

AFB A&E 2003

NOTICE

This is a claims made and reported Policy. Unless stated otherwise coverage afforded under this insurance is limited to claims that:

- (a) are first made against the ASSURED during the POLICY PERIOD and reported in writing to the Underwriters either during the POLICY PERIOD, or within sixty (30) days after the expiration of the POLICY PERIOD and;
- (b) arise from PROFESSIONAL SERVICES rendered subsequent to the retroactive date stated in item 6 of the Declarations.

The limit of liability available to pay DAMAGES shall be reduced and may be completely exhausted by the payment of CLAIMS EXPENSES. DAMAGES and CLAIMS EXPENSES shall be applied against the Self-Insured Retention.

Please review this Policy carefully with your insurance agent, broker or representative.

INSURING AGREEMENTS

The Underwriters, in consideration of the payment of the premium, and the Assured undertaking to promptly pay the Self-Insured Retention as described in Item 4 of the Declarations, and in reliance upon the statements and representations in the application and any supplemental materials submitted therewith, which are made a part hereof, and attached hereto and subject to all the terms and conditions of this Policy, agree with the ASSURED as follows:

I. COVERAGE - PROFESSIONAL LIABILITY

To pay on behalf of the ASSURED those sums which the ASSURED shall become legally obligated to pay as "DAMAGES" by reason of a CLAIM first made against the ASSURED during the POLICY PERIOD and reported in writing to the Underwriters either during the POLICY PERIOD, or within sixty (30) days after the expiration of the POLICY PERIOD arising out of any negligent act, error or omission in rendering or failure to render PROFESSIONAL SERVICES by the ASSURED or by any person for whose negligent act, error or omission the ASSURED is legally responsible except as excluded or limited by the terms, conditions and exclusions of the Policy.

II. DEFENCE AND SETTLEMENT

- (a) The Underwriters shall have the right and duty to defend, subject to the limit of liability, a CLAIM against the ASSURED seeking DAMAGES which are payable under the terms of this insurance, even if any of the allegations of the CLAIM are groundless, false or fraudulent.
- (b) It is agreed that 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 Self-Insured Retention.
- (c) The Underwriters shall have the right to make any investigation they deem necessary with respect to coverage, including, without limitation, any investigation with respect to the application, statements made in the application and any supplemental materials submitted therewith. The ASSURED shall submit for examination by a representative of the Underwriters, under oath if requested, in connection with all matters relating to this Policy.
- (d) If the NAMED ASSURED shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the claimant and elects to contest the CLAIM, Underwriters' liability for any DAMAGES and CLAIMS EXPENSES shall not exceed the amount for which the CLAIM could have been settled including 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 defence thereof by tendering control of said defence to the NAMED ASSURED.

- (e) It is further provided that the Underwriters shall not be obligated to pay any DAMAGES or CLAIMS EXPENSES or to undertake or continue defence of a CLAIM after the applicable limit of liability has been exhausted by payment of DAMAGES or CLAIMS EXPENSES, or after deposit of any remaining Policy Limit in a court of competent jurisdiction and that upon such payment, the Underwriters shall have the right to withdraw from the further defence thereof by tendering the further control of said defence to the NAMED ASSURED.

III. LIMIT OF LIABILITY

- (a) The Limit of Liability stated in Item 3 of the Declarations as “each and every claim” is the limit of the Underwriters’ liability for all DAMAGES and CLAIMS EXPENSES arising out of the same, related or continuing PROFESSIONAL SERVICES without regard to the number of ASSUREDS, CLAIMS or claimants.
- (b) The Limit of Liability stated in Item 3 of the Declarations as “aggregate” is the total limit of the Underwriters’ liability for all DAMAGES and CLAIMS EXPENSES arising out of CLAIMS or circumstances which might lead to a CLAIM first made and reported to the Underwriters during the POLICY PERIOD or during the EXTENDED REPORTING PERIOD and CLAIMS arising out of the same, related or continuing PROFESSIONAL SERVICES as such CLAIMS or circumstances which might lead to a CLAIM.
- (c) The Limit of Liability for the Extended Reporting Period shall be part of, and not in addition to, the limits of liability of the Underwriters for the POLICY PERIOD.

IV. SELF-INSURED RETENTION

The Self-Insured Retention amount stated in Item 4 of the Declarations shall apply separately to each and every CLAIM and shall apply to DAMAGES and CLAIMS EXPENSES, separately or in combination. Subject to the Limit of Liability stated in Item 3 of the Declarations, the obligation of the Underwriters to pay on behalf of the ASSURED for DAMAGES and CLAIMS EXPENSES, separately or in combination, shall only be in excess of the Self-Insured Retention amount, and only after the Assured has fully paid the Self - Insured Retention.

V. TERRITORY

The insurance afforded herein applies worldwide.

EXCLUSIONS

This Policy shall not apply to CLAIMS or CLAIMS EXPENSES arising out of:-

- I. Any CLAIM or circumstance that might lead to a CLAIM in respect of which any ASSURED, prior to the commencement of this Policy, has given notice to an insurer of any other policy;
- II. Any facts or circumstances known to the ASSURED prior to commencement of this Policy which a reasonably prudent person, if aware of said facts or circumstances, might expect to give rise to a CLAIM against the ASSURED;
- III. Any fraudulent, criminal, malicious or knowingly or intentionally wrongful or dishonest acts, errors or omissions of any ASSURED. However, nothing contained in the foregoing shall exclude coverage to the NAMED ASSURED or to any other ASSURED who neither committed nor had knowledge of such acts, errors or omissions as described above except that this Policy shall then only pay in excess of the full extent of the assets in the NAMED ASSURED of any ASSURED who committed such acts, errors or omissions as described above, and any other personal assets of such ASSURED recovered by the NAMED ASSURED shall inure, to the extent of the amount paid by this Policy, to the benefit of Underwriters;
- IV. Any ASSURED acting in his capacity as a principal, partner, director and/or officer of any entity other than the NAMED ASSURED;
- V. Any liability, or alleged liability, of one or more ASSUREDS under this Policy to any other one or more ASSUREDS under this Policy;

- VI. Any joint ventures. This exclusion does not apply to legal liability that arises out of a negligent act, error or omission in the performance of the ASSURED'S PROFESSIONAL SERVICES in a joint venture if endorsed as an additional ASSURED on the Policy;
- VII. Any projects where project specific professional liability insurance has been purchased and is in force, unless specifically endorsed hereon;
- VIII. The advising or requiring of, or failure to advise or require, or failure to maintain any form of insurance, suretyship or bond, either with respect to the ASSURED or any other person;
- IX.. Personal injury, bodily injury, sickness, disease or death to any employee of the ASSURED arising out of and in the course of employment by the Assured, or any obligation which the Assured or any carrier as insurer may be liable under any worker's compensation, unemployment compensation, employers liability, disability benefits law or under any similar law;
- X. Express warranties and guarantees;
- XI. The design or manufacture of any goods or products which are sold or supplied by the ASSURED or by others under license from the ASSURED;
- XII. Infringement of a copyright, trademark or patent.
- XIII. Professional Services performed for any entity which:
 - A. is operated, managed or controlled by the ASSURED or any individual ASSURED;
 - B. in which the ASSURED or any individual ASSURED has an ownership interest or
 - C. in which the ASSURED or individual ASSURED is an officer or director; or
 - D. wholly or partly owns, operates, controls or manages the ASSURED.

This exclusion does not apply to legal liability that arises out of a negligent act, error or omission in the performance of the ASSURED'S PROFESSIONAL SERVICES in a joint venture if endorsed as an additional ASSURED on the Policy.

- XIV. either in whole or in part, directly or indirectly, based upon, relating to:-
 - A. (1) The actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; or
 - (2) Any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins;
 - B. any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins;
 - C. Underwriters will have no duty or obligation to defend any Insured with respect to any CLAIM or governmental or regulatory order, requirement, directive, mandate or decree which, either in whole or in part, directly or indirectly, is for, based upon, relates to, or arises out of the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind.

- XV. either in whole or in part, directly or indirectly, based upon, relating to:-
- A. the actual, alleged or threatened discharge, dispersal, release or escape of POLLUTANTS; or
 - B. any governmental, judicial or regulatory directive or request that the ASSURED or anyone acting under the direction or control of the ASSURED test for, monitor, clean up, remove, contain, treat, detoxify or neutralize POLLUTANTS.

This exclusion does not apply to CLAIMS or CLAIMS EXPENSES resulting from PROFESSIONAL SERVICES by or on behalf of the ASSURED in the design or construction of:

- (a) wastewater, STORM WATER, and domestic sewage collection and treatment systems, including those receiving industrial WASTE, but only if such industrial WASTE is pretreated in accordance with applicable governmental or regulatory standards; or
 - (b) potable water systems; or
 - (c) heating, ventilating, or air conditioning systems or electrical systems; but pollution arising from systems designed for the purpose of controlling, removing or eliminating POLLUTANTS is excluded.
- XVI. either in whole or in part, directly or indirectly, based upon, relating to:-
- A. asbestos or any material containing asbestos, including the specification or installation of any material or product or process containing asbestos; or
 - B. any disease directly or indirectly related to asbestos; or
 - C. any act, error or omission, professional or otherwise, involving the existence, use, detection, removal, elimination of or exposure to asbestos or any material containing asbestos.
- XVII. The liability of others assumed by the ASSURED under any contract or agreement, including a hold harmless agreement, either oral or written, except and to the extent the ASSURED would have been liable in the absence of such contract or agreement;
- XVIII. Sanctions, fines, penalties, taxes, return of fees, multiple damages, exemplary damages, punitive damages and any matters uninsurable under the law under which this policy shall be construed;
- XIX. Demands for the return or reimbursement or payment of fees paid to or owed to the ASSURED;
- XX. For or arising out of any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state or local law similar to the foregoing, whether such law is statutory, regulatory or common law;
- XXI. The insolvency or bankruptcy of any ASSURED or of any other entity including but not limited to the failure, inability, or unwillingness to pay CLAIMS, losses, or benefits due to the insolvency, liquidation or bankruptcy of any such individual or entity.
- XXII. Resulting from actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy;
- XXIII. Any CLAIM arising out of any ASSURED'S activities and/or capacity as a Fiduciary under the Employee Retirement Income Security Act of 1974 and its amendment or any regulation or order issued pursuant thereto.

DEFINITIONS

As used throughout this Policy, whether expressed in singular or plural:

- I. ASSURED shall mean:
- (a) the NAMED ASSURED designated in Item 1 of the Declarations;
 - (b) a present principal, partner, director or officer of the NAMED ASSURED but only while acting in his capacity as such on behalf of the NAMED ASSURED;
 - (c) a present employee of the NAMED ASSURED but only while acting in his capacity as such on behalf of the NAMED ASSURED;
 - (d) a former principal, partner, director, officer or employee (and estate of any such former principal, partner, director, officer or employee) of the NAMED ASSURED, but only while acting in his capacity as such on behalf of the NAMED ASSURED during the period of such service with the NAMED ASSURED, provided always that any such ASSURED must have been performing those PROFESSIONAL SERVICES.
 - (e) the legal heir, executor, administrator or legal representative of the ASSURED in the event of the ASSURED's death, incapacity or bankruptcy, but only with respect to the performance of PROFESSIONAL SERVICES;
- II. CLAIM shall mean a demand received by any ASSURED for money or services, including the service of suit or institution of arbitration proceedings, which is covered under the terms of the Policy. Two or more CLAIMS arising from a single or related series of negligent acts, errors or omissions shall be considered as a single CLAIM if such claims arise out of the performance of Professional Services for a single project.
- III. CLAIMS EXPENSES shall mean those fees, costs and expenses incurred by an attorney designated by the Underwriters to represent the ASSURED for time spent cooperating in the defence and investigation of any CLAIM, and no such expenses or charges shall apply to the ASSURED's responsibility to pay the Self-Insured Retention.
- CLAIMS EXPENSES do not include salaries, overhead or other internal expenses, including travel charges, incurred by the ASSURED for time spent cooperating in the defence and investigation of any CLAIM, and no such expenses or charges shall apply to the ASSURED's responsibility to pay the Self-Insured Retention.
- IV. DAMAGES shall mean a judgment, award or settlement, including any interest thereon.
- V. EXTENDED REPORTING PERIOD shall mean the 12 month period of time after the end of the POLICY PERIOD for reporting CLAIMS as provided in CONDITIONS II. of this Policy.
- VI. HOSTILE FIRE means a fire or explosion which is uncontrollable or breaks out from where it was intended to be.
- VII. NAMED ASSURED shall mean only those persons, partnerships, corporations or entities specified in Item 1 of the Declarations. The term NAMED ASSURED shall not include any partnerships, corporations or entities formed or acquired by the NAMED ASSURED subsequent to the inception date of this Policy unless specifically endorsed hereon.
- VIII. POLICY PERIOD shall mean the period of time between the inception date shown in Item 2 of the Declarations and the effective date of termination, expiration or cancellation of this Policy and specifically excludes any EXTENDED REPORTING PERIOD hereunder.
- IX. POLLUTANTS means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, WASTE, and any of the following except when resulting from a HOSTILE FIRE: heat, smoke, vapour, soot or fumes.
- X. PROFESSIONAL SERVICES shall mean only those services provided by the ASSURED acting in the capacity of an architect, engineer, landscape architect, land surveyor, or as specifically endorsed hereon.
- XI. STORM WATER means water from rain, hail, snow or sleet.

XII. WASTE includes but is not limited to, materials to be recycled, reconditioned or reclaimed.

CONDITIONS

I. A. NOTICE OF CLAIMS

If any CLAIM is made against the ASSURED, whether or not the alleged DAMAGES fall within or in excess of the Self-Insured Retention, the ASSURED shall have the duty to immediately give written notice to the Underwriters' representatives.

Such written notice must contain complete details of the CLAIM, the exact date the CLAIM was first made, the location, the circumstances giving rise to such CLAIM, the identity of all claimants and a full description of the nature and scope of the alleged DAMAGES. The ASSURED must immediately forward every demand, notice, summons or other process received by it or its representative, upon receipt thereof, to Underwriters' representatives, as per item 9 of the Declarations.

B. NOTICE OF CIRCUMSTANCES

If the ASSURED becomes aware of any specific negligent act, error or omission which may reasonably be expected to give rise to a CLAIM, the ASSURED shall, during the POLICY PERIOD, give written notice to Underwriters of:

- (i) the specific act, error or omission;
- (ii) the injury or damage which has or may result from such act, error or omission; and
- (iii) the circumstance by which the ASSURED first became aware of such act, error or omission.

If the ASSURED complies with the foregoing notice requirements (i), (ii) and (iii), any CLAIM subsequently made against the ASSURED arising out of such act, error or omission shall be treated as a CLAIM first made on the date on which such written notice was received by Underwriters.

For purposes of providing notice to Underwriters under CONDITIONS I B, such notice shall be given to the Underwriters representatives as per item 9 of the Declarations.

II. PURCHASE OF EXTENDED REPORTING PERIOD

- (i) In the event of cancellation or non-renewal of this Policy by the Underwriters, the NAMED ASSURED designated in Item 1. of the Declarations shall have the right, upon payment in full and not proportionally or otherwise in part of one hundred percent (100%) of the Premium set forth in Item 5. of the Declarations, to have issued an endorsement providing a twelve (12) month EXTENDED REPORTING PERIOD for CLAIMS first made against any ASSURED and reported to Underwriters during the EXTENDED REPORTING PERIOD, and arising out of any act, error or omission committed on or after the Retroactive Date set forth in Item 6. of the Declarations and before the end of the POLICY PERIOD, subject to the conditions set forth in the definition of EXTENDED REPORTING PERIOD herein. In order for the NAMED ASSURED to invoke the EXTENDED REPORTING PERIOD option, the payment of the additional premium for the EXTENDED REPORTING PERIOD must be received by Underwriters within 30 days of non-renewal or cancellation.
- (ii) The Limit of Liability for the EXTENDED REPORTING PERIOD shall be part of, and not in addition to, the Limit of Liability of the Underwriters for the POLICY PERIOD.
- (iii) The quotation by Underwriters of a different Premium or Self-Insured Retention or Limit of Liability or changes in policy language for the purpose of renewal shall not constitute a refusal to renew or cancellation by the Underwriters.

- (iv) The right to the EXTENDED REPORTING PERIOD shall not be available to the NAMED ASSURED where cancellation or non-renewal by the Underwriters is due to non-payment of premium or failure of an ASSURED to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable Self-Insured Retention.
- (v) All notices and premium payments with respect to the Extended Reporting option shall be directed to Underwriters through an entity named in Item 8. of the Declarations.
- (vi) At the commencement of the EXTENDED REPORTING PERIOD the entire premium shall be deemed earned, and in the event the NAMED ASSURED terminates the EXTENDED REPORTING PERIOD for any reason prior to its natural expiration, Underwriters will not be liable to return any premium paid for the EXTENDED REPORTING PERIOD.

III. COOPERATION AND ASSISTANCE OF THE ASSURED

The ASSURED shall have the duty to cooperate fully with and assist the Underwriters and their representatives with respect to the investigation, settlement or defence of any CLAIM or potential CLAIM.

It is expressly understood however that in no event shall the ASSURED be reimbursed for loss of earnings or fees, or for internal expenses or costs incurred in cooperating with or assisting the Underwriters in investigating or settling any CLAIM at the direction of the Underwriters or in the ASSURED'S defence of any CLAIM, nor shall any such loss of earnings or fees or costs or expenses apply to the ASSURED'S responsibility to pay the Self-Insured Retention.

However, the above condition does not apply to reasonable costs incurred, with the express consent of Underwriters, in securing the co-operation of former principals, officers or employees of the NAMED ASSURED in the defence of a CLAIM otherwise covered herein.

IV. ADMISSION OF LIABILITY

The ASSURED shall not, without the prior written consent of the Underwriters, incur any expenses, including but not limited to forgoing or reducing any compensation due or alleged to be due, or make any other payment, assume any obligation, make any settlement, attempt any remedial measure or in any way admit or acknowledge liability in connection with any CLAIM or potential CLAIM. If this condition is breached, coverage is null and void for any such CLAIM or potential CLAIM.

V. NO ACTION AGAINST UNDERWRITERS

No action shall lie against the Underwriters or their representatives unless, as a condition precedent thereto, the ASSURED shall have fully complied with all the terms and conditions of this Policy, or until the amount of any DAMAGES has been finally determined either by operation of law or by written agreement of the ASSURED, the claimant and the Underwriters.

Nothing contained in this Policy shall give any person or organisation any right to join Underwriters as a defendant or co-defendant or other party in any action against the ASSURED to determine the ASSURED'S liability.

VI. OTHER INSURANCE

The coverage afforded by this Policy shall be excess of all other applicable professional liability insurance, whether or not valid or collectible, including any Self-Insured Retention portion thereof.

VII. CHANGES

None of the Insuring Agreements, Exclusions, Definitions or Conditions or other terms of this Policy shall be amended, waived or otherwise changed except by endorsement hereto signed by the Underwriters.

VIII. NAMED ASSURED AS AGENT

The NAMED ASSURED specified in Item 1 of the Declarations shall be considered the agent of all ASSURED'S with respect to the giving of or receipt of all notices pertaining to this Policy and shall be responsible for the payment to the Underwriters of all premiums and for payment of the Self-Insured Retention.

IX. PREMIUM

The premium for this Policy shall be the amount specified in Item 5 of the Declarations.

X. SUBROGATION

In the event of any CLAIM under this Policy, the Underwriters shall be subrogated to all of the ASSURED'S rights of recovery against any person or entity, and the ASSURED shall execute and deliver to the Underwriters any and all necessary documentation, instruments and records and do whatever else is necessary to secure and enforce such rights. The ASSURED shall take no action after such CLAIM is made against it which prejudices such rights of Underwriters.

XI. ASSIGNMENT

No assignment or transfer of any ASSURED'S rights under this Policy shall bind the Underwriters.

XII. APPLICATION

By acceptance of this Policy, all ASSUREDS agree that the statements contained in the application and any supplemental materials submitted therewith are their agreements and representations, that this Policy is issued in reliance upon the truth thereof, and that this Policy embodies all agreements existing between themselves and the Underwriters. The application and any supplemental materials submitted therewith or a copy thereof is attached to and is specifically made a part of this Policy and is the basis upon which this Policy is issued.

XIII. CANCELLATION

- A. This Policy may be cancelled by the NAMED ASSURED by surrender thereof to Underwriters or by mailing to Underwriters through the entity named in Item 8. of the Declarations written notice stating when thereafter the cancellation shall be effective. The Underwriters may cancel this Policy by mailing to the NAMED ASSURED at the address shown in the Declarations written notice stating when not less than 60 days thereafter such cancellation shall be effective. However, if the Underwriters cancel this Policy because the ASSURED has failed to pay a premium when due, this Policy may be cancelled by the Underwriters by mailing a written notice of cancellation to the NAMED ASSURED at the address shown in the Declarations stating when not less than 10 days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD. Delivery (where permitted by law) of such written notice either by the NAMED ASSURED or by the Underwriters shall be equivalent to mailing.
- B. If the NAMED ASSURED cancels this Policy prior to reporting any CLAIM under this Policy, thirty percent (30%) of the premium shall be deemed earned upon inception of the Policy, and the remaining earned premium shall be computed in accordance with the customary short rate table and procedure.
- C. If the Underwriters cancel this Policy prior to any CLAIM being reported under this Policy, earned premium shall be computed pro rata.
- D. The premium shall be deemed fully earned if any CLAIM or circumstance that might lead to a CLAIM under this Policy is reported to Underwriters on or before the date of cancellation.
- E. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

XIV. WAR AND TERRORISM EXCLUSION ENDORSEMENT

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

- (1) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- (2) any act of terrorism.
For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to (1) and/or (2) above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the ASSURED.

In the event any portion of this Section XIV is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

XV. FORFEITURE

Any (a) action or failure to act by the ASSURED with the intent to defraud the Underwriters or (b) material misrepresentation or non-disclosure of any material fact by the ASSURED in the application or in any supplemental materials submitted therewith shall render this Policy null and void, and all coverage hereunder shall be forfeited.

XVI. SERVICE OF SUIT

It is agreed that in the event of the failure of Underwriters hereon to pay any amount claimed to be due under this Policy, Underwriters hereon, at the request of the ASSURED, will submit to the jurisdiction of a court of competent jurisdiction within the United States. This Condition does not constitute and should not be understood to constitute an agreement by Underwriters that an action is properly maintained in a specific forum, nor may it be construed as a waiver of Underwriters' rights to commence an action in a 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 of the United States, all of which rights Underwriters expressly reserve. It is further agreed that service of process in such suit may be made upon the Underwriters' representatives specified for that purpose in Item 7 of the Declarations.

The Underwriters' representatives are authorised and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the ASSURED to give written undertaking to the ASSURED that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted. Further, pursuant to any statute of any state, territory or district of the United States which makes provision thereof, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceedings instituted by or on behalf of the ASSURED or any legal representative of the ASSURED arising out of this contract of insurance, and hereby designate the Underwriters' representatives as the persons to whom the said officer is authorised to mail such process or a true copy thereof.

NOW KNOW YE THAT WE, the Underwriters, members of the syndicates whose definitive numbers in the after-mentioned List of Underwriting Members of Lloyd's are set out in the attached table, hereby bind ourselves each for his own part and not one for another, our heirs, executors and administrators, and in respect of his due proportion only, to pay on behalf of the ASSURED or the ASSURED'S executors or administrators, in respect of CLAIM (S) as aforesaid during the continuance of this Policy, not exceeding the total Limit of Liability of the Underwriters hereunder, such payment to be made after such loss is proved, and the due proportion for which each of the Underwriters, is liable shall be ascertained by reference to his share, as shown in the said List, of the amount, percentage or proportion of the total Limit of Liability hereunder which is in the table set opposite the definitive number of the syndicate of which such Underwriter is a member and further that the List of Underwriting Members of Lloyd's referred to above shows their respective syndicates and shares therein, is deemed to be incorporated in and to form part of this Policy, bears the number specified in the attached table and is available for inspection at Lloyd's Policy Signing Office by the ASSURED or its representatives and a true copy of the material parts of the said List certified by the General Manager of Lloyd's Policy Signing Office will be furnished to the ASSURED on application.

IN WITNESS WHEREOF, the General Manager of Lloyd's Policy Signing Office has subscribed his name on behalf of each of us.

Lloyd's Policy Signing Office

General Manager

SPECIMEN