

# Liability Excess of Loss Section

## Definition

### Underlying Limit

The total of the limit or limits of liability provided by the underlying insurance or insurances as stated in the **Schedule**

## Cover

**The Insurer** will indemnify **the Insured** subject to the terms of this **Policy** and to the Limit of Indemnity against legal liability in accordance with the terms of the underlying insurance or insurances as stated in the **Schedule** which are incorporated herein and which shall run concurrently with this **Section**

Provided that

- a. no liability shall attach to **the Insurer** unless and until the Primary Insurer(s) have admitted liability or have paid or agreed to pay the full amount of the **Underlying Limit** after making deductions for all recoveries, salvages and other valid and collectable insurances
- b. such underlying insurance or insurances shall be maintained in full effect during the currency of this **Policy** except for any reduction(s) of the aggregate limit(s) contained therein solely by payment of a claim or claims during the **Period of Insurance**.

Limit of Indemnity

**The Insurer's** liability for all compensation payable in respect of

- A. any one claim or series of claims arising from one cause
- B. all claims arising during the **Period of Insurance** in respect of which there is an aggregate limit in the underlying insurance or insurances

shall not exceed the Limit of Indemnity stated in the **Schedule**.

## Section Conditions

### 1. Interpretation

Any word or expression to which a specific meaning has been given shall have the same meaning wherever it may appear in this **Section**.

### 2. Costs and Expenses

If the underlying insurance or insurances provide(s) for costs and expenses to be payable in addition to the limit of indemnity, **the Insurer's** liability for costs and expenses shall be limited to that proportion which the amount payable under this **Section** excluding such costs and expenses bears to the total sum payable under all contributing insurances excluding such costs and expenses.

If the Primary Insurer(s) have invoked a right under their insurance or insurances to pay the limit(s) of indemnity thereunder and only be liable for costs and expenses for which they are responsible up to the time of such payment then **the Insurer** shall be liable for costs and expenses for which the Primary Insurer(s) would have been liable had they not invoked that right.

### 3. Exhaustion of Underlying Limit

If the **Underlying Limit** is exhausted by claims paid by the Primary Insurer(s) or which they have been held liable to pay **the Insurer** shall in the event of

- A. partial exhaustion provide indemnity in excess of the reduced **Underlying Limit** for the remainder of the **Period of Insurance**
- B. total exhaustion continue this **Section** in force as the underlying insurance for the remainder of the **Period of Insurance** subject to the terms of the underlying insurance or insurances.

### 4. Claims Notification and Consultation

**The Insured** shall give written notice to **the Insurer** immediately upon being made aware of an occurrence reasonably likely to produce a claim which exceeds 50% of the **Underlying Limit**. In respect of such occurrence the liability of **the Insurer** under this **Section** shall be subject to **the Insurer** having the right to consult with the Primary Insurer(s) in connection with subsequent payments under the underlying insurance or insurances.

### 5. Alteration

No material alteration to the underlying insurance or insurances making any changes in the terms or conditions of such underlying insurance or insurances shall apply to this **Section** unless otherwise agreed by **the Insurer**.

### 6. Liquidation

**The Insurer** shall not be liable for the failure of the Primary Insurer(s) to meet their commitments under the underlying insurance or insurances due to their inability or refusal to pay any claim in the event of their insolvency or entering into liquidation or their affairs being subject to any scheme of administration or receivership approved by a court.

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