

Administrative Offices:

**Commercial Umbrella Liability Policy
Occurrence Form**

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 an "Insured" under this policy. The words "we," "us" and "our" refer to the company providing this insurance.

Words that appear in quotation marks have special meaning. Refer to SECTION V - DEFINITIONS.

SECTION I - INSURING AGREEMENT - COMMERCIAL UMBRELLA LIABILITY

A. We will pay on behalf of the "Insured" those sums in excess of the "Retained Amount" that the "Insured" becomes legally obligated to pay as damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies. The amount we will pay is limited as described in SECTION IV - LIMITS OF INSURANCE.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SECTION II - DEFENSE AND SUPPLEMENTARY PAYMENTS.

B. This policy applies, only if:

1. The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
2. The "bodily injury" or "property damage" occurs during the "policy period";
3. The "personal and advertising injury" is caused by offense arising out of your business, but only if the offense was committed in the "coverage territory" during the "policy period"; and
4. Prior to the "policy period", no "Insured" shown in Paragraph J.2.a. of SECTION V - DEFINITIONS and, no officer, no manager in your risk management, insurance or legal department and no "employee" who was authorized by you to give or receive notice of an "occurrence", offense, claim or "suit", knew that the "bodily injury" or "property damage" had occurred, in whole or in part, or that an "occurrence" had been committed that caused "personal and advertising injury". If such an "Insured", officer, manager or authorized "employee" knew, prior to the "policy period", that the "bodily injury" or "property damage" had occurred or that an "occurrence" had been committed that caused "personal and advertising injury", then any continuation, change or resumption of such "bodily injury", "property damage" or "personal and advertising injury" during or after the "policy period" will be deemed to have been known prior to the "policy period".

C. "Bodily injury", "property damage", or "personal and advertising injury" which occurs during the "policy period" and was not, prior to the "policy period", known to have occurred by any "Insured" shown in Paragraph J.2.a. of SECTION V - DEFINITIONS or any officer, any manager in your risk management, insurance or legal department or any "employee" authorized by you to give or receive notice of an "occurrence", offense, claim or "suit", includes any continuation, change or resumption of that "bodily injury", "property damage", or "personal and advertising injury" after the end of the "policy period".

D. "Bodily injury", "property damage" or "personal and advertising injury" will be deemed to have been known to have occurred at the earliest time when any "Insured" shown under Paragraph J.2.a. of SECTION V. DEFINITIONS, any officer, any manager in your risk management, insurance or legal department or any "employee" who was authorized by you to give or receive notice of an "occurrence", offense, claim or "suit":

1. Reports all, or any part, of the "bodily injury", "property damage" or "personal and advertising injury" to us or any other insurer;
2. Receives a written or verbal demand or claim for damages because of the "bodily injury", "property damage" or "personal and advertising injury"; or

3. Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur or that an "occurrence" or offense has been committed that has caused or may cause "personal and advertising injury".
- 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".
- F. If we are prevented by law or statute from paying damages covered by this policy on behalf of the "Insured", then we will indemnify the "Insured" for those sums in excess of the "Retained Amount".

SECTION II - DEFENSE AND SUPPLEMENTARY PAYMENTS

- A. We will have the right and duty to defend any "suit" against the "Insured" that seeks damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies, even if the "suit" is groundless, false or fraudulent when:
1. The total applicable limits of "scheduled underlying insurance" and any applicable "other insurance" have been exhausted by payment of damages to which this policy applies; or
 2. Subject to Paragraph B. of this Section II, the damages sought because of "bodily injury", "property damage" or "personal and advertising injury" would not be covered by "scheduled underlying insurance" or any applicable "other insurance", even if the total applicable limits of either the "scheduled underlying insurance" or any applicable "other insurance" had not been exhausted by the payment of damages.

If we are prevented by law or statute from assuming the obligations specified under this provision, we will pay any expenses incurred with our consent.

- B. We will have no duty to defend the "Insured" against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply, including, but not limited to, Paragraph W. of SECTION III - EXCLUSIONS.
- C. When we assume the defense of any "suit" against the "Insured" that seeks damages to which this insurance applies, we will, subject to the limits of insurance:
1. Investigate, negotiate and settle the "suit" as we deem appropriate; and
 2. Pay the following Supplementary Payments to the extent that such payments are not covered by "scheduled underlying insurance" or any applicable "other insurance":
 - a. All expenses we incur;
 - b. Premiums on bonds to release attachments for amounts not exceeding the applicable limits of insurance of this policy, but we are not obligated to apply for or furnish any such bond;
 - c. Premiums on appeal bonds required by law to appeal a judgement in a "suit" for amounts not exceeding the applicable limits of insurance of this policy, but we are not obligated to apply for or furnish any such bond;
 - d. All court costs taxed against the "Insured" in the "suit";
 - e. Pre-judgment interest awarded against the "Insured" on that part of the judgment within the applicable limits of insurance of this policy we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest accruing after we make such offer;
 - f. Post-judgment interest that accrues after entry of judgment on that part of the judgement within the applicable limits of insurance of this policy we pay and before we have paid, offered to pay or deposited in court that part of the judgment that is within the applicable limits of insurance of this policy; and
 - g. The "Insured's" expenses incurred at our request or with our consent.
- D. Except as provided in Paragraph A above, we will have no duty to defend any "suit" against the "Insured". We will, however, have the right, but not the duty, to participate in the defense of any "suit" and the investigation of any claim to which this policy may apply. If we exercise this right, we will do so at our own expense.

- E. We will not defend any "suit", or pay any attorney fees or litigation expenses including, without limitation, the expenses described in Paragraph C.2., above that accrue after the applicable limits of insurance of this policy have been exhausted by the payment of damages and we will have the right to withdraw from the further defense of such "suit" by tendering control of said defense to the "Insured".

SECTION III - EXCLUSIONS

This insurance does not apply to:

A. Expected or Intended Injury

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

B. Contractual Liability

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

1. That the "Insured" would have in the absence of the contract or agreement; or
2. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. 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", and included within the limits of insurance, 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.

However, this exclusion will not apply if coverage is provided for such "bodily injury" or "property damage" by "scheduled underlying insurance".

Coverage under this policy for such "bodily injury" or "property damage" will follow the terms, definitions, conditions and exclusions of "scheduled underlying insurance", subject to the "policy period", limits of insurance, premium and all other terms, definitions, conditions and exclusions of this policy. Provided, however, that coverage provided by this policy will be no broader than the coverage provided by "scheduled underlying insurance".

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. E.R.I.S.A.

Any obligation of the "Insured" under the Employee Retirement Income Security Act of 1974 (including amendments relating to the Consolidated Omnibus Budget Reconciliation Act of 1985), or any amendment or revision thereto, or any similar law or regulation.

F. Auto Coverages

1. "Bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" which is not a "covered auto"; or
2. Any loss, cost or expense payable under or resulting from any first party physical damage coverage; no-fault law; personal injury protection or auto medical payments coverage; or uninsured or underinsured motorist law.

G. Employer's Liability

1. "Bodily injury" to 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. Any claim or "suit" brought by 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".

With respect to injury arising out of a "covered auto", this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to worker's compensation benefits. For the purpose of this insurance, a domestic "employee" is a person engaged in household or domestic work performed principally in connections with a residence premises.

This exclusion does not apply to the extent that valid "scheduled underlying insurance" for the employer's liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury".

Coverage under this policy for such "bodily injury or "property damage" will follow the terms, definitions, conditions and exclusions of "scheduled underlying insurance", subject to the "policy period", limits of insurance, premium and all other terms, definitions, conditions and exclusions of this policy. Provided, however, that coverage provided by this policy will be no broader than the coverage provided by "scheduled underlying insurance".

H. Employment Related Practices

Any claim or "suit" alleging or asserting in any respect loss, injury, or damage (including consequential bodily injury) in connection with "wrongful termination", and/or "discrimination", and/or "sexual harassment".

The following definitions apply to this exclusion:

"Wrongful termination" means termination of an employment relationship in a manner which is against the law and wrongful, or in breach of an implied agreement to continue employment.

"Discrimination" means termination of an employment relationship or a demotion, or a failure or refusal to hire or promote an individual because of race, color, religion, age, sex, disability, pregnancy, natural origin, sexual orientation or other protected category or characteristic established pursuant to any applicable federal, state, or local law, regulation, or ordinance.

"Sexual harassment" means unwelcome sexual advances and/or requests for sexual favors and/or other verbal or physical conduct of a sexual nature that (1) are made a condition of employment and/or (2) are used as a basis for employment decisions and/or (3) create a work environment that interferes with performance.

I. Pollution

This insurance does not apply to:

1. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" anywhere at any time;

2. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that the "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
3. 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 "pollutants".

However, Paragraph 1 of this exclusion will not apply if coverage for such "bodily injury" or "property damage" as is described in paragraphs 1 through 6 below is provided by "scheduled underlying insurance":

1. Products-Completed Operations Hazard

Paragraph 1 of this exclusion does not apply with respect to "bodily injury" or "property damage" included within the "products-completed operations hazard" provided that "your product" or "your work" has not at any time been:

- a. Discarded, dumped, abandoned, thrown away; or
- b. Transported, handled, stored, treated, disposed of or processed as waste; by anyone.

2. Hostile Fire

Paragraph 1 of this exclusion does not apply with respect to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

3. Equipment to Heat the Building and Contractor/Lessee Operations

Paragraph 1 of this exclusion does not apply to:

- a. "Bodily injury" sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat the building; or
- b. "Bodily injury" or "property damage" for which you may be held liable if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional "Insured" with respect to your ongoing operations performed for that additional "Insured" at such premises, site or location, and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any "Insured", other than the additional "Insured".

4. Fuels, Lubricants and Other Operating Fluids - Mobile Equipment

Paragraph 1 of this exclusion does not apply to:

- a. "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids that are needed to perform normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured contractor or subcontractor; or
- b. "Bodily Injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor.

5. Fuels, Lubricants, Fluids, etc. - Auto

Paragraph 1 of this exclusion does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of an "auto" covered by "scheduled underlying insurance" or its parts, if:

- a. The "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- b. The "bodily injury" or "property damage" does not arise out of the operation of any equipment shown in Paragraphs 6b and 6c of the definition of "mobile equipment".

6. Upset, Overturn or Damage of an Auto

Paragraph 1 of this exclusion does not apply to "occurrences" that take place away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon an "auto" covered by "scheduled underlying insurance" if:

- a. The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of an "auto" covered by "scheduled underlying insurance"; and
- b. The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

Coverage under this policy for such "bodily injury" or "property damage" as is described in subparagraphs 1 through 6 above will follow the terms, definitions, conditions and exclusions of "scheduled underlying insurance", subject to the "policy period", limits of insurance, premium and all other terms, definitions, conditions and exclusions of this policy. Provided, however, that coverage provided by this policy will be no broader than the coverage provided by "scheduled underlying insurance".

J. Aircraft Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, 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, 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;

K. War

"Bodily injury" "property damage" or "personal and advertising injury", however caused, arising directly or indirectly out of:

1. War, including undeclared or civil war; or
2. 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
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

This exclusion does not apply to the use or threaten use of "terrorism".

As used in this exclusion, "terrorism" means the use or threatened use of force or violence against person or property, or commission of an act dangerous to human life or property, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group, whether or not acting on behalf of or in any connection with any organization, government, power, authority or military force, when the effect is to intimidate, coerce or harm:

1. A government;
2. The civilian population of a country, state or community; or
3. To disrupt the economy of a country, state or community.

So long as the Terrorism Risk Insurance Act of 2002 (the "Act") is in effect, "terrorism" includes an act of terrorism as defined by Section 102. Definitions of the Act and any revisions or amendments thereto.

L. Damage to Property

"Property damage" to:

1. Property:
 - a. 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; or
 - b. Owned or transported by the "Insured" and arising out of the ownership, maintenance or use of a "covered auto";
2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the "Insured";
5. That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

Paragraphs 1b, 3, 4, 5 and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 3 and 4 of this exclusion do not apply to liability assumed under a written Trailer Interchange Agreement.

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

M. Damage to Your Product

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

N. 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.

O. 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.

P. 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.

Q. 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.

R. Fungus/Mold

"Bodily injury" or "property damage" or any other loss, cost or expense, including, but not limited to losses, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

1. Any "fungus(i)", "molds(s)", mildew or yeast, or
2. Any "spore(s)" or toxins created or produced by or emanating from such "fungus(i)", "mold(s)", mildew or yeast, or
3. Any substance, vapor, gas, or other emission or organic or inorganic body substance produced by or arising out of any "fungus(i)", "mold(s)", mildew or yeast, or
4. Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any "fungus(i)", "mold(s)", mildew, yeast or "spore(s)" or toxins emanating therefrom,

regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that "bodily injury" or "property damage", loss, cost or expense.

For the purpose of this exclusion, the following definitions are added to the policy:

"Fungus(i)" includes, but is not limited to, any of the plants or organisms belonging to the major group fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts, and mushrooms.

"Mold(s)" includes, but is not limited to, any superficial growth produced on damp or decaying organic matter of on living organisms, and fungi that produce molds.

"Spore(s)" means any dormant or reproductive body produced by or arising or emanating out of any "fungus(i)", "mold(s)", mildew, plants, organisms or microorganisms.

S. Lead

1. "Bodily injury", "property damage", or "personal and advertising injury" for past, present or future claims arising in whole or in part, either directly or indirectly, out of the manufacture, distribution, sale, resale, rebranding, installation, repair, removal, encapsulation, abatement, replacement or handling of, exposure to, ingestion of or testing for, lead whether or not the lead is or was at any time airborne as a particle, contained in a product, carried on clothing, inhaled, transmitted in any fashion or found in any form whatsoever;
2. The costs of clean up or removal of lead or products and materials containing lead;

3. The costs of such actions as may be necessary to monitor, assess and evaluate the release or threat of same, or lead or products and material containing lead;
4. The cost of disposal of lead substances or the taking of such other action as may be necessary to temporarily or permanently prevent, minimize or mitigate damage to the public health or welfare or to the environment, which may otherwise result; or
5. The cost of compliance with any law or regulation regarding lead.

T. Asbestos

1. "Bodily injury" in any way arising out of the use by any person or organization of or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust;
2. "Property damage" to real property arising out of the use by any person or organization of asbestos, asbestos products, asbestos fibers, asbestos dust, including without limitation the costs incurred with respect to the removal or abatement of asbestos, asbestos products, asbestos fibers or asbestos dust from or in such real property;
3. Any obligation of the "Insured" to indemnify any party because of damages arising out of such "property damage", "bodily injury", sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury, at any time as a result of the manufacture of, mining of, use of, sale of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
4. Any obligation to defend any claim or "suit" against the "Insured" alleging "bodily injury", sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury or "property damage" resulting from or contributed to, by any and all manufacture of, mining of, use of, sale of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust.

U. Nuclear

1. "Bodily injury" or "property damage":
 - a. 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 or Canada or any such policy but for its termination upon exhaustion of its limit of liability; or
 - b. Resulting from the "hazardous properties" of "nuclear material" and with respect to which (i) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, of (ii) the "Insured" is or had this policy not been issued would be, entitled to indemnify 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.
2. "Bodily injury" or "property damage" resulting from the "hazardous properties of "nuclear material", if:
 - a. The "nuclear material" (i) is at any "nuclear facility" owned by, or operated by or on behalf of, an "Insured" or (ii) has been discharged or dispersed therefrom;
 - b. The "nuclear material" is contained in "spent fuel" or "waste" at anytime possessed, handled, used, processed, stored, transported or disposed of by or on behalf of the "Insured"; or
 - c. The "bodily injury" or "property 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".
3. "Bodily injury" or "property damage" resulting from the intentional or unintentional detonation of any nuclear bomb or nuclear device.

4. As used in this exclusion, the following definitions apply;
- 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 Atomic Energy Act of 1954 or in any law amendatory thereof;
 - d. "Spent fuel" means any fuel element of fuel component, solid or liquid which has been used or exposed to radiation in a "nuclear reactor";
 - e. "Waste" means any waste material (i) 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 (ii) 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";
 - f. "Nuclear facility" means:
 - (i) Any "nuclear reactor";
 - (ii) 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";
 - (iii) 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;
 - (iv) 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.

V. Securities and Financial Interest

Any liability arising out of:

1. Any violation of any securities law or similar law or any regulation promulgated thereunder;
2. The purchase, sale, offer of sale or solicitation of any security, debt, insurance policy, bank deposit or financial interest or instrument;
3. Any representation made at any time in relation to the price or value of any security, debt, insurance policy, bank deposit or financial interest or instrument; or
4. Any depreciation or decline in price or value of any security, debt, insurance policy, bank deposit or financial interest or instrument.

W. Coverage excluded or sublimited by the Scheduled Underlying Insurance

"Bodily injury", "property damage", or "personal and advertising injury" which:

1. Is not covered by the "scheduled underlying insurance" by reason of an exclusion contained in or at any time added to such "scheduled underlying insurance"; or
2. Is in any way subject to a sublimit which is less than the limits of insurance of such "scheduled underlying insurance".

X. Silica

1. "Bodily injury", sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury, and/or any other type of injury, loss, cost, damage, or expense sustained by any person for the real or alleged emergence, contraction, aggravation or exacerbation of any form of silicosis or any other disease of the human body caused by, arising out of, or resulting from the manufacture, mining, use, sale, removal, or distribution by

any person or organization of silica, silica products, silica fibers or silica dust, or the exposure to silica, silica products, silica fibers or silica dust; or

2. Any obligation of the insured to defend and/or indemnify any party because of damages arising out of such "bodily injury", sickness, disease, occupational disease, disability, shock, death, mental anguish or mental injury, at any time caused by, arising out of, or resulting from the manufacture of, mining of, use of, sale of, removal of, distribution of, or exposure to silica, silica products, silica fibers or silica dust.

Y. Violation Of Statutes In Connection With Sending, Transmitting Or Communicating Any Material Or Information

Any claim or "suit" alleging or asserting that any act or omission violates any statute, ordinance or regulation of any federal, state or local government, including any amendment of or addition to such laws, that includes, addresses or applies to the sending, transmitting or communicating of any material or information, by any means whatsoever.

Z. Other Personal and Advertising Injury

"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 the "Insured".
5. For which the "Insured" has assumed liability in a contract or agreement. This exclusion does not apply to:
 - a. Liability for damages that the "Insured" would have in the absence of the contract or agreement; or
 - b. Liability for false arrest, detention or imprisonment assumed in a 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. 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.
10. Committed by an "Insured" whose business is:
 - a. Advertising, broadcasting, publishing or telecasting;
 - b. Designing or determining content of websites for others; or
 - c. An internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 1, 2 and 3 of the definition of "personal and advertising injury" in SECTION V - DEFINITIONS.

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.

11. Arising out of an electronic chatroom or bulletin board the "Insured" hosts, owns, or over which the "Insured" exercises control.

12. Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or meta tag, or any other similar tactics to mislead another's potential customers.

SECTION IV - LIMITS OF INSURANCE

- A. The limits of insurance shown in Item 3 of the Declarations and the rules below state the most we will pay for all Damages under this policy regardless of the number of:
 1. "Insureds";
 2. Claims made or "suits" brought; or
 3. Persons or organizations making claims or bringing "suits".
- B. The General Aggregate Limit is the most we will pay for all damages under this policy, except for:
 1. Damages included within the "products-completed operations hazard"; and
 2. Damages because of "bodily injury" or "property damage" to which this policy applies, caused by an "occurrence" and resulting from the ownership, maintenance or use of a "covered auto".
- C. The Products-Completed Operations Aggregate Limit is the most we will pay for all damages included in the "products-completed operations hazard".
- D. Subject to Paragraphs B and C above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of all damages arising out of any one "occurrence" or offense.
- E. Subject to Paragraphs B and C above, whichever applies, the most we will pay for damages under this policy on behalf of any person or organization to whom you are obligated by a written "insured contract" to provide insurance such as is afforded by this policy is the lesser of the limits of insurance shown in Item 3 of the Declarations or the minimum limits of insurance you agreed to procure in such written "insured contract".
- F. This policy applies only in excess of the total applicable limits of "scheduled underlying insurance" and any applicable "other insurance" whether or not such limits are collectible. If, however, a policy shown in the Schedule of Underlying Insurance has a limit of insurance:
 1. Greater than the amount shown in such schedule, this policy will apply in excess of such greater amount; or
 2. Less than the amount shown in such schedule, this policy will apply in excess of the amount shown in the Schedule of Underlying Insurance forming a part of this policy.
- G. If the total applicable limits of "scheduled underlying insurance" and any applicable "other insurance" are reduced or exhausted by the payment of damages to which this policy applies, we will:
 1. In the event of reduction, pay damages in excess of the remaining total applicable limits of "scheduled underlying insurance" and any applicable "other insurance"; and
 2. Subject to Paragraph E of SECTION II - DEFENSE AND SUPPLEMENTARY PAYMENTS, in the event of exhaustion, continue in force as underlying insurance.
- H. Expenses incurred to defend any "suit" or to investigate any claim will be in addition to the applicable limits of insurance of this policy. Provided, however, that if such expenses reduce the applicable limits of "scheduled underlying insurance", then such expenses will reduce the applicable limits of insurance of this policy.
- I. 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, beginning with the inception date of the "policy period" shown in the Declarations, unless the "policy period" is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the limits of insurance of this policy.
- J. We will not make any payment under this policy unless and until:
 1. The total applicable limits of "scheduled underlying insurance" and any applicable "other insurance" have been exhausted by the payment of damages to which this policy applies; or

2. The total applicable "Self-Insured Retention" has been satisfied by the payment of damages to which this policy applies.

When the amount of damages has been determined by an agreed settlement or a final judgement, we will promptly pay on behalf of the "Insured" the amount of damages falling within the terms of this policy. An agreed settlement means a settlement and release of liability signed by us, the "Insured" and the claimant or the claimant's legal representative.

SECTION V - DEFINITIONS

- A. "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:
1. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 2. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an "advertisement".

- B. "Auto" means:

1. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
2. 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".

- C. "Bodily injury" means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

- D. "Coverage territory" means:

1. The United States of America, including its territories and possessions, Puerto Rico and Canada; or
2. If provided by the underlying policy, anywhere else in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.

If we are prohibited by law from providing a defense in any location described in this definition and we are obligated to provide such defense under SECTION II - DEFENSE AND SUPPLEMENTARY PAYMENTS, we will reimburse you for legal fees and other defense expenses incurred with our consent under the terms and conditions of this policy.

If coverage for a claim under this policy is in violation of any United States of America's economic or trade sanction, including, but not limited to, sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") then coverage for that claim shall be null and void.

- E. "Covered auto" means only those "autos" to which "scheduled underlying insurance" applies.
- F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- H. "Hostile fire" means a fire that becomes uncontrollable or breaks out from where it was intended to be.
- I. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
1. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

2. 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.

J. "Insured" means:

1. The "Named Insured";
2. Except for liability arising out of the ownership, maintenance, or use of "covered autos";
 - a. If you are designated in the Declarations as:
 - (1) 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;
 - (2) A partnership or joint venture, you are an "Insured". Your members and your partners, and their spouses are also "Insureds", but only with respect to the conduct of your business;
 - (3) 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;
 - (4) 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;
 - (5) A trust, you are an "Insured". Your trustees are also "Insureds", but only with respect to their duties as trustees;
 - b. Your "volunteer workers" only while performing duties related to the conduct of your business. Your "employees" other than 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" 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; or any claim or "suit" brought by or on behalf of the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of such "bodily injury" or "personal and advertising injury", or;
 - (b) 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)(i) above.
 - (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", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- c. Any person (other than your "employee" or "volunteer worker") or organization while acting as your real estate manager;
- 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;

- e. Any person or organization, other than the "Named Insured", included as an additional "Insured" under "scheduled underlying insurance", but not for broader coverage than would be afforded by such "scheduled underlying insurance".
3. Only with respect to liability arising out of the ownership, maintenance, or use of "covered autos":
 - a. You are an "Insured";
 - b. Anyone else while using with your permission a "covered auto" you own, hire, or borrow is also an "Insured" except:
 - (1) The owner or anyone else from whom you hire or borrow a "covered auto". This exception does not apply if the "covered auto" is a trailer or semi-trailer connected to a "covered auto" you own;
 - (2) Your "employee" if the "covered auto" is owned by that "employee" or a member of his or her household;
 - (3) Someone using a "covered auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours;
 - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a "covered auto";
 - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a "covered auto" owned by him or her or a member of his or her household;
 - (6) "Employees" with respect to "bodily injury" to any fellow "employee" of the "Insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business;
 - c. Anyone liable for the conduct of an "Insured" described above is also an "Insured", but only to the extent of that liability.
 4. Notwithstanding any of the above:
 - a. No person or organization is an "Insured" with respect to the conduct of any current, past or newly formed partnership, joint venture or limited liability company that is not designated as a "Named Insured" in Item 1 of the Declarations; and
 - b. No person or organization is an "Insured" under this policy who is not an "Insured" under "scheduled underlying insurance".
- K. "Insured contract" means that part of any contract or agreement pertaining to your business under which any "Insured" assumes 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.

"Insured contract" 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, 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 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 shown in subparagraph 2 above and supervisory, inspection, architectural or engineering activities.

L. "Loading or unloading" means the handling of property:

1. After it is moved from the place where it is accepted for movement into or onto an aircraft or watercraft;
2. While it is in or on an aircraft or watercraft; or
3. While it is being moved from an aircraft or watercraft 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 or watercraft.

M. "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".

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

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in Paragraph 1, 2, 3 or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers;
6. Vehicles not described in Paragraph 1, 2, 3 or 4 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":

- a. Equipment designed primarily for:
 - (i) Snow removal;
 - (ii) Road maintenance, but not construction or resurfacing; or
 - (iii) Street cleaning;
- b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include 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".

O. "Named Insured" means:

1. Any person or organization designated in Item 1 of the Declarations;

2. Any organization in which you maintain an interest of more than fifty percent (50%) and which is included as a named insured under "scheduled underlying insurance", as of the effective date of this policy and to which more specific insurance does not apply, provided that this policy does not apply to any "bodily injury" or "property damage" that occurred or any "personal and advertising injury" that was caused by an "occurrence" that was committed before you acquired or formed such organization or after you ceased to maintain an interest of more than fifty percent (50%) in such organization; and
3. Any organization, except for a partnership, joint venture or limited liability company, that you acquire or form during the "policy period" in which you maintain an interest of more than fifty percent (50%) and to which more specific insurance does not apply, provided that:
 - a. Such organization is included as a named insured under "scheduled underlying insurance";
 - b. This policy does not apply to any "bodily injury" or "property damage" that occurred or any "personal and advertising injury" that was caused by an "occurrence" that was committed before you acquired or formed such organization or after you ceased to maintain an interest of more than fifty percent (50%) in such organization; and
 - c. You give us prompt notice after you acquire or form such organization.

Subject to the provisions of Paragraphs 3a, 3b and 3c above, a partnership, joint venture or limited liability company that you acquire or form during the "policy period" may be added as an "Insured" only by a written endorsement that we make a part of this policy.

We may, at our option, make an additional premium charge for any organization that you acquire or form during the "policy period".

P. "Occurrence" means:

1. As respects "bodily injury" or "property damage", an accident, including continuous or repeated exposure to substantially the same general harmful conditions. All such exposure to substantially the same general harmful conditions will be deemed to arise out of one "occurrence".

In the event of continuing or progressively deteriorating damage over any length of time, such damage shall be deemed to be one "occurrence", and shall be deemed to occur only when such damage first commences.

2. As respects "personal and advertising injury", an offense arising out of your business that causes "personal and advertising injury". All damages that arise from the same, related or repeated injurious material or act will be deemed to arise out of one "occurrence", regardless of the frequency or repetition thereof, the number and kind of media used and the number of claimants.

Q. "Other insurance" means a valid and collectible policy of insurance providing coverage for damages covered in whole or in part by this policy.

However, "other insurance" does not include "scheduled underlying insurance", the "Self-Insured Retention" or any policy of insurance specifically purchased to be excess of this policy affording coverage that this policy also affords.

R. "Personal and advertising injury" means injury arising out of your business, including consequential "bodily injury", arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. 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;
4. 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;

- 5. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - 6. The use of another's advertising idea in your "advertisement"; or
 - 7. Infringement upon another's copyright, trade dress or slogan in your "advertisement".
- S.** "Policy period" means the period of time from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of termination of this policy.
- T.** "Pollutants" means 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.
- U.** "Products-completed operations hazard" means 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.

"Products-completed operations hazard" 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 (meaning "loading or unloading" but with respect to a vehicle) of that vehicle by any "Insured"; or
- 2. The existence of tools, uninstalled equipment or abandoned or unused materials.

- V.** "Property damage" means:
- 1. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use will be deemed to occur at the time of the physical injury that caused it; or
 - 2. Loss of use of tangible property that is not physically injured. All such loss of use will be deemed to occur at the time of the "occurrence" that caused it.

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.

- W.** "Retained Amount" means:
- 1. The total applicable limits of "scheduled underlying insurance" (plus any "Self-Insured Retention" applicable thereto) and any applicable "other insurance" providing coverage to the "Insured"; or
 - 2. The "Self-Insured Retention" applicable to each "occurrence" that results in damages not covered by "scheduled underlying insurance" nor any applicable "other insurance" providing coverage to the "Insured".

X. "Scheduled underlying insurance" means:

1. The policy or policies of insurance and limits of insurance (plus any selfinsured retention applicable thereto) shown in the Schedule of Underlying Insurance; and
2. Automatically any renewal or replacement of any policy in Paragraph 1 above, provided that such renewal or replacement provides equivalent coverage to and affords limits of insurance equal to or greater than the policy being renewed or replaced.

"Scheduled underlying insurance" does not include a policy of insurance specifically purchased to be excess of this policy affording coverage that this policy also affords.

Y. "Self-Insured Retention" means the amount that is shown in Item 4 of the Declarations.

Z. "Suit" means a civil proceeding in which damages because of "Bodily Injury", "Property Damage", or "personal and advertising injury" to which this policy applies are alleged. "Suit" includes:

1. An arbitration proceeding in which such damages are claimed and to which the "Insured" must submit or does submit with our consent; or
2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the "Insured" submits with our consent.

AA. "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 .

BB. "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.

CC. "Your product" 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.

"Your product" 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.

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

DD. "Your work" 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.

"Your work" 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.

SECTION VI - CONDITIONS

A. Appeals

In the event the first Named Insured or the first Named Insured's underlying insurer (if applicable) elect(s) not to appeal a judgement in excess of the "Retained Amount", we may elect to make such appeal at our own cost and expense, and we shall be liable for the taxable costs and disbursements and interest incidental thereto, but in no event shall our liability for damages exceed the sum set forth in the Declaration's for any one "occurrence", including the cost and expense of such appeal.

B. Examination of Your Books and Records

We may audit and examine your books and records as they relate to this policy at any time during the period of this policy and for up to three (3) years after the expiration or termination of this policy.

C. Bankruptcy or Insolvency

Your receivership bankruptcy, insolvency or inability to pay or the receivership bankruptcy, insolvency or inability to pay of any of your underlying insurers will not relieve us from the payment of damages covered by this policy. But under no circumstances will such receivership bankruptcy, insolvency or inability to pay in any way increase or expand our liability or require us to drop down, replace or assume any obligation under "scheduled underlying insurance".

D. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The "policy period" will end on that date.
5. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, earned premium will be calculated in accordance with the customary short-rate table and procedure, or the Minimum Earned Premium at Inception of the policy shown in Item 5 of the Declarations, which ever is greater. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

E. Change In Control

If during the "policy period":

1. the first Named Insured designated in Item 1 of the Declarations consolidates with or merges into, or sells all or substantially all of its assets to any person or entity; or
2. any person or entity acquires an amount of the outstanding ownership interests representing more than 50% of the voting or designation power for the election of directors of the first Named Insured designated in Item 1 of the Declarations, or acquires the voting or designation rights of such an amount of ownership interests;

This policy will continue in full force and effect as to "bodily injury" and "property damage" that occur prior to the effective date of such transaction and "personal and advertising injury" caused by an "occurrence" that takes place prior to the effective date of such transaction. There will be no coverage afforded by this policy for "bodily injury" or "property damage" that occurs on or after the effective date of such transaction and "personal and advertising injury" caused by an "occurrence" that takes place on or after the effective date of such transaction.

F. Changes

Notice to or knowledge possessed by any person shall not affect a waiver or change in any part of this policy or stop us from asserting any rights under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part hereof, signed by an authorized representative of the Company.

G. Duties in the Event of an Occurrence, Claim or Suit

1. You must see to it that we are notified as soon as practicable of an "occurrence" that may result in a claim or "suit" under this policy. To the extent possible, notice should include:
 - a. How, when and where the "occurrence" took place;
 - b. The names and addresses of any injured persons and any witnesses; and
 - c. The nature and location of any injury or damage arising out of the "occurrence".
2. If a claim is made or "suit" is brought against any "Insured" which is reasonably likely to involve this policy, you must notify us in writing as soon as practicable on the assumption that an "Insured" is liable for the damages claimed.

Written notice should be mailed or delivered to:

Lexington Insurance Company
100 Summer Street
Boston, MA 02110
Attention: Claims Department

3. You and any other involved "Insured" must:
 - a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "Suit";
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation, settlement or defense of the claim or "Suit"; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the "Insured" because of injury or damage to which this insurance may also apply.
4. 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.

H. Inspection

We have the right, but are not obligated, to inspect your premises and operations at any time. Our inspections are not safety inspections. They relate only to the insurability of your premises and operations and the premiums to be charged. We may give you reports on the conditions that we find. We may also recommend changes. We do not, however, undertake to perform the duty of any person or organization to provide for the health or safety of your "employees" or the public. We do not warrant the health and safety conditions of your premises or operations or represent that your premises or operations comply with laws, regulations, codes or standards.

I. Legal Actions Against Us

No person or organization has a right under this policy:

1. To join us as a party or otherwise bring us into a "suit" asking for damages from an "Insured";
or
2. To sue us under 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 this policy or that are in excess of the applicable limits of insurance of this policy. An agreed settlement means a settlement and release of liability signed by us, the "Insured" and the claimant or the claimant's legal representative.

J. Maintenance of Scheduled Underlying Insurance

You agree that during the "policy period":

1. You will keep "scheduled underlying insurance" in full force and effect;
2. The terms, definitions, conditions and exclusions of "scheduled underlying insurance" will not materially change;
3. The total applicable limits of "scheduled underlying insurance" will not decrease, except for any reduction or exhaustion of aggregate limits by payment of damages to which this policy applies.
4. Any renewals or replacements of "scheduled underlying insurance" will provide equivalent coverage to and afford limits of insurance equal to or greater than the policy being renewed or replaced.

If you fail to comply with these requirements, we will be liable only to the same extent that we would have, had you fully complied with these requirements.

K. Other Insurance

If other valid and collectible insurance applies to damages that are also covered by this policy, this policy will apply excess of the "other insurance". However, this provision will not apply if the other insurance is specifically written to be excess of this policy.

L. Premium and Audit

1. We will compute all premiums for this policy in accordance with our rules and rates.
2. If the premium for this policy is a flat premium, it is not subject to adjustment, except that additional premiums may be required for any additional exposure and/or "Insureds", or as provided for in Condition D Cancellation. The premium shown in Item 5 of the Declarations as the Total Advance Premium is a deposit premium only. If the policy is subject to audit adjustment, the actual exposure base will be used to compute the earned premium. If the learned premium is greater than the Advance Premium, the first Named Insured will pay the difference to us due and payable upon notice. Subject to the Annual Minimum Premium shown in Item 5 of the Declarations, if the earned premium is less than the Total Advance Premium, we will return the difference to the first Named Insured.
3. 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. The first Named Insured shown on the Declarations is responsible for the payment of all premiums and will be the payee for any return premiums we pay.

M. Representations of Fraud

By accepting this policy, you agree:

1. The statements in the Declarations are accurate and complete;
2. Those statements are based upon representations you made to us;
3. We have issued this policy in reliance upon your representations; and
4. This policy is void in any case of fraud by you as it relates to this policy or any claim or "suit" under this policy.

N. Separation of "Insureds"

Except with respect to the limits of insurance of this policy and rights or duties specifically assigned to the first Named Insured designated in Item 1 of the Declarations, this insurance applies:

1. As if each "Named Insured" were the only "Named Insured"; and
2. Separately to each "Insured" against whom claim is made or "Suit" is brought.

O. Transfer of Rights of Recovery

1. If any "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 these rights and must help us enforce them.

2. Any recoveries will be applied as follows:

- a. Any person or organization, including the "Insured", that has paid an amount in excess of the applicable limits of insurance of this policy will be reimbursed first;
- b. We then will be reimbursed up to the amount we have paid; and
- c. Lastly, any person or organization, including the "Insured" that has paid an amount over which this policy is excess is entitled to claim the remainder.

Expenses incurred in the exercise of rights of recovery will be apportioned among the persons or organizations, including the "Insured", in the ratio of their respective recoveries as finally settled.

3. If, prior to the time of an "occurrence", you and the insurer of "scheduled underlying insurance" waive any right of recovery against a specific person or organization for injury or damage as required under an "insured contract", we will also waive any rights we may have against such person or organization.

P. Transfer of Your Rights and Duties

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

If you die or are legally declared bankrupt, your rights and duties will be transferred to your legal representative, but only while acting within the scope of duties as your legal representative. However, notice of cancellation sent to the first "Named Insured" designated in Item 1 of the Declarations and mailed to the address shown in this policy will be sufficient notice to effect cancellation of this policy.

Q. Service of Suit

It is agreed that in the event of our failure to pay any amount claimed to be due hereunder, we, at the request of the "Insured", will submit 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 may be made upon Counsel, Legal Department, Lexington Insurance Company, 100 Summer Street, Boston, MA 02110, or his or her representative, and that in any "suit" instituted against us, upon this policy, we will abide by the final decision of such court or of an appellate court in the event of an 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 behalf of you or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the Counsel, Legal Department, Lexington Insurance Company, 100 Summer Street, Boston, MA 02110, as the person to whom the said officer is authorized to mail such process or a true copy thereof.

R. Arbitration

Notwithstanding Condition Q. Service of Suit, above, in the event of a disagreement as to the interpretation of this policy (except with regard to whether this policy is void or voidable), it is mutually agreed that such dispute shall be submitted to binding arbitration before a panel of three (3) Arbitrators consisting of two (2) party-nominated (non-impartial) Arbitrators and a third (impartial) Arbitrator (hereinafter "umpire") as the sole and exclusive remedy.

The party desiring arbitration of a dispute shall notify the other party, said notice including the name, address and occupation of the Arbitrator nominated by the demanding party. The other party shall, within 30 days following receipt of the demand, notify in writing the demanding party of the name, address and occupation of the Arbitrator nominated by it. The two (2) arbitrators so selected shall, within 30 days of the appointment of the second Arbitrator, select an umpire. If the Arbitrators are unable to agree upon an umpire, the selection of the umpire shall be submitted to the Judicial Arbitration and Mediation Services (hereinafter, "JAMS"). The umpire shall be selected in accordance with Rule 15 (as may be amended from time to time) of the JAMS Comprehensive Arbitration Rules and Procedures for the selection of a sole arbitrator.

The parties shall submit their cases to the panel by written and oral evidence at a hearing time and place selected by the umpire. Said hearings shall be held within 30 days of the selection of the umpire. The panel shall be relieved of all judicial formality, shall not be obligated to adhere to the strict rules of law or of evidence, shall seek to enforce the intent of the parties hereto and may refer to, but are not limited to, relevant legal principles. The decision of at least two (2) of the three (3) panel members shall be binding and final and not subject to appeal except for grounds of fraud and gross misconduct by the Arbitrators. The award will be issued within 30 days of the close of the hearings. Each party shall bear expenses of its designated Arbitrator and shall jointly and equally share with the other the expense of the umpire and the arbitration.

The arbitration proceeding shall take place in the vicinity of the first Named Insured's mailing address as shown in the Declarations or such other place as may be mutually agreed by the first Named Insured and us. The procedural rules applicable to this arbitration shall, except as provided otherwise herein, be in accordance with the JAMS Comprehensive Arbitration Rules and Procedures.

IN WITNESS WHEREOF, we have caused this policy to be executed and attested, but this policy will not be valid unless countersigned by one of our duly authorized representatives, where required by law.