

LAW FIRM
PROFESSIONAL LIABILITY INSURANCE
POLICY WORDING

April 2011

DECLARATIONS

Attaching to and forming part of
LAW FIRM PROFESSIONAL LIABILITY INSURANCE

This Insurance is effected with certain
Underwriters at Lloyd's, London (not incorporated).

**THIS IS A CLAIMS-MADE PROFESSIONAL LIABILITY
INSURANCE POLICY. PLEASE READ CAREFULLY.**

POLICY NUMBER:

1. NAMED INSURED:
ADDRESS :

2. PERIOD OF INSURANCE: FROM: TO:
12:01AM STANDARD TIME AT THE ADDRESS SHOWN IN NUMBER 1
ABOVE.

3. LIMIT OF LIABILITY

\$ Each and every Claim including Claims Expenses.

\$ In the aggregate including Claims Expenses

4. DEDUCTIBLE

\$ Each Claim deductible-including Claims Expenses

5. PREMIUM US \$

6. RETROACTIVE DATE:

7. NOTICE OF CLAIM: Mendes & Mount LLP
750 Seventh Avenue
New York, NY. 10019
Attn: Patrick Donohue

8. SERVICE OF SUIT:

9. NOTICE OF ELECTION:

10. DATE OF APPLICATION:

11. ENDORSEMENTS ATTACHING HERETO:

LAWYERS PROFESSIONAL LIABILITY INSURANCE

NOTICE: This is a claims made form. Except to such extent as may otherwise be provided herein, the coverage afforded under this insurance policy is limited to liability for only those Claims that are first made against the Insured and reported to the Underwriters while the insurance is in force. 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 deductible. Please review the coverage afforded under this insurance policy carefully and discuss the coverage hereunder with your insurance agent or broker.

I Insuring Agreements

The Underwriters agree with the Insured, named in the Declarations made a part hereof, in consideration of the payment of the premium and reliance upon the statements in the application which is made a part of this insurance policy (hereinafter "policy" or "insurance") and subject to the Limit of Liability, exclusions, conditions and other terms of this insurance:

A Coverage

To pay on behalf of the Insured, Damages and Claims Expenses which the Insured shall become legally obligated to pay because of any Claim or Claims, including Claim(s) for Related Injury as hereafter defined, first made against the Insured and reported to the Underwriters during the Period of Insurance or Extended Reporting Period, arising out of any act, error or omission of the Insured in rendering or failing to render professional services for others in the Insured's capacity as a lawyer, fiduciary, arbitrator, mediator or notary public, but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations and caused by the Insured, except as excluded or limited by the terms, conditions and exclusions of this policy.

B Defense and Settlement (Included in the Limit of Liability)

- 1 The Underwriters shall have the right and duty to defend, subject to the Limit of Liability, any Claim against the Insured 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. However, Underwriters shall not formally appoint defense counsel without the consent of the Named Insured, such consent not to be unreasonably withheld.
- 2 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 deductible.
- 3 The Underwriters shall have the right to make any investigation they deem necessary, including, without limitation, any investigation with respect to coverage and with respect to the application and statements made in the application.

4. 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, Underwriters' liability for any Damages and Claims Expenses shall not exceed the amount for which the Claim could have been settled, less the remaining 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.
5. 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 the Underwriters' liability has been exhausted by payment of Damages or Claims Expenses or after deposit of the applicable policy limit 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.

II Definition of Insured

Each of the following is an Insured under this insurance to the extent set forth below:

- A if the Named Insured designated in Item 1 of the Declarations is an individual, the person so designated but only with respect to the conduct of a law practice of which the individual is the sole proprietor;
- B if the Named Insured designated in item 1 of the Declarations is a partnership, the partnership so designated.
- C any lawyers who are partners in the Named Insured including any incorporated partners and their shareholders but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations;
- D if the Named Insured designated in Item 1 of the Declarations is a Professional Corporation or Professional Association, the Professional Corporation or Professional Association so designated.
- E any lawyers who are stockholders or members of a Professional Corporation or Professional Association but solely for acts on behalf of such Named Insured;
- F any lawyer acting as "of counsel", but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations;
- G any employed lawyer or other employee, including temporary or contract attorneys, but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations;
- H any Insured acting as an officer, director or member of a board of a not-for profit bar association, lawyer disciplinary board or committee, or any similar bar

related organization, which regulates the practice of law.

- I any person who previously qualified as an Insured under (c), (e), (f) or (g) above prior to the termination of the required relationship with Named Insured, but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations;
- J any partnership, Professional Corporation or Professional Association, advised in writing to the Underwriters at the time of application, of which the Named Insured is the successor;
- K any lawyer who during the Period of Insurance becomes a partner, member, stockholder or employee of the Named Insured but solely for acts on behalf of the Named Insured designated in Item 1 of the Declarations;
- L the estate, heirs, spouse, 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.

III Territory

This insurance applies to acts, errors or omissions which take place anywhere in the world provided that Claim is first made against the Insured within the United States of America, its territories or possessions or Canada during the Period of Insurance or Extended Reporting Period when purchased in accordance with Clause IX.

IV Exclusions

The coverage under this insurance does not apply to Damages or Claims Expenses incurred with respect:

- A to any Claim arising out of any criminal, dishonest, fraudulent or malicious act, error or omission of any Insured, committed with actual, criminal, dishonest, fraudulent or malicious purpose or intent. However, notwithstanding the foregoing, the insurance afforded by this policy shall apply to Claims Expenses incurred in defending any such Claim or circumstance which might lead to a Claim, but shall not apply to any Damages which the Insured might become legally obligated to pay;
- B to punitive or exemplary damages, fines, penalties, sanctions or any damages which are a multiple of compensatory damages, except that if a Claim shall have been brought against the Insured seeking both compensatory and either punitive or exemplary damages, fines, penalties, sanctions or damages which are a multiple of compensatory damages, then any coverage which may be afforded by this policy will apply to any Claims Expenses incurred, without liability, however, for such punitive or exemplary damages, fines, penalties, sanctions or damages which are a multiple of compensatory damages;
- C to any Claim by one Insured under this insurance against another Insured under

this insurance unless it arises out of an act, error or omission committed or alleged to have been committed by such Insured in rendering or failing to render professional services;

- D to any Claim arising out of bodily injury to, or sickness, disease or death of any person, or to injury to or destruction of any tangible property, including the loss of use thereof;
- E to any loss sustained by an Insured as a beneficiary or distributee of any trust or estate;
- F to any Claim arising out of 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;
- G to any Claim made by or against or in connection with any business enterprise (including the ownership, maintenance or care of any property in connection therewith), not named in Item 1 of the Declarations, which is owned by any Insured or which is directly or indirectly controlled, operated or managed by any Insured in a non-fiduciary capacity; however, this Exclusion only applies to any Claims made by or against any business enterprise in which an Insured has an ownership interest equal to or greater than:
 - (1) 5% of the issued and outstanding voting stock of the shares in any business enterprise which is publicly traded; or
 - (2) 10% if the shares in the business enterprise are closely or privately held;
- H to any Claim or circumstance which might lead to a Claim in respect of which any Insured has given notice to the insurer of any other policy in force previous to the effective date of this policy;
- I to any Claim arising out of any acts, errors, or omissions which took place prior to the effective date of this insurance, if any Insured on the effective date knew or could have reasonably foreseen that such acts, errors or omissions might be expected to be the basis of a Claim;
- J to any Claim arising out of any Insured's capacity as an elected public official or as an employee of a governmental body, subdivision, or agency thereof unless the Insured is deemed an employee solely by virtue of rendering legal services to such governmental body, the remuneration for which services inures to the benefit of the Named Insured;
- K to any Claim arising out of any Insured'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, except if the Insured is deemed to be a Fiduciary solely by reason of legal advice rendered with respect to any employee benefit plan;

L to any Claim seeking the return or reimbursement of legal fees, costs or expenses paid to the Insured. Underwriters will provide a defense to any Claim which both seeks the return of legal fees paid to the Insured and Damages for a Claim otherwise covered under the terms of this insurance.

If a retroactive date is applicable to this coverage it will appear at Item 6 of the Declarations and the following exclusion shall apply:

M to any Claim or circumstance that might lead to a Claim arising out of any act, error or omission which took place, or is alleged to have taken place, prior to the retroactive date as set forth in Item 6 of the Declarations.

V. **Conditions**

Definitions: Whenever used in this policy:

A "Related Injury" means:

- (1) false arrest, detention or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, or malicious prosecution;
- (2) libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy.

B "Claims Expenses" means:

- (1) fees charged by an attorney designated by Underwriters and consented to by the Named Insured, with such consent not to be unreasonably withheld; and
- (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 written consent of the Underwriters.
- (3) Claims Expenses shall also include up to \$250 for loss of earnings to each Insured for each part of a day of such Insured's attendance, at Underwriter's request, at a trial, hearing or arbitration proceeding up to a maximum payment by Underwriters of \$5,000 for Insureds' loss of earnings in any one Period of Insurance and Extended Reporting Period, if applicable.
- (4) Claims Expenses does not include any salary, overhead or other charges by the Insured for any time spent in cooperating in the defense and investigation of any Claim or circumstance which might lead to a Claim notified under this insurance.

C "Period of Insurance" 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 Extended Reporting Period hereunder.

- D "Extended Reporting Period," if applicable, means the 12 month period of time after the end of the Period of Insurance for reporting Claims arising out of acts, errors or omissions which take place prior to the end of the Period of Insurance and otherwise covered by this insurance.
- E "Claim" means a demand received by any Insured for money or services including the service of suit or institution of arbitration proceedings against the Insured and shall include State Court or Bar Association disciplinary action or grievance procedures.
- F "Fiduciary" except as set forth in Clause IV (k), means an Insured's capacity as an administrator, conservator, executor, guardian, trustee, receiver, escrow agent or any similar capacity.
- G "Damages" means a monetary judgment, award or settlement.

Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

VI Limit of Liability

- A The Limit of Liability stated in 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 Insureds, Claims or claimants.
- B The Limit of Liability stated in the Declaration 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 Period of Insurance 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 limit of liability of the Underwriters for the Period of Insurance.

VII Deductible

The deductible amount stated in the Declarations, shall be satisfied by payments by the Insured of Damages and Claims Expenses resulting from each Claim first made and reported to the Underwriters during the Period of Insurance and the Extended Reporting Period as a condition precedent to the payment by the Underwriters of any amounts hereunder and the Underwriters shall be liable only for amounts in excess of such Deductible subject to Underwriters' total liability not exceeding the limit set forth in

Item 3 of the Declarations. The Insured shall make direct payments within the deductible to appropriate other parties designated by the Underwriters.

VIII Innocent Insured

- A Whenever coverage under this insurance would be excluded, suspended or lost:
- (1) because of any exclusion relating to criminal, dishonest, fraudulent or malicious 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, or
 - (2) because of noncompliance with Clause XI Notice of Claim or Circumstance That May Lead to a Claim, with respect to which any other Insured shall be in default solely because of the failure to give such notice or concealment of such failure by one or more Insureds responsible for the loss or damage otherwise insured hereunder,

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: (a) one or more of the acts, errors or omissions described in any such exclusion; or (b) such failure to give notice, provided that if the condition be one with which such Insured can comply, after receiving knowledge thereof, the Insured entitled to the benefit of Clause VIII shall comply with such condition promptly after obtaining knowledge of the failure of any other Insured to comply therewith.

- B With respect to this provision, the Underwriters' obligation to pay in such event shall be in excess of the deductible and in excess of the full extent of any assets in the Named Insured of any Insured to whom the exclusion applies. In no event shall the Underwriters' obligation to pay exceed the Limit of Liability stated in Item 3 of the Declarations.

IX Extended Reporting Endorsement

- A In the event of cancellation or non-renewal of this insurance by the Underwriters or the Named Insured, the Named Insured designated in Item 1 of the Declarations shall have the right, upon payment in full and not proportionally or otherwise in part of an appropriate premium within 30 days of such termination, to have issued an endorsement providing an Extending Reporting Period for all Claims first made against any Insured and reported to the Underwriters after the termination of this insurance arising out of any act, error or omission occurring prior to the termination of the insurance and otherwise covered by this insurance.
- (1) The appropriate additional premium and corresponding Extended Reporting Period for the option set forth in paragraph A 1) above shall be: (1) 100% of the Named Insured's last annual premium for a one year Extended Reporting Period; (2) 150% of the Named Insured's last annual premium for a two year Extended Reporting Period; and 200% of the Named Insured's last annual

premium for a three year Extended Reporting Period.

(2) In order for the Named Assured to invoke the Extended Reporting option, the payment of the premium for the Extended Reporting Period must be paid to Underwriters within 30 days of the non-renewal or cancellation.

B 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 Period of Insurance.

C The quotation by Underwriters of a different premium or deductible or limit of liability or changes in policy language for the purpose of renewal shall not constitute a refusal to renew by the Underwriters.

D The right to the Extended Reporting Period shall not be available to the Named Insured where cancellation or non-renewal by the Underwriters is due to non-payment of premium or failure of an Insured to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable deductible.

E All notices and premiums payments with respect to the Extended Reporting option shall be directed to Underwriters through the entity named in Item 9 of the Declarations.

F 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.

X **Other Insurance**

This insurance shall apply in excess of any other valid and collectible insurance available to any Insured, unless such other insurance is written only as specific excess insurance over the Limit of Liability of this policy.

XI **Notice of Claim, or Circumstance That May Lead to a Claim**

A If any Claim is made against the Insured, the Insured shall immediately forward to Underwriters through persons named in Item 7 of the Declarations every demand, notice, summons or other process received by him or his representative.

B If during the Period of Insurance the Insured first becomes aware of any act, error or omission that could reasonably be the basis for a Claim it must give written notice to Underwriters through persons named in Item 7 of the Declarations during the Period of Insurance of:

- (1) the specific act, error or omission; and
- (2) the injury or damage which may result or has resulted from the act, error or omission; and
- (3) the circumstance by which the Insured first became aware of the act, error or omission.

Any subsequent Claim made against the Insured which is the subject of the written notice shall be deemed to have been made at the time written notice was first given to Underwriters.

- C A Claim shall be considered to be reported to the Underwriters when notice is first given to Underwriters through persons named in Item 7 of the Declarations of the Claim or of an act, error or omission which could reasonably be expected to give rise to a Claim.
- D All Claims arising out of the same, continuing or related professional services shall be considered a single Claim and deemed to have been made at the time the first of the related Claims is reported to Underwriters and shall be subject to one Limit of Liability.
- E In the event of non-renewal of this insurance by the Underwriters, the Insured shall have thirty (30) days from the expiration date of the Period of Insurance to notify Underwriters of Claims made against the Insured during the Period of Insurance which arise out of any act, error or omission which took place prior to the termination date of the Period of Insurance and are otherwise covered by this insurance.
- F 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 Assistance and Cooperation of the Insured

The Insured shall cooperate with the Underwriters in all investigations, including investigations regarding the application and coverage under this insurance and, upon the Underwriters' request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization other than an employee of any Insured who may be liable to the Insured because of acts, errors or omissions with respect to which insurance is afforded under this policy. The Insured shall also attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not, except at his own cost, admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or otherwise dispose of any Claim without the consent of the Underwriters.

XIII Action Against Underwriters

- A No action shall lie against the Underwriters unless, as a condition precedent thereto, there shall have been full compliance with all terms of this insurance, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment or award against the Insured after actual trial or arbitration or by written agreement of the Insured, the claimant and the Underwriters.
- B Any person or organization or the legal representative thereof who has secured such judgment, award or written agreement shall thereafter be entitled to make a Claim under

this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this insurance to join the Underwriters as a party to an action or other proceeding against the Insured to determine the Insured's liability, nor shall the Underwriters be impleaded by the Insured or his legal representative. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Underwriters of any of their obligations hereunder.

XIV Subrogation

A In the event of any payment under this insurance, the Underwriters shall be subrogated to all the Insured's 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 after the payment of Damages by Underwriters to prejudice such rights.

XV Changes

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 insurance or estop the Underwriters from asserting any right under the terms of this insurance; nor shall the terms of this insurance be waived or changed, except by endorsement issued to form a part of this insurance, signed by Underwriters.

XVI Change in Membership of Firm

Any additions to the list of lawyers in the application which take place during the Period of Insurance must be immediately reported to Underwriters if:

- (1) the Named Insured has 10 or fewer lawyers declared in the application and 2 or more lawyers are added or brought into the Named Insured during the period of insurance; or
- (2) the Named Insured has between 11 and 20 lawyers declared in the application and 3 or more lawyers are added or brought into the Named Insured during the period of insurance; or
- (3) the Named Insured has 20 or more lawyers declared in the application and the number of lawyers added or brought into the firm will increase the firm head count by 20% or more; or
- (4) prior to joining the firm, any lawyer being brought into the firm has had a Claim for malpractice asserted against them or has been the subject of any disciplinary proceeding, or such lawyer is aware of a circumstance that might lead to a claim asserted in the future.

Underwriters expressly reserve the right to demand a premium adjustment in the event that any additions to the list of lawyers in the application for this insurance meet the criteria set forth in the paragraphs immediately above.

XVII Mergers and Acquisitions

The Named Insured shall be required to give written notice to the Underwriters prior to the completion of a merger or acquisition by or of the Named Insured and Underwriters expressly reserve the right to demand a premium adjustment if this insurance is to remain in force subsequent to any merger or acquisition.

XVIII Assignment

The interest hereunder of any Insured is not assignable. If the Insured shall die or be adjudged incompetent, this insurance shall cover the Insured's legal representative as the Insured with respect to liability previously incurred and covered by this Insurance.

XIX Cancellation

A This policy may be cancelled by the Named Insured by surrender thereof to Underwriters or by mailing to Underwriters written notice stating when thereafter the cancellation shall be effective. This insurance may be cancelled by the Underwriters by mailing to the Named Insured 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 insurance because the Insured has failed to pay a premium when due this insurance may be cancelled by the Underwriters by mailing a written notice of cancellation to the Named Insured 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 Period of Insurance. Delivery (where permitted by law) of such written notice either by the Named Insured or by the Underwriters shall be equivalent to mailing.

B If the Named Insured cancels this insurance, earned premium shall be computed in accordance with the attached short rate table and procedure. If the Underwriters cancel this insurance, earned premium shall be computed pro rata.

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.

XX Entire Contract

By acceptance of this policy the Insured agrees that the statements in the Declarations and application are his agreements and representations, that this insurance is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between the Insured and the Underwriters relating to this insurance.

XXI NUCLEAR INCIDENT EXCLUSION CLAUSE - LIABILITY - DIRECT

The insurance provided by this policy does not apply:

A To injury, sickness, disease, death or destruction

- (1) with respect to which an Insured under this Policy of insurance is also an Insured under a nuclear energy liability insurance issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada or would be an Insured under any such insurance but for its termination upon exhaustion of its limits of liability; or
 - (2) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the Insured is, or had this insurance not been issued would be, entitled to indemnity from the United States of America, or any agency thereof under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- B To expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- C To injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if
- (1) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an Insured or (2) has been discharged or dispersed therefrom;
 - (2) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured, or
 - (3) the injury, sickness, disease, death or destruction arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to injury to or destruction of property at such nuclear facility.
- D As used in this clause: "**hazardous properties**" include radioactive, toxic or explosive properties; "**nuclear material**" means source material, special nuclear material or by-product material; "**source material**", "**special nuclear material**" and "**by-product material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "**waste**" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (1) or (2) thereof; "**nuclear facility**" means

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

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "**injury**" or "**destruction**" includes all forms of radioactive contamination of property.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the insurance to which it is attached.

XXII Service of Suit

- A It is agreed that in the event of the failure of the Underwriters to pay any amount claimed to be due under this insurance, the Underwriters, at the request of the Named Insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. This clause 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 the 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 the laws of the United States or of any State of the United States, all of which rights the Underwriters expressly reserve. It is further agreed that service of process in such suit may be made upon persons named in Item 8 of the Declarations and that in any suit instituted against any one of them upon this policy, the Underwriters will abide by the final decision of such court or of any Appellate Court in the event of an appeal.
- B The persons named in Item 8 of the Declarations are authorized and directed to accept service of process on behalf of the Underwriters in any such suit and/or upon the request of the Named Insured to give written undertaking to the Named Insured 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 therefore, 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 proceeding instituted by or on behalf of the Named Insured or any beneficiary hereunder arising out of this policy of insurance, and hereby designate the persons named in Item 8 of the Declarations as the persons to whom the said officer is authorized to mail such process or a true copy thereof.

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:-

A. For insurances written for one year:-

Days Insurance in Force	Percent of One Year Premium	Days Insurance in Force	Per cent. of One Year Premium
1 - 54	25	192 - 196	63
55 - 58	26	197 - 200	64
59 - 62	27	201 - 205	65
63 - 65	28	206 - 209	66
66 - 69	29	210 - 214	67
70 - 73	30	215 - 218	68
74 - 76	31	219 - 223	69
77 - 80	32	224 - 228	70
81 - 83	33	229 - 232	71
84 - 87	34	233 - 237	72
88 - 91	35	238 - 241	73
92 - 94	36	242 - 246	74
95 - 98	37	247 - 250	75
99 - 102	38	251 - 255	76
103 - 105	39	256 - 260	77
106 - 109	40	261 - 264	78
110 - 113	41	265 - 269	79
114 - 116	42	270 - 273	80
117 - 120	43	274 - 278	81
121 - 124	44	279 - 282	82
125 - 127	45	283 - 287	83
128 - 131	46	288 - 291	84
132 - 135	47	292 - 296	85
136 - 138	48	297 - 301	86
139 - 142	49	302 - 305	87
143 - 146	50	306 - 310	88
147 - 149	51	311 - 314	89
150 - 153	52	315 - 319	90
154 - 156	53	320 - 323	91
157 - 160	54	324 - 328	92
161 - 164	55	329 - 332	93
165 - 167	56	333 - 337	94
168 - 171	57	338 - 342	95
172 - 175	58	343 - 346	96
176 - 178	59	347 - 351	97
179 - 182	60	352 - 355	98
183 - 187	61	356 - 360	99
188 - 191	62	361 - 365	100

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, Underwriters shall retain the total premium for this Insurance, such total premium to be deemed earned upon inception of the Policy if any claim or any circumstance that could reasonably be the basis for a claim is reported to Underwriters under this Insurance on or before such date of cancellation.