

NON-CERTIFIED ACT OF TERRORISM EXCLUSION (WITH LIMITED EXCEPTION) AND WAR AND MILITARY ACTION EXCLUSION

COMMON POLICY DEFINITIONS

1. The following definitions are added.
 - a. "Non-certified act of terrorism" means a violent act or an act that is dangerous to human life, property, or infrastructure that:
 - 1) is committed by an individual or individuals; and
 - 2) appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion; and
 - 3) is not certified as a terrorist act pursuant to the Federal Terrorism Risk Insurance Act of 2002 or any amendments thereto.
 - b. "Non-certified terrorism loss" means any loss that results from a "non-certified act of terrorism".

COMMERCIAL LIABILITY COVERAGES

2. The exclusion relating to injury or damage that arises out of war is deleted and replaced by the following:

WAR AND MILITARY ACTION EXCLUSION

"We" will not pay for any injury or damage caused directly or indirectly by the following. Such injury or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. War, including undeclared or civil war; or

- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
3. The following Non-certified Act of Terrorism Exclusion is added.
 - a. Regardless of the amount of damage and losses, the Non-certified Act of Terrorism Exclusion applies to any incident of "non-certified terrorism loss":
 - 1) that involves the use, release, or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
 - 2) that is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - 3) in which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

However, the Non-certified Act of Terrorism Exclusion does not apply to any loss that results from an act that is not certified by the Secretary of the Treasury to be an act of terrorism solely because the property and casualty insurance losses resulting from that act do not exceed \$5,000,000 in the aggregate.

b. Except as provided in 3.a.1), 3.a.2), or 3.a.3) above, the Non-certified Act of Terrorism Exclusion will only apply to an incident of "non-certified terrorism loss" in which:

- 1) the total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico, and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, "we" will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property.

For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "non-certified terrorism loss" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident; or

- 2) fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a) Physical injury that involves a substantial risk of death; or
 - b) Protracted and obvious physical disfigurement; or
 - c) Protracted loss of or impairment of the function of a bodily member or organ.

Preceding paragraphs 3.b.1) and 3.b.2) describe the thresholds used to measure the magnitude of an incident of "non-certified terrorism loss" and the circumstances in which the threshold will apply, for the purpose of determining whether the Non-certified Act of Terrorism Exclusion will apply to that incident. When the Non-certified Act of Terrorism Exclusion applies to an incident of terrorism, there is no coverage under the Commercial Liability Coverages section of this policy.

NON-CERTIFIED ACT OF TERRORISM EXCLUSION

"We" will not pay for any injury or damage caused directly or indirectly by a "non-certified act of terrorism", including action in hindering or defending against an actual or expected "non-certified act of terrorism". Such injury or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

4. The following provision is added.

In the event of any incident of "non-certified terrorism loss" that is not subject to the Non-certified Act of Terrorism Exclusion, coverage does not apply to any injury or damage that is otherwise excluded under the Commercial Liability Coverages section of this policy.

PROPERTY COVERAGES

5. Under Perils Excluded, the War Exclusion, wherever it appears, is deleted and replaced by the following:

WAR AND MILITARY ACTION EXCLUSION

"We" will not pay for loss or damage caused directly or indirectly by the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. War, including undeclared or civil war; or

- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

With respect to any action that comes within the "terms" of this exclusion and involves nuclear reaction or radiation or radioactive contamination, this War And Military Action Exclusion supersedes the Nuclear Hazard Exclusion.

- 6. The following Non-certified Act of Terrorism Exclusion is added. Regardless of the amount of damage and losses, the Non-certified Act of Terrorism Exclusion applies to any incident of "non-certified terrorism loss":
 - a. that is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - b. in which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

However, the Non-certified Act of Terrorism Exclusion does not apply to any loss that results from an act that is not certified by the Secretary of the Treasury to be an act of terrorism solely because the property and casualty insurance losses resulting from that act do not exceed \$5,000,000 in the aggregate.

Except as provided in 6.a. or 6.b. above, the Non-certified Act of Terrorism Exclusion will only apply to an incident of "non-certified terrorism loss" in which the total of insured damage to all types of property in the United States, its territories and possessions, Puerto Rico, and Canada exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, "we" will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property.

For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions. Multiple incidents of "non-certified terrorism loss" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident.

The preceding paragraph describes the threshold used to measure the magnitude of an incident of "non-certified terrorism loss" and the circumstances in which the threshold will apply, for the purpose of determining whether the Non-certified Act of Terrorism Exclusion will apply to that incident. When the Non-certified Act of Terrorism Exclusion applies to an incident of terrorism, there is no coverage under the Property Coverages section of this policy.

NON-CERTIFIED ACT OF TERRORISM EXCLUSION

"We" will not pay for loss or damage caused directly or indirectly by a "non-certified act of terrorism", including action in hindering or defending against an actual or expected "non-certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

Fire Exception -- If a "non-certified act of terrorism" results in fire, "we" will pay for the loss or damage caused by that fire. This exception for fire applies only to direct loss or damage by fire to covered property. This exception does not apply to coverage for loss of earnings, extra expense, or fire legal liability.

7. The following provisions are added.
- a. Neither the "terms" of this endorsement nor the "terms" of any other terrorism endorsement attached to the Property Coverages section of this policy provide coverage for any loss that would otherwise be excluded by the Property Coverages section of this policy under:

- 1) exclusions that address war, military action, or nuclear hazard; or
 - 2) any other exclusion; and
- b. the absence of any other terrorism endorsement does not imply coverage for any loss that would otherwise be excluded by the Property Coverages section of this policy under:
- 1) exclusions that address war, military action, or nuclear hazard; or
 - 2) any other exclusion.

AP 0740 12 02