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Important Notice

LIABILITY MEMORANDUM OF COVERAGE Changes Effective August 1, 2025

Dear NDIRF Member,

A number of changes have been made to the NDIRF Liability Memorandum of Coverage GL 10 01. The language is being updated to clarify the scope of coverage considering new and emerging risks, as well as recent case law, that were not intended to be covered. Without additional contribution, these risks pose a threat to the financial stability of the NDIRF. We will continue to monitor and make updates when possible. Additionally, these revisions have been made to align coverage with statutory changes to the North Dakota Century Code enacted during the 69th Legislative Session. These changes are effective on Liability Memorandums of Coverage with an effective date on or after August 1, 2025. The changes are as follows:

- Page 1 of 22 – updated reference pages in Table of Contents.
- Page 2 of 22, Paragraph 4 – added the phrase “in effect during the year in which the ‘occurrence’ takes place,” to clarify that the applicable limit of liability aligns with the statutory cap increases under N.D.C.C. § 32-12.1-03, including annual increases effective through June 1, 2026. Removed specific reference to subsection (02) under Chapter 26.1-23.1 to ensure broader alignment with the chapter as a whole.
- Page 3 of 22, Paragraph 2 – a new paragraph was added as a result of recently enacted language in N.D.C.C. § 26.1-23.1-01 from the 69th Legislative Session.
- Page 3 of 22, **IV. LIMIT OF LIABILITY, Subsection A** – added a paragraph to align the language related to an “occurrence” within N.D.C.C. Chapter 32-12.1 and conform with Paragraph 4 on Page 2 of 21.

- Page 4 of 22, **IV. LIMIT OF LIABILITY, Subsection E. 2** – amended the trigger of coverage to commence “upon initiation of a formal proceeding with the Disciplinary Board of the North Dakota Supreme Court, whether by a letter from Disciplinary Counsel indicating its intent to file a petition or by the actual filing of a petition with the Disciplinary Board.”
- Page 4 of 22, **IV. LIMIT OF LIABILITY** – added Subsection G to clarify the applicable limit of liability in relation to claims involving “sexual misconduct.”
- Page 4 of 22, **IV. LIMIT OF LIABILITY, Subsection I** – corrected the cross-reference to the definition of “suit.”
- Page 5 of 22, **IV. LIMIT OF LIABILITY** – added Subsection J to conform with Page 3 of 21, Paragraph 2, and clarify that such amounts reimbursed to NDIRF are not subject to the applicable limit of liability.
- Page 9 of 22, **V. EXCLUSIONS, Subsection Z** – amended the nuclear exclusion to include clarifying language for nuclear, toxic and radioactive material, and referenced the newly added definition of “special nuclear material” from the Atomic Energy Act of 1954.
- Page 10 of 22, **V. EXCLUSIONS** – added exclusion FF for “any loss, damage, liability, claim, cost, or expense alleged or arising out of, based upon, or attributable to any ‘biometric information privacy law.’”
- Page 10 of 22, **V. EXCLUSIONS** – added exclusion GG for “any loss, damage, liability, claim, cost, or expense alleged or arising out of, based upon, or attributable to” lead, silica, and asbestos.
- Page 11 of 22, **V. EXCLUSIONS** – added exclusion HH for “any loss, damage, liability, claim, cost, or expense alleged or arising out of, based upon, or attributable to” pathogen, virus, bacteria or other microorganisms that actually or allegedly induces or is capable of inducing physical distress, illness, or disease.
- Page 11 of 22, **V. EXCLUSIONS** – added exclusion II for “any loss, damage, liability, claim, cost, or expense alleged or arising out of, based upon, or attributable to “perfluoroalkyl or polyfluoroalkyl substances (PFAS).”
- Page 11 of 22, **V. EXCLUSIONS** – added exclusion JJ for “liability arising out of, resulting from, or in any way caused by or related to any ‘acts of terrorism,’ including nuclear, biological, chemical or radioactive terrorism, as defined herein.”
- Page 11 of 22, **V. EXCLUSIONS** – added exclusion KK for “any person found guilty of, or pled guilty or no contest to any criminal act involving ‘sexual misconduct.’”
- Page 15 of 22, **VIII. DEFINITIONS** – inserted Subsection A to define “act of terrorism.”
- Page 15 of 22, **VIII. DEFINITIONS** – inserted Subsection C to define “biometric information privacy law.”
- Page 15 of 22, **VIII. DEFINITIONS** – inserted Subsection D to define “biometric records,” to accompany the definition of “biometric information privacy law.”

- Page 18 of 22, **VIII. DEFINITIONS** – inserted Subsection V to define “nuclear, biological, chemical or radioactive terrorism.”
- Page 19 of 22, **VIII. DEFINITIONS** – inserted Subsection X to define “Perfluoroalkyl or polyfluoroalkyl substances (PFAS).”
- Page 20 of 22, **VIII. DEFINITIONS** – inserted Subsection BB to define “Sexual Misconduct.”
- Page 20 of 22, **VIII. DEFINITIONS** – amended paragraph 5 of the definition of “Suit” to read: “A formal proceeding commenced by a letter from Disciplinary Counsel indicating its intent to file a petition or by the actual filing of a petition with the Disciplinary Board of the North Dakota Supreme Court or an appeal from a decision of the Disciplinary Board against your ‘employee’ or elected official.”

If you have any questions on any of the above, please contact NDIRF Director of Underwriting Jordan Wahl at 701-751-9109 or Jordan.wahl@ndirf.com

Sincerely,



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