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### SUBROGATION AND RIGHT OF REIMBURSEMENT

#### **Subrogation**

In the event FCL makes any payment under the policy to or on behalf of an insured for any claim in connection with or arising from a condition resulting, directly or indirectly, from an intentional act or from the negligence or fault of any third person or entity, FCL, to the extent of any such payment, shall be subrogated to all causes of action and all rights of recovery such insured has against any person or entity. Such subrogation rights shall extend and apply to any settlement of a claim, regardless of whether litigation has been initiated.

The insured shall promptly execute and deliver to FCL such instruments and papers pertaining to such settlement of claims, settlement negotiations, or litigation as may be requested by FCL, and shall do whatever is necessary to enable FCL to exercise FCL's subrogation rights and shall do nothing to prejudice such rights. Additionally, the insured or the insured's legal representative shall promptly notify FCL in writing of any settlement negotiations prior to entering into any settlement agreement, shall disclose to FCL any amount recovered from any person or entity that may be liable, and shall not make any distributions of settlement or judgment proceeds without FCL's prior written consent. No waiver, release of liability, or other documents executed by an insured without such notice to FCL shall be binding upon FCL.

Any such right of subrogation or reimbursement provided to FCL under the policy shall not apply or shall be limited to the extent that applicable law eliminates or restricts such rights.

#### **Right of Reimbursement**

If any payment, under this policy, is made to an insured for any sickness or injury resulting from the intentional act, negligence, or fault of a third person or entity, FCL shall have a first right to be reimbursed by the insured (out of any claim payments, funds, settlement proceeds, or judgments recovered) one dollar (\$1.00) for each dollar paid under this policy, minus its pro rata share for any costs and attorney fees incurred by the insured in pursuing and recovering such proceeds. We shall have the first right of reimbursement, even if the insured has not been made whole for their losses or damages by the amount of the recovery, settlement, or judgment.

FCL's right of reimbursement shall be in addition to any subrogation right or claim available to us, and the insured shall execute and deliver such instruments or papers pertaining to any settlement or claim, settlement negotiations, or litigation as may be requested by us to exercise our right of reimbursement. An insured shall do nothing to prejudice our right of reimbursement under this policy and no waiver, release of liability, or other documents executed by the insured, without notice to and written consent of FCL, shall be binding upon us.