

ENVIRONMENTAL COMBINED POLICY

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. 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 Section III - Who Is An insured.

Other words and phrases that appear in bold have special meaning. Refer to Section VII -Definitions.

Coverage D Contractors Pollution Liability and Coverage E Professional Liability of this policy provide Claims Made and Reported Coverage, and have claims reporting requirements that differ from Coverages A, B and C. Coverage D Contractors Pollution Liability and Coverage E Professional Liability only apply to a claim that is made against you and reported to us during the policy period or applicable Extended Reporting Period.

The application is the basis of this policy and is incorporated in and constitutes a part of this policy. A copy of the application is attached hereto. Any material received with the application will be maintained on file with the Company and will be deemed to be attached thereto as if physically attached. It is agreed by all insureds that the statements in the application are their representations, that they are material and that this policy is issued in reliance upon the truth of such representations. This policy includes all of the agreements existing between the insureds and the Company or any of its agents relating to this policy.

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 because of **bodily injury** or **property damage** in excess of the deductible or self insured retention, if any, 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 **bodily injury** or **property damage** 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 is limited as described in Section IV - Limits Of Insurance; and
- (2) Our right and duty to defend ends under Coverage A when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A, B, D, or E or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A, B, D, and E.

- 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**;
- (2) The **bodily injury** or **property damage** occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section III - Who Is An Insured and no **employee** authorized by you to give or receive notice of an **occurrence** or claim, knew that the **bodily injury** or **property damage** had occurred, in whole or in part. If such a listed insured or

authorized **employee** knew, prior to the policy period, that the **bodily injury** or **property damage** occurred, then any continuation, change or resumption of such **bodily injury** or **property damage** during or after the policy period will be deemed to have been known prior to the policy period.

- c. **Bodily injury** or **property damage** which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section III - Who Is An Insured or any **employee** authorized by you to give or receive notice of an **occurrence** or claim, includes any continuation, change or resumption of that **bodily injury** or **property damage** after the end of the policy period.
- d. **Bodily injury** or **property damage** will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section III - Who Is An Insured or any **employee** authorized by you to give or receive notice of an **occurrence** or claim:
 - (1) Reports all or any part, of the **bodily injury** or **property damage** to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the **bodily injury** or **property damage**; or
 - (3) Becomes aware by any other means that **bodily injury** or **property damage** has occurred or has begun to occur.
- e. 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

Refer also to Section II – Shared Exclusions for additional exclusions.

This insurance does not apply to:

a. Other Coverages

Anything covered under any other Coverage Part contained in this policy.

b. 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.

c. 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. Solely for the purposes of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of **bodily injury** or **property damage**, provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a **suit** or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

d. 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 applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

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:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of **mobile equipment** if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (b) The operation of any of the machinery or equipment listed in Paragraph **f. (2)** or **f. (3)** of the definition of **mobile equipment**.

e. 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.

f. Workers Compensation And Similar Laws

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

g. 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**.

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. Damage To Property

Property damage to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (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.

Paragraphs (1), (3), and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section **IV** – Limits Of Insurance.

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**.

j. Damage To Your Product

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

k. 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.

l. 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.

m. 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.

n. Personal And Advertising Injury

Bodily injury or **property damage** arising out of **personal and advertising injury**.

o. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used

with electronically controlled equipment.

Exclusions **d.** through **m.** 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 Section **IV** - Limits Of Insurance.

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 because of **personal and advertising injury** in excess of the deductible or self insured retention, if any, 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 **personal and advertising injury** to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or **suit** that may result. But:

- (1)** The amount we will pay for damages is limited as described in Section **IV** - Limits Of Insurance; and
- (2)** Our right and duty to defend ends under Coverage **B** when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A, B, D, or E** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A, B, D, and E**.

b. This insurance applies to **personal and advertising injury** caused by an offense arising out of your business but only if the offense was committed in the **coverage territory** during the policy period.

2. Exclusions

Refer also to Section II – Shared Exclusions for additional exclusions.

This insurance does not apply to:

a. Other Coverages

Anything covered under any other Coverage Part contained in this policy.

b. Knowing Violation Of Rights Of Another

Personal and advertising injury caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**.

c. Material Published With Knowledge Of Falsity

Personal and advertising injury arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

d. Material Published Prior To Policy Period

Personal and advertising injury arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

e. Criminal Acts

Personal and advertising injury arising out of a criminal act committed by or at the direction of the insured.

f. Contractual Liability

Personal and advertising injury 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.

g. Breach of Contract

Personal and advertising injury arising out of a breach of contract, except an implied contract to use another's advertising idea in your **advertisement**.

h. Quality Or Performance Of Goods - Failure To Conform To Statements

Personal and advertising injury arising out of the failure of goods, products or services to conform to any statement of quality or performance made in your **advertisement**.

i. Wrong Description Of Prices

Personal and advertising injury arising out of the wrong description of the price of goods, products or services stated in your **advertisement**.

j. Infringement Of Copyright, Patent, Trademark Or Trade Secret

Personal and advertising injury arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your **advertisement**, of copyright, trade dress or slogan.

k. Insureds In Media And Internet Type Businesses

Personal and advertising injury committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **16. a., b., and c.** of **personal and advertising injury** under the Definitions Section **VII**.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising for you or others anywhere on the Internet, is not by itself considered the business of advertising, broadcasting, publishing or telecasting.

l. Electronic Chatrooms Or Bulletin Boards

Personal and advertising injury arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

m. Unauthorized Use Of Another's Name Or Product

Personal and advertising injury arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

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

Refer also to Section II – Shared Exclusions for additional exclusions.

We will not pay expenses for **bodily injury**:

a. **Any Insured**

To any insured, except **volunteer workers**.

b. **Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. **Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

d. **Workers Compensation And Similar Laws**

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. **Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the **products-completed operations hazard**.

g. Coverage A, D, Or E Exclusions

Excluded under Coverages **A, D, or E**.

COVERAGE D CONTRACTORS POLLUTION LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** in excess of the deductible or self insured retention, if any, resulting from **pollution conditions** 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 **pollution conditions** and settle any claim or **suit** that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **IV** - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A, B, D, or E** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A, B, D, or E**.

b. This insurance applies to **bodily injury** and **property damage** only if:

1. The **bodily injury** or **property damage** is caused by **pollution conditions** that take place in the **coverage territory** and arise out of **your work**;
2. The claim for damages from **pollution conditions** is first made against the insured and reported to the Insurer, in writing, during the policy period, or Extended Reporting Period, if applicable;
3. The **pollution conditions** were unexpected and unintended from the standpoint of the insured; and
4. **Your work** resulting in a claim commenced on or after the Retroactive Date shown in the Declarations, if any, and before the end of the policy period.

2. Exclusions

Refer also to Section II – Shared Exclusions for additional exclusions.

This insurance does not apply to:

a. Other Coverages

Anything covered under any other Coverage Part contained in this policy.

b. Knowingly Wrongful Acts

Damages based upon or arising from the insured's dishonest, fraudulent, malicious, or knowingly wrongful act, error or omission or non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body. However, this exclusion shall not apply to any insured that did not commit, participate in, or have knowledge of any of the acts described above.

c. Related Entities

Damages claimed by your parent company or any affiliated subsidiary, or any entity which is owned, operated, managed, or controlled by you.

d. Contractual Liability

Damages based upon or arising out of the liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for damages:

- (1) Assumed in a contract or agreement that is an **insured contract**, provided the **pollution condition** occurs subsequent to the execution of the contract or agreement; or
- (2) That the insured would have in the absence of the contract or agreement.

e. Products Liability

Damages arising out of **your product**. This includes, but is not limited to, any **property damage to your product**.

f. Workers Compensation

Damages based upon or arising under any workers compensation, unemployment compensation or disability benefits law or similar law.

g. Employer's Liability

Damages based upon or arising out of injury to any **employee**, director, officer, partner, or **leased worker** of an insured. This exclusion does not apply to liability assumed by you while performing **your work** under an **insured contract**.

h. Auto, Aircraft, Watercraft Or Rolling Stock

Damages based upon or arising out of the ownership, maintenance, use or the entrustment to others of any **auto**, aircraft, watercraft, or rolling stock owned or operated by or rented or loaned to any insured. Use includes operation and **loading or unloading**.

However, this exclusion does not apply to **pollution conditions** arising out of the ownership, maintenance, use, operation, **loading or unloading** of any **auto**, aircraft, watercraft, or rolling stock within the boundaries of the site where **your work** is being performed.

i. Off-Site Waste Disposal

Damages, including **cleanup costs**, based upon or arising out of **pollution conditions** on, at or migrating from any location to which wastes, products or materials have been delivered beyond the boundaries of any site where **your work** is being performed.

j. Damage To Property

Damages based upon or arising out of **property damage** to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (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.

Paragraphs (1), (3), and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section IV – Limits Of Insurance.

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**.

Paragraphs (5) and (6) do not apply to **cleanup costs**.

k. Project-Specific Coverage

Damages based upon or arising out of any project for which any insured is an insured on a project-specific policy issued by any carrier.

l. Known Conditions

Damages based upon or arising out of **your work** performed prior to the inception date of this policy, if any of your management, directors, partners or **employees** responsible for environmental affairs knew or reasonably could have foreseen that **your work** could give rise to a claim under this coverage part.

m. Professional Liability

Claims based upon or arising out of the rendering of or failure to render **professional services**.

n. Bankruptcy

Claims based upon or arising out the bankruptcy or insolvency of an insured or of any other firm, person, or organization.

o. Personal and Advertising Injury

Damages arising out of **personal and advertising injury**.

COVERAGE E PROFESSIONAL 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 or self insured retention, if any, that result from **professional services** to which this insurance applies. The damages must result from an actual or alleged act, error or omission in the performance of **professional services** rendered by the insured. 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 actual or alleged act, error or omission and settle any claim or **suit** that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **IV** - Limits Of Insurance; and
- (2) Our right and duty to defend ends under Coverage **E** when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A, B, D, or E** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A, B, D, or E**.

b. This insurance shall only apply if:

- (1) The claim is first made against the insured and reported to the Insurer, in writing, during the policy period, or Extended Reporting Period, if applicable; and
- (2) The actual or alleged act, error or omission takes place in the **coverage territory**; and
- (3) The actual or alleged act, error or omission takes place on or after the Retroactive Date, if any, shown in the Declarations and before the end of the policy period.

2. Exclusions

Refer also to Section II – Shared Exclusions for additional exclusions.

This insurance does not apply to:

a. Other Coverages

Anything covered under any other Coverage Parts contained in this policy.

b. Knowingly Wrongful Acts

Damages based upon or arising from the insured's dishonest, fraudulent, malicious, or knowingly wrongful act, error or omission or non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body. However, this exclusion shall not apply to any insured that did not commit, participate in, or have knowledge of any of the acts described above.

c. Related Entities

Damages claimed by your parent company or any affiliated subsidiary, or any entity which is owned, operated, managed, or controlled by you.

d. Discrimination

Damages 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. Contractual Liability

Damages based upon or arising out of the liability of others assumed by an insured under any contract or agreement. This exclusion does not apply to liability for damages:

- (1) Assumed in a contract or agreement that is an **insured contract**, provided the actual or alleged act, error or omission occurs subsequent to the execution of the contract or agreement; or

- (2) That the insured would have in the absence of the contract or agreement.

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f. Products Liability

Damages arising out of **your product**. This includes, but is not limited to, any **property damage to your product**.

g. Workers Compensation

Damages based upon or arising under any workers compensation, unemployment compensation or disability benefits law or similar law.

h. Employer's Liability

Damages based upon or arising out of injury to any **employee**, director, officer, partner, or **leased worker** of an insured. This exclusion does not apply to liability assumed by you while rendering **professional services** under an **insured contract**.

i. Auto, Aircraft, Watercraft Or Rolling Stock

Damages based upon or arising out of the ownership, maintenance, use or the entrustment to others of any **auto**, aircraft, watercraft, or rolling stock owned or operated by or rented or loaned to any insured. Use includes operation and **loading or unloading**.

j. Off-Site Waste Disposal

Damages, including **cleanup costs**, based upon or arising out of **pollution conditions** on, at or migrating from any location to which wastes, products or materials have been delivered beyond the boundaries of any site on which or on behalf of which **your work** and/or **professional services** have been performed.

k. Damage To Property

Damages based upon or arising out of **property damage** to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (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.

Paragraphs (1), (3), and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section IV – Limits Of Insurance.

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.

Paragraphs (5) and (6) do not apply to **cleanup costs**.

I. Suretyship and Insurance

Damages based upon, or arising out of, or attributable to any actual or alleged failure to advise or require or failure to effect and maintain any policy of insurance, suretyship or bond.

m. Insured vs. Insured

Damages claimed by any insured against any other insured under this policy.

n. Express Warranties or Guarantees

Damages based upon or arising out of express warranties or guarantees.

o. Project-Specific Coverage

Damages based upon or arising out of any project for which any insured is an insured on a project-specific policy issued by any carrier.

p. Known Conditions

Damages based upon or arising out of **professional services** rendered prior to the inception date of this policy, if any of your management, directors, or partners knew or reasonably could have foreseen that such **professional services** could give rise to a claim under this coverage part.

q. Bankruptcy

Claims based upon or arising out the bankruptcy or insolvency of an insured or of any other firm, person, or organization.

r. Personal And Advertising Injury

Damages arising out of **personal and advertising injury**.

SUPPLEMENTARY PAYMENTS - COVERAGES A, B, D, and E

1. We will pay, with respect to any claims or **occurrences** we investigate or settle, or any **suit** against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$250 for the 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.

These payments will not reduce the Limits of Insurance for Coverages **A** and **B**.

These payments will reduce the Limits of Insurance for Coverages **D** and **E**.

- 2.** If we defend an insured against a **suit** and an indemnitee of the insured is also named as a party to the **suit**, we will defend that indemnitee if all of the following conditions are met:

- a.** The **suit** against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in an **insured contract**;
- b.** This insurance applies to such liability assumed by the insured;
- c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same **insured contract**;
- d.** The allegations in the **suit** and the information we know about the **occurrence, pollution condition** or act, error or omission are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such **suit** and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f.** The indemnitee:
 - (1)** Agrees in writing to:
 - (a)** Cooperate with us in the investigation, settlement or defense of the **suit**;
 - (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **suit**;
 - (c)** Notify any other insurer whose coverage is available to the indemnitee; and
 - (d)** Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2)** Provides us with written authorization to:
 - (a)** Obtain records and other information related to the **suit**; and
 - (b)** Conduct and control the defense of the indemnitee in such **suit**.

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2. c. (2)** of Section **I - Coverage A - Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for **bodily injury** and **property damage** and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a.** We have used up the applicable limit of insurance in the payment of judgments or settlements; or

- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – SHARED EXCLUSIONS

EXCLUSIONS APPLICABLE TO COVERAGES A, B, D, AND E.

This insurance does not apply to:

1. Nuclear Hazard

a. Damages:

- (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit 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) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. Damages 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, an insured; or
 - (b) has been discharged or dispersed therefrom;
- (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 an insured; or
- (3) The damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

- a. **Hazardous properties** include radioactive, toxic or explosive properties;
- b. **Nuclear material** means **source material**, **special nuclear material** or **by-product material**;
- c. **Source material**, **special nuclear material**, and **by-product material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; **spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;
- d. **Waste** means any waste material:
 - (1) Containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and

- (2) Resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

e. **Nuclear facility** means:

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

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

- f. **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;

- g. **Property damage** includes all forms of radioactive contamination of property.

2. **Fungi**

- a. Damages which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **fungi** regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of **fungi** by any insured or by any other person or entity.

3. **War**

Any liability of whatever nature arising out of, resulting from, caused by or contributed to by:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

4. **Fines And Penalties**

Any claim seeking payment of:

- a. Fines, penalties, or multiplied damages;

- b. Punitive or exemplary damages, except where allowable by law; or

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- c. The cost of injunctive relief based upon or arising out of non-compliance with any statute, regulation, ordinance or administrative complaint.

5. Radioactive Matter

Any liability of whatever nature arising out of, resulting from, caused by or contributed to by:

- a. Ionizing radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel.
- b. The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.
- c. Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force of matter.
- d. Radioactive contamination however caused, whenever or wherever happening.

EXCLUSIONS APPLICABLE TO COVERAGES A AND B

This insurance does not apply to:

1. Pollution

- a. **Bodily injury, property damage or personal and advertising injury** which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
- b. Any loss, cost or expense arising out of any:
 - (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 - (2) Claim or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **pollutants**.

2. Asbestos

Bodily injury, property damage or personal and advertising injury, sickness, disease, occupational disease, disability, shock, death, mental anguish and mental injury at any time arising out of the manufacture, mining, use, sales, installation, distribution, removal, or encapsulation of, or exposure to asbestos products, asbestos fibers or asbestos dust, or to any obligation of the insured to indemnify any party because of damages arising out of such **bodily injury, property damage or personal and advertising injury**, sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury at any time as a result of the manufacture, mining, use, sales, installation, distribution, removal, or encapsulation of or exposure to asbestos products, asbestos fibers or asbestos dust.

It is further agreed that the Company is not obligated to defend any **suit** or claim against any insured alleging **bodily injury, property damage or personal and advertising injury** resulting from or contributed to, by any and all manufacture, mining, use, sales, installation, distribution, removal, or encapsulation of or exposure to asbestos products, asbestos fibers or asbestos dust.

3. Lead

- a. **Bodily injury** arising out of the ingestion, inhalation or absorption of lead in any form, or **property damage or personal and advertising injury** (if applicable) arising from any form of lead;

- b. Any loss, cost or expense arising out of any request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of lead; or
- c. Any loss, cost or expense arising out of any claim or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of lead.

4. Silica

- a. Any loss, claim, or **occurrence**, whether for **bodily injury, property damage, or personal and advertising injury** arising out of or in any way related to the actual, alleged or threatened discharge, dispersal, emission, release, escape, handling, contact with, exposure to or inhalation, ingestion or respiration of silica or products or substances containing silica or silicon dioxide in any form including, but not limited to, silica dust, sand or otherwise, or work involving the use of or handling of silica or silicon dioxide in any form, even if other causes are alleged to contribute to or aggravate such loss, claim or **occurrence**.
- b. Any loss, claim or **occurrence** arising from or related to:
 - (1) Any supervision, instruction, recommendations, warnings or advice given or which should have been given in connection with the events described in Paragraph a.;
 - (2) Any obligation to indemnify, defend, share damages with or repay someone else who must pay damages because of events described in Paragraph a.; and
 - (3) Any fines or penalties imposed because of events described in Paragraph a.

5. Employment Related Practices

Bodily injury or personal and advertising injury arising out of any:

- a. Refusal to employ;
- b. Termination of employment;
- c. Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions; or
- d. Consequential **bodily injury or personal and advertising injury** as a result of a. through c. 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.

6. Professional Liability

Bodily injury, property damage or personal and advertising injury based upon or arising out of the rendering of or failure to render **professional services**.

SECTION III - 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.
- 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.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your **volunteer workers** only while performing duties related to the conduct of your business, or 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** or **volunteer workers** are insureds for:

(1) **Bodily injury or personal and advertising injury:**

- (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), to a co-**employee** while in the course of his or her employment or performing duties related to the conduct of your business, or to your other **volunteer workers** while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-**employee** or **volunteer worker** 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
- (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, or
- (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, volunteer workers**, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. With respect to Coverages **A, B, and C**, any person (other than your **employee** or **volunteer worker**), 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 policy

3. 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 and advertising injury** arising out of an offense committed before you acquired or formed the organization; and
 - d. Coverage **D** does not apply to **bodily injury** or **property damage** that occurred before you acquired or formed the organization; and
 - e. Coverage **E** does not apply to any act, error or omission in the performance of **professional services** rendered 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.

4. Solely with respect to Coverages **A**, **B** and **D**, your clients, provided a written contract or agreement is in effect between you and the client, and solely with respect to **your work** performed by or on your behalf for that client. For Coverages **A** and **B**, such written contract or agreement must be in effect prior to the **occurrence** giving rise to the claim or **suit** for which the client seeks coverage. For Coverage **D**, such written contract or agreement must be in effect prior to the commencement of the **pollution conditions** for which the client seeks coverage. Your clients are covered under this policy only for Limits of Liability up to and not exceeding the amount required by the written contract or agreement and subject to the Limits of Liability of this policy.

SECTION IV - LIMITS OF INSURANCE

1. The Limits of Insurance 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**.
2. 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** except damages because of **bodily injury** or **property damage** included in the **products-completed operations hazard**;
 - c. Damages under Coverage **B**; and
 - d. Damages and supplementary payments under Coverages **D** and **E**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of **bodily injury** and **property damage** included in the **products-completed operations hazard**.
4. Subject to **2.** above, the Personal and Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all **personal and advertising injury** sustained by any one person or organization.

5. Subject to **2.** or **3.** above, whichever applies, the Each **Occurrence** Limit is the most we will pay for the sum of:
- a. Damages under Coverage **A**.
 - b. Medical expenses under Coverage **C**; and
 - c. Damages and supplementary payments under Coverage **D**;
- because of all **bodily injury** and **property damage** arising out of any one **occurrence**.
6. Subject to **2.** or **3.** above, whichever applies, the Each Claim Limit is the most we will pay for the sum of damages and supplementary payments under Coverage **E** because of any one claim.
7. Subject to **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of **property damage** to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
8. 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.

SECTION V - POLICY CONDITIONS

1. Bankruptcy

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

2. Cancellation

- a. This policy may be cancelled by the first Named Insured shown in the Declarations or by endorsement by mailing or delivering written notice to us stating when the cancellation date shall be effective.
- b. This policy may be cancelled by us for the following reasons:
 - (1) non-payment of premium;
 - (2) material misrepresentation or fraud by you;
 - (3) material change in the nature of risk as outlined in the application and submission materials on file with us; or
 - (4) the insured's failure to comply with the terms and conditions under this policy including the failure to pay any deductible amount or audit premium when due;

by mailing to the first Named Insured, at the last known address, written notice of not less than ten (10) days if cancellation is for either reasons (1) or (2) above, or thirty (30) days if cancellation is for either reasons (3) or (4) above. Proof of mailing of notice shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall be the end of the policy period.

3. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an **occurrence** 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** 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** 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. 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.

e. At the time you become aware of an act, error or omission to which this policy applies, if during the policy period you give us written notice containing the following:

(1) Details of the actual or alleged act, error or omission and the **professional services** rendered by you or on your behalf;

(2) The specific nature of the damages which have been sustained; and

(3) Details of how you first became aware of such act, error or omission;

then any claim that may subsequently be made against you arising out of such act, error or omission shall be deemed to have been made on the date we first received written notice of the act, error or omission.

This act, error or omission reporting provision shall terminate at the end of the policy period and shall not exist during the Automatic Extended Reporting Period or the Supplemental Extended Reporting Period.

4. **Inspection And Survey**

With reasonable notice to the insured, we shall be permitted, but not obligated, to inspect the insured's property and/or operations. Neither our right to make inspections or any report thereon, shall constitute an undertaking, on behalf of or for the benefit of you or others, to determine or warrant that such property or operations are safe or in compliance with environmental law, or any other law.

5. **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; 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. For purposes of this condition, a consent judgment,

stipulated judgment, agreed judgment, consent decree or consent order reached without our written agreement is neither an agreed settlement nor a final judgment.

6. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this policy, 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:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;
 - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for **property damage** to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, **auto** or watercraft to the extent not subject to Exclusion **d.**, of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed 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 this policy 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 has the obligation to defend, 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 retention 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.

7. Premium Audit

- a. We will compute all premiums for this policy in accordance with our rules and rates.
- b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured shown in the Declarations or as amended by endorsement. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured, subject to the minimum premium stated within the policy.
- c. 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.
- d. 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 (3) three years after the end of the policy period.

8. Premium Payment

The first Named Insured shown in the Declarations is responsible for the payment of all premiums due and will be the payee for any returned premiums we pay.

9. 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.

10. 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.

11. Transfer Of Policy

Your rights and duties under this policy may not be transferred without our written consent.

12. 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.

13. 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 non-renewal not less than 30 days before the expiration date.

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

SECTION VI – EXTENDED REPORTING PERIOD – COVERAGES D AND E ONLY

1. We will provide one or more Extended Reporting Periods, as described below, if:
 - a. This policy is canceled or not renewed; or
 - b. We renew or replace the coverage provided under Coverages **D** or **E** of this policy with insurance that:
 - (1) Has a Retroactive Date for Coverages **D** or **E** later than the date shown in the Declarations; or
 - (2) Coverages **D** or **E** do not apply on a claims made basis.
2. Extended Reporting Periods do not extend the policy period, change the scope of coverage provided or reinstate or increase the Limits of Insurance. They apply only to claims resulting from **pollution conditions** that arise from **your work** and/or actual or alleged acts, errors or omissions in the performance of **professional services** made before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations. Once in effect, Extended Reporting Periods may not be canceled.
3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for forty five (45) days with respect to claims first made against you and reported to us in writing. The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.
4. A Supplemental Extended Reporting Period of up to thirty-six (36) months is available with respect to claims first made against you and reported to us in writing but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph **3.** above, ends.

You must give us a written request for the endorsement within 45 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this policy for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 100% of the annual premium for this policy.

The Extended Reporting Period endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

SECTION VII – DEFINITIONS

1. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of

this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an **advertisement**.

2. **Auto** means:

- a. A land motor vehicle, trailer or semi trailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment**.

3. **Bodily Injury** means physical injury, sickness, disease, mental anguish, or emotional distress, sustained by any person, including death resulting from any of these at any time.

4. **Cleanup Costs** means the reasonable expenses incurred for the investigation, monitoring, testing, removal, disposal, neutralization, or treatment of **pollution conditions** to the extent required by applicable federal, state or local governmental law pursuant under which the insured has or may have a legal obligation.

5. **Coverage Territory** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada; and
- b. All other parts of the world if the insured's responsibility to pay damages is determined in a **suit** on the merits, in the territory described in **a.** above or in a settlement we agree to.

6. **Employee** includes a **leased worker**. **Employee** does not include a **temporary worker**.

7. **Executive Officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

8. **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by **fungi**, but does not include any **fungi** intended by the insured for consumption.

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.
- g. 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) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render **professional services**, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

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 or 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 **auto** 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.

However, **mobile equipment** does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered **autos**.

- 14. **Natural Resource Damage** means damage to, injury to, destruction of, or loss of, ground water, wildlife, biota, air, land, water, fish, drinking water supplies, and/or similar resources belonging to, held in trust by, managed by, appertaining to, or otherwise controlled by the United States, any State or local government, any foreign government, or any Indian Tribe, including the reasonable costs of assessing such injury, destruction or loss resulting therefrom.
- 15. **Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 16. **Personal And Advertising Injury** means injury, including consequential **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, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your **advertisement**; or
- g. Infringing upon another's copyright, trade dress or slogan in your **advertisement**.

SPECIMEN

17. **Pollutant(s)** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

18. **Pollution Conditions** means the discharge, dispersal, release, seepage, migration, or escape of **pollutants**.

19. **Products-Completed Operations Hazard:**

a. Includes all **bodily injury** and **property damage** 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** or **property damage** 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

(3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. **Professional Services** means those services performed by you or on your behalf, that are related to your practice as an engineer, consultant, architect, or surveyor that are performed for others for a fee.

21. **Property Damage** means:

a. Physical injury to tangible property, including 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;

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; or

c. Solely with respect to Section I - Coverages **D** and **E**, **property damage** shall include **cleanup costs** and **natural resource damage**.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

22. **Suit** means a civil proceeding in which damages because of **bodily injury**, **property damage**, **personal and advertising injury**, or **professional services** 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. Volunteer Worker** means a person who is not your **employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 25. Your Product:**
- a. Means:
 - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 26. Your Work:**
- a. Means:
 - (1) Work or operations performed by you or on your behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**, and
 - (2) The providing of or failure to provide warnings or instructions.