

SPECIMEN MODEL WORDING. THIS FORM PROVIDES NO COVERAGE
UNLESS ADOPTED AND ISSUED BY A LICENSED INSURER.

PRIMARY AND NONCONTRIBUTORY: OTHER INSURANCE CONDITION MENLO REFERENCE FORM

Menlo Form MENLO-GL-04 is an original document authored by Menlo Insurance Services. It corresponds to coverage commonly written on form CG 20 01, which is referenced for identification only.

Various provisions in this form restrict coverage. Read the entire form carefully to determine rights, duties, and what is and is not covered. Throughout this form, the words “you” and “your” refer to the named insured shown in the declarations of the issuing policy, and the words “we”, “us”, and “our” refer to the insurer that adopts and issues this form. Other words and phrases that appear in quotation marks have the meanings given in the Definitions section at the end of this form.

Throughout this endorsement, “we”, “us”, and “our” refer to the insurer that issues the commercial general liability policy of which this endorsement is a part. “You” and “your” refer to the named insured shown in the policy's declarations. Every other word or phrase that appears in double quotation marks has the meaning given in Section E. Definitions.

A. What This Endorsement Modifies

1. This endorsement modifies the other insurance condition of the commercial general liability coverage part. It fixes the position this insurance takes, and forbids one demand this insurance could otherwise make, when this insurance and an additional insured's own insurance cover the same loss.
2. If the conditions stated in Section B. are satisfied, the commitments in B.1. and B.2. control over any conflicting provision of the other insurance condition, including any provision that would otherwise make this insurance excess or would otherwise call for sharing.
3. If those conditions are not satisfied, the other insurance condition applies as written, unmodified by this endorsement.

B. Primary Position and Waiver of Contribution

1. **Primary position.** This insurance is “primary insurance” with respect to an “additional

insured”, and it responds to a covered loss of that “additional insured” from the first dollar, defense included, without measuring itself against, waiting for, or requiring exhaustion of any “other insurance” under which that “additional insured” is a “named insured”, if both of the following conditions are satisfied:

- a. the person or organization qualifies as an “additional insured” under this policy; and
 - b. a “written contract” requires this insurance to be primary to that person's or organization's own insurance.
2. **Waiver of contribution.** We will not demand “contribution” toward a covered loss of an “additional insured” from any “other insurance” under which that “additional insured” is a “named insured”, whether by equal shares, in proportion to limits, or on any other basis, if both of the following conditions are satisfied:
 - a. the person or organization qualifies as an “additional insured” under this policy; and
 - b. a “written contract” requires that this insurance not seek “contribution” from that person's or organization's own insurance.
 3. **Independent operation.** B.1. and B.2. operate independently. If the “written contract” requires only a primary position, B.1. applies and B.2. does not; if it requires only that we not seek

“contribution”, B.2. applies and B.1. does not; if it requires both, both apply.

- 4. Extent of the commitments.** Each commitment in this Section B. operates only:
- a. to the extent the “written contract” requires it, including any limitation in that contract to particular projects, premises, operations, or periods;
 - b. with respect to “other insurance” under which the “additional insured” is a “named insured”; neither commitment reaches insurance under which the “additional insured” has any lesser status; and
 - c. for an “occurrence”, offense, claim, or loss that happens after the “written contract” is executed and while this policy is in force.

C. Provisions Not Changed

1. **No new insured.** This endorsement does not grant insured status to any person or organization. Whether a person or organization is an “additional insured” is determined solely under the policy’s other terms, including any additional insured endorsement attached to it. If no person or organization qualifies as an “additional insured”, this endorsement has no operation.
2. **No new coverage.** This endorsement does not increase any limit of insurance, does not extend any coverage, and does not obligate us to pay any sum, or defend any claim or suit, that the policy would not otherwise require us to pay or defend. It reorders the response of insurers to a covered loss; it does not enlarge what is covered or what is payable.
3. **Boundaries of additional insured status.** Every limitation the policy places on the protection of an “additional insured” survives this endorsement, including any provision that:
 - a. confines the protection to liability arising out of your work, your operations, or your premises;
 - b. confines the protection to liability caused, in whole or in part, by your acts or omissions or those of persons acting on your behalf;
 - c. caps the protection at the limits the “written contract” requires, or at the policy’s limits, whichever is less; or

d. ends the protection at completion of your work or termination of the “written contract”.

4. **Insurance of parties other than the “additional insured”.** This endorsement does not change how this insurance responds relative to insurance held by you, by us, or by any person or organization that is not an “additional insured”, and it does not modify the other insurance condition for any loss in which no “additional insured” is involved.
5. **Your obligations.** Every duty the policy imposes on you and on each insured remains in force, including the duties owed in the event of an “occurrence”, offense, claim, or suit.

D. Relation to the Additional Insured's Own Insurance

1. The commitments in Section B. bind us alone. They impose no obligation on the “additional insured” or on any insurer of the “additional insured”, and they do not require the additional insured’s own insurance to adopt any particular position.
2. If the “other insurance” of the “additional insured” describes itself as excess over insurance the “additional insured” enjoys as an additional insured, the two programs mesh: this insurance pays first under B.1., and the other program is not called on under B.2.
3. If a covered loss exceeds the applicable limits of this insurance, nothing in this endorsement bars the “additional insured” from claiming under its own insurance for the excess, and nothing in this endorsement makes us liable for any part of that excess.

E. Definitions

1. “Additional insured” means a person or organization, other than a “named insured” under this policy, to which this policy grants insured status by endorsement or by qualifying provision, because of a business or contractual relationship with you.
2. “Contribution” means a demand by one insurer that another insurer covering the same loss on the same level pay a share of that loss, whether the share is computed in equal dollar amounts,

in proportion to the insurers' limits, or on any other basis.

3. "Named insured" means a person or organization listed as a named insured in the declarations of the policy in question, together with any person or organization that qualifies as a named insured under that policy's terms.
4. "Occurrence" means an accident; the term includes ongoing or repeated exposure to substantially similar harmful conditions.
5. "Other insurance" means valid and collectible insurance, other than this policy, available to an "additional insured" and covering a loss this policy also covers.
6. "Primary insurance" means insurance that responds to a covered loss from the first dollar, subject to its own terms and limits, without first requiring the exhaustion of other applicable insurance.
7. "Written contract" means a contract or agreement executed in writing by its parties before the "occurrence", offense, claim, or loss to which it is applied, under which you are required to provide the insurance position described in Section B. for the person or organization in question.

F. Effect on Other Policy Terms

This endorsement changes the policy only as stated above. Every other term, condition, exclusion, limit, and duty of the policy continues to apply, unaltered, including every provision governing the protection of an "additional insured" and every provision of the other insurance condition this endorsement does not modify.

Important Notice

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