

**INDIAN HARBOR INSURANCE COMPANY  
STAMFORD, CONNECTICUT**

(A Stock Insurance Company Herein Called the Company)

**Pollution Protection Package**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

**Coverage D. Professional Liability provides Claims Made and Reported Coverage, and has Reporting Requirements different from those for Coverage A., B., C., and E. Coverage requires that a "Claim" Be Made against you and reported to us during the policy period or Extended Reporting Period, if any.**

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. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under WHO IS AN INSURED (SECTION II).

Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (SECTION VI).

**SECTION I – COVERAGES**

**COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

**1. Insuring Agreement.**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages in excess of the deductible amount, if any, as stated in the Declarations because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any "claim" or "suit" that may result. But:

- (1) The amount we will pay for damages or "supplementary payments" is limited as described in LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance or "supplementary payments" in the payment of judgments or settlements under any Coverage part.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under "supplementary payments".

- b. This insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
  - (2) The "bodily injury" or "property damage" occurs during the policy period.
- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

**2. Exclusions.**

This insurance does not apply to:

**a. Expected or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

**b. Contractual Liability**

“Bodily injury” or “property damage” for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) that the insured would have in the absence of the contract or agreement; or
- (2) assumed in a contract or agreement that is an “insured contract”, provided the “bodily injury” or “property damage” occurs subsequent to the execution of the contract or agreement.

**c. Liquor Liability**

“Bodily injury” or “property damage” for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers Compensation and Similar Laws**

Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

“Bodily injury” to:

- (1) An “employee” of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that “employee” as a consequence of paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an “insured contract”.

**f. Pollution**

- (1) “Bodily injury” or “property damage” which would not have occurred in whole or in part but for the actual, alleged, possible, or threatened, intentional or unintentional, discharge, disposal, dispersal, seepage, migration, release or escape of “pollutants”;
- (2) “Bodily injury” or “property damage” arising out of or in any way related to exposure to “pollutants”, including but not limited to the ingesting or inhaling of “pollutants”; or
- (3) Any loss, cost or expense arising out of or in any way related to any request, demand, order, directive, complaint, or “claim” by or on behalf of any person, group of persons or entity, including any governmental entity, that any “insured” or any other person, group of persons or entity test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess “pollutants” or the effects of “pollutants”.

**g. Aircraft, Auto or Watercraft**

“Bodily injury” or “property damage” arising out of the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and “loading or unloading”.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;

- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph f.(2) or f.(3) of the definition of "mobile equipment".

**h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

**j. Damage to Property**

"Property damage" to:

- (1) Property you own, rent, or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage to Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage to Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage to Impaired Property or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall of Products, Work or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Nuclear Hazard:**

a. Under any Liability Coverage, to "bodily injury" or "property damage"

(1) with respect to which you under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance 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 limits of liability; or

(2) resulting from the "Hazardous Properties" of "Nuclear Material" and with respect to which

(a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

(b) you are, 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.

b. Under any Liability Coverage, to "Bodily Injury" or "Property Damage" resulting from the "Hazardous Properties" of "Nuclear Material", if

(1) the "Nuclear Material"

(a) is at any "Nuclear Facility" owned by, or operated by or on behalf of, you or

(b) has been discharged or dispersed therefrom; or

(2) the "Nuclear Material" is contained in "Spent Fuel" or "Waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of you; or

(3) the "bodily injury" or "property damage" arises out of the furnishing by you 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 o. b. (3) applies only to "property damage" to such "Nuclear Facility" and any property thereat.

c. As used in this exclusion:

(1) "Hazardous Properties" includes radioactive, toxic or explosive properties;

(2) "Nuclear material" means source material, special nuclear material or by product material;

(3) "Source Material", "Special Nuclear Material" and "Byproduct Material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

(4) "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

(5) "Waste" means any waste material

(a) containing Byproduct 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 (6) (a) or (6) (b) thereof;

(6) "Nuclear Facility" means:

(a) any Nuclear Reactor

(b) any equipment or device designed or used for separating the isotopes of uranium or plutonium, processing or utilizing "Spent Fuel", or handling, processing or packaging "Waste",

(c) any equipment or device 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 you 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,

(d) 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;

(7) "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;

(8) "Property Damage" includes all forms of radioactive contamination of property;

**p. Professional Liability**

"Bodily injury" or "property damage" arising out of the rendering or failure to render any professional service, including but not limited to:

(1) The preparing, approving or failure to prepare or approve maps, drawings, opinions, recommendations, reports, surveys, change orders, designs or specifications;

(2) Supervision, inspection, construction or project management, quality control or engineering services;

(3) An error, omission, defect or deficiency in any test performed, or an evaluation, a consultation or advice given by or on behalf of any "insured"; or

(4) The reporting of or reliance upon any such test, evaluation, consultation or advice.

**q. Asbestos**

"Bodily injury" or "property damage" arising from the actual, alleged or threatened exposure of any person(s) or property to asbestos, including but not limited to:

(1) Inhaling, ingesting or prolonged physical exposure to asbestos or goods or products containing asbestos;

(2) The use of asbestos from any goods, products or structures;

(3) The removal of asbestos in constructing or manufacturing any goods, products or structures; or

(4) The manufacture, transportation, storage, handling, distribution, sale, application, mining, consumption, or disposal of asbestos or goods or products containing asbestos.

**r. Radioactive Matter**

"Bodily injury" or "property damage" arising from the actual, alleged or threatened exposure of any person(s) or property to any radioactive matter.

**s. Broad Form Securities**

“Bodily injury” or “property damage” directly or indirectly based on, attributable to, arising out of, resulting from or in any way related to any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, any Rules or Regulations of the Securities Exchange Commission adopted thereunder, any like Federal, State or provincial statute regulating securities similar to the foregoing, all as they may be amended, any rules or regulations adopted pursuant thereto, or any other state law, provincial law or common law relating to securities.

**t. Lead**

“Bodily injury” or “property damage” arising from the actual, alleged or threatened exposure of any person(s) or property to lead, including but not limited to:

- (1) Inhaling, ingesting, or prolonged physical exposure to lead or goods or products containing lead;
- (2) The use of lead in constructing or manufacturing any good, product or structure at any time;
- (3) The removal of lead from any good, product or structure; or
- (4) The manufacture, transportation, storage or disposal of lead or goods or products containing lead.

**u. Employment Related Practices**

“Bodily injury” arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment related practices, policies, acts or omissions; or
- (4) Consequential “bodily injury” as a result of (1) through (3) above.

This exclusion applies whether the “insured” may be held liable as an employer or in any other capacity and to any obligation to share “damages” with or to repay someone else who must pay “damages” because of the injury.

Exclusions c. through u. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in LIMITS OF INSURANCE and SUPPLEMENTARY PAYMENTS (Section III).

**COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement.**

a. We will pay those sums that the insured becomes legally obligated to pay as damages in excess of the deductible amount, if any, as stated in the Declarations because of “personal injury” or “advertising injury” to which this insurance applies. We will have the right and duty to defend the insured against any “suit” seeking those damages. However, we will have no duty to defend the insured against any “suit” seeking damages for which this insurance does not apply. We may, at our discretion, investigate any “occurrence” or offense and settle any “claim” or “suit” that may result. But:

- (1) The amount we will pay for damages or “supplementary payments” is limited as described in LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS (SECTION III); and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance or “supplementary payments” in the payment of judgments or settlements under any Coverage part.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under “supplementary payments”.

b. This insurance applies to:

- (1) “Personal injury” caused by an offense arising out of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you;

- (2) "Advertising injury" caused by an offense committed in the course of advertising your goods, products or services;

but only if the offense was committed in the "coverage territory" during the policy period.

## 2. Exclusions.

This insurance does not apply to:

a. "Personal injury" or "advertising injury":

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement; or
- (5) Arising out of:
  - (a) The actual, alleged, possible, or threatened, intentional or unintentional, discharge, disposal, dispersal, seepage, migration, release or escape of "pollutants";
  - (b) Or in any way related to exposure to "pollutants", including but not limited to the inhaling or ingesting of "pollutants"; or
  - (c) Any loss, cost or expense arising out of or in any way related to any request, demand, order, directive, complaint or "claim" by or on behalf of any person, group of persons or entity, including any governmental entity, that any "insured" or any other person, group of persons or entity test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize, or

in any way respond to or assess "pollutants" or the effects of "pollutants";

- (6) Arising from the actual, alleged or threatened exposure of any person(s) or property to asbestos, including but not limited to:
  - (a) Inhaling, ingesting or prolonged physical exposure to asbestos or goods or products containing asbestos;
  - (b) The use of asbestos from any goods, products or structures;
  - (c) The removal of asbestos in constructing or manufacturing any goods, products or structures; or
  - (d) The manufacture, transportation, storage, handling, distribution, sale, application, mining, consumption, or disposal of asbestos or goods or products containing asbestos;
- (7) Arising from the actual, alleged or threatened exposure of any person(s) or property to any radioactive matter.
- (8) Arising from the actual, alleged or threatened exposure of any person(s) or property to lead, including but not limited to:
  - (a) Inhaling, ingesting or prolonged physical exposure to lead or goods or products containing lead;
  - (b) The use of lead in constructing or manufacturing any good, product or structure;
  - (c) The removal of lead from any good, product or structure; or
  - (d) The manufacture, transportation, storage or disposal of lead or goods or products containing lead;
- (9) Arising directly or indirectly based on, attributable to, arising out of, resulting from or in any way related to any actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, any Rules or Regulations of the Securities Exchange Commission adopted thereunder,

any like Federal, State or provincial statute regulating securities similar to the foregoing, all as they may be amended, any rules or regulations adopted pursuant thereto, or any other state law, provincial law or common law relating to securities;

**(10)** Arising out of the rendering or failure to render any professional service, including but not limited to:

- (a)** The preparing, approving or failure to prepare or approve maps, drawings, opinions, recommendations, reports, surveys, change orders, designs or specifications;
- (b)** Supervision, inspection, construction or project management, quality control or engineering services;
- (c)** An error, omission, defect or deficiency in any test performed, or an evaluation, a consultation or advice given by or on behalf of any "insured"; or
- (d)** The reporting of or reliance upon any such test, evaluation, consultation or advice.

**b.** "Advertising injury" arising out of:

- (1)** Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (2)** The failure of goods, products or services to conform with advertised quality or performance;
- (3)** The wrong description of the price of goods, products or services; or
- (4)** An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

## **COVERAGE C. MEDICAL PAYMENTS**

### **1. Insuring Agreement.**

**a.** We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1)** On premises you own or rent;

**(2)** On ways next to premises you own or rent; or

**(3)** Because of your operations;

provided that:

- (1)** The accident takes place in the "coverage territory" and during the policy period;
- (2)** The expenses are incurred and reported to us within one year of the date of the accident; and
- (3)** The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

**b.** We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1)** First aid administered at the time of an accident;
- (2)** Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3)** Necessary ambulance, hospital, professional nursing and funeral services.

### **2. Exclusions.**

We will not pay expenses for "bodily injury":

- a.** To any insured.
- b.** To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c.** To a person injured on that part of premises you own or rent that the person normally occupies.
- d.** To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
- e.** To a person injured while taking part in athletics.
- f.** Included within the "products-completed operations hazard".
- g.** Excluded under Coverage A.

- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

- (2) Prior to the policy period and subsequent to the Retroactive Date(s) as stated in the Declarations.

**COVERAGE D. PROFESSIONAL LIABILITY - This is a Claims Made Coverage Part, Please Read it Carefully**

**1. Insuring Agreement.**

- a. We will pay those sums the insured becomes legally obligated to pay as compensatory damages in excess of the deductible amount, if any, as stated in the Declarations as a result of a "claim" first made against the insured and reported to us, in writing, during the Policy Period, Automatic Extended Reporting Period, or Optional Extended Reporting Period, by reason of any act, error or omission in "Professional Services" rendered or that should have been rendered by you or by any person whose acts, errors or omissions you are legally responsible, and arising out of the conduct of the your profession as stated in the Declarations. We will have the right and duty to defend the insured against any "suit" seeking those compensatory damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any "claim" or "suit" that may result. But:

- (1) The amount we will pay for compensatory damages or "supplementary payments" is limited as described in LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS (SECTION III); and

- (2) Our right and duty to defend end when we have used up the applicable limit of insurance or "supplementary payments" in the payment of judgments or settlements under any Coverage part.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under "supplementary payments".

- b. This insurance applies only to an act, error or omission committed or alleged to have been committed in the "coverage territory":

- (1) During the policy period, or

**2. Exclusions.**

This insurance does not apply to:

- a. **Intentional DAMAGES and Dishonest Acts:** any "claim" based upon or arising out of any dishonest, fraudulent, malicious or knowingly wrongful act, error or omission. However this exclusion will not apply to each and every insured who did not commit or participate in committing or acquiesce in or remain passive after having knowledge of one or more of the dishonest, fraudulent or malicious or knowingly wrongful acts, errors, or omissions described above.

- b. **Fiduciary Liability:** any "claim" arising out of any insureds services and/or capacity as:

- a. an officer, director, partner, trustee or employee of a business enterprise not stated in the Declarations or charitable organization or pension, welfare, profit sharing, mutual or investment fund or trust; or

- b. a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto; or any other employee benefit plan.

- c. **Related/Affiliated Entities:** any "claim" made by any business enterprise which is operated or managed or owned, in whole or in part by you or your parent company or any affiliated, subsidiary or associated company.

- d. **Discrimination:** any "claim" based upon or arising out of discrimination by any insured on the basis of age, color, race, sex, creed, national origin, marital status, physical disability or sexual preference.

- e. **Discrimination for Handicap:** any "claim" based upon or arising out of discrimination by any insured on the basis of handicap, unless such "claim" arises out of an act, error or omission by you in the performance of covered "professional services".

f. **Securities Violation:** any "claim" based upon or arising out of a violation of the Securities Act of 1933 as amended or the Securities Exchange Act of 1934 as amended or any state Blue Sky or securities law or similar state or federal statute and any regulation or order issued pursuant to any of the foregoing statutes, unless endorsed hereon.

g. **Contractual Liability:** any "claim" based upon or arising as a result of liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for damages:

- a. assumed in a contract or agreement that is an "insured contract", provided the act, error or omission occurs subsequent to the execution of the contract or agreement; or
- b. that an insured would have in the absence of the contract or agreement.

h. **Products Liability/Own Product:** any "claim" based upon or arising out of "your product" manufactured, sold, handled, distributed, supplied by an insured or by others under license or trade name from an insured. This includes, but is not limited to, any "property damage" to "your product".

i. **Faulty Workmanship/Own Work:** any "claim" based upon or arising out of the cost to repair or replace "your work" in any construction, erection, fabrication, installation, assembly or manufacture. This includes, but is not limited to, the cost to investigate "your work", or the cost of any materials, parts, labor or equipment furnished in connection with such repair or replacement.

j. **Nuclear Hazard:**

a. Under any Liability Coverage, to "bodily injury" or "property damage"

- (1) with respect to which you under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance 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 limits of liability; or

(2) resulting from the "Hazardous Properties" of "Nuclear Material" and with respect to which

(a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

(b) you are, 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.

b. Under any Liability Coverage, to "Bodily Injury" or "Property Damage" resulting from the "Hazardous Properties" of "Nuclear Material", if

(1) the "Nuclear Material"

(a) is at any "Nuclear Facility" owned by, or operated by or on behalf of, you or

(b) has been discharged or dispersed therefrom; or

(2) the "Nuclear Material" is contained in "Spent Fuel" or "Waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of you; or

(3) the "bodily injury" or "property damage" arises out of the furnishing by you 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 j. b. (3) applies only to "property damage" to such "Nuclear Facility" and any property thereat.

c. As used in this exclusion:

- (1) "Hazardous Properties" includes radioactive, toxic or explosive properties;
- (2) "Nuclear material" means source material, special nuclear material or by product material;
- (3) "Source Material", "Special Nuclear Material" and "Byproduct Material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- (4) "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
- (5) "Waste" means any waste material
  - (a) containing Byproduct 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 (6) (a) or (6) (b) thereof;
- (6) "Nuclear Facility" means:
  - (a) any Nuclear Reactor
  - (b) any equipment or device designed or used for separating the isotopes of uranium or plutonium, processing or utilizing "Spent Fuel", or handling, processing or packaging "Waste",
  - (c) any equipment or device 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 you 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,
  - (d) 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;

(7) "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;

(8) "Property Damage" includes all forms of radioactive contamination of property;

k. **Workers' Compensation:** any "claim" based upon or arising under any worker's compensation, unemployment compensation or disability benefits law or similar law.

l. **Employer Liability:** any "claim" based upon or arising from injury to any employee, director, officer, partner, or "leased worker" of an insured. With respect to injury to any employee, director, officer, partner, or "Leased Worker", this exclusion does not apply to liability assumed by you while actively participating in a covered "Professional Service" under an "insured contract".

m. **Vehicles:** any "claim" based upon or arising out of the ownership, maintenance, use, operation, loading or unloading of any automobile, aircraft, watercraft, or rolling stock.

n. **Hostile Acts:** any "claim" based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot, or civil commotion.

o. **Off-Site Waste Liability:** any "claim" based upon or arising out of any waste or materials transported via automobile, aircraft, watercraft, or rolling stock beyond the boundaries of the job sites where "Professional Services" are being performed.

p. **INSURED's Property/Bailee Liability:** any "claim" based upon or arising out of damage to:

(1) Property you own, rent, or occupy;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

- q. **Insurance and Suretyship:** any "claim" based upon or arising out of the advising or requiring of, or failure to advise or require or failure to maintain any form of insurance, suretyship or bond, either with respect to you or any other entity or company.
- r. **Express Warranties and Guarantees:** any "claim" based upon or arising out of express warranties and guarantees. However, this exclusion does not apply to a warranty or guarantee by you that your "Professional Services" are in conformity with generally accepted architectural or engineering standards.
- s. **Separately Insured Project:** any "claim" based upon or arising out of any project to which a project-specific professional liability policy applies and that any insured is an Insured on that policy.
- t. **CLAIMS from Known Circumstances:** any "claim" based upon or arising out of any facts or circumstances if:
  - a. The insured knew of facts or circumstances prior to the inception of either this policy, or the first policy period in effect, when the

policies are consecutively renewed by us; and

- b. Any partner, executive officer, senior officer, director, branch manager, risk manager, operations manager or project manager of the insured knew or could have reasonably foreseen that a "claim" would result from such facts or circumstances.

- u. **CLAIMS Reported to Previous Insurers:** any "claim" for which the insured has a prior policy or policies which provide insurance for its liability arising out of any circumstance, act, error or omission that is part of the "claim", regardless of whether or not the available limits of liability of such prior policy or policies are sufficient to pay any liability or "claim" or whether or not the Deductible provisions of such prior policy or policies are different from this Policy, or whether or not such prior policy or policies cover(s) a particular "claim".

## COVERAGE E. CONTRACTORS POLLUTION LEGAL LIABILITY

### 1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as compensatory damages in excess of the deductible amount, if any, as stated in the Declarations as a result of a "claim" for "pollution conditions", provided that the "pollution conditions" arise out of "Contracting Services" and first commence during the policy period. We will have the right and duty to defend the insured against any "suit" seeking those compensatory damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any "claim" or "suit" that may result. But:
  - (1) The amount we will pay for compensatory damages or "supplementary payments" is limited as described in LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS (SECTION III); and
  - (2) Our right and duty to defend end when we have used up the applicable limit of insurance or "supplementary payments" in the payment of judgments or settlements under any Coverage part.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under "supplementary payments".

b. This insurance applies to "pollution conditions" only if:

(1) The "pollution condition" is caused by an "occurrence" that takes place in the "coverage territory"; and

(2) The "pollution condition" first occurs during the policy period.

c. In the event the "pollution conditions" which give rise to a "claim" continue through one or more policy periods, only the policy in effect when the "pollution conditions" first commence will apply.

## 2. Exclusions.

This insurance does not apply to:

a. **Intentional DAMAGES and Dishonest Acts:** any "claim" based upon or arising out of any dishonest, fraudulent, malicious or knowingly wrongful act, error or omission. However this exclusion will not apply to each and every insured who did not commit or participate in committing or acquiesce in or remain passive after having knowledge of one or more of the dishonest, fraudulent or malicious or knowingly wrongful acts, errors, or omissions described above.

b. **Fiduciary Liability:** any "claim" arising out of any insureds services and/or capacity as:

a. an officer, director, partner, trustee or employee of a business enterprise not stated in the Declarations or charitable organization or pension, welfare, profit sharing, mutual or investment fund or trust; or

b. a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto; or any other employee benefit plan.

c. **Related/Affiliated Entities:** any "claim" made by any business enterprise which is operated or

managed or owned, in whole or in part by you or your parent company or any affiliated, subsidiary or associated company.

d. **Discrimination:** any "claim" based upon or arising out of discrimination by the insured on the basis of age, color, race, sex, creed, national origin, marital status, physical disability or sexual preference.

e. **Discrimination for Handicap:** any "claim" based upon or arising out of discrimination by the insured on the basis of handicap, unless such "claim" arises out of an act, error or omission by you in the performance of covered "contracting services"

f. **Securities Violation:** any "claim" based upon or arising out of a violation of the Securities Act of 1933 as amended or the Securities Exchange Act of 1934 as amended or any state Blue Sky or securities law or similar state or federal statute and any regulation or order issued pursuant to any of the foregoing statutes, unless endorsed hereon.

g. **Contractual Liability:** any "claim" based upon or arising as a result of liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for damages:

a. assumed in a contract or agreement that is an "insured contract", provided the act, error or omission occurs subsequent to the execution of the contract or agreement; or

b. that the insured would have in the absence of the contract or agreement.

h. **Products Liability/Own Product:** any "claim" based upon or arising out of "your product" manufactured, sold, handled, distributed, supplied by an insured or by others under license or trade name from the insured. This includes, but is not limited to, any "property damage" to "your product".

i. **Faulty Workmanship/Own Work:** any "claim" based upon or arising out of the cost to repair or replace "your work" in any construction, erection, fabrication, installation, assembly or manufacture. This includes, but is not limited to, the cost to investigate "your work", or the cost of any materials, parts, labor or equipment

furnished in connection with such repair or replacement.

**j. Nuclear Hazard:**

**a. Under any Liability Coverage, to "bodily injury" or "property damage"**

**(1)** with respect to which you under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance 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 limits of liability; or

**(2)** resulting from the "Hazardous Properties" of "Nuclear Material" and with respect to which

**(a)** any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

**(b)** you are, 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.

**b. Under any Liability Coverage, to "Bodily Injury" or "Property Damage" resulting from the "Hazardous Properties" of "Nuclear Material", if**

**(1)** the "Nuclear Material"

**(a)** is at any "Nuclear Facility" owned by, or operated by or on behalf of, you or

**(b)** has been discharged or dispersed therefrom; or

**(2)** the "Nuclear Material" is contained in "Spent Fuel" or "Waste" at any time possessed, handled, used, processed,

stored, transported or disposed of by or on behalf of you; or

**(3)** the "bodily injury" or "property damage" arises out of the furnishing by you 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 j. b. (3) applies only to "property damage" to such "Nuclear Facility" and any property thereat.

**c. As used in this exclusion:**

**(1)** "Hazardous Properties" includes radioactive, toxic or explosive properties;

**(2)** "Nuclear material" means source material, special nuclear material or by product material;

**(3)** "Source Material", "Special Nuclear Material" and "Byproduct Material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

**(4)** "Spent Fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

**(5)** "Waste" means any waste material

**(a)** containing Byproduct 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 (6) (a) or (6) (b) thereof;

**(6)** "Nuclear Facility" means:

**(a)** any Nuclear Reactor

**(b)** any equipment or device designed or used for separating the isotopes of uranium or plutonium, processing

or utilizing "Spent Fuel", or handling, processing or packaging "Waste",

(c) any equipment or device 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 you 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,

(d) 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;

(7) "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;

(8) "Property Damage" includes all forms of radioactive contamination of property;

k. **Workers' Compensation:** any "claim" based upon or arising under any worker's compensation, unemployment compensation or disability benefits law or similar law.

l. **Employer Liability:** any "claim" based upon or arising from injury to any employee, director, officer, partner, or "leased worker" of an insured. With respect to injury to any employee, director, officer, partner, or "Leased Worker", this exclusion does not apply to liability assumed by you while actively participating in a covered "Contracting Service" under an "insured contract".

m. **Vehicles:** any "claim" based upon or arising out of the ownership, maintenance, use, operation, loading or unloading of any automobile, aircraft, watercraft, or rolling stock. However, this exclusion does not apply to "Pollution Conditions" arising out of the ownership, maintenance, use, operation, loading or

unloading of any automobile, aircraft, watercraft, or rolling stock within the boundaries of the job site.

n. **Hostile Acts:** any "claim" based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot, or civil commotion.

o. **Off-Site Waste Liability:** any "claim" based upon or arising out of any waste or materials transported via automobile, aircraft, watercraft, or rolling stock beyond the boundaries of the job sites where "Contracting Services" are being performed.

p. **INSURED's Property/Bailee Liability:** any "claim" based upon or arising out of damage to:

(1) Property you own, rent, or occupy;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

q. **Insurance and Suretyship:** any "claim" based upon or arising out of the advising or requiring of, or failure to advise or require or failure to maintain any form of insurance, suretyship or

bond, either with respect to you or any other entity or company.

- r. **Express Warranties and Guarantees:** any “claim” based upon or arising out of express warranties and guarantees. However, this exclusion does not apply to a warranty or guarantee by you that your “Contracting Services” are in conformity with generally accepted architectural or engineering standards.
- s. **Separately Insured Project:** any “claim” based upon or arising out of any project to which a project-specific contractor’s pollution legal liability policy applies and that any insured is an Insured on that policy.
- t. **CLAIMS from Known Circumstances:** any “claim” based upon or arising out of any facts or circumstances if:
  - a. The insured knew or facts of circumstances prior to the inception of either this policy, or the first policy period in effect, when the policies are consecutively renewed by us; and
  - b. Any partner, executive officer, senior officer, director, branch manager, risk manager, operations manager or project manager of the insured knew or could have reasonably foreseen that a “claim” would result from such facts or circumstances.
- u. **CLAIMS Reported to Previous Insurers:** any “claim” for which the insured has a prior policy or policies which provide insurance for its liability arising out of any circumstance, act, error or omission that is part of the “claim”, regardless of whether or not the available limits of liability of such prior policy or policies are sufficient to pay any liability or “claim” or whether or not the Deductible provisions of such prior policy or policies are different from this Policy, or whether or not such prior policy or policies cover(s) a particular “claim”.

- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your “executive officers” and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

- a. Your “employees”, other than either your “executive officers” (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these “employees” is an insured for:
  - (1) “Bodily injury”, “personal injury” or damages arising out of “pollution conditions”:
    - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-“employee” while that co-“employee” is either in the course of his or her employment or performing duties related to the conduct of your business;
    - (b) To the spouse, child, parent, brother or sister of that co-“employee” as a consequence of paragraph (1)(a) above;
    - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or

## SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

(d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Any person (other than your "employee"), or any organization while acting as your real estate manager.

c. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Any person or organization that you are required in a written contract or agreement to include as an additional insured, provided the "bodily injury", "property damage" or "pollution conditions" occurs subsequent to the execution of the written contract or agreement, but only to the extent that the "bodily injury", "property damage" or "pollution conditions" arises out of "your work" or "Contracting Services" for that additional insured by or for you.

3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any

kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

d. Coverage D does not apply to "professional services" rendered or that should have been rendered before you acquired or formed the organization.

e. Coverage E does not apply to "pollution conditions" that occurred before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS

1. The Limits of Insurance or Supplementary Payments shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".
- d. One or more covered claims under Coverages A, B, C, D or E, whether separately or combined, arising out of:
  - 1. The same or related "bodily injury" or "property damage" under Coverage A;
  - 2. The same or related "personal injury" or "advertising injury" under Coverage B; and
  - 3. The same or related medical expenses for bodily injury under Coverage C;
  - 4. The same or related acts, errors or omissions in "professional services" under Coverage D;
  - 5. The same or related "pollution conditions" under Coverage E;

will be considered a single "claim", and the limits of liability stated in the Declarations as applicable to each "claim" shall apply and only one deductible amount shall apply thereto.

- 2. Notwithstanding the foregoing, the General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A and Coverage E, except damages because of "bodily injury", "property damage" and "pollution conditions" included in the "products-completed operations hazard";
  - c. Damages under Coverage B and Coverage D; and
  - d. "Supplementary Payments".
- 3. Notwithstanding the foregoing, the Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A and Coverage E for damages or "Supplementary Payments" because of "bodily injury", "property damage" and "pollution conditions" included in the "products-completed operations hazard".

- 4. Subject to 2. or 3. above, whichever applies, the Supplementary Payments Limit is the most we will pay for "Supplementary Payments".
- 5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of damages under any Coverage part because of damages arising out of any one "claim" or "occurrence".
- 6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises, while rented to you or temporarily occupied by you with permission of the owner, arising out of any one fire.
- 7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part 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.

#### SECTION IV – POLICY CONDITIONS

##### 1. Cancellation

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

## 2. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

## 3. Examination of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

## 4. Inspections and Surveys

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

## 5. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

## 6. Transfer Of Your Rights and Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

## 7. Bankruptcy.

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

## 8. Duties In The Event Of Occurrence, Circumstance, Offense, Claim Or Suit.

a. It is your obligation to notify us or ensure that we are notified as soon as practicable of an "occurrence", "claim" or an offense which may result in a "claim" or "suit". To the extent possible, notice should include:

- (1) How, when and where the "occurrence", "claim" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence", "claim" or offense.

b. If a "claim" is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the "claim" or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. 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 "claim" or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
- (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.

d. If You become aware of a circumstance for which this policy may apply, and if during the policy period you give us written notice containing:

- (1) Details of the alleged act, error or omission and the respective "Professional Services" rendered by or on behalf of you, and
- (2) The specific nature of the "bodily injury" and/or "property damage" which has been sustained, and
- (3) How you first became aware of such circumstance.

Then any "claim" that may subsequently be made against you arising out of such circumstance shall be deemed to have been made on the date first written notice of the circumstance was received by us.

This right conferred upon you shall terminate at the end of the policy period and shall not exist during the Automatic Extended Reporting Period or the Optional Extended Reporting Period.

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

## 9. Legal Action Against Us.

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms 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 obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable 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.

## 10. Other Insurance.

If other valid and collectible insurance is available to the insured for a loss we cover under any Coverage Part, our obligations are limited as follows:

### a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

- (1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner; or

- (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Coverage A (Section I).
- (4) That is Professional Liability or Contractors Pollution Legal Liability or similar coverage for "claims" that arise from your "professional services" or "contracting services".
- (5) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under any Coverage part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

**c. Method of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by

limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**11. Premium Adjustment.**

- a. We will compute all premiums for this policy in accordance with our rules and rates.
- b. When requested by us, you shall furnish us with a signed statement of your total "gross receipts" or other premium base. The actual earned premium shall be computed thereon at the premium rate stipulated in the Policy. If the earned premium is more than the deposit premium, you shall pay the difference to us; if less, we shall refund the difference to you, except that we shall be entitled to the Policy Premium as stated in the Declarations.
- c. When used as a premium base, "gross receipts" means the gross amount of money (less direct reimbursables) charged by you for "professional services" and/or "contracting services" as applicable, rendered during the policy period.
- d. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**12. Representations.**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

**13. Separation of Insureds.**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and

- b. Separately to each insured against whom claim is made or "suit" is brought.

**14. Transfer Of Rights Of Recovery Against Others To Us.**

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**15. When We Do Not Renew.**

If we decide not to renew this policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – EXTENDED REPORTING PERIOD - COVERAGE D. ONLY**

**A. Automatic Extended Reporting Period**

In the event of termination of this insurance by any reason of non-renewal or cancellation by you, or if we cancel this Policy or terminate it by refusing to renew, for reasons other than your non-payment of premium and/or Retention Amount and/or non-compliance with the terms and conditions of this Policy, you shall be entitled to an Automatic Sixty (60) Day Extended Reporting Period for no additional premium. Except as may be otherwise provided herein, this extension of coverage granted hereunder shall be subject to all the terms and conditions of this Policy and shall apply to "claims" first made against you and reported to us, in writing, during the sixty (60) days immediately following the effective date of cancellation or non-renewal.

**B. Optional Extended Reporting Period**

In the event of the termination of this insurance by any reason of non-renewal or cancellation by you, or if we cancel this Policy or terminate it by refusing to renew, for reasons other than your non-payment of premium and/or Retention Amount and/or non-compliance with the terms and conditions of the Policy, you shall be entitled to an extension of this coverage upon payment of an additional premium of

not more than 100% of the Policy Premium as stated in the Declarations. The extension of coverage granted hereunder shall be subject to all the terms and conditions of this Policy and shall apply to "claims" first made against you and reported to us, in writing, during the thirty-six (36) months following immediately upon the effective date of such cancellation or non-renewal, but only by reason of any act, error or omission in "professional services" rendered before such applicable cancellation or non-renewal date and otherwise covered by this Policy. This thirty-six (36) month interval shall hereinafter be referred to as the Optional Extended Reporting Period. It is a condition precedent to the operation of the rights granted under this clause that payment of the appropriate premium shall be made not later than sixty (60) days after the effective date of cancellation or non-renewal of the Policy, without regard to the Automatic Extended Reporting Period.

The quotation of a different Policy Premium and/or Retention Amount and/or Limits of Liability and/or policy conditions for renewal does not constitute a cancellation or refusal to renew for the purpose of this provision.

The fact that the period during which "claims" may be first made against you and reported to us, in writing, under this Policy is extended by virtue of the Automatic Extended Reporting Period and/or the Optional Extended Reporting Period shall not in any way increase the Limits of Liability of this Policy.

**SECTION VI – DEFINITIONS**

1. "Advertising injury" means injury arising out of one or more of the following offenses:
  - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - b. Oral or written publication of material that violates a person's right of privacy;
  - c. Misappropriation of advertising ideas or style of doing business; or
  - d. Infringement of copyright, title or slogan.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease, mental injury, mental anguish, or shock sustained by a person, including death resulting from any of these at any time.
4. "Claim" means a demand received by you for money and services. The definition of "claim" shall not necessarily be limited to lawsuits, petitions, arbitrations or other alternative dispute resolution requests filed against you.
5. "Contracting Services" means the performance of those activities as stated in the Declarations.
6. "Coverage territory" means anywhere in the world, provided that the "suit" is brought or "claim" is made within the United States of America (including its territories and possessions), Puerto Rico and Canada.
7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
8. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
9. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;
 if such property can be restored to use by:
  - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
  - b. Your fulfilling the terms of the contract or agreement.
10. "Insured contract" means:
  - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
 

Paragraph f. does not include that part of any contract or agreement:

    - (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
    - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
      - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
      - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
    - (3) With respect to coverage available under Coverage D. Professional Liability and Coverage E. Contractors Pollution Legal Liability, that indemnifies another party if the tortious conduct was solely that of the person or persons for whom such liability under the "insured contract" was assumed.

**11.** "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**12.** "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading and unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

**13.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

**(1)** Power cranes, shovels, loaders, diggers or drills; or

**(2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e.** Vehicles not described in **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

**(1)** Air compressors, pumps and generators, including spraying, welding, building cleaning,

geophysical exploration, lighting and well servicing equipment; or

**(2)** Cherry pickers and similar devices used to raise or lower workers;

**f.** Vehicles not described in **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

**(1)** Equipment designed primarily for:

**(a)** Snow removal;

**(b)** Road maintenance, but not construction or resurfacing; or

**(c)** Street cleaning;

**(2)** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

**(3)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

**14.** "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**15.** "Personal injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:

**a.** False arrest, detention or imprisonment;

**b.** Malicious prosecution;

**c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;

**d.** Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or

e. Oral or written publication of material that violates a person's right of privacy.

16. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

17. "Pollution Conditions" means the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in "bodily injury" or "property damage".

18. "Professional Services" means the performance of those activities as stated in the Declarations.

19. "Products-completed operations hazard":

a. Includes all "bodily injury", "property damage" and "pollution conditions" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury", "property damage" or "pollution conditions" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;

(2) The existence of tools, uninstalled equipment or abandoned or unused materials; or

20. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

c. Costs, charges and expenses incurred in the investigation, removal or neutralization of "pollution conditions", provided that such costs, charges and expenses are caused by "pollution conditions" arising out of the performance by you or someone on your behalf, or failure to perform by you or someone on your behalf, of covered "professional services" and/or covered "contracting services".

21. "Supplementary Payments" means the amount we will pay as described in the LIMITS OF INSURANCE AND SUPPLEMENTARY PAYMENTS (SECTION III), with respect to any "claim" we investigate or settle, or any "suit" against an insured we defend:

a. All legal fees and expenses incurred by us in the investigation, defense and appeal of a covered "claim".

b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim" or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

22. "Suit" means a civil proceeding in which damages to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

23. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

24. "Your product" means:

- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (1) You;
  - (2) Others trading under your name; or
  - (3) A person or organization whose business or assets you have acquired; and
- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- b. The providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work" means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- b. The providing of or failure to provide warnings or instructions.

IN WITNESS WHEREOF the Company has caused this Policy to be signed by its President and Secretary and countersigned on the Declarations by a duly authorized agent of the Company.

*Cheresa M. Morgan*

SECRETARY

*Nicholas M. Brown, Jr.*

PRESIDENT