

COMMERCIAL GENERAL LIABILITY AND PROFESSIONAL LIABILITY POLICY

NOTICE: COVERAGE D PROVIDES "CLAIMS-MADE-AND-REPORTED" COVERAGE, AND HAS REPORTING REQUIREMENTS DIFFERENT FROM THOSE FOR COVERAGES A AND B. COVERAGE D REQUIRES THAT A CLAIM BE FIRST MADE UPON THE INSURED AND REPORTED IN WRITING TO US DURING THE SAME POLICY PERIOD OR EXTENDED REPORTING PERIOD, IF ANY.

PLEASE READ THE ENTIRE FORM CAREFULLY.

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 bold have special meaning. Refer to DEFINITIONS (Section VI).

The statements in the Insured's application for this Policy are the Insured's representations, are hereby deemed material and are hereby made a part of this Policy. This Policy has been issued based upon the truth and accuracy of such representations. This Policy includes all of the agreements existing between the Insured and the Company or any of its agents relating to this Policy.

In any endorsement to this policy, all references to "COMMERCIAL GENERAL LIABILITY COVERAGE PART" shall be deemed to be replaced with the following reference on each occasion: "COMMERCIAL GENERAL LIABILITY AND PROFESSIONAL LIABILITY 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** 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 III - LIMITS OF INSURANCE AND DEDUCTIBLE; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A or B, medical expenses under Coverage C, or **loss** under Coverage D.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

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

NOTICE: THIS INSURER IS NOT LICENSED IN THE STATE OF NEW YORK AND IS NOT SUBJECT TO ITS SUPERVISION

- (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. The 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 civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

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.

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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** arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.

(2) Any **loss, cost or expense** arising out of any:

- (a) 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 **pollutants**; or
- (b) **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**.

(3) Part (1) of this exclusion does not apply to:

- (a) **Bodily injury** or **property damage** arising out of heat, smoke or fumes from a **hostile fire** at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. This applies only when such premises, site or location has never at anytime been used by anyone for the handling, storage, disposal, processing or treatment of waste.
- (b) **Bodily injury** if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building.

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- (4) This exclusion does not apply to **bodily injury** or **property damage** when:
- (a) The actual or alleged discharge, dispersal, seepage, migration, release or escape of **pollutants** arises out of **your work** and takes place at a job site where you or your subcontractors are working; and
 - (b) Such job site was never at any time owned or occupied by, or rented or loaned to any insured, other than an insured which is an additional insured or qualifies as an insured under Section II, paragraph 5.
- (5) This exclusion does not apply to **bodily injury** or **property damage** when the actual or alleged discharge, dispersal, seepage, migration, release or escape of **pollutants** arises out of the **products-completed operations hazard** of **your work**, as described in Section VI – DEFINITIONS, paragraph 23.
- (6) With respect to paragraphs (4) and (5) of this exclusion, in determining whether **bodily injury** or **property damage** has occurred during the **policy period**, the following rules apply:
- (a) Progressive, indivisible **bodily injury** or **property damage** over a period of days, weeks, months or longer, caused by related or continuous exposure to substantially the same general harmful conditions or substances, shall be deemed to have occurred only on the date of first exposure to such conditions or substances.
 - (b) However, if the date of first exposure cannot be determined, or is before the inception date of the first policy we issued to you which provides coverage substantially similar to that provided under paragraphs (4) and (5) above, but the progressive, indivisible **bodily injury** or **property damage** continues in fact to exist during this **policy period**, it will be deemed to have occurred only on the inception date of the first such Policy.
 - (c) An **occurrence** may result in **bodily injury** or **property damage** which occurs during the policy periods of different policies we issued to you which provide coverage substantially similar to that provided under paragraphs (4) and (5) of this exclusion. In that case, all **bodily injury** and **property damage** resulting from such **occurrence** shall be subject to the Each Occurrence Limit applicable to the first such Policy during which any of such **bodily injury** or **property damage** occurred.

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;
- (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** (Section VI); or
- (6) **Bodily injury** or **property damage** within the exceptions described in sub-paragraphs (4) and (5) of Exclusion f., Pollution, of SECTION 1. – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. EXCLUSIONS, and which is caused by:
 - (a) **Loading or unloading** of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured; or
 - (b) Transportation of materials on the job site where you are performing **your work**.

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.

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 III - LIMITS OF INSURANCE AND DEDUCTIBLE.

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. **Personal And Advertising Injury**

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

p. **Asbestos**

- (1) **Bodily injury** arising out of the presence, ingestion or inhalation of, or exposure to, asbestos in any form or products containing asbestos; or
- (2) **Property damage** arising out of the presence of, or exposure to, asbestos in any form or products containing asbestos.

This exclusion does not apply to **bodily injury** or **property damage** within the exceptions described in sub-paragraphs (4) and (5) of Exclusion f., Pollution of Section 1. – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. EXCLUSIONS.

q. **Lead**

- (1) **Bodily injury** arising out of the presence, ingestion, inhalation or absorption of, or exposure to, lead in any form or products containing lead; or
- (2) **Property damage** arising out of the presence of, or exposure to, lead in any form or products containing lead.

This exclusion does not apply to **bodily injury** or **property damage** within the exceptions described in sub-paragraphs (4) and (5) of Exclusions f., Pollution of Section 1. – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. EXCLUSIONS.

r. **Employment - Related Practices**

Bodily injury to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of **bodily injury** to that person at whom any of the employment-related practices described in paragraphs (a), (b), or (c) above is directed.

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.

s. **Professional Services**

Bodily injury or **property damage** arising out of the rendering of or failure to render any **professional services** by or for you by any engineer, architect, consultant or surveyor who is either employed by you or performing work on your behalf in such capacity.

t. **Nuclear Material**

Any **claim** for **bodily injury** or **property damage** resulting from the radioactive, toxic or explosive properties of **nuclear material**, and for which the United States Department of Energy or any other government authority has indemnified the Named Insured, or for which the Price Anderson Act provides protection for the Named Insured.

u. **Waste Disposal Site**

Any **claim** based upon or arising out of any waste or products or materials which have been delivered to a **waste disposal site**, beyond the boundaries of a site at which **your work** is being performed

v. **Covered by Other Coverages**

Any **claim** or part thereof which may be alleged as covered under this Coverage of this Policy if we have accepted coverage or coverage has been held to apply for such **claim** or part thereof under any other coverage in this Policy. This exclusion does not apply to any **claim** for medical expenses under Coverage C caused by **bodily injury** which is covered under Coverage A.

Exclusions c. through r. 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 III - LIMITS OF INSURANCE AND DEDUCTIBLE .

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** 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 III - LIMIT OF INSURANCE AND DEDUCTIBLE; and

- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A or B, medical expenses under Coverage C, or **loss** under Coverage D.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

- 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

This insurance does not apply to:

a. **Personal and advertising injury:**

- (1) 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**;
- (2) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication of material whose first publication took place before the beginning of the **policy period**;
- (4) Arising out of a criminal act committed by or at the direction of any insured;
- (5) 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;
- (6) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your **advertisement**;
- (7) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your **advertisement**;
- (8) Arising out of the wrong description of the price of goods, products or services stated in your **advertisement**;
- (9) Committed by an insured whose business is advertising, broadcasting, publishing or telecasting. However, this exclusion does not apply to Paragraphs 19.a., b. and c. of **personal and advertising injury** under Section VI - DEFINITIONS;
- (10) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time;
- (11) Arising out of the presence, ingestion or inhalation of, or exposure to, asbestos in any form or products containing asbestos;
- (12) Arising out of the presence, ingestion, inhalation or absorption of, or exposure to, lead in any form or products containing lead;

- (13) Arising out of:
- (a) An error, omission, defect or deficiency in:
 - (i) any test performed;
 - (ii) an evaluation, a consultation or advise given by, or on behalf of, any insured;
 - (b) The reporting of or reliance upon any such test, evaluation, consultation or advise; or
 - (c) An error, omission, defect or deficiency in experimental data or the insured's interpretation of that data.
- (14) Resulting from the radioactive, toxic or explosive properties of **nuclear material**, and for which the United States Department of Energy or any other government authority has indemnified the Named Insured, or for which the Price Anderson Act provides protection for the Named Insured.

b. Any **loss**, cost or expense arising out of any:

- (1) 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 **pollutants**; or
- (2) 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 **pollutants**.

c. **Personal and advertising injury** to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of **personal and advertising injury** to that person at whom any of the employment-related practices described in paragraphs (a), (b), or (c) above is directed.

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.

d. **Personal and advertising injury** arising out of the rendering or failure to render any **professional services** by or for you.

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- e. Any **claim** or part thereof which may be alleged as covered under this Coverage of this Policy if we have accepted coverage or coverage has been held to apply for such **claim** under any other coverage in this Policy.

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.

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

COVERAGE D. - PROFESSIONAL LIABILITY

1. Insuring Agreement

A. Coverage

We will pay on behalf of the insured, **loss** that the insured is legally obligated to pay as a result of **claims** first made against the insured and reported to the Company in writing during the **policy period** for actual or alleged errors or omissions arising out of **professional services** rendered by or on behalf of the insured provided:

1. The **professional services** which result in a **claim** must commence on or after the Retroactive Date stated in the Declarations; and
2. The insured must report the **claim** to the Company in accordance with Section IV. 2. of this Policy during the **policy period**, within sixty (60) days immediately following the end of the **policy period**, or during the Extended Reporting Period if applicable.

B. Defense

When a **claim** is made against the insured to which Paragraph 1.A. above applies, we have the right to appoint counsel and the duty to defend such **claim**, even if groundless, false, or fraudulent.

Upon the insured's satisfaction of any applicable deductible amounts, **claim expenses** shall be paid by us and such payments shall be included as **loss** and reduce the available Limit of Insurance. We shall not be obligated to defend or continue to defend any **claim** after the applicable Limit of Insurance has been exhausted by payment of **loss**.

C. Settlement

We will not settle or compromise a **claim** without the consent of the insured. If the insured refuses to consent to a settlement or compromise recommended by the us and elects to contest such **claim** or continue legal proceedings in connection with such **claim**, our Limit of Liability for the **claim** shall not exceed the amount for which the **claim** could have been so settled plus **claim expenses** incurred up to the date of such refusal, subject to the applicable Limits of Insurance of this Policy.

2. Exclusions

This insurance does not apply to:

- a. Any **claim** based upon or arising out of **professional services** rendered prior to the inception date of this Policy, if any of your managers, supervisors, officers, directors, or partners knew or reasonably could have foreseen that such **professional services** could give rise to a **claim** under this Policy.
- b. (1) Any **claim** based upon or arising out of any fraudulent, criminal, or malicious act or omission, or those of a knowingly wrongful nature committed intentionally by or at the direction of an insured; or

(2) Any **claim** based upon or arising out of your knowing, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.

This exclusion shall not apply to an insured who did not commit, participate in or have knowledge of such act, omission or noncompliance.

- c. Any **claim** brought by one insured against any other insured.
- d. Any **claim** based upon or arising out of discrimination by an insured on the basis of race, creed, national origin, disability, age, marital status, sex, or sexual orientation.
- e. Any **claim** based upon or arising out of any insured's involvement as a partner, officer, director, stockholder, employer or **employee** of any business enterprise not named in the Declarations.
- f. Any **claim** based upon or arising out of an insured's involvement in **professional services** rendered to, or on behalf of, any organization, or subsidiary or affiliate thereof, not named in the Declarations, which an insured controls, manages, operates or holds more than a 25% ownership interest in, or which controls, manages, operates or holds more than a 25% ownership interest in an insured.
- g. Any **claim** based upon or arising out of the design or manufacture of **your product**.
- h. Any **claim** based upon or arising out of express warranties or guarantees, provided that this exclusion shall not apply if **loss** would have resulted in the absence of such express warranties or guarantees.
- i. Any **claim** arising out of the insured's requiring, obtaining, maintaining, advising or failing to require, obtain, maintain or advise of any bond, suretyship or any form of insurance.
- j. Any **claim** arising out of the cost to repair or replace faulty workmanship, assembly, construction, erection, fabrication, installation or remediation if such work is performed in whole or in part by:
 - (1) An insured; or
 - (2) Any organization, or subsidiary or affiliate thereof, which an insured controls, manages, operates or holds more than a 25% ownership interest in, or which controls, manages, operates or holds more than a 25% ownership interest in an insured.
- k. Any **claim** based upon or arising out of liability of others assumed by you under any contract or agreement. This exclusion does not apply to liability:
 - (1) For actual or alleged errors or omissions arising out of **professional services** rendered by or on behalf of the insured;
 - (2) That you would have in the absence of the contract or agreement.
- l. Any **claim** for any civil, administrative or criminal fines or penalties imposed directly against an insured.
- m. Any **claim** based upon or arising out of the bankruptcy or insolvency of an insured or of any other person, firm or organization.

- n. Any **claim** for **bodily injury** sustained by any of your **employees** while employed by you, or by any person whose right to assert a **claim** against you arises by reason of any employment, blood, marital, or any other relationship with the **employee**.
- o. Any **claim** based upon or arising out of any obligation for which an insured or any party may be held liable under any employment, workers' compensation, disability benefits, or other similar laws.
- p. Any **claim** based upon or arising out of the entrustment, maintenance, operation, use, **loading or unloading** of any watercraft, aircraft, **auto, mobile equipment** or rolling stock of any kind, which is owned, operated, rented by or loaned to an insured.
- q. Any **claim** based upon or arising out of any waste or products or materials which have been delivered to a location beyond the boundaries of a site for which an insured is rendering **professional services**.
- r. Any **claim** in connection with any real property or facility which is or was at any time owned, operated, rented, or occupied by you or by any entity that:
 - (1) Wholly or partly owns, operates, manages, or otherwise controls you; or
 - (2) Is wholly or partly owned, operated, managed, or otherwise controlled by you.
- s. Any **claim** or part thereof which may be alleged as covered under this Coverage of this Policy, if we have accepted coverage or coverage has been held to apply for such **claim** or part thereof under any other Coverage in this Policy.
- t. Any **claim** for **bodily injury** or **property damage** resulting from the radioactive toxic or explosive properties of **nuclear material**, and for which you are indemnified by the United States Department of Energy or any other government authority, or for which you are provided protection by the Price Anderson Act.

SUPPLEMENTARY PAYMENTS

- 1. With respect to Coverages A and B, we will pay, with respect to any **claim** we investigate or settle, or any **suit** against an insured we defend:
 - a. All expenses we incur.
 - 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 you 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, except as provided in paragraph 3, below.
 - e. All costs taxed against you in the **suit**.
 - f. Prejudgment interest awarded against you 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.

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- 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.

- 2. With respect to Coverages A and B, 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 a contract or agreement that is 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** 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.b.(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.
3. With respect to Coverages A, B and D, we will pay up to \$500 to each insured for each day or part of a day that any insured attends as a witness at any trial, deposition, or interrogatory at which we have requested the insured's attendance, or when such attendance is required by court. This payment shall only apply to appearances involving **claims** against an insured. The maximum payable amount for such appearances made during the policy period shall not exceed \$5,000 as a total aggregate regardless of how many appearances are actually made during the policy period, or how many different insureds make appearances, and regardless of any other fact, circumstance, or situation.

These payments will not reduce the limits of insurance.

INDEPENDENT COUNSEL – COVERAGES A, B AND D

In the event the insured is entitled by law to select independent counsel to defend the insured at our expense, the attorney fees and all other litigation expenses we must pay to that counsel are limited to the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar **claims** in the community where the **claim** arose or is being defended.

Additionally, we may exercise the right to require that such counsel have certain minimum qualifications with respect to their competency including experience in defending **claims** similar to the one pending against the insured and to require such counsel to have errors and omissions insurance coverage. As respects any such counsel, the insured agrees that counsel will timely respond to our requests for information regarding the **claim**.

Furthermore, the insured may at any time, by the insured's signed consent, freely and fully waive its right to select independent counsel.

SECTION II. - WHO IS AN INSURED

1. Under Coverages A, B and C, 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.

2. Under Coverages A, B and C, 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 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), or to another **employee** while that other **employee** is either in the course of his or her employment or while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that other **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
- (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 the applicable Coverage Section.

3. Under Coverages A, B and C, 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 another **employee**, employed along with 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. Under Coverages A, B and C, 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.
 - c. Coverage B does not apply to **personal and advertising injury** arising out of an offense committed 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 the Named Insured in Item 1 of the Declarations.

5. Under Coverage A, all clients whom you have agreed, by written contract, to include as additional insureds, but only for liability arising out of **your work**, and excluding liability arising out of such clients own negligence.
6. Under Coverage D., each of the following is an insured:
- a. The person or entity designated as the Named Insured in Item 1 of the Declarations;
 - b. Any person who is or was a partner, officer, director, stockholder or **employee** of the Named Insured but only while rendering **professional services** on behalf of the Named Insured; and
 - c. The heirs, executors, administrators, and legal representatives of each insured as defined in paragraphs a., and b. above in the event of death, incapacity or bankruptcy of the insured, but only with respect to liability arising out of **professional services** rendered by the Named Insured prior to such insured's death, incapacity or bankruptcy.

SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE

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, other than those covered under paragraph (5) of Exclusion f., Pollution, in Section I., Coverage A, because of **bodily injury** or **property damage** included in the **products-completed operations hazard**;

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- c. Damages under Coverage B; and
 - d. **Loss** under Coverage D.
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; and
 - b. Medical expenses under Coverage C,
- because of all **bodily injury** and **property damage** arising out of any one **occurrence**.
6. 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 case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
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.
8. Subject to 2. above, the Each Loss Limit is the most we will pay under Coverage D for all **loss** for each covered **claim**. If a **claim** is first made against the insured and reported to us in accordance with Section IV. 2. of this Policy during the **policy period**, within 60 days immediately following the end of the **policy period**, or during the Extended Reporting Period, if applicable, any **claims** reported under a subsequent Policy issued by us or our affiliate arising out of the same, related, continuous negligent act, error or omission shall be deemed to have been first made against the insured and reported to us during the Policy period when the first of such **claims** was made and reported. The Each Loss Limit of liability of the Policy in effect when the first such **claim** was made against you and reported to us shall apply to all such **claims**.

Such subsequent **claims** will not be covered under this Policy unless you have maintained Professional Liability Insurance with us or another member company of American International Group, Inc. on a successive and uninterrupted basis since the date the first of such **claims** was made against you and reported to us.

9. The Deductible amount shown in the Declarations applies to each **occurrence** or each **loss**, as the case may be. The Limits of Insurance apply in excess of the Deductible amount. You shall promptly reimburse us for advancing any amounts within your Deductible.

If you and we jointly agree to utilize mediation as a means to resolve a **claim** made against you, and if such **claim** is resolved as a direct result of the mediation, your Deductible obligation shall be reduced by 50% subject to a maximum reduction of \$5,000. We shall reimburse you for any such reimbursable deductible payment made prior to the mediation as soon as practicable after the conclusion of the mediation.

10. The Limits of Insurance of this Policy apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months, starting with the beginning of the **policy period** shown in the Declarations. If the **policy period** is extended after Policy inception for an additional period of less than twelve (12) months, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV. CONDITIONS

1. Bankruptcy

Your bankruptcy or insolvency or that of your estate will not relieve us of our obligations under this Policy.

2. Duties in the Event of Occurrence, Offense, Claim or Suit

- a. You must see to it that we are notified as soon as practicable in writing of an **occurrence**, offense or error or omission which may result in a **claim**. Notice should include:

- (1) How, when and where the **occurrence**, offense or error or omission 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**, offense or error or omission.

Notice of an **occurrence**, offense, or act, error or omission is not notice of a **claim**.

- 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. If notice is given verbally, you must confirm such notice to us in writing as soon as practicable, but not later than sixty (60) days from the date you received the **claim**.

- 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 insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Reporting of a Possible Claim under Coverage D

If during the **policy period**, you first become aware of a **possible claim**, you may provide written notice to us during the **policy period** at the address set forth in paragraph 4. below, containing all the information listed below. Any **possible claim** that subsequently becomes a **claim** shall be deemed for the purpose of this Policy to have been made during the **policy period** of this Policy, and such **claim** shall be subject to the terms, conditions and limits of coverage of this Policy. You shall cooperate fully with us and any investigation conducted by us or our authorized representatives and you shall be subject to the terms set forth in Section IV. paragraph 2., above, applicable to a **claim**.

It is a condition precedent to the coverage afforded by this Section that written notice contain all of the following information:

1. The circumstances of the actual or alleged errors or omissions which are the subject of the **possible claim**;
2. The **professional services** which gave rise to 1. above;
3. The date(s) of such conduct;
4. The injury or damage which has or may result from such conduct;
5. The identity(s) of the insured(s) who may be subject of the **possible claim**;
6. The identity(s) of any potential claimant(s);
7. The anticipated location(s) of any such **possible claim**; and
8. The circumstances by which you first became aware of the **possible claim**.

If all the above information is not so provided or is, in our reasonable judgment, deemed inadequate, we shall inform you in writing that any **claim** made after the **policy period** relating to the circumstances described in the written notice will not be considered as covered under this Policy.

4. To Whom Notice Shall be Delivered

All Notices required under this Section IV. 2. and 3. shall be reported to:

Manager, Pollution Insurance Products Dept.
Chartis Claims, Inc.
Attn.: CID
101 Hudson Street, 31st Floor
Jersey City, NJ 07302
Fax: 866-260-0104
Email: severityfno@chartisinsurance.com

or other address(es) as substituted by the Company in writing.

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 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.

6. Other Insurance

Applicable to Coverages A and B

If other valid and collectible insurance is available to an insured for a loss we cover under Coverages A or B of 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, **autos** or watercraft to the extent not subject to Exclusion g. of Section I - COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY.
- (e) Where you are an insured on a Policy for **your work** performed at a specific job site and that applies to a specific job site.

(2) 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 to such other primary insurance.

When this insurance is excess, we will have no duty under Coverage A or B 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 such 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.

Applicable to Coverage D

If other valid insurance, whether collectible or not, is available to the insured for **loss** covered under the terms and conditions of Coverage D., our obligation to the insured shall be as follows:

- a. This insurance shall apply as excess insurance over any other valid insurance, whether collectible or not, be it primary or excess including, but not limited to insurance where you are an insured on a Policy for **professional services** performed by or on your behalf at a specific job site and that applies to a specific job site. This excess insurance shall in no way be increased or expanded as a result of the receivership, insolvency, or inability to pay of any insurer with respect to both the duty to indemnify and the duty to defend.
- b. Where this insurance is excess insurance, we will pay only our share of the amount of **loss**, if any, that exceeds the total amount of all such valid insurance, including any applicable deductible or self-insured amounts under such insurance coverage(s).

You shall promptly upon our request provide us with copies of all policies potentially applicable to **loss** covered by Coverage D.

7. 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.

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8. 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.

9. Subrogation

If there is a payment made by the Company under this Policy, the Company shall be subrogated to all the insured's rights of recovery against any person or organization. The insured shall cooperate with the Company and do whatever is necessary to secure these rights. The insured shall do nothing after a **claim** or **occurrence** to waive or prejudice such rights.

Any recovery as a result of subrogation proceedings arising out of payment under this Policy (net of expenses incurred in making such recovery) shall accrue first to you to the extent of any payment in excess of the limit of coverage of the Policy, then pro-rata to you and us in proportion to the amount each actually paid as a result of judgment, settlement or defense of a **claim**.

We agree to waive this right of subrogation against your client to the extent that the you had, prior to a **claim** or **occurrence**, a written agreement to waive such rights.

10. Service of Suit

It is agreed that in the event of our failure to pay any amount claimed to be due hereunder, we, at your request, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon General Counsel, Legal Department, 175 Water Street, New York, New York 10038, or his or her representative, and that in any suit instituted against us upon this contract, we will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, we hereby designate the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on your behalf or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named General Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

11. 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

1. You may purchase an optional sixty (60) month Extended Reporting Period as described in paragraph 3 below, only if:
 - a. Coverage D is cancelled or not renewed for any reason except non-payment of premium;
 - b. We renew or replace Coverage D with other insurance that provides claims-made coverage with a Retroactive Date later than the one shown in the Declarations; or
 - c. We replace this Coverage D with other insurance that applies on other than a claims-made basis.

The optional Extended Reporting Period will not reinstate or increase the Limits of Insurance or extend the **policy period**.

2. If you purchase the optional Extended Reporting Period Endorsement, the Extended Reporting Period will be sixty (60) months, starting with the end of the **policy period**. We will issue that Endorsement if the first Named Insured shown in the Declarations:
 - (1) Makes a written request for it which we receive within sixty (60) days after the end of the **policy period**; and
 - (2) Promptly pays the additional premium when due.

This optional Extended Reporting Period Endorsement will not take effect unless the additional premium is paid when due. If that premium is paid when due, the Endorsement may not be cancelled.

The optional Extended Reporting Period Endorsement will also amend Section IV. 6. (Other Insurance) so that the insurance provided will be excess over any other valid and collectible insurance available to the insured, whether primary, excess, contingent or on any other basis, whose policy period begins or continues after the effective date of the Extended Reporting Period Endorsement.

3. We will determine the actual premium for the optional Extended Reporting Period Endorsement 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 Coverage Part for future payment of damages; and
 - d. Other related factors.

The premium for the optional sixty (60) month Extended Reporting Period Endorsement will not exceed 200% of the annual premium and will be fully earned when the Endorsement takes effect.

SECTION VI - 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.
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, with respect to Coverages A, B, and C, bodily injury, sickness or disease sustained by a person, including mental anguish or death resulting from any of these at any time.

With respect to Coverages D and within the exceptions described in paragraphs (4) and (5) of Exclusion f., Pollution of Section 1. – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Paragraph 2. EXCLUSIONS; **Bodily injury** means physical injury, or sickness, disease, mental anguish or emotional distress sustained by any person, including death resulting therefrom.

4. **Claim** means a written demand received by an insured seeking a remedy and alleging liability or responsibility on the part of the insured for compensatory damages under Coverage A or B, or **loss** under Coverage D. **Claim** includes a **suit**. A **claim** does not include a **possible claim** that has been reported under a prior policy and, which has become a **claim** during the **policy period** of this Policy as described in Section IV. 3.

5. **Claim expenses** means:

- a. Fees charged by any lawyer designated by us; and
- b. All other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim**, if authorized by us.

Claim expenses shall not include:

- a. The salaries of any employee of ours; and
- b. Costs, charges or other expenses incurred by the insured for goods supplied or services performed by or on behalf of the staff or salaried employees of the insured or its parent, subsidiary or affiliate, unless such costs, charges or other expenses are incurred with the prior written approval of us at our sole discretion.

6. **Coverage territory** means:

- a. The United States, its territories or possessions, or Canada; or
- b. All parts of the world, excluding: Angola, Cuba, Haiti, Iran, Iraq, Libya, Afghanistan, the Democratic Republic of Sudan or the or the Federal Republic of Yugoslavia (Serbia and Montenegro) if:
 - (1) The injury or damage arises out of goods or products made or sold by you in the territory described in (a) above
 - (2) 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 to which we agree; or
- c. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. or b. above.

With respect to **claims** subject to Paragraph b. above:

- a. We shall have the right but not the duty to investigate, defend, or settle such **claims**. If we do not exercise this right, you shall, under the our supervision, make such investigation and defense as is reasonably necessary. Subject to prior written authorization by us, you may also effect settlement.

We shall reimburse you for the reasonable costs of such actions, subject to all other provisions of this Policy.

- b. This insurance shall not serve as proof of insurance: (i) in any country where non-admitted insurance is prohibited by local applicable law; or (ii) without our prior written consent.
- c. In our sole discretion we may issue proof of insurance documents to a third party upon your request, but we are not obligated to do so.

7. **Employee** includes a **leased worker** and 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. **Hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be.

10. **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:
 - (1) The repair, replacement, adjustment or removal of **your product** or **your work** or
 - (2) Your fulfilling the terms of the contract or agreement.

11. **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 fifty (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 fifty (50) feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, 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, or 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 any 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.

12. **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**.

13. **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**.

14. **Loss**, as used in Coverage D, means:

- a. Monetary awards or settlements of compensatory damages, but does not include injunctive or equitable relief, or the return of fees or other charges for services rendered;
- b. Costs, charges and expenses incurred in the defense, investigation or adjustment of **claims** for such compensatory damages.

15. **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:

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- (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;
 - (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.

16. **Natural resource damage** means physical injury to or destruction of, including the resulting loss of value of, land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

17. **Nuclear material** means **source material, special nuclear material or by-product material**.

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

19. **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 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.
- 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**.

20. **Policy period** means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of cancellation of this Policy.

21. **Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

22. **Possible claim** means actual or alleged errors or omissions arising out of **professional services** commencing on or after the Retroactive Date stated in the Declarations which are reasonably expected to result in a **claim** under Coverage D. and as referenced in Section IV. Paragraph 3. Reporting of a Possible Claim under Coverage D.

23. **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; or
 - (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

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(3) Products or operations for which the classification in this Coverage Part or in our manual of rules includes products or completed operations.

24. **Professional services** means those architectural, engineering, consulting, project management or construction management services, including those as set forth in the application, or other services as specifically defined by endorsement to this Policy, that are performed for a fee by you or on your behalf.

25. **Property damage** means:

- a. Physical injury to or destruction of tangible property of parties other than the insured, including all resulting loss of use and diminution of value thereof. 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, but not diminution of value, 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. **Natural resource damage**; or
- d. Solely with respect to coverage within the scope of paragraphs (4) and (5) of Exclusion f., Pollution, in Section I., Coverage A, 2. Exclusions, **property damage** also means those costs or expenses arising out of the testing, monitoring, clean up, removal, containment, treatment, detoxification, neutralization or other response to or assessment of the effect of **pollutants**.

26. **Source material, special nuclear material and by-product material** have the meanings given them in the Atomic Energy Act.

27. **Suit** means a civil proceeding in which damages 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.

28. **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.

29. **Waste disposal sites** means sites utilized for the purpose of the disposal, handling, storage, processing, or treatment of any waste, whether hazardous or not and whether authorized or not.

30. **Your product** means:

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

31. **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.

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Specimen