

Glossary of Terms

advertisement – a notice that is broadcast or published to the general public or to specific market segments to attract customers

auto – any land motor vehicle designed to travel on public roads, including any attached machinery or equipment, or any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged

Automatic Insured – a person or organization given insured status in the policy as determined by the type of entity the Named Insured operates as. Automatic insureds may have the authority to act on behalf of the Named Insured or may be closely involved or related to the Named Insured.

bodily injury – bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time

business operations liability – a type of liability exposure that arises from an organization’s activities, including service and repair activities. These services or repairs are typically performed on others’ premises while the activity is ongoing or being conducted.

completed operations liability – a type of liability exposure that exists on completed work. Completed Operations Liability Insurance protects the insured for losses that arise after the service or repair work has been completed and put to its intended use.

Consent to Settle – a provision in an insurance contract requiring the insurer to have the Named Insured’s consent to settle

contingent liability – a type of liability exposure also known as vicarious liability that occurs when the Named Insured is held responsible for the actions of others over whom it may exercise control, such as employees. Actions by independent contractors, vendors, and others can create contingent or vicarious exposures for the Named Insured.

contractual liability – a distinct responsibility the insured assumes through a contract. The obligation emerges when a business acknowledges its duty to

be accountable if legal actions are taken against others due to its actions or work.

coverage territory – outlines the geographical area where coverage will be in effect; the area where losses or damages must occur to be covered

electronic data – information, facts, or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices, or any other media which are used with electronically controlled equipment

endorsement – used by an insurer to clarify or make revisions to particular provisions of a policy

executive officer – a person holding any officer position created by your charter, constitution, bylaws, or any other similar governing document

exposure – a situation, practice, or condition that may lead to an adverse financial consequence; an activity or resource; people or assets

“host” liquor liability – an implied exception to the liquor liability exclusion when an insured is not in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages but does provide alcohol for a party or event and does not charge for said alcohol

hostile fire – a fire occurring in a location where a fire should not exist or be occurring

impaired property – tangible property other than “your product” or “your work” that cannot be used or is less useful because it incorporates “your product” or “your work” that is known or thought to be defective, deficient, inadequate, or dangerous, or you have failed to fulfill the terms of a contract or agreement

Insuring Agreement – the promise given in the insurance contract for payment to or on behalf of the insured

ISO – Insurance Services Offices; provides numerous types of information to various entities in the insurance industry, including policy language and forms

mobile equipment – any land vehicle, including any attached machinery or equipment designed, for use principally off public roads. It also includes items maintained for use solely on or next to premises you own or rent.

Named Insured – a person or organization named in the Declarations; the “you” referred to in the policy language

Non-Automatic Insureds – a person or organization not given insured status in the policy but may need to be given insured status for business reasons

occurrence – an accident, including continuous or repeated exposure to substantially the same general harmful conditions

partnership or joint venture – created when two or more business entities join for a specific project. Once the project is complete, the partnership or joint venture is dissolved.

personal and advertising liability – Personal injury arises from intentional torts such as libel, slander, and wrongful eviction; advertising liability can stem from the misappropriation of advertising ideas, business style or design, or copyright infringement. Advertising liability coverage grants more incidental coverage related to an insured’s advertising ideas rather than broad infringement coverage.

pollutant – any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste

premises liability – arises from the operations and activities of the insured’s business on their premises; property owners and lessees are held responsible for maintaining their premises in a reasonably safe condition. This liability applies to owners, landlords, and tenants and arises from the ownership or use of the insured’s premises.

product liability – arises from the sale, distribution, or manufacture of the insured’s product. Coverage begins when a product leaves the insured’s premises and injures a third party because of a defect.

property damage – physical injury of tangible property, including all resulting loss of use or loss of use of tangible property that is not physically injured

Separation of Insureds – a policy condition that clarifies that insurance coverage will apply separately to each insured against whom the claim is made, or the suit is brought

sole proprietorship – a business organization in which a sole person is entitled to all profits and will bear all losses generated by the business, free of the regulatory reporting required of other business organizations

suit – a civil proceeding in which damages because of “bodily injury,” “property damage,” or “personal and advertising injury” to which the insurance coverage applies are alleged

temporary worker – a person who is furnished to you to substitute for a permanent “employee” on leave or to meet seasonal or short-term workload conditions

tort – a private or civil wrong other than a breach of contract for which the courts will provide a remedy in the form of an action for damages

trust – an entity created to own property to be used for a purpose designated by the trust's creator. The trust can be charitable or have other purposes. Since a trust can own property and act vicariously through others, it can incur liability.

trustee – an individual who carries out the purpose or purposes of the trust

unmanned aircraft – commonly known as a drone; aircraft designed to be operated without any human pilot, crew, or passengers on board

vicarious liability – accepting someone else’s risk for work performed on your behalf, also referred to as contingent liability

“your work” – work or operations performed by you or on your behalf; includes materials, parts, or equipment furnished in connection with such work or operations

SECTION 2

Additional Insured – a third party granted insured status through deliberate endorsement; generally not done automatically but is based on the

relationship between the Named Insured and another business or organization, an owner of premises or equipment, or a party with a financial interest

anti-indemnification statutes – statutes in some states that may challenge and nullify “hold harmless” agreements by declaring them unenforceable because they violate state laws that prohibit agreements that purport to indemnify one party for its own negligence

coverage enhancement – additional coverages provided in addition to the base policy form, typically issued by insurers who use their own insurance forms

hold harmless agreement – a contract used to transfer risk from one party (the indemnitor) to another party (the indemnitee)

indemnification – the actual payment of a loss that is covered by the “hold harmless” agreement

indemnify – to compensate, or make whole, a person or organization for damages

indemnitee – the person who, in a contract of indemnity, is to be indemnified or protected by the other party

indemnitor – the person who provides the hold harmless agreement and agrees to “hold harmless” the other party from any liability or legal claims related to a specific activity. The protected party will not be held responsible for damages or losses arising from particular circumstances involving the actions or negligence of the indemnitor.

negligence – the omission to do something that a reasonable person, guided by those considerations that ordinarily regulate the conduct of human affairs, would do or by doing something a prudent and reasonable person would not do. Negligence is determined in all cases by reference to the situation, knowledge of the parties, and attendant circumstances.

sovereign immunity – clarifies that a state, government, or municipality cannot be sued or commit a legal wrong

statutes – laws written by legislative bodies; laws which modify common law

subrogation – the legal right of one who has paid another's obligation to collect from the party originally owing the obligation (e.g., the insurer's right to recover from another the amount that the insurer paid to its insured for a covered loss)

waiver of subrogation – an agreement between two parties in which one party intentionally or voluntarily relinquishes a known right, claim, privilege, or opportunity to subrogate against another in the event of a loss

SECTION 3

Collision coverage – insurance for a covered auto that provides payment for loss due to colliding or crashing into an object or another vehicle; includes the overturning of a vehicle, as well

Comprehensive coverage – broad insurance for a covered auto that provides payment for any loss or damage that is a consequence of any cause, aside from collision and the overturning of a vehicle and other exclusions and conditions

Declarations – the part of a policy that indicates to whom the policy is issued. It includes specific coverage provided by the policy, effective dates, and primary location where coverage applies. It can also include additional information, such as policy numbers and the insurance company's name.

deductible – the amount the insured pays out of pocket before the policy begins to pay; the amount the insurance company reduces its payment for a loss, shown in the Declarations for each coverage

depreciation – the amount of value an asset has lost due to its age and/or wear and tear

diminution – the perceived loss in market or resale value resulting from a direct and accidental "loss"

duty to defend – an insurance company's assumed obligation to defend an insured for any covered claim

exclusion – a provision that specifies situations where coverage does not apply

fellow employee exclusion – removes coverage for the liability of one insured employee negligently injuring another employee arising out of and in the course of employment

hired auto – an auto that a business organization or sole proprietor leases, hires, rents, or borrows; does not include any auto belonging to an employee or partner or any of their family members

insurance coverage form – the part of a policy in which the promises an insurance company makes to an insured are outlined in detail

insured contract – a contract where the insured has assumed the tort liabilities of another party, subject to the limits of the insurance policy

newly acquired auto – an auto that is an additional auto or a replacement auto. An additional auto increases the total number of vehicles an insured possesses; a replacement vehicle does not since this is when an insured trades in one vehicle for another.

no-fault state – a jurisdiction in which drivers are required to carry their own protection coverage (Personal Injury Protection, or PIP) to pay for their medical expenses in case of an auto accident, regardless of who was at fault in causing the accident

non-owned auto – an auto that a business organization or sole proprietor does not own, hire, rent, or borrow in connection to the business; includes any auto belonging to an employee or partner or any of their family members

owned auto – an auto that is owned in the name of a business or organization or is owned by a sole proprietor and is being used for business purposes

permissive user – a person who is granted the Named Insured's permission to use a covered auto that is owned, hired, or borrowed and to whom, consequently, is extended coverage

Physical Damage coverage – three types of physical damage coverage can be triggered by the designation symbol or symbols listed under Item Two in the BAP Declarations: Comprehensive, Specified Causes of Loss, and Collision. The

BAP only includes liability and physical damage, so any other coverage must be added by endorsement.

policy period – found under Item One in the BAP Declarations, this information includes the policy inception and expiration dates

premium audit – a financial audit calculated at the end of the policy period that compares the estimated initial rating amount (based on selected Symbols and other variables such as number of employees, cost of hire, gross mileage, or gross receipts) to actual exposures to determine the final premium. The insured will receive a balance owed or a credit.

Specified Causes of Loss coverage – an alternative option to the “all risks” nature of comprehensive coverage; instead, losses are covered by the “perils” listed

supplementary payments – those provided in addition to the limits of insurance and which include all expenses the insured incurs, primarily for defense costs. The BAP and CGL are similar in what is provided, with a few exceptions, such as the amount paid for bail bonds.

symbols – numeric designations found in Section I of the BAP that define the various categories of covered autos. Under Item Two in the BAP Declarations, Symbols 1–9 and 19 are listed in the Covered Auto Designations table, indicating the type of covered auto and the coverage that may be triggered for each.

SECTION 4

assumption of risk – a common law doctrine that finds that by doing certain acts, an employee assumes the risk of injury, as when an employee agrees to take a hazardous job and seems to understand the risks. The employer may use this as a defense to demonstrate that the employee assumed the risk.

common law – the body of law derived from court decisions based on custom and precedent

competitive state funds – Employers in many states have the option of purchasing Workers Compensation And Employers Liability Insurance from a

state fund that competes with private carriers. For some employers, the competitive state fund may be the market of last resort if a private carrier refuses coverage for various reasons.

compulsory states – states in which workers compensation insurance is mandatory. This accounts for all states except Texas and New Jersey. In Texas, if an employer does not accept or non-subscribes, they are denied the use of the common law defenses.

contributory negligence – a common law doctrine that negates the ability to recover damages if the injured party is even slightly negligent in the situation causing injury; used as a defense by an employer if the employee contributed in any way to the injury

de facto employer – from Latin, meaning in fact or reality. Employers have an obligation to provide workers compensation to *de facto* employees, who are often classified as independent contractors when, in fact, they qualify as employees. *De facto* is based on the actual conditions and practices of the working relationship, emphasizing the control and treatment of the worker.

disability benefits – one category of benefits afforded by workers compensation insurance. There are four types of compensation for lost wages under disability benefits: temporary partial, where the employee can do part of the job or specific tasks for a limited duration; permanent partial, where the employee can do only part of the job on certain tasks, and there is some degree of permanent injury; temporary total, where the employee is unable to work, but only temporarily; and permanent total, where the employee is unable to work for the rest of their life.

dual capacity – one of four common types of liability claims specified in Part Two – Employers Liability. The policy protects against lawsuits brought by an injured employee against the employer when the injury arises from the employer's activities in a capacity other than that of an employer. It indicates a situation in which the employer is liable not only as an employer for workers compensation benefits but also as an entity acting in a different capacity.

elective states – Texas and New Jersey have elective workers compensation laws, meaning that workers compensation is not compulsory in those states.

In Texas, employers can either provide coverage or choose not to provide coverage. In New Jersey, statutory laws allow choice, but industrial boards require coverage in most circumstances.

employee – includes “leased worker”; does not include a “temporary worker”

employers liability insurance – protects the employer against claims for employee work-related injuries and occupational diseases not covered under a state’s workers compensation law

exemptions – exceptions that some states make to workers compensation law that may exempt employers from having to provide coverage for certain workers. The four exemptions to workers compensation law that may apply are numeric exemptions (the employer has less than a specific number of employees), general exemptions such as domestic workers or agricultural workers, specific positions like sole proprietors and partners, and others such as independent contractors, volunteers, and leased workers.

experience modifier – an indicator of an employer’s claims experience; a factor used in premium computation

extraterritorial – occurring outside territorial limits of jurisdiction

fellow-servant rule – a common law defense used by an employer if an injury to a worker was the result of another worker’s carelessness

general employer and special employer – A general employer is a person or organization that lends, rents, or leases an employee to another employer; the other employer is referred to as the special employer.

Information Page – a page of declaratory information found in workers compensation policies. The page outlines the employer who is being insured, the policy period (when the coverage begins and ends), and the coverage provided by the policy.

leased worker – a worker leased to the insured by a labor leasing firm under the terms of a contractual agreement

loss history – a summary of losses and claims related to an insured’s line of coverage, used primarily for underwriting purposes, focusing on frequency, severity, and paid amounts

monopolistic state fund – a state-created, state-owned, and state-operated workers compensation insurance facility. It writes all workers compensation insurance for the state.

primary or direct employer – a traditional employer/employee relationship in which the employer directly hires an employee, including part-time or seasonal employees. Under workers compensation law, the employer has an obligation to provide workers compensation benefits to an injured employee.

sole remedy – categorized by workers compensation law; the exclusive remedy to a work-related injury in exchange for the employee giving up their right to sue their employer

statutory employer or *de jure* employer – the employer with the legal obligation to provide workers compensation benefits to an injured worker. When statutes are silent in certain employment situations, common law is used to determine who has this legal obligation. Such employers are called *de jure* (from the Latin for “by right or according to the law”) employers or statutory employers.

temporary worker – a worker furnished to the insured as a substitute for a permanent “employee” who is on leave or someone who works for the insured to meet seasonal or short-term workload conditions

third-party action over claim – one of four types of common liability claims specified in Part Two – Employers Liability. If a worker is injured because of a third party’s negligence, that worker has the right to take legal action against the third party; if the employer could also be negligent, the third party has the right to enjoin the employer by suing it for comparative negligence. The employers liability insurance defends and pays on the employer’s behalf.

workers compensation insurance – provides coverage for the statutory benefits required of an employer by workers compensation law. This insurance provides the benefits owed to an employee who has suffered a work-related injury or occupational disease, including medical payments, disability

payments, death or survivorship payments, and coverage for rehabilitation expenses.