

use, or operation of qualified anti-terrorism technologies deployed in defense against, response to, or recovery from, an act of terrorism:

(1) Contractors, subcontractors, suppliers, vendors and customers of the Seller.

(2) Contractors, subcontractors, suppliers, and vendors of the customer.

(d) *Third party claims.* Any liability insurance required to be obtained (or self-insurance required) pursuant to this section shall provide coverage against third party claims arising out of, relating to, or resulting from an act of terrorism when the applicable qualified anti-terrorism technologies have been deployed in defense against, response to, or recovery from such act.

(e) *Reciprocal waiver of claims.* The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors, and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use, or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against, response to, or recovery from such act. Notwithstanding the foregoing, if the Seller has used diligent efforts in good faith to obtain all required reciprocal waivers, then obtaining such waivers shall not be a condition precedent or subsequent for, nor shall the failure to obtain one or more of such waivers adversely affect, the issuance, validity, effectiveness, duration, or applicability of a Designation or a Certification. Nothing in this paragraph (e) shall be interpreted to render the failure to obtain one or more of such waivers a condition precedent or subsequent for the issuance, validity, effectiveness, duration, or applicability of a Designation or a Certification.

(f) *Extent of liability.* Liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when such Seller's qualified anti-terrorism technology has been deployed in defense against, response to, or recovery from such act in accordance with the applicable Designation and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller

under this Section, or, in the case of a Seller authorized by the Under Secretary to self-insure pursuant to this Section, shall not be in an amount greater than the liability limit prescribed by the Under Secretary in the applicable Designation.

(1) In addition, in any action brought under Section 863 of the Act for damages:

(i) No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment,

(ii) Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm, and

(iii) any recovery by a plaintiff shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(2) Without prejudice to the authority of the Under Secretary to terminate a Designation pursuant to paragraph (h) of this Section, such liability limitations and reductions shall apply in perpetuity to all deployments of a qualified anti-terrorism technology that occur on or after the effective date of the Designation applicable to such technology in defense against, response to, or recovery from any act of terrorism, regardless of whether any liability insurance coverage required to be obtained by the Seller is actually maintained or not, provided that the sale of such technology was consummated by the Seller on or after the earliest date of sale of such technology specified in such Designation (which shall be determined by the Under Secretary in his or her discretion, and may be prior to, but shall not be later than, such effective date) and prior to the expiration or termination of such Designation.

(g) *Information to be submitted by the Seller.* As part of any application for a Designation, the Seller shall provide a statement, executed by a duly authorized representative of the Seller, of all liability insurance coverage applicable to third-party claims arising out of, relating to, or resulting from an act of terrorism when the Seller's qualified anti-terrorism technology has been deployed in defense against, response to, or recovery from such act, including:

(1) Names of insurance companies, policy numbers, and expiration dates;

(2) A description of the types and nature of such insurance (including the extent to which the Seller is self-insured or intends to self-insure);

(3) Dollar limits per occurrence and annually of such insurance, including any applicable sublimits;

(4) Deductibles or self-insured retentions, if any, that are applicable;

(5) Any relevant exclusions from coverage under such policies;

(6) The price for such insurance, if available, and the per-unit amount or percentage of such price directly related to liability coverage for the Seller's qualified anti-terrorism technology deployed in defense against, or response to, or recovery from an act of terror;

(7) Where applicable, whether the liability insurance, in addition to the Seller, protects contractors, subcontractors, suppliers, vendors and customers of the Seller and contractors, subcontractors, suppliers, vendors and customers of the customer to the extent of their potential liability for involvement in the manufacture, qualification, sale, use or operation of Qualified Anti-terrorism Technologies deployed in defense against, response to, or recovery from an act of terrorism;

(8) Any limitations on such liability insurance; and

(9) In the case of a Seller seeking approval to self-insure, all of the information described in 48 CFR 28.308(a)(1) through (10).

(h) *Under Secretary's certification.* For each qualified anti-terrorism technology, the Under Secretary shall certify the amount of insurance required under Section 864 of the Act. The Under Secretary shall include the certification under this section as a part of the applicable Designation. The certification may specify a period of time for which the certification will apply. The Seller of a qualified anti-terrorism technology may at any time petition the Under Secretary for a revision or termination of the certification under this section. The Under Secretary or his designee may at any time request information from the Seller regarding the insurance maintained by the Seller or the amount of insurance available to the Seller.

(i) *Seller's continuing obligations.* Within 30 days after the Under Secretary's certification required by paragraph (h), and within 30 days after each subsequent anniversary of the issuance of a Designation, the Seller shall certify to the Under Secretary that the Seller has maintained the insurance required by such certification. The Under Secretary may terminate a Designation if the Seller fails to provide