

AFB A&E MEDIA TECH®

**ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY,
ARCHITECTS, ENGINEERS AND CONTRACTORS POLLUTION LIABILITY,
TECHNOLOGY BASED SERVICES, TECHNOLOGY PRODUCTS, COMPUTER
NETWORK SECURITY, MULTIMEDIA AND ADVERTISING LIABILITY AND
PRIVACY LIABILITY INSURANCE**

THIS IS A CLAIMS MADE AND REPORTED POLICY. PLEASE READ CAREFULLY.

These Declarations along with the completed and signed **Application** and the Policy with endorsements shall constitute the contract between the **Insureds** and the Underwriters.

Underwriters:

Policy Number:

Item 1. **Named Insured:**

Address:

Item 2. **Policy Period:**

From:

To:

Both dates at 12:01 a.m. Local Time at the Address stated in Item 1.

Item 3. **Limit of Liability:**

(a) Each **Claim** - includes **Claims Expenses**

(b) Aggregate for the **Policy Period** - includes **Claims Expenses**

Item 4. **Deductible:** **Each Claim deductible** - includes **Claims Expenses**

Item 5. **Premium**

Item 6. **Retroactive Date:**

Item 7. **Technology Based Services, Technology Products, Computer Network Security, Multimedia and Advertising and Privacy Liability Insurance Coverage Option:**

Purchased If this box is checked then Insuring Clause I.C., I.D., I.E., I.F. and I.G. of this Policy shall apply.

Not Purchased If this box is checked then Insuring Clause I.C., I.D., I.E., I.F. and I.G. of this Policy shall not apply.

If no box is checked, then Insuring Clause I.C., I.D., I.E., I.F. and I.G. of this Policy shall not apply.

Item 8. **Optional Extension Period:**

(a) Premium for **Optional Extension Period:** of the total premium for this Policy

(b) Length of **Optional Extension Period:**

Item 9. Notification under this Policy:

Item 10. Application of Terrorism Risk Insurance Extension Act: N/A

Item 11. Service of process in any suit shall be made upon:

Item 12. Choice of Law:

Item 13. Endorsements Effective At Inception:

SPECIMEN

AFB A&E MEDIA TECH® INSURANCE POLICY

ARCHITECTS AND ENGINEERS PROFESSIONAL LIABILITY, ARCHITECTS, ENGINEERS AND CONTRACTORS POLLUTION LIABILITY, TECHNOLOGY BASED SERVICES, TECHNOLOGY PRODUCTS, COMPUTER NETWORK SECURITY, MULTIMEDIA AND ADVERTISING AND PRIVACY LIABILITY

NOTICE: This coverage is provided on a Claims Made and Reported Basis. Except as otherwise provided, this coverage applies only to **Claims** first made against the **Insured** during the **Policy Period** and reported in writing to the Underwriters pursuant to the terms of this Insurance Policy. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. Please review the coverage afforded under this Insurance Policy carefully and discuss the coverage hereunder with your insurance agent or broker.

In consideration of the payment of the premium and reliance upon the statements in the **Application** which is deemed a part of this Insurance Policy (hereinafter referred to as the "Policy" or "Insurance") and subject to the Limit of Liability, deductible, exclusions, conditions and other terms of this Insurance, the Underwriters agree with the **Named Insured**:

I. INSURING CLAUSE

To pay on behalf of the **Insured Damages** and **Claims Expenses**, in excess of the Each **Claim** Deductible, which the **Insured** shall become legally obligated to pay because of any **Claim** first made against the **Insured** during the **Policy Period** or **Optional Extension Period** (if applicable) and reported in writing to the Underwriters either during the **Policy Period**, within sixty (60) days after the expiration of the **Policy Period**, or during the **Optional Extension Period** (if applicable) arising out of one or more of the following acts or events committed or taking place on or after the Retroactive Date set forth in Item 6. of the Declarations and before the end of the **Policy Period**:

A. Architects and Engineers Professional Liability Coverage

any negligent act, error or omission in rendering or failing to render **Professional Services** by the **Insured** or by any person, including an independent contractor, for whose negligent act, error or omission the **Named Insured** is legally responsible; or

B. Architects, Engineers and Contractors Pollution Liability Coverage

a **Pollution Condition** arising out of the rendering of or failing to render **Professional Services** or the performance of or failing to perform **Contracting Services** by the **Insured** or by any person, including an independent contractor, for whose **Pollution Condition** the **Named Insured** is legally responsible.

The following Insuring Clause I.C., I.D., I.E., I.F. and I.G. only applies if Item 7. of the Declarations indicates that these Coverages have been purchased.

C. **Technology Based Services Coverage**

any negligent act, error or omission, or any unintentional breach of contract, in rendering or failing to render **Technology Based Services** by the **Insured** or by any person, including an independent contractor, for whose negligent act, error or omission or unintentional breach of contract the **Named Insured** is legally responsible;

D. **Technology Products Coverage**

any negligent act, error or omission, or any unintentional breach of contract, by the **Insured** that results in the failure of **Technology Products** to perform the function or serve the purpose intended;

E. **Computer Network Security Coverage**

any act, error or omission in the course of providing or managing **Computer Systems** security by the **Insured** or by any person, including an independent contractor, for whose act, error or omission the **Named Insured** is legally responsible that results in:

1. the inability of a third party, who is authorized to do so, to gain access to **Computer Systems** or your **Technology Based Services**;
2. the failure to prevent **Unauthorized Access** to **Computer Systems** that results in:
 - a. the destruction, deletion or corruption of electronic data on **Computer Systems**;
 - b. **Theft of Data** from **Computer Systems**; or
 - c. denial of service attacks against Internet sites or computers; or
3. the failure to prevent transmission of **Malicious Code** from **Computer Systems** to third party computers and systems;

F. **Multimedia and Advertising Coverage**

liability imposed by law or **Assumed Under Contract** arising out of:

1. defamation, libel, slander, product disparagement, trade libel, prima facie tort, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. invasion of or interference with the right to privacy or of publicity;
3. misappropriation of any name or likeness for commercial advantage;
4. false arrest, detention or imprisonment or malicious prosecution;

5. invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
6. plagiarism, piracy or misappropriation of ideas under implied contract;
7. infringement of copyright;
8. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or service mark;
9. negligence regarding the content of any **Media Communication**, including harm caused through any reliance or failure to rely upon such content; or
10. misappropriation of trade secret

in the course of the **Named Insured's** performance of **Professional Services, Media Activities or Technology Based Services**;

G. Privacy Liability Coverage

1. theft or misuse of **Personally Identifiable Non-Public Information** or **Third Party Corporate Information** that is in the care, custody or control of the **Named Insured**, or an independent contractor that is holding or processing such information on behalf of the **Named Insured**;
2. the **Named Insured's** failure to timely disclose a **Security Breach** in violation of any **Breach Notice Law**;
3. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
 - a. prevents or prohibits improper or intrusive collection of **Personally Identifiable Non-Public Information** from a person;
 - b. requires notice to a person of the **Named Insured's** collection or use of, or the nature of the collection or use of his or her **Personally Identifiable Non-Public Information**;
 - c. provides a person with the ability to assent to or withhold assent for (e.g. opt-in or opt-out) the **Named Insured's** collection or use his or her **Personally Identifiable Non-Public Information**;
 - d. prohibits or restricts the **Named Insured's** disclosure, sharing or selling of a person's **Personally Identifiable Non-Public Information**;
 - e. requires the **Named Insured** to provide access to **Personally Identifiable Non-Public Information** or to correct incomplete or inaccurate **Personally Identifiable Non-Public Information** after a request is made by a person; or

- f. mandates procedures and requirements to prevent the loss of **Personally Identifiable Non-Public Information**;

provided the **Named Insured** must, at the time of such acts, errors or omissions have in force a **Privacy Policy** that addresses those subsections above that are relevant to such **Claim**.

Provided, however, this Insuring Clause I.A., I.B., I.C., I.D., I.E., I.F. and I.G. shall not apply to any **Claim** for or arising out of the disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person prior to the date he or she became an employee, officer, director, principal or partner of the **Named Insured**.

II. SUPPLEMENTARY PAYMENTS

All payments made under this Clause are not subject to the Each **Claim** Deductible and are payable by the Underwriters in addition to the Limits of Liability.

A. Defendants Reimbursement

Upon the Underwriters request, the **Insured** shall attend mediation meetings, arbitration proceedings, hearings, depositions and trials relative to the defense of a **Claim**. After the first three (3) days' attendance required for each **Claim**, the Underwriters shall reimburse the **Insured**, upon written request, for actual loss of earnings and reasonable expenses due to such attendance up to \$500 for each day in the aggregate for all **Insureds** subject to a maximum amount of \$10,000 for each **Claim**.

B. ADA, FHA, OSHA Regulatory / Administrative Actions Reimbursement

The Underwriters will reimburse the **Insured**, upon written request, for legal fees and expenses up to \$30,000 in the aggregate for the **Policy Period**, incurred by the **Insured** with the prior written consent of the Underwriters, in responding to a regulatory or administrative action brought directly against the **Insured** during the **Policy Period** by a government agency under the Americans with Disabilities Act of 1990 (ADA), the Fair Housing Act (FHA) or the Occupational Safety and Health Act (OSHA) or any similar law or legislation of any state provided that the regulatory or administrative action:

1. arises out of the rendering of or failure to render **Professional Services**; and
2. is reported to the Underwriters during the **Policy Period**.

After the Underwriters have paid \$30,000 under this Clause II.C., the Underwriters shall not be obligated to pay any further legal fees and expenses.

C. Disciplinary Proceedings Reimbursement

The Underwriters will reimburse the **Insured**, upon written request, for legal fees and expenses up to \$10,000 in the aggregate for the **Policy Period**, incurred by the **Insured** with the prior written consent of the Underwriters, in responding to a disciplinary proceeding brought directly against the **Insured** during the **Policy Period** provided that the disciplinary proceeding:

1. arises out of the rendering of or failure to render **Professional Services**; and
2. is reported to the Underwriters during the **Policy Period**.

After the Underwriters have paid \$10,000 under this Clause II.D., the Underwriters shall not be obligated to pay any further legal fees and expenses.

D. Reputation Management Reimbursement

The Underwriters will reimburse the **Named Insured** fifty percent (50%) of the first \$30,000 in Reputational Management Expenses incurred by the **Named Insured** for reputational management consulting services which are incurred in connection with a **Claim** covered under this Policy that the **Named Insured** reasonably believes will have a material adverse effect upon the **Named Insured's** reputation.

Reputational Management Expenses means reasonable fees, costs, and expenses incurred by the Named Insured for reputational management consulting services provided by a public relations firm to the **Named Insured** in response to a **Claim**.

After the Underwriters have paid \$15,000 under this Clause II.E., the Underwriters shall not be obligated to pay any further Reputational Management Expenses.

III. DEFINITIONS

Wherever used in this Policy in bold face type, the following definitions shall apply.

- A. "**Advertising**" means material which promotes the product, service or business of the **Named Insured** or others.
- B. "**Application**" means all signed applications, including all attachments and other materials submitted therewith or incorporated therein, and any other such documents submitted in connection with the underwriting of this Policy including any endorsement or other part thereof, or any other policy issued by the Underwriters, of which this Policy is a renewal, replacement or which it succeeds in time.
- C. "**Assumed Under Contract**" means liability assumed by the **Named Insured** under a written hold harmless or indemnity agreement regarding the content of **Media Material** used in a **Media Communication**, but only as respects acts for which insurance is afforded under Insuring Clause I.F.
- D. "**Bodily Injury**" means physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting therefrom.
- E. "**Breach Notice Law**" means any state, federal or foreign statute or regulation that requires notice to persons whose **Personally Identifiable Non-Public Information** was accessed or may reasonably have been accessed by an unauthorized person.
- F. "**Circumstance**" means any fact, event or situation that could reasonably be the basis for a **Claim**.

- G. **"Claim"** means a demand received by any **Insured** for money or services including the service of suit or institution of arbitration proceedings. **"Claim"** shall also mean a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction).

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, omissions or **Pollution Conditions** or from any continuing acts, errors, omissions or **Pollution Conditions** shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of Claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

- H. **"Claims Expenses"** means:

1. reasonable and necessary fees charged by an attorney designated or consented to by the Underwriters;
2. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **Claim**, suit or proceeding arising in connection therewith, if incurred by the Underwriters, or by the **Insured** with the prior written consent of the Underwriters; and
3. premiums for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required for a **Claim** against any **Insured** for a covered act, error or omission, provided, however, that the Underwriters shall have no obligation to appeal or to obtain such bonds.

Claims Expenses do not include any salary, overhead or other charges of or by the **Insured** for any time spent in cooperating in the defense and investigation of any **Claim** notified under this Insurance, or costs to remediate an act, error or omission without the prior written consent of the Underwriters.

- I. **"Cleanup Costs"** means reasonable and necessary costs, charges and expenses incurred with the prior written consent of the Underwriters in the investigation, removal or neutralization of a **Pollution Condition**, provided that such costs, charges and expenses are caused by a **Pollution Condition** arising out of the rendering of or failure to render **Professional Services** or the performance of or failure to perform **Contracting Services** by or on behalf of the **Named Insured**.

- J. **"Computer Systems"** means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:

1. operated by and either owned by or leased to the **Named Insured**; or
2. operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Named Insured** or for processing, maintaining, hosting or storing the **Named Insured's** electronic data, pursuant to written contract with the **Named Insured** for such services.

- K. **“Contracting Services”** means the performance of construction, drilling or remediation activities by or on behalf of the **Named Insured**.
- L. **“Damages”** means a monetary judgment, award or settlement of compensatory damages, including any pre-judgment and/or post-judgment interest thereon.

The term **Damages** shall not include or mean:

1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of an **Insured** to comply with orders granting injunctive or equitable relief;
2. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided;
3. costs incurred by the **Insured** to correct, re-perform or complete any **Media Activities** or **Technology Based Services**;
4. any damages which are a multiple of compensatory damages;
5. fines, taxes or loss of tax benefits, sanctions or penalties assessed against the **Insured**;
6. punitive or exemplary damages, unless insurable by law under the law under which this Policy is construed;
7. discounts, coupons, prizes, awards or other incentives offered to the **Insured’s** customers or clients;
8. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement;
9. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**; or
10. matters deemed uninsurable under the law pursuant to which this Policy shall be construed.

M. **“Insured”** shall mean:

1. the **Named Insured**;
2. a director or officer of the **Named Insured**, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;
3. an employee or **Temporary Employee** of the **Named Insured**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Named Insured’s** business;

4. a principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;
 5. any person who previously qualified as an **Insured** under 2, 3 or 4 above prior to the termination of the required relationship with the **Named Insured**, but only with respect to the performance of his or her duties as such on behalf of the **Named Insured**;
 6. the estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance;
 7. the **Named Insured** with regard to its participation in a joint venture, but solely for the **Named Insured's** liability that arises out of a negligent act, error or omission in rendering or failing to render **Professional Services** by the **Named Insured** or for a **Pollution Condition** that arises out of the rendering of or failing to render **Professional Services** or the performance of or failing to perform **Contracting Services** by the **Named Insured**; and
 8. solely with respect to Insuring Clause I.B., the client for whom the **Named Insured** renders or rendered **Professional Services** or performs or performed **Contracting Services**, provided that a written contract or agreement is in effect between the **Named Insured** and the client requiring the client to be an additional insured under the **Named Insured's** architects, engineers and contractors pollution liability policy. However, such clients are covered under Insuring Clause I.B. of this Policy solely with respect to **Damages** and **Claims Expenses** arising from **Professional Services** rendered or **Contracting Services** performed by or on behalf of the **Named Insured** and are not covered for any **Damages** and **Claims Expenses** arising from the client's own acts, errors or omissions. Clients of the **Named Insured** are covered under Insuring Clause I.B. of this Policy, subject to Clause VIII., only for the Limits of Liability required by the written contract or agreement.
- N. "**Malicious Code**" means any virus, Trojan Horse, worm or other similar software program, code or script intentionally designed to insert itself into computer memory or onto a computer disk and spread itself from one computer to another.
- O. "**Media Communication**" means the display, broadcast, dissemination, distribution or release of **Media Material** to the public by the **Named Insured**.
- P. "**Media Material**" means information in the form of words, sounds, numbers, images, or graphics in electronic, print or broadcast form, including **Advertising**, but does not mean computer software.
- Q. "**Media Activities**" means **Media Communication** and/or the gathering, collection or recording of **Media Material** for inclusion in any **Media Communication** in the ordinary course of the **Named Insured's** business.

- R. **“Named Insured”** means only those persons, partnerships, corporations or entities specified in Item 1 of the Declarations.

The term **Named Insured** shall include any corporate entity while more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity's directors are owned by the **Named Insured** if such entity becomes so owned after the inception date of the Policy, subject to the terms and conditions of Clause XVII.A.

- S. **“Optional Extension Period”** means the period of time after the end of the **Policy Period** for reporting **Claims** as provided in Clause XII. of this Policy.

- T. **“Personally Identifiable Non-Public Information”** means an individual's name in combination with one or more of the following:

1. information concerning the individual that constitutes “non-public personal information” as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
2. medical or health care information concerning the individual, including “protected health information” as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act; or
3. the individual's social security number, drivers license or state identification number, credit, debit or other financial account numbers and associated security codes, access codes, passwords or pins that allows access to the individual's financial account information.

- U. **“Policy Period”** means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any **Optional Extension Period** or any prior policy period or renewal period.

- V. **“Pollution Condition”** means the actual or alleged discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in **Bodily Injury, Property Damage or Cleanup Costs**.

- W. **“Privacy Policy”** means the internal or publicly accessible written documents that set forth the **Named Insured's** policies, standards and procedures for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to, **Personally Identifiable Non-Public Information**.

- X. **“Professional Services”** means those services performed for others by or on behalf of the **Named Insured** in the capacity as an architect, engineer, land surveyor, landscape architect, interior designer, construction manager, project manager, forensic consultant environmental consultant or design, construction or project consultant or planner.

- Y. **“Property Damage”** means:
1. physical injury to or destruction of any tangible property, including the loss of use thereof; or
 2. loss of use of tangible property that has not been physically injured or destroyed.
- Z. **“Security Breach”** means **Unauthorized Access of Computer Systems**, infection of **Computer Systems** by **Malicious Code** or transmission of **Malicious Code** from **Computer Systems**, whether any of the foregoing is specifically targeted attack or a generally distributed attack. A series of continuing **Security Breaches** or related or repeated **Security Breaches** shall be considered a single **Security Breach** and be deemed to have occurred at the time of the first such **Security Breach**.
- AA. **“Technology Based Services”** means computer and electronic technology services, including data processing, Internet services, data and application hosting, computer systems analysis, technology consulting and training, custom software programming for a specific client of the **Named Insured**, computer and software systems installation and integration, computer and software support, and network management services performed by the **Insured**, or by others acting under the **Named Insured’s** trade name, for others for a fee, but shall not mean **Technology Products**.
- BB. **“Technology Products”** means a computer or telecommunications hardware or software product, or related electronic product that is created, manufactured or developed by the **Named Insured** for others, or distributed, licensed, leased or sold by the **Named Insured** to others, for compensation, including software updates, service packs and other maintenance releases provided for such products.
- CC. **“Temporary Employee”** means a natural person furnished or leased to the **Named Insured** to meet short term or project specific workloads and for whom the **Named Insured** has the right to direct and control the means of performance.
- DD. **“Theft of Data”** means the unauthorized taking, misuse or disclosure of information on **Computer Systems**, including but not limited to charge, debit, and credit card information, banking, financial, and investment services account information, proprietary information, and personal, private, and confidential information.
- EE. **“Third Party Corporate Information”** means any trade secret, data, design, interpretation, forecast, formula, method, practice, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to the **Insured** subject to a mutually executed written confidentiality agreement or marked “confidential” in writing by such third party.
- FF. **“Unauthorized Access”** means:
1. the use of or access to **Computer Systems** by a person not authorized to do so by the **Named Insured**; or
 2. the authorized use of or access to **Computer Systems** in a manner not authorized by the **Named Insured**.

IV. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

- A. The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, exclusions and other terms and conditions of this Policy, any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent.
- B. The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, exclusions, and other terms and conditions of this Policy, any **Claim** in the form of a civil suit against the **Insured** that seeks injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction) for one or more of the acts listed in Insuring Clause I.F. if:
1. the **Claim** is first made during the **Policy Period** or **Optional Extension Period** (if applicable) and reported to the Underwriters pursuant to the terms of this Policy; and
 2. the act or acts were committed on or after the Retroactive Date set forth in Item 6. of the Declarations and before the end of the **Policy Period** in the course of the **Named Insured's** performance of **Professional Services, Media Activities** or **Technology Based Services**.
- C. When the Underwriters defend a **Claim**, it will pay **Claims Expenses** incurred with its prior written consent. The Limit of Liability available to pay **Damages** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. **Damages** and **Claims Expenses** shall be applied against the Each **Claim** Deductible.
- D. The Underwriters shall have the right to make any investigation it deems necessary, including, without limitation, any investigation with respect to the **Application** and statements made in the **Application** and with respect to coverage.
- However, notwithstanding the above, the **Insured's** rights under this Policy shall not be prejudiced by any refusal to disclose the identity of any confidential source of information, or to produce any documentation or information obtained in the course of **Media Activities** in respect of which the **Insured** has asserted a claim of reporter's privilege or any other privilege regarding the protection of news-gathering activities.
- E. If the **Insured** shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the Claimant and elects to contest the **Claim**, the Underwriters liability for any **Damages** and **Claims Expenses** shall not exceed the amount for which the **Claim** could have been settled, less the remaining Each **Claim** Deductible, plus the **Claims Expenses** incurred up to the time of such refusal, or the applicable Limit of Liability, whichever is less, and the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**. The portion of any proposed settlement or compromise that requires the **Insured** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity or is attributable to future royalties or other amounts that are not **Damages** shall not be considered in determining the amount for which a **Claim** could have been settled.
- F. It is further provided that the Underwriters shall not be obligated to pay any **Damages** or **Claims Expenses**, or to undertake or continue defense of any suit or proceeding after

the applicable Limit of Liability has been exhausted by payment of **Damages** and/or **Claims Expenses** or after deposit of the applicable Limit of Liability in a court of competent jurisdiction, and that upon such payment, the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the **Insured**.

V. TERRITORY

This Policy applies to **Claims** made and acts, errors or omissions or **Pollution Conditions** committed or arising anywhere in the world.

VI. EXCLUSIONS APPLICABLE TO ALL COVERAGES UNDER THIS INSURANCE

The coverage under this Insurance does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim**:

A. Criminal, Dishonest, Intentional, Fraudulent, Malicious, Willful or Knowing Acts

arising out of or resulting from any criminal, dishonest, intentional, fraudulent, malicious, willful or knowing act, error or omission committed by any **Insured**; however, this Policy shall apply to **Claims Expenses** incurred in defending any such **Claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against the **Insured**, or admission by the **Insured**, establishing such criminal, dishonest, intentional, fraudulent, malicious willful or knowing conduct, or a plea of *nolo contendere* or no contest regarding such conduct, at which time the **Named Insured** shall reimburse the Underwriters for all **Claims Expenses** incurred defending the **Claim** and the Underwriters shall have no further liability for **Claims Expenses**.

Provided, that this exclusion shall not apply to any **Claim** based upon or arising from the **Insured's** unintentional breach of a written agreement to refrain from disclosing confidential or proprietary information in rendering or failure to render **Professional Services** or in the performance of or failure to perform **Contracting Services**.

B. Prior Knowledge, Prior Notice and Prior Acts

1. arising out of or resulting from any actual or alleged act, error or omission or **Pollution Condition** committed or arising prior to the inception date of this Insurance:
 - a. if any director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** on or before the inception date knew or could have reasonably foreseen that such act, error or omission or **Pollution Condition** might be expected to be the basis of a **Claim**; or
 - b. in respect of which any **Insured** has given notice of a **Circumstance** to the insurer of any other policy in force prior to the inception date of this Policy; or

2. arising out of related or continuing acts, errors or omissions or **Pollution Conditions** where the first such act, error or omission or **Pollution Condition** was committed or arose prior to the Retroactive Date set forth in Item 6. of the Declarations.

C. Insured versus Insured

by or on behalf of any **Insured**; provided, that this exclusion shall not apply to a **Claim** by or on behalf of any client of the **Named Insured** who is an **Insured** by virtue of Clause III.M.8.

D. Ownership Interest and Outside Positions

1. arising out of or resulting from any **Insured's** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the **Named Insured**; or
2. made by any entity, arising out of **Professional Services, Contracting Services, Media Activities or Technology Based Services** performed for such entity, or **Technology Products** provided to such entity which:
 - a. is operated, managed or controlled by an **Insured** or in which any **Insured** has an ownership interest which cumulatively exceeds twenty-five percent (25%), or in which any **Insured** is an officer or director; or
 - b. operates, controls or manages the **Named Insured**, or has an ownership interest of more than fifteen percent (15%) in the **Named Insured**.

E. Discrimination, Humiliation, Harassment and Misconduct

for or arising out of or resulting from any actual or alleged discrimination, humiliation, harassment or misconduct because of age, color, race, sex, creed, national origin, marital status, sexual preference or orientation, religion, disability or pregnancy; provided, that this exclusion shall not apply to any **Claim** based upon the Americans with Disabilities Act of 1990 (ADA), as amended, or the Fair Housing Act (FHA), or any state or local versions of those acts, and arising out of the **Insured's** rendering or failure to render **Professional Services**.

a. Assumption of Contractual Liability of Others

arising out of or resulting from the liability of others assumed by the **Insured** under any contract or agreement either oral or written, including any hold harmless or indemnity agreements, except:

1. with respect to Insuring Clause I.F. for liability **Assumed under Contract**; or
2. to the extent the **Insured** would have been liable in the absence of such contract or agreement.

b. Express Warranties, Representations, Guarantees and Promises

for or arising out of or resulting from:

1. breach of any express warranty or representation except for an agreement to perform within a reasonable standard of care or skill consistent with applicable industry standards; or
2. a demand for satisfaction of or breach of guarantee or any promises including, without limitation, cost savings, cost of construction, maximum construction price, **financing**, profits, or return on investment.

c. Faulty Workmanship

under Insuring Clause I.A. arising out of the cost to repair or replace any faulty workmanship performed in whole or in part by any **Insured** on any construction, erection, fabrication, installation, assembly, manufacture or remediation, including any materials, parts, labor or equipment furnished in connection with such repair or replacement.

d. Asbestos

either in whole or in part, directly or indirectly, arising out of or resulting from or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity; provided, that this exclusion does not apply to any **Claim** arising out of any negligent act, error or omission in rendering or failure to render **Professional Services** on or after January 1, 1990 or the Retroactive Date set forth in Item 6. of the Declarations (whichever is the later) by or on behalf of the **Insured**.

e. Employers Liability and Workers Compensation

for or arising out of or resulting from:

1. **Bodily Injury** to any employee of the **Named Insured** arising out of and in the course of employment by the **Named Insured**; or
2. the **Named Insured's** employment obligations, decisions, practices or policies as an employer.
3. any obligation which the **Insured** or any carrier as insurer may be liable under any workers compensation, unemployment compensation or disability benefits law or similar law.

K. Property Liability

arising out of or resulting from the **Insured's** ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of any real or personal property including without limitation, automobiles, aircraft, watercraft and other kinds of conveyances.

L. **Products Liability**

arising out of or resulting from the design or manufacture of any goods or products for multiple sales or mass distribution which are sold or supplied by the **Insured** or by others under license from the **Insured**; provided, that this exclusion shall not apply to any **Claim** which is covered pursuant to Insuring Clause I.D. of this Policy.

M. **Transportation, Shipment or Delivery of Waste, Products or Materials**

under Insuring Clause I.B. arising out of or resulting from any waste or any products or materials transported, shipped or delivered via watercraft, aircraft, motor vehicle, mobile equipment or rolling stock to a location beyond the boundaries of a site at which **Professional Services** are being rendered or **Contracting Services** are being performed.

N. **Property Damage to Named Insured's Work and Products**

under Insuring Clause I.B. for any **Property Damage**:

1. to work performed by or on behalf of the **Named Insured** resulting from the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith; or
2. to any goods or products which are sold or supplied by the **Insured** or by others under license from the **Insured** resulting from such goods or products or any portion thereof.

O. **Patent Infringement**

for or arising out of actual or alleged infringement of patent or patent rights or misuse of patent.

VII. **EXCLUSIONS APPLICABLE TO INSURING CLAUSE I.C., I.D., I.E., I.F. AND I.G.**

The coverage under Insuring Clause I.C., I.D., I.E., I.F. and/or I.G. of this Policy does not apply to **Damages** or **Claims Expenses** in connection with or resulting from any **Claim**:

A. **Contractual Liability**

arising out of or resulting from:

1. any contractual liability or obligation, or arising out of or resulting from breach of contract or agreement either oral or written, except:
 - a. with respect to:
 - i. Insuring Clause I.C. for breach of an agreement by the **Named Insured** to perform **Technology Based Services**; or
 - ii. Insuring Clause I.D. for breach of an agreement by the **Named Insured** to manufacture, develop, create, distribute, license, lease or sell **Technology Products**;

this exclusion shall not apply to breach of any hold harmless or indemnity agreement;

- b. with respect to Insuring Clause I.F. for liability:
 - i. **Assumed under Contract**; or
 - ii. misappropriation of ideas under an implied contract;
 - c. with respect to Insuring Clause I.G. for liability or any obligation under a confidentiality or non-disclosure agreement with regards to **Personally Identifiable Non-Public Information** or **Third Party Corporate Information**; or
 - d. to the extent the **Insured** would have been liable in the absence of such contract or agreement; or
2. breach of any contractual obligation which goes beyond an express or implied duty to exercise a degree of care or skill as is consistent with applicable industry standards.

B. Business Risks

for or arising out of or resulting from:

- 1. inaccurate, inadequate or incomplete description of the price of goods, products or services;
- 2. cost guarantees, cost representations, or contract price estimates of probable costs or cost estimates actually or allegedly being exceeded;
- 3. the failure of goods, products, or services to conform with any represented quality or performance contained in **Advertising**; or
- 4. any actual or alleged gambling, contest, lottery, promotional game or other game of chance.

C. Licensing Fees and Royalty Payments

arising out of or resulting from any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments.

D. Reprinting, Recall, Removal, Disposal, Withdrawal, Inspection, Repair, Replacement, Reproduction Costs and Expenses

for or arising out of or resulting from any costs or expenses incurred or to be incurred by the **Insured** or others for:

- 1. the reprinting, recall, removal or disposal of any **Media Material**, including any media or products containing such **Media Material**; or

2. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:
 - a. **Technology Products**, including any products or other property of others that incorporate **Technology Products**;
 - b. work product resulting from or incorporating the results of **Technology Based Services**; or
 - c. any products or other property on which **Technology Based Services** are performed;

provided, that this exclusion shall not apply to **Claims** for the resulting loss of use of such **Media Material** or **Technology Products**, or loss of use of the work product resulting from such **Technology Based Services**.

E. **Electrical and Telecommunications Failure and Malfunction and Force Majeure**

arising out of, resulting from or alleging:

1. any failure or malfunction of electrical or telecommunications infrastructure or services, unless under the **Named Insured's** operational control; or
2. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical or force majeure event.

F. **Antitrust**

for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, as amended, or any similar law or legislation of any state, province or other jurisdiction, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive or misleading advertising.

G. **Federal Trade Commission and Federal Communications Commission**

brought by or on behalf of the Federal Trade Commission, the Federal Communications Commission, or any similar governmental entity, in such entity's regulatory or official capacity.

H. **Copyright and Trade Secret Infringement of Technology Products**

for or arising out of actual or alleged infringement of copyright or misappropriation of trade secret arising out of or related to **Technology Products**.

I. **Electromagnetic Fields and Radiation**

for or arising out of or resulting from the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or

allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property.

J. Delay in Delivery or Performance

for or arising out of or resulting from delay in delivery or performance, or failure to deliver or perform at or within an agreed upon period of time.

VIII. LIMIT OF LIABILITY

- A. The Limit of Liability stated in Item 3.(a) of the Declarations for “Each **Claim**” is the limit of the Underwriters liability for all **Damages** and **Claims Expenses** arising out of each **Claim**.
- B. The “Aggregate for the **Policy Period**” stated in Item 3.(b) of the Declarations is the Underwriters combined total Limit of Liability for all **Damages** and **Claims Expenses** arising out of all **Claims** which are covered under the terms and conditions of this Policy, and neither the inclusion of more than one **Insured** under this Policy, nor the making of **Claims** by more than one person or entity shall increase the Limit of Liability.
- C. The Underwriters’ maximum aggregate Limit of Liability with respect to all **Claims** brought by or on behalf of or in the name or right of or involving the same claimant on a single project or related projects shall not exceed the Each **Claim** Limit of Liability stated in Item 3.(a) of the Declarations.
- D. The Limit of Liability for the **Optional Extension Period** shall be part of and not in addition to the Limit of Liability of the Underwriters for the **Policy Period**.

IX. DEDUCTIBLE

- A. The “Each **Claim** Deductible” stated in Item 4. of the Declarations applies separately to each **Claim**. The Each **Claim** Deductible shall be satisfied by monetary payments by the **Named Insured** of **Damages** and **Claims Expenses** resulting from **Claims** first made during the **Policy Period** and the **Optional Extension Period** (if applicable) and reported to the Underwriters pursuant to the terms of this Policy. Satisfaction of the Each **Claim** Deductible is a condition precedent to the payment by the Underwriters of any amounts hereunder, and the Underwriters shall be liable only for the amounts in excess of the Each **Claim** Deductible subject to the Underwriters total liability not exceeding the Limits of Liability stated in Items 3.(a) and 3.(b) of the Declarations. The **Named Insured** shall make direct payments within the Each **Claim** Deductible to appropriate other parties designated by the Underwriters.
- B. Any payments by the **Named Insured** in satisfaction of its deductible obligations under any other valid and collectible insurance shall not satisfy the Each **Claim** Deductible under this Policy.

X. INNOCENT INSURED

- A. Whenever coverage under this Insurance would be excluded, suspended or lost because of Exclusion VI.A relating to criminal, dishonest, intentional, fraudulent, malicious, willful or knowing acts, errors or omissions by any **Insured**, and with respect

to which any other **Insured** did not personally participate or personally acquiesce or remain passive after having personal knowledge thereof, then the Underwriters agree that such insurance as would otherwise be afforded under this Policy shall cover and be paid with respect to those **Insureds** who did not personally commit or personally participate in committing or personally acquiesce in or remain passive after having personal knowledge of one or more of the acts, errors or omissions described in Exclusion VI.A.

This provision is inapplicable to any **Claim** or **Circumstance** against the **Named Insured** arising from acts, errors or omissions known to any present or former principal, partner, director or officer of the **Named Insured**.

- B. With respect to this provision, the Underwriters obligation to pay in such event shall only be in excess of the full extent of any recoverable assets of any **Insured** to whom Exclusion VI.A. applies and shall be subject to the terms, conditions and limitations of this Policy.

XI. NOTICE OF CLAIM OR CIRCUMSTANCE

- A. If any **Claim** is made against an **Insured**, the **Insured** shall forward as soon as practicable to the Underwriters through the persons named in Item 9.(a) of the Declarations written notice of such **Claim** in the form of a facsimile, email or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative, but in no event later than sixty (60) days after the expiration of the **Policy Period** or during the **Optional Extension Period**, if purchased.
- B. If during the **Policy Period** any director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** first becomes aware of any **Circumstance** and gives written notice to the Insurer in the form of a facsimile, email or express or certified mail through persons named in Item 9.(a) of the Declarations as soon as practicable during the **Policy Period** of:
1. the specific details of the act, error or omission or **Pollution Condition** in the provision of **Professional Services, Contracting Services, Media Activities** or **Technology Based Services** or relating to **Technology Products** that gave rise to the **Circumstance**;
 2. the injury or damage which may result or has resulted from the **Circumstance**; and
 3. the facts by which such director, officer, principal, partner, insurance manager or any member of the risk management or legal department of the **Named Insured** first became aware of the act, error or omission or **Pollution Condition**

then any subsequent **Claim** made against the **Insured** arising directly out of such **Circumstance** which is the specific subject of the written notice will be deemed to have been made at the time written notice complying with the above requirements was first given to the Underwriters.

- C. A **Claim** shall be considered to be reported to the Underwriters when written notice is first received by the Underwriters in the form of a facsimile, email or express or certified mail through persons named in Item 9.(a) of the Declarations of the **Claim** or of a **Circumstance** if provided in compliance with Clause B. above.
- D. If any **Insured** shall make any **Claim** under this Policy knowing such **Claim** to be false or fraudulent, as regards amount or otherwise, this Policy shall become null and void and all coverage hereunder shall be forfeited.

XII. OPTIONAL EXTENSION PERIOD

- A. If this Policy is cancelled or non-renewed by the Underwriters or by the **Named Insured**, then the **Named Insured** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 8.(a) of the Declarations of the total premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **Claim** first made against any **Insured** and reported in writing to the Underwriters during the period of time set forth in Item 8.(b) of the Declarations after the end of the **Policy Period**, but only with respect to any act, error or omission or **Pollution Condition** committed or arising on or after the Retroactive Date and before the effective date of cancellation or non-renewal.
- B. As a condition precedent to the right to purchase the **Optional Extension Period**, the total premium for this Policy must have been paid. The right to purchase the **Optional Extension Period** shall terminate unless written notice together with full payment of the premium for the **Optional Extension Period** is given to the Underwriters within sixty (60) days after the effective date of cancellation or non-renewal. If such notice and premium payment is not so given to the Underwriters, there shall be no right to purchase the **Optional Extension Period**.
- C. In the event of the purchase of the **Optional Extension Period**, the entire premium for the **Optional Extension Period** shall be deemed earned at its commencement.
- D. The Limit of Liability for the **Optional Extension Period** shall be part of and not in addition to the Limit of Liability of the Underwriters for the **Policy Period**.
- E. The offer of renewal terms, conditions or premiums different from those in effect prior to renewal shall not constitute a refusal to renew for purposes of this Clause XII.

XIII. REPRESENTATIONS

By acceptance of this Policy, all **Insureds** agree that the statements contained in the **Application** are their agreements and representations, that they shall be deemed material to the risk assumed by the Underwriters, and that this Policy is issued in reliance upon the truth thereof.

The misrepresentation or non-disclosure of any matter by the **Insured** or its agent in the **Application** will render the Policy null and void and relieve the Underwriters from all liability under the Policy.

XIV. OTHER INSURANCE

This Insurance shall apply in excess of:

- A. any other valid and collectible insurance available to any **Insured**, including, but not limited to, any project specific professional liability and/or contractors pollution liability insurance; and
- B. any self insured retention or deductible portion thereof

unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

XV. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable. If an **Insured** shall die or be adjudged incompetent, such insurance shall cover that **Insured's** legal representative as the **Insured** as would be permitted by this Policy.

XVI. CANCELLATION

- A. The **Named Insured** may cancel this Policy by surrender thereof to the Underwriters, or by mailing to the Underwriters written notice stating when thereafter such cancellation shall be effective. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice shall be equivalent to mailing.
- B. The Underwriters may cancel this Policy by mailing or delivering to the **Named Insured** at the address shown in the Declarations written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if the Underwriters cancel this Policy because the **Insured** has failed to pay a premium when due, this Policy may be cancelled by the Underwriters by mailing or delivering a written notice of cancellation to the **Named Insured** at the address shown in the Declarations stating when not less than ten (10) days thereafter such cancellation shall be effective. The notice of cancellation shall state the reason for cancellation. The mailing of such notice shall be sufficient notice and the effective date of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery of such written notice by the Underwriters shall be equivalent to mailing
- C. If this Policy is cancelled pursuant to A. hereinabove, the Underwriters shall retain the short rate portion of the premium hereon calculated in accordance with the Short Rate Cancellation Table set forth in Clause XXVI. of this Policy. If this Policy is cancelled pursuant to B. hereinabove, the Underwriters shall retain the pro rata portion of the premium hereon. Payment or tender of any unearned premium by the Underwriters shall not be a condition precedent to the effectiveness of cancellation.

XVII. MERGERS AND ACQUISITIONS

- A. If during the **Policy Period**, if the **Named Insured** acquires another entity for whom more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such entity's directors are owned by the **Named Insured**, then no **Insured** shall have coverage under this Policy for any **Claim** that arises out of any act, error or omission or **Pollution Condition**, whether committed or arising either before or after such acquisition:
1. by the acquired entity or any person employed by the acquired entity; or
 2. involving or relating to the assets, liabilities, or **Computer Systems** of the acquired entity.
- The foregoing provision shall not apply if the **Named Insured** gives the Underwriters written notice within sixty (60) days after the effective date of the acquisition, obtains the written consent of the Underwriters to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by the Underwriters.
- B. If during the **Policy Period** the **Named Insured** consolidates or merges with another entity such that the **Named Insured** is not the surviving entity, is acquired by another entity, or sells substantially all of its assets to any other entity, then coverage under this Policy shall not apply to acts, errors, omissions or other breach or **Pollution Conditions** committed or arising subsequent to such consolidation, merger or acquisition. The **Named Insured** shall provide written notice of such consolidation, merger or acquisition to the Underwriters as soon as practicable, together with such information as the Underwriters may require.
- C. All notices and premium payments made under this section shall be directed to the Underwriters through the entity named in Item 8.(b) of the Declarations.

XVIII. ASSISTANCE AND COOPERATION OF THE INSURED

The **Insured** shall cooperate with the Underwriters in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is requested by the Underwriters. The **Insured** agrees not to take any action which in any way increases the Underwriters exposure under the Policy.

Upon the Underwriters request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of acts, errors or omissions or **Pollution Conditions** with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any **Claim** without the written consent of the Underwriters.

Except as provided for in Clause II.B., expenses incurred by the **Insured** in assisting and cooperating with the Underwriters, as described above, do not constitute **Claims Expenses** and are not reimbursable under the Policy.

XIX. ACTION AGAINST THE UNDERWRITERS

No action shall lie against the Underwriters unless, as a condition precedent thereto, the **Insured** shall have fully complied with all of the terms of this Policy, nor until the amount of the **Insured's** obligation to pay shall have been fully and finally determined either by judgment against them or by written agreement between them, the claimant and the Underwriters. Nothing contained herein shall give any person or organization any right to join the Underwriters as a party to any **Claim** against the **Insured** to determine their liability, nor shall the Underwriters be impleaded by the **Insureds** or their legal representative in any **Claim**.

XX. SUBROGATION

In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. The Underwriters agrees to waive its rights of recovery against any client of the **Named Insured** for a **Claim** which is covered pursuant to Insuring Clause I.A. and/or I.B. of this Policy to the extent the **Named Insured** had, prior to such **Claim**, a written agreement to waive such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages** and **Claims Expenses** paid by the Underwriters, and third to the Each **Claim** Deductible. Any additional amounts recovered shall be paid to the **Named Insured**.

XXI. ENTIRE AGREEMENT

By acceptance of this Policy, all **Insureds** agree that this Policy embodies all agreements existing between them and the Underwriters relating to this Insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Underwriters from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy, signed by the Underwriters.

XXII. VALUATION AND CURRENCY

All premiums, limits, deductibles, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Claims Expenses** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

XXIII. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** shall not relieve the Underwriters of their obligations nor deprive the Underwriters of its rights or defenses under this Policy.

XXIV. AUTHORIZATION

By acceptance of this Policy, the **Insureds** agree that the **Named Insured** will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

XXV. HEADINGS

The descriptions in the headings and subheadings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

XXVI. SHORT RATE CANCELLATION TABLE

Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this Insurance is written it is agreed that in the event of cancellation thereof by the **Insured** the Earned Premium shall be computed as follows:

SHORT RATE CANCELLATION TABLE

A. For insurances written for one year:

Days Insurance in Force	Per cent. of One Year Premium	Days Insurance in Force	Per cent. of One Year Premium
1 - 73	30	206 - 209	66
74 - 76	31	210 - 214 (7 months)	67
77 - 80	32	215 - 218	68
81 - 83	33	219 - 223	69
84 - 87	34	224 - 228	70
88 - 91 (3 months)	35	229 - 232	71
92 - 94	36	233 - 237	72
95 - 98	37	238 - 241	73
99 - 102	38	242 - 246 (8 months)	74
103 - 105	39	247 - 250	75
106 - 109	40	251 - 255	76
110 - 113	41	256 - 260	77
114 - 116	42	261 - 264	78
117 - 120	43	265 - 269	79
121 - 124 (4 months)	44	270 - 273 (9 months)	80
125 - 127	45	274 - 278	81
128 - 131	46	279 - 282	82
132 - 135	47	283 - 287	83
136 - 138	48	288 - 291	84
139 - 142	49	292 - 296	85
143 - 146	50	297 - 301	86
147 - 149	51	302 - 305 (10 months)	87
150 - 153 (5 months)	52	306 - 310	88
154 - 156	53	311 - 314	89
157 - 160	54	315 - 319	90
161 - 164	55	320 - 323	91
165 - 167	56	324 - 328	92

168 – 171	.....	57	329 – 332	.....	93
172 – 175	.....	58	333 – 337	(11 months)....	94
176 – 178	.....	59	338 – 342	.....	95
179 – 182	(6 months).....	60	343 – 346	.....	96
183 – 187	.....	61	347 – 351	.....	97
188 – 191	.....	62	352 – 355	.....	98
192 – 196	.....	63	356 – 360	.....	99
197 – 200	.....	64	361 - 365	(12 months)...	100
201 - 205	.....	65			

B. For Insurances written for more or less than one year:

1. If insurance has been in force for 12 months or less, apply the standard short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
2. If insurance has been in force for more than 12 months:
 - (a) Determine full annual premium as for an insurance written for a term of one year.
 - (b) Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata Earned Premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the insurance was originally written.
 - (c) Add premium produced in accordance with items (a) and (b) to obtain Earned Premium during full period insurance has been in force.

Furthermore and notwithstanding the foregoing, the Underwriters shall retain the total premium for this Policy, such total premium to be deemed earned upon inception of the Policy if any **Claim** or **Circumstance** is reported to the Underwriters under this Policy on or before such date of cancellation.