



**ARCH INSURANCE COMPANY**  
(A Missouri Corporation)

Home Office Address:  
3100 Broadway, Suite 511  
Kansas City, MO 64111

Administrative Address:  
One Liberty Plaza, 53rd Floor  
New York, NY 10006  
Tel: (800) 817-3252

**EXCESS THIRD PARTY LIABILITY POLICY DECLARATIONS**

Policy Number: UXP0008113-03

Renewal of Number: UXP0008113-02

Policy Period: **EFFECTIVE DATE: July 01, 2008**      **EXPIRATION DATE: July 01, 2009**  
**at 12:01 A.M. Standard Time at the Address of the Named Insured.**

**Item 1. Named Insured:** CLIP / ACCEL / BICEP  
**Mailing Address:** 100 Pine Street, 11<sup>th</sup> Floor  
San Francisco, CA 94111  
US

**Producer Code:** P59  
**Producer Name:** AmWINS Insurance Brokerage of California, LLC  
**Mailing Address:** One Bush Street  
Suite 1600  
San Francisco, CA 94104

**Item 2. Limits of Insurance:**  
(a) Each Occurrence Limit      \$ See Endt. 7  
(b) Products-Completed Operations Aggregate Limit      \$ See Endt. 7  
(c) General Aggregate Limit (Other than Products-Completed Operations)      \$ See Endt. 7

**Item 3. Limits of Liability of Underlying Insurance:** (See Schedule A – Schedule of Underlying Insurance)

**Item 4. Policy Provisions, Forms and Endorsements Attached to this Policy at inception:**  
(See Schedule of Forms and Endorsements):

**Item 5. Premium:**  
(a) Policy Premium      \$ 93,500.00 (see rate)  
(b) Premium for Certified Acts of Terrorism      \$ Rejected Premium is Flat  
**Total Premium Payable:**      \$ 93,500.00  
  
Flat X      Auditable      Minimum Premium \$ 23,375.00

**Item 6. Rate: Flat**

**THESE DECLARATIONS, TOGETHER WITH EXCESS THIRD PARTY LIABILITY POLICY, SCHEDULE A – SCHEDULE OF UNDERLYING INSURANCE AND ENDORSEMENTS, IF ANY, ARE ISSUED AS PART OF, AND IN COMPLETION OF THE ABOVE NUMBERED POLICY.**



**ARCH INSURANCE COMPANY**  
(A Missouri Corporation)

**EXCESS THIRD PARTY LIABILITY POLICY  
SCHEDULE A – SCHEDULE OF UNDERLYING INSURANCE**

NAMED INSURED: CLIP / ACCEL / BICEP  
 POLICY NUMBER: UXP0008113-03  
 POLICY PERIOD: EFFECTIVE DATE: July 01, 2008      EXPIRATION DATE: July 01, 2009

**3.a. CONTROLLING UNDERLYING INSURANCE**

	<u>Applicable Limits of Liability</u>	
Insurer: Lexington Insurance Company	\$ 25,000,000	Per Occurrence
Policy Number: 2213685	\$ 25,000,000	Annual Aggregate
Policy Term: July 01, 2008 to July 01, 2009		

**3.b. OTHER UNDERLYING INSURANCE**

	<u>Applicable Limits of Liability</u>	
(As Respects ACCEL) Insurer: Lexington Insurance Company	\$ 10,000,000	Each Occurrence
Policy Number: 6502268	\$ 10,000,000	Annual Aggregate
Policy Term: July 01, 2008 to July 01, 2009		
 (As Respects ACCEL) Insurer: Everest National Insurance Company	\$ 10,000,000	Each Occurrence
Policy Number: 71A2040000-081	\$ 10,000,000	Aggregate Where Applicable
Policy Term: July 01, 2008 to July 01, 2009		Excess of \$5,000,000 SIR
 (As Respects BICEP) Insurer: American Merchants Casualty Company	\$ 15,000,000	Each Occurrence
Policy Number: EXC100009704 00	\$ 15,000,000	Aggregate Where Applicable
Policy Term: July 01, 2008 to July 01, 2009		
 (As Respects BICEP) Insurer: Everest National Insurance Company	\$ 2,000,000	Each Occurrence
Policy Number: 71P2000004-071	\$ 2,000,000	Aggregate Where Applicable
Policy Term: July 01, 2008 to July 01, 2009		
 (As Respects BICEP) Insurer: Everest Reinsurance Company	\$ 8,000,000	Each Occurrence
Policy Number: 71RE200002-081	\$ 8,000,000	Aggregate Where Applicable
Policy Term: July 01, 2008 to July 01, 2009		Excess of \$2,000,000 SIR



**Home Office Address:**  
3100 Broadway  
Suite 511  
Kansas City, MO 64111

**Administrative Address:**  
Four Embarcadero Center  
Suite 2000  
San Francisco, CA 94111  
(415) 490-9700

**EXCESS THIRD PARTY LIABILITY POLICY  
SCHEDULE OF ENDORSEMENTS**

NAMED INSURED: CLIP / ACCEL / BICEP  
POLICY NUMBER: UXP0008113-03  
POLICY TERM: July 01, 2008 TO July 01, 2009

ENDORSEMENTS ATTACHED TO AND FORMING A PART OF THIS POLICY:

END'T NO.	FORM NUMBER	TITLE
	05 ML0014 00 03 03	CLAIMS HANDLING PROCEDURES (Arch Ins. Co.)
	00 ML0065 00 06 07	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC")
1	00 EXT0014 00 07 04	LEAD EXCLUSION
2	00 EXT0128 00 10 05	SILICA EXCLUSION
3	00 EXT0151 00 07 04	FUNGI AND BACTERIA EXCLUSION
4	00 EXT0166 05 06 05	CALIFORNIA AMENDATORY ENDORSEMENT
5	00 EXT0116 00 07 04	ADDITIONAL NAMED INSURED ENDORSEMENT
6	00 EXT0123 00 01 08	QUOTA SHARE ENDORSEMENT
7	00 EXT0157 00 12 04	LIMIT OF LIABILITY ENDORSEMENT
8	00 EXT0184 00 01 06	TOTAL TERRORISM EXCLUSION

## Excess Third Party 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 Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy or under **controlling underlying insurance**. The words "we", "us" and "our" refer to the company stated in the Declarations providing this insurance.

This is excess insurance and only applies to those coverages for which **underlying insurance** is shown in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

If any provision of the **controlling underlying insurance** conflicts with any provision of our insurance, then the provision of our insurance will apply. However, if our provision would result in broader coverage than is provided by **controlling underlying insurance**, then the provision of the **controlling underlying insurance** will apply. This insurance will not provide broader coverage than that provided by the **controlling underlying insurance**. This policy will not recognize reduction or exhaustion of the underlying limit of liability, retained limit, or self-insured retention by any claim or suit or any payment of **loss**, cost or expense excluded by this policy or any endorsements to this policy.

Other words and phrases that appear in bold have special meaning. Refer to Section V - **DEFINITIONS**.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE DECLARATIONS MADE A PART HEREOF AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU AS FOLLOWS:

### I. **INSURING AGREEMENTS**

We will pay on behalf of the **insured**, except as otherwise stated in this policy, those amounts of **loss** for which coverage is provided under the definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance** in effect at the inception of this policy and which exceeds the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy. The amount we will pay for **loss** is limited as provided under Section II – **Limits of Insurance**.

### II. **LIMITS OF INSURANCE**

- a. The Limits of Insurance shown in Item 2. of the Declarations and the rules below determine the most we will pay for all **loss** regardless of the number of:
  1. **Insureds**;
  2. Claims made, or suits brought; or
  3. Persons or organizations making claims or bringing suits.
- b. Subject to **II.a.**, **II.c** and **II.d.**, the Each Occurrence Limit stated in Item 2.(a) of the Declarations is the most we will pay for the sum of all **loss** arising out of any one occurrence.

If the applicable aggregate limit of insurance has been reduced by payment of **loss** to an amount that is less than the limit for Each Occurrence stated in Item 2.(a) of the Declarations, the remaining aggregate limit of insurance is the most that will be available for payment of **loss** arising out of any other occurrence.

- c. Subject to Paragraphs II.a and II.b. above, the Products-Completed Operations Aggregate Limit stated in Item 2.(b) of the Declarations is the most we will pay for all **loss** within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the **controlling underlying insurance** applies separately.
- d. Subject to Paragraphs II.a. and II.b. above, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all **loss**, except for **loss** within the products - completed operations hazard, that are subject to an aggregate limit provided by **controlling underlying insurance**. The General Aggregate Limit applies to all **loss**, except for **loss** within the products-completed operations hazard, regardless of whether the aggregate limit for each coverage provided by the **controlling underlying insurance** applies separately.
- e. If any **underlying insurance** does not provide separate aggregate limits for **loss** within the products-completed operations hazard and **loss** not within the products-completed operations hazard, the limit stated in Item 2.(c) of the Declarations for the General Aggregate Limit is the most we will pay for all **loss**, including **loss** within the products- completed operations hazard. Under such circumstances, any limit appearing in Item 2.(b) of the Declarations does not apply.
- f. Subject to Paragraphs II.a., II.b., II.c., II.d. and II.e. above, if the Limits of Liability of Underlying Insurance stated in Item 3. of the Declarations are reduced or exhausted solely by payment of **loss** to which this policy applies, such insurance provided by this policy will apply in excess of the reduced **underlying insurance** or, if all **underlying insurance** is exhausted, will apply as **underlying insurance** subject to the same definitions, terms, conditions, limitations and exclusions of the **controlling underlying insurance**, except as otherwise limited by the definitions, terms, conditions, limitations and exclusions of this policy.
- g. The Limits of Insurance 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.
- h. If defense expenses and payments are included within the Limit of Liability of any **underlying insurance**, then any such defense expense or payment we make, in accordance with Section III. **DEFENSE**, shall reduce the Limit of Insurance of this policy.

If defense expenses and payments of none of the **underlying insurance** reduce the Limit of Liability provided by those policies, then any such defense expense or payment we make, in accordance with Section III. **DEFENSE**, shall not reduce the Limit of Insurance of this policy.

### III. DEFENSE

- a. We will not be required to assume charge of the investigation or defense of any claim or any suit against an **insured**.
- b. We will have the right, but not the duty, to be associated with the **insured** or the underlying insurers or both in the investigation of any claim or defense of any suit which in our opinion may create liability on us for payment under this policy.
- c. If the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy are exhausted solely by payment of **loss**, we shall have the right but not the duty to investigate and settle any claim

or assume the defense of any suit which in our opinion may give rise to payment under this policy. We may, however, withdraw from the defense of any suit or tender the continued defense to you if our applicable Limits of Insurance stated in Item 2 of the Declarations is exhausted by payment of **loss**.

If we exercise our rights under Paragraph **b.** or **c.** above we will do so at our own expense, subject to Section II. **LIMITS OF INSURANCE**, Paragraph **h.** above.

#### IV. EXCLUSIONS

It is agreed that this policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or any payment of **loss**, cost or expense excluded by this policy. The exclusions contained herein and any exclusions contained in endorsements to this policy apply regardless of whether any cause, event, material or product contributed concurrently or in any sequence to the injury or damage.

It is further agreed that regardless of whether or not coverage is afforded by the **controlling underlying insurance**, this policy does not apply to any:

##### a. Pollution

1. Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
2. Claim, suit, demand, **loss**, cost or expense that, in any way, in whole or in part, arises out of, relates to or results from any:
  - (a) Request, demand, order or statutory or regulatory requirement, or any other action authorized or required by law, that any **insured** or others investigate, abate, test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, remediate or dispose of, or in any way respond to, or assess the effects of **pollutants** as well as any **loss**, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom; or
  - (b) Claim or suit by or on behalf of a governmental authority for damages arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of **pollutants**.

As used in this exclusion, "**pollutants**" means any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

##### b. Asbestos

Claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the **asbestos hazard**.

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or

assessing the effects of **asbestos**, as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom;

As used in this exclusion, "**asbestos hazard**" means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, **asbestos** in any manner or form whatsoever, either directly or indirectly; or
2. The actual or alleged failure to warn, advise or instruct related to **asbestos** in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to **asbestos** in any manner or form whatsoever; or
4. The actual or alleged presence of **asbestos** in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

As used in this exclusion, "**asbestos**" means any substance, regardless of its form or state, containing asbestos.

**c. Nuclear**

1. Claim, suit, demand or **loss** with respect to which an **insured** under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
2. Claim, suit, demand or **loss** that, in any way, in whole or in part, arises out of, relates to, or results from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is or, had this policy not been issued, would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
3. Medical Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the **hazardous properties of nuclear material**, and arising out of the operation of a **nuclear facility** by any person or organization.
4. To any bodily injury or **property damage** resulting from the **hazardous properties of nuclear material**, if:
  - (a) the **nuclear material (1)** is at any **nuclear facility** owned by, or operated by, or on behalf of, an **insured** or (2) has been discharged or dispersed therefrom;
  - (b) the **nuclear material** is contained in **spent fuel or waste** at any time possessed, handled, used, processed, stored, transported or dis-posed of by or on behalf of an **insured**; or
  - (c) the bodily injury or **property damage** that, in any way, in whole or in part, arises out of, relates to, or results from the furnishing by an **insured** of services,

materials, parts, or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (c) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

**"hazardous properties"** includes radioactive, toxic or explosive properties;

**"nuclear material"** means **source material**, **"special nuclear material"** or **by-product material**;

**"source material," "special nuclear material,"** and **"by-product material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

**"spent fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

**"waste"** means any waste material (a) containing **by-product material** and (b) resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph 1 or 2 thereof;

**"nuclear facility"** means:

1. any **nuclear reactor**;
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing **spent fuel**, or (c) handling, processing or packaging **waste**;
3. any equipment or device designed or used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**"nuclear reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**"property damage"** includes all forms of radioactive contamination of property.

## V. DEFINITIONS

Except as otherwise defined in this policy or in any endorsement to this policy, the definition of terms and phrases contained in this policy and any endorsements to this policy will be the same as those terms and phrases are defined in the **controlling underlying insurance**.

- a. **"controlling underlying insurance"** means the policy or policies listed in Item 3.a. of

Schedule A – Schedule of Underlying Insurance of this policy.

- b. **"insured"** means:
1. you; and
  2. any person or organization qualifying as an **insured** under **controlling underlying insurance**, but only to the extent that:
    - (a) coverage is provided by this policy; and
    - (b) coverage is provided by **controlling underlying insurance**, or would have been provided but for the exhaustion of such policy's limits of liability.
- c. **"loss"** means amounts paid to settle a claim or suit, or satisfy a judgment, for which the **insured** is legally liable. The amounts that are payable by us are subject to deductions for subrogation, salvages, and any other recoveries made or that are available to an **insured**.
- d. **"policy period"** means the period beginning with the Effective Date shown in the Declarations and ending on the Expiration Date shown in the Declarations, unless canceled as provided in Condition g. of this policy.
- e. **"underlying insurance"** means all policies and the Limits of Liability listed in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

## VI. CONDITIONS

### a. Notice of Occurrence or Claim

Whenever you have information from which you may reasonably conclude that an occurrence or claim appears likely to involve this policy, written notice shall be given to us or any of our authorized agents as soon as practicable.

### b. Notice of Suit

If suit is brought which appears likely to involve this policy or seeks damages in an amount that would exceed 50% of the limits of the **underlying insurance**, immediate written notice shall be given to us along with copies of the suit papers.

### c. Duties After Notice of Occurrence, Claim or Suit Is Given

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 occurrence, claim or suit;
2. Authorize us to obtain records and other information;
3. Cooperate with us in the investigation or settlement of the claim, and, if applicable, defense against the suit;
4. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the **insured** because of injury or damage to which this insurance may also apply; and

5. No **insured** will, except at the **insured's** own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

**d. Maintenance of Underlying Insurance**

The **underlying insurance** shall remain in full force and effect throughout the **policy period** except for reduction of the aggregate limit due to payment of claims, settlements, or judgments. This insurance will not take the place of any **underlying insurance** in the event of denial or rejection of a claim, or if any **underlying insurance** is cancelled or not renewed, or for any other reason except for reduction due to payment of claims, settlements, or judgments.

Failure to maintain any **underlying insurance** will not invalidate this insurance. However, this insurance will apply as if the **underlying insurance** were in full force and effect.

Renewals or replacements of any **underlying insurance** will not be materially changed without our agreement.

**e. Bankruptcy, Insolvency or Other Financial Impairment**

In the event of the bankruptcy, insolvency or other financial impairment of any underlying insurer, or of the **insured** if the **underlying insurance** is comprised in whole or in part of self-insurance, we shall be liable only to the same extent we would have been had such bankruptcy, insolvency or other financial impairment not occurred. This insurance will not take the place of any **underlying insurance** in the event of bankruptcy, insolvency or other financial impairment of any underlying insurer or **insured**. This insurance will apply as if the **underlying insurance** were in full force and effect.

**f. Other Insurance**

If other insurance applies to **loss** that is also covered by this policy, this policy shall apply excess of the other insurance. Nothing herein will be construed to make this policy subject to the terms, conditions and limitations of other such insurance. However, this provision will not apply if the other such insurance is written to be excess of this policy.

Other insurance includes any type of self-insurance or other mechanism by which an **insured** arranges for the funding of legal liabilities.

If our Limits of Insurance stated in Item 2. of the Declarations are part of the total Limits of Insurance stated in Item 2, then the limits of our liability shall be that proportion of all **loss** which our Limits of Insurance bear to the total Limits of Insurance in Item 2. and which is in excess of the total Limits of Liability of Underlying Insurance as stated in Items 3.a. and 3.b. of Schedule A – Schedule of Underlying Insurance of this policy.

**g. Cancellation**

This policy may be canceled by you either by mailing or delivering advance written notice to us stating when cancellation shall be effective. This policy may be canceled by us by mailing to you at the address shown in Item 1. of the Declarations, written notice stating when, not less than thirty (30) days thereafter, ten (10) days thereafter if cancellation is for nonpayment of the premium, such cancellation shall be effective. The mailing of notice is sufficient notice and the effective date of cancellation stated in the notice will become the end of the policy period. Delivery of written notice either by you or by us shall be equivalent to mailing. If you cancel, earned premium will be computed in accordance with the customary short-rate table

and procedure, but we will always be entitled to receive or keep the Minimum Premium amount stated in Item 5. of the Declarations. If we cancel, earned premium will be computed pro rata.

Premium adjustment may be made at the time cancellation is effected or as soon afterwards as is practicable. Our check or our representative's check mailed or delivered will be sufficient tender of any refund due you.

Cancellation will be effective on the date stated in the notice even though we have not made the refund of the unearned premium.

**h. First Named Insured**

The person or organization first named in Item 1. of the Declarations is authorized to act for all insureds.

If this policy insures more than one person or organization, cancellation must be effected by the first Named Insured and notice of cancellation by us will be made to the first Named Insured and shall be considered as notice to all. Payment of any unearned premium to the first Named Insured shall be for the account of all.

The first Named Insured is responsible for the premium. If the first Named Insured cannot or refuses to pay any or all of the premium, all of you are jointly and severally responsible to pay us the premium due.

**i. Appeals**

In the event that you or any underlying insurer elects not to appeal a judgment in excess of the Limits of Liability of the Underlying Insurance, we may elect to appeal at our expense. Our Limit of Insurance shall not be increased because of the appeal.

**j. Legal Action Against Us**

No person or organization has a right under this policy to:

1. Join us as a party or otherwise bring us into a suit asking damages from an insured;
2. Sue us, unless all the terms of this policy 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; but we will not be liable for loss that is not payable under the terms of this policy or that is in excess of the our 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.

## **Claims Handling Procedures**

An important value of your insurance coverage is the ability of the insurance company to respond when you have a claim. Arch Insurance Company is committed to providing its insureds with effective claim services.

Notices of each incident, claim or suit must be sent immediately to:

Arch Insurance Company  
Casualty Claims  
10909 Mill Valley Road, Suite 210  
P.O. Box 542033  
Omaha, NE 68154  
Phone: 877 688-ARCH (2724)  
Fax: 866 266-3630  
E-mail: [Claims@ArchInsurance.com](mailto:Claims@ArchInsurance.com)

You will be contacted by a representative of the company's Claim Department. This representative will confirm receipt of the loss notice directly to you, provide a company claim number for all future correspondence, refer to legal counsel if necessary, and discuss further handling of the claim.

## U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**LEAD EXCLUSION**

It is agreed that regardless of whether or not coverage is afforded in the **controlling underlying insurance**, this policy does not apply to any claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the "lead hazard".

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of lead, as well as any **loss**, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom.

As used in this exclusion, "lead hazard" means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, lead in any manner or form whatsoever, either directly or indirectly; or
2. The actual or alleged failure to warn, advise or instruct related to lead in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to lead in any manner or form whatsoever; or
4. The actual or alleged presence of lead in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

This policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or payment of **loss**, cost or expense excluded by this endorsement.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 1

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**SILICA EXCLUSION**

It is agreed that regardless of whether or not coverage is afforded in the **controlling underlying insurance**, this policy does not apply to any claim, suit, demand or loss that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from:

1. the actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, or absorption of "silica", either directly or indirectly;
2. the actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, "silica dust" either directly or indirectly;
3. the actual or alleged failure to warn, advise or instruct related to "silica" in any manner or form whatsoever; or
4. the actual or alleged failure to prevent exposure to "silica".

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, loss, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of "silica", as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom.

As used in this exclusion:

1. "silica" means any substance containing silicon dioxide (SiO<sub>2</sub>), including, but not limited to, crystalline or non-crystalline silica, silica particles, silica compounds, "silica dust" or synthetic silica, including but not limited to precipitated silica, silica gel, fumed silica or silica-flour.
2. "silica dust" means dust containing "silica" alone or mixed with any other dust or fiber(s).

This policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or payment of loss, cost or expense excluded by this endorsement.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 2

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**FUNGI AND BACTERIA EXCLUSION**

It is agreed that regardless of whether or not coverage is afforded in the **controlling underlying insurance**, this policy does not apply to any claim, suit, demand or **loss** that alleges injury or damage that, in any way, in whole or in part, arises out of, relates to or results from the "fungi or bacteria hazard".

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, suit, demand, **loss**, cost, or expense arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of "fungi or bacteria", as well as any **loss**, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom.

This exclusion does not apply to any "fungi or bacteria" that are on or are contained in food or beverages.

As used in this exclusion, "fungi or bacteria hazard" means:

1. Actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of, "fungi or bacteria" in any manner or form whatsoever; or
2. The actual or alleged failure to warn, advise or instruct related to "fungi or bacteria" in any manner or form whatsoever; or
3. The actual or alleged failure to prevent exposure to "fungi or bacteria" in any manner or form whatsoever; or
4. The actual or alleged presence of "fungi or bacteria" in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

As used in this exclusion, "fungi or bacteria" include, without limitation, mold, mildew, yeast, spores, mycotoxins, endotoxins, or other pathogens, as well as any particulates or byproducts of any of the foregoing, either directly or indirectly.

This policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or payment of **loss**, cost or expense excluded by this endorsement.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 3

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**CALIFORNIA AMENDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the **Excess Third Party Liability Policy**.

1. Paragraph **g. Cancellation** of Section VI. **CONDITIONS** is deleted in its entirety and replaced by the following:

***Cancellation by You***

This policy may be cancelled by you either by mailing or delivering advance written notice to us stating when cancellation shall be effective.

***Cancellation by Us – Policies in Effect Sixty Days or Less***

If this policy has been in effect for sixty (60) days or less, this policy may be cancelled by us by mailing to you at the address shown in item 1 of the Declarations, written notice stating when, not less than thirty (30) days thereafter, ten (10) days thereafter if cancellation is for nonpayment of premium, such cancellation shall be effective.

***Cancellation by Us – Policies in Effect for More Than Sixty Days***

If this policy has been in effect for more than sixty (60) days or after the effective date of renewal, this policy may only be cancelled by or on our behalf for one of the following reasons:

- 1) nonpayment of premium;
- 2) discovery of fraud or material misrepresentation by you or your representative in obtaining this policy or in pursuing a claim under this policy;
- 3) a judgment by a court or an administrative tribunal that the Insured has violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against;
- 4) discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against;
- 5) failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to the Insurer's use of a particular rate or rating plan, if that failure materially increases any of the risks insured against;
- 6) a determination by the California Commissioner of Insurance that the loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency or continuation of the policy coverage would place us in violation of California law or the laws of the state where we are domiciled or threaten our solvency; or
- 7) a change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.

We shall mail or deliver written notice of cancellation, stating the reason for cancellation, to you at

the address shown in Item 1. of the Declarations and to the producer of record, if applicable, at least ten (10) days before the effective date of cancellation if we cancel for a reason listed in 1) or 2) above or thirty (30) days before the effective date of cancellation if we cancel for any other reason listed in 3) through 7) above.

The following applies to all policy cancellations:

The mailing of any notice of cancellation shall be sufficient notice and the effective date of cancellation shall become the end of the policy period. Delivery of written notice either by you or by us shall be equivalent to mailing. If you cancel, earned premium will be computed in accordance with the customary short-rate table and procedure, but we will always be entitled to receive or keep the Minimum Premium amount stated in Item 5. of the Declarations. If we cancel, earned premium will be computed pro rata.

Premium adjustment may be made at the time cancellation is effected or as soon afterwards as is practicable. Our check or our representative's check mailed or delivered will be sufficient tender of any refund due you.

Cancellation will be effective on the date stated in the notice even though we have not made the refund of the unearned premium.

2. Section **VI. CONDITIONS** is further amended by the addition of the following:

**Nonrenewal**

Should we decide to nonrenew this policy, or condition renewal upon reduction of the policy's Limit of Liability, elimination of coverages, increase in deductibles, or increase of more than twenty five percent (25%) in the rate upon which the premium is based, then we shall mail or deliver to the producer of record, if applicable, and to you at the address shown in Item 1. of the Declarations of this policy written notice of nonrenewal at least sixty (60) days but not more than one hundred twenty (120) days prior to the expiration of the policy. The notice shall include the specific reason for nonrenewal or conditional renewal.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 4

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL NAMED INSURED ENDORSEMENT**

It is agreed that the following persons or entities are added to the policy as additional Named Insureds:

1. Members of The Catastrophic Liability Program (CLIP), as detailed below:

Authority for California Cities Excess Liability (ACCEL):

City of Anaheim

City of Ontario

City of Santa Monica

Big Independent Cities Excess Pool (BICEP):

City of Santa Ana

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 5

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**QUOTA SHARE ENDORSEMENT**

The **Limits of Insurance** stated in **Item 2.** of the Declarations are quota-share limits part of a layer of insurance. This insurance applies only in the percentage that our quota-share limit has to the total limit of that layer.

Each Co-insurer's obligation is several and not joint and is limited solely to the extent of its individual % Share of Layer and Limit(s) of Insurance. The Co-insurers are not responsible for the % Share of Layer and Limit(s) of Insurance of any Co-insurer who for any reason does not satisfy all or part of its obligation.

The Schedule of Co-Insurers is set forth below for informational purposes only.

**Schedule of Co-Insurers**

Name of Co-Insurer	Policy #	% Share of Layer	Each Occurrence	Limit(s) of Insurance	
				Products/ Completed Operations Aggregate	General Aggregate
Arch Insurance Company	UXP00081 13-03	50%	\$12,500,000	\$12,500,000	\$12,500,000
Axis Surplus Insurance Company	ELU720681/ 01/2008	50%	\$12,500,000	\$12,500,000	\$12,500,000
Layer		100%	\$25,000,000	\$25,000,000	\$25,000,000

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 6

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**LIMIT OF LIABILITY ENDORSEMENT**

Effective July 01, 2008 the following endorsement applies:

**Item 2. Limits of Insurance** of the **Declarations** page is hereby deleted in its entirety and replaced with the following:

**Item 2. Limits of Insurance**

(a) Each Occurrence Limit	\$12,500,000
(b) Aggregate Limit Where Applicable	\$12,500,000

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 7

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**TOTAL TERRORISM EXCLUSION**

This endorsement modifies insurance provided under this policy.

A. The following definitions are added and apply under this endorsement whenever the term terrorism, or the phrase any injury or damage, are enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:
  - a. That involve the following or preparation for the following:
    - (1) use or threat of force or violence; or
    - (2) commission or threat of a dangerous act; or
    - (3) commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
  - b. When:
    - (1) the effect is to intimidate or coerce a government or a civilian population or any segment thereof, or to disrupt any segment of the economy; and/or
    - (2) it appears that the intent is to intimidate or coerce a government or a civilian population, or to further a philosophical, political, ideological, religious, social or economic objective or to express (or express opposition to) a philosophical, political, ideological, religious, social or economic objective.
2. "Any injury or damage" means any injury or damage covered under this policy to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as defined in the **controlling underlying insurance** or in this policy

B. The following exclusion is added:

**EXCLUSION OF TERRORISM**

It is agreed that regardless of whether or not coverage is afforded in the **controlling underlying insurance**, this policy does not apply to any claim, suit, demand or **loss** that alleges "any injury or damage" that, in any way, in whole or in part, arises out of, relates to or results from "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage.

This exclusion also applies when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" involves the use, release, or escape of nuclear materials, or that directly or indirectly results in nuclear reaction, nuclear radiation or radioactive contamination; or

4. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

This policy will not recognize reduction or exhaustion of the **underlying insurance** by any claim or suit or payment of **loss**, cost or expense excluded by this endorsement.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number: 8

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Policy Number: UXP0008113-03

Named Insured: CLIP / ACCEL / BICEP

Endorsement Effective Date: July 01, 2008