arrest.

i. Any claim arising out of the:

- (1)** Furnishing by an insured of services, materials, parts or equipment in connection with, or
- (2)** Planning, construction, maintenance, existence or use of any nuclear reactor or device, nuclear waste storage or disposal site or any other nuclear facility, the transportation of nuclear material, or the hazardous properties of nuclear material.

j. Any claim seeking:

- (1)** Anything other than money damages;
- (2)** Injunctive, mandamus, declaratory or equitable relief; or

- (3)** Wages or other employee compensation, overtime or similar claims, even if designated as liquidated damages, under any federal, state or local statutes, rules, or ordinances or regulations or claims arising from collective bargaining agreements, or awards or settlements.

k. Any claim made against an insured by another insured.

l. (1) Any claim, "suit", proceeding, damages, loss, cost or expense:

- (a)** Arising out of any actual, alleged or threatened emission, discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time; or

- (b)** Arising out of any request, demand or order for any "clean up of" "pollutants"; or

- (c)** Incurred as result of any "clean up of" "pollutants";

- (2)** The investigation, settlement or defense of any claim, "suit", proceeding, damages, loss, cost or expense excluded by (1) above or alleging or in any way involving the above.

As used in this exclusion:

"Pollutants" include any noise, solid semi-solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, mists, acids, alkalis, chemicals, biological and etiologic agents or materials, electromagnetic or ionizing radiation and energy, genetically engineered materials, teratogenic, carcinogenic and mutagenic materials, "waste" and any other irritant or contaminant.

"Waste" includes any materials to be disposed, recycled, reconditioned or reclaimed.

"Clean up of" includes monitoring, removal, containment, treatment, detoxification or neutralization of, testing for or response in any way to, or assessment of the effects of "pollutants".

m. Liability arising out of the rendering of, or failure to render, professional services by a member of the medical profession.

n. The liability of an insured for fines, penalties, costs or expenses imposed by law or arising from any complaint or enforcement action of any federal, state or local governmental regulatory agency, or damages which may be deemed uninsurable by law or under law.

- o. Any claim for damages arising out of, or alleged to have arisen out of, the transmission of, or exposure to, a communicable disease.
 - (1) As respects this exclusion, AIDS (Acquired Immune Deficiency Syndrome) will be considered a communicable disease.
 - (2) This exclusion includes such damages claimed because of negligent training, supervision, recruitment, policies or procedures.

- 8. Premium on appeal bonds in any "suit" we defend.
- 9. Reasonable expenses incurred for "first aid" to others at the time and place of an accident, for "bodily injury" to which this insurance applies.

These payments will not reduce the Limits of Insurance.

SECTION II—WHO IS AN INSURED

1. You are an insured.
2. Each of the following is also an insured, but only while acting within the scope of their duties for you:
 - a. Your law enforcement officers and, in the event of their death, incapacity or bankruptcy, their heirs, executors, administrators, assigns and legal representatives;
 - b. The political entity or subdivision of which the law enforcement agency is a part, department or bureau and its public officials, provided such political entity or subdivision is legally constituted at the inception date of this policy; and
 - c. All other employees and authorized volunteers of the law enforcement agency.

No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

SECTION III—LIMITS OF INSURANCE AND DEDUCTIBLE

1. The Limits of Insurance shown in the Declaration and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for all damages to which this insurance applies.
3. Subject to 2. above, the Each Wrongful Act Limit is the most we will pay for the sum of all damages arising out of the same "wrongful act" to which this insurance applies.

Supplementary Payments

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur, subject to the deductible amount. Refer to LIMITS OF INSURANCE AND DEDUCTIBLE (Section III).
2. Up to \$250 for the cost of bail bonds required because of "injury" to which this insurance applies.
3. The cost of bonds to release attachments in a "suit" we defend, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
4. 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 \$100 a day because of time off from work.
5. All costs taxed against the insured in a "suit" we defend.
6. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
7. All interest on the full amount of any 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.

4. a. Subject to 3. above, the Each Wrongful Act Limit applies in excess of the Deductible shown in the Declarations. By accepting this insurance the insured agrees that such Deductible will be uninsured and borne by the insured.
- b. The terms of this insurance, including those with respect to your duties in the event of an incident, “wrongful act”, claim or “suit”, apply irrespective of the application of the deductible amount.
- c. We may, at our discretion, pay all or part of any deductible shown in the Declarations. Upon notice of such payment you shall promptly reimburse us for the amount we paid.
- d. Claims based on or arising out of:
 - (1) The same “wrongful act” or the related “wrongful acts” of one or more insureds; or
 - (2) Riot, insurrection or civil disturbance which results in an official proclamation of a state of emergency, temporary curfew or martial law will be considered a single claim, to which only one Each Wrongful Act Limit, and Deductible, will apply.

The Deductible, as referred to in this policy, will apply to the sum of damages and “defense expenses”.

The limits of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV— CONDITIONS

1. Bankruptcy.

Bankruptcy or insolvency of the insured will not relieve us of our obligations under this policy.

2. Cancellation

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

(2) 60 days before the effective date of cancellation if we cancel for any other reason.

- c. We will mail or deliver our notice to the first Named Insured’s last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. In all cases, refunded premium will be less any earned minimum premium. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

3. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy’s terms can be amended or waived only by endorsement issued by us and made a part of this policy.

4. Duties in the Event of Incident, Wrongful Act, Claim or Suit.

- a. You must see to it that we are given written notice as soon as practicable of an incident or “wrongful act” which may result in a claim. To the extent possible, notice should include:
 - (1) All available information about the circumstances concerning the incident or “wrongful act” including:
 - (a) How, when and where it took place; and
 - (b) The names and addresses of any witnesses and persons seeking damages; and
 - (2) What claim you think may result.

However, even when you notify us of an incident or “wrongful act”, this does not relieve you of your obligation to also notify us of any resulting claim or “suit”.

- b. When you first learn of a claim made or “suit” 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.

You must see to it that we receive written notice of the claim or "suit" 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 a "suit":

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

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

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

(5) In no way jeopardize our rights after an incident or "wrongful act".

d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation or incur any expense, other than for "first aid", without our written consent.

5. Examination Of Your Books And Records

We may examine audit and copy your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

6. Governmental Immunity.

Because you are a public institution, you may be entitled to governmental immunity. This policy does not constitute a waiver of any governmental immunity to which you are entitled.

7. Inspections And Surveys

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of

workers or the public. And we do not warrant that conditions:

a. Are safe or healthful; or

b. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

8. Legal Action Against Us.

No legal action may be brought against us unless, as a condition precedent thereto, the insured has fully complied with all the terms of this policy. In addition, no person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy 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 obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy 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.

9. Other Insurance.

a. Except for such other insurance that is purchased specifically to be excess of the Limits of Insurance provided by this policy, the insurance provided by this policy form is excess over any other collectible insurance and its deductible or self-insured retention provisions. The presence of a deductible or self-insured retention in such other insurance will not amend the deductible provision of this policy.

b. When this insurance is excess, we will have no duty to defend any claim or "suit" that any other insurer has a duty to defend. 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.

c. When this insurance is excess over other insurance, we will pay only our share of the damages, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the damages in the absence of this insurance; and
 - (2) The total of all deductible and self-insured amounts under all that other insurance.
- d. When both this insurance and other insurance apply to the loss on the same excess basis, we will share with such other insurance by the method described below:

- (1) 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, which comes first.
- (2) 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 Limit of Insurance of all insurers.

10. Premium Audit.

If the Declarations states that the policy is subject to audit:

- a. **The premium** shown in the Declarations is a deposit premium only. At the close of each audit period we will compute the earned premium for that period.
- b. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

11. Premiums

The first Named Insured shown in the Declarations;

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

12. Representations.

By accepting this policy, the Named Insured agrees that:

- a. The statements in the Declarations and in the application for insurance are accurate and complete;
- b. Those statements are based upon representations which the insureds made to you, and which you made to us; and
- c. We have issued this policy in reliance upon those representations.

13. Separation Of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

14. Settlement.

If the first Named Insured, on behalf of all insureds, refuses to consent, within a reasonable period of time, to any settlement offer we recommend and elects to contest the claim or continue any legal proceedings in connection with such claim then, subject to the provisions of Section III - Limits of Insurance, our liability for the claim will not exceed the amount for which the claim could have been settled, plus the cost of defense incurred by us up to the date of such refusal.

15. Transfer Of Rights Of Recovery Against Others To Us.

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

16. Your Authority And Duties.

The first Named Insured shown in the Declarations agrees to act on behalf of all insureds with respect to cancellation, notice of any incident, "wrongful act", claim or "suit", payment or return of any premium, or consent to a claim settlement that we recommend. Each insured, by accepting this insurance, agrees to:

- a. Have the first Named Insured act for them in such matters; and
- b. Promptly notify the first Named Insured, in writing, of any incident or "wrongful act" which may result

in a claim, or of any claim or “suit” brought against them.

SECTION V—DEFINITIONS

1. “Auto” means a land motor vehicle, trailer or semi-trailer designed for travel on public roads.
2. “Bodily injury” means:
 - a. Any physical harm to a person’s health, including sickness or disease; and
 - b. Any mental harm to, or the death of, the same person described in 2.a. above, as a direct result of such physical harm.
3. “Coverage territory” means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada; and
 - b. All other parts of the world if:
 - (1) The “wrongful act” is committed by an insured whose home is in the territory described in (a.) above, but is away for a short time on your business; and
 - (2) The insured’s responsibility to pay damages is determined in a “suit” on the merits in the territory described in (a.) above or in a settlement to which we agree.
4. “Defense expenses” mean expenditures including, but not limited to, our costs of investigations, experts, adjustment services, legal services, court costs, and other similar expenses.
5. “First aid” means the rendering of emergency medical treatment by any of your law enforcement officers, but only when care by a licensed medical professional is not immediately available.
6. “Injury” means “bodily injury”, “property damage” or “personal injury”;
 - a. The insured did not expect or intend. “Injury” resulting from the use of reasonable force to protect persons or property will not be considered expected or intended; and
 - b. Arising out of the insured’s duties to provide law enforcement and/or other activities approved by you.
7. “Personal injury” means injury, other than “bodily injury”, arising out of one or more of the following:
 - a. False arrest; wrongful detention or wrongful imprisonment;
 - b. Malicious prosecution;
 - c. Assault and battery from the use of reasonable force to protect persons or property;
 - d. Discrimination, unless uninsurable by law;
 - e. Humiliation;
 - f. False or improper service of process;
 - g. Violation of property rights;
 - h. Violation of civil rights, unless uninsurable by law;
 - i. Wrongful eviction or wrongful entry, or other violations of the right of private occupancy; and
 - j. The oral or written publication of material that:
 - (1) Defames, slanders or libels a person or organization or disparages a person’s or organization’s goods, products or services; or
 - (2) Violates a person’s right of privacy.

However, “personal injury” does not include the oral or written publication of material in the course of, or related to, advertising, broadcasting, telecasting or videotaping activities conducted by or on behalf of any insured.
8. “Property damage” means:
 - a. Physical injury to tangible property, including all resulting loss of use of that property; or
 - b. Loss of use of tangible property that is not physically injured.
9. “Suit” means a civil proceeding in which damages to which this insurance applies are alleged. “Suit” includes:

- a. An arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.
10. "Wrongful act" means any actual or alleged error or misstatement or act or omission or neglect or breach of duty, including misfeasance and nonfeasance, by the insured in the discharge of duties for you.

"Wrongful act" includes allegations of malfeasance, but only if they are ultimately proven to be groundless. This insurance does not apply to malfeasance if there is a final legal determination that such has taken place.