



**CONTRACTORS PROFESSIONAL LIABILITY AND
POLLUTION INCIDENT LIABILITY POLICY**

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CONTRACTORS PROFESSIONAL LIABILITY AND POLLUTION INCIDENT LIABILITY POLICY

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YOUR PROFESSIONAL LIABILITY AND POLLUTION INCIDENT LIABILITY POLICY IS WRITTEN ON A "CLAIMS-MADE" BASIS AND APPLIES ONLY TO THOSE CLAIMS FIRST MADE AGAINST YOU WHILE THIS INSURANCE REMAINS IN FORCE. NO COVERAGE EXISTS FOR CLAIMS FIRST MADE AGAINST YOU AFTER THE END OF THE POLICY TERM UNLESS, AND TO THE EXTENT, AN EXTENDED REPORTING PERIOD APPLIES.

Throughout this Policy, the terms "we," "us" and "our" refer to the Stock Insurance Company, named on the Policy Declarations, providing this insurance. When used in the text of this Policy or endorsements attached hereto, the words displayed in "**bold face type**" will only have the meaning as set forth in Section III., DEFINITIONS. We agree with **you** as follows:

I. COVERAGE AGREEMENTS

A. We will pay all amounts in excess of the **self-insured retention** up to the limit of liability that **you** become legally obligated to pay as a result of:

1. a **wrongful act**;
2. a **pollution incident** arising out of **your** activities, or the activities of any person or entity for whom **you** are legally liable;
3. liability that **you** assume from an **insured client** for a **pollution incident**:

that results in a **claim** anywhere in the world. However, this policy shall not apply to any;

- a. **wrongful act** that takes place prior to the **inception date** stated on the Declarations; or
- b. **pollution incident** that arises from **your** activities, or the activities of any person or entity for whom **you** are legally liable, that took place prior to the **inception date** stated on the Declarations.

B. A **claim** must be first made during the **policy term** or any applicable **extended reporting period**. A **claim** is considered first made when **you** receive notice of the **claim** or as set forth in accordance with SECTION VI. CONDITIONS, Item C., **Your Rights and Duties in the Event of a Circumstance**.

C. We have the right and duty to defend any **claim** made against **you** seeking amounts that are payable under the terms of this Policy, even if any of the allegations of the **claim** are groundless, false or fraudulent. We will designate or, at our option, approve counsel to defend the **claim**. We are not obligated to defend any **claim** or pay any amounts after the applicable limit of our liability has been exhausted.

D. We will not settle any **claim** without **your** informed consent. If we recommend a settlement to **you** that is acceptable to the claimant, and **you** elect to contest the **claim** or continue any legal proceedings in connection with the **claim**, our obligation to defend ceases and our liability is limited to the total amount for which the **claim** could have been settled, plus the amount of **claim expenses** incurred up to the time we made the recommendation for settlement.



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- E. If a **claim** arising out of a **wrongful act** results in a punitive, exemplary or multiplied damage award that is otherwise covered by this policy, we will pay such award, up to the applicable limit of liability, to the fullest extent permitted by law.

II. SUPPLEMENTARY PAYMENTS

Except as noted in subparagraph C, below, payments made under this section are our cost, are not subject to the **self-insured retention** and are in addition to the limit of liability shown on the Declarations.

A. Free Pre-claims Assistance

Until the date a **claim** is made, we will pay for all costs or expenses we incur, at our sole discretion, as a result of investigating a **circumstance** that **you** report in accordance with Section VI. CONDITIONS, Item C.

B. Defendants Reimbursement

We will pay up to \$300 a day, subject to a maximum amount of \$7,500 per **claim**, because of time off from work for attendance, at our request, at a trial, hearing or deposition involving a civil suit, **mediation** or arbitration proceeding against **you** that is covered by this Policy.

C. ADA and FHA

We will reimburse **you** for legal fees and expenses up to \$25,000 per **policy term** in responding to regulatory or administrative actions brought directly against **you** by a government agency under the Americans with Disabilities Act of 1990 (ADA) or the Fair Housing Act (FHA) provided that the regulatory or administrative actions:

1. are first commenced during the **policy term**;
2. arise out of the performance of **professional services**; and
3. are reported to us prior to any legal fees or expenses being incurred.

After we have paid \$25,000 under this provision, any additional amounts we agree to pay will be treated as **claim expenses** and will be subject to **your self-insured retention** and be included in the limit of liability for the **policy term** in which the action was commenced. We will not be responsible for any fines or penalties.

II. DEFINITIONS

Asbestos means the mineral in any form, whether or not it was at any time airborne as a fiber, particle or dust:

- A. contained in or formed a part of a product, structure or other real or personal property; or
- B. carried on clothing; or
- C. inhaled or ingested; or
- D. transmitted by any other means.



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Auto means a land motor vehicle, trailer or semi-trailer designed for travel on public roads including any attached machinery or equipment. But **auto** does not include **mobile equipment**.

Bodily Injury means bodily injury, sickness, disease, mental anguish or emotional distress, sustained by a person, including death resulting from any of these at any time.

Circumstance means an event, reported during the **policy term**, from which **you** reasonably expect that a **claim** could be made.

Claim means a demand for money or services, naming **you** and alleging a **wrongful act** or **pollution incident**.

Claim Expenses means:

- A. fees charged by an attorney designated or approved by us to represent **you**;
- B. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a **claim**, if incurred by:
 1. the designated attorney,
 2. us, or
 3. **you** with our written consent; and
- C. premiums for bonds posted in connection with an appeal. However, we are not obligated to apply for or furnish any such bonds.

Claim expenses do not include salaries of our employees or officials, or fees and expenses of independent adjusters.

Electronic Data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Extended Reporting Period means the period of time after the end of the **policy term**, for reporting **claims** to us that are made against **you** during the applicable **extended reporting period** arising out of:

- A. a **wrongful act** that took place prior to the end of the **policy term** that is otherwise covered by this Policy; or
- B. activities that took place prior to the end of the **policy term** that result in a **pollution incident** that is otherwise covered by this Policy.

Fungi means any form of fungus, including but not limited to yeast, mold, mildew, rust, smut or mushroom, and including any spores, mycotoxins, odors, or any other substances, products, or byproducts produced by, released by, or arising out of the current or past presence of **fungi**.

Hostile Fire means one that becomes uncontrollable or breaks out from where it was intended to be.



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Inception date means the date of the first policy issued to **you** by us and continuously renewed by us.

Insured client means a client for whom the **named insured**, or others for whom the **named insured** is legally liable, performs activities, but only if there is in place an **insured client contract**.

Insured client contract means:

- A. a written contract or agreement is in effect between the **named insured** and the client under which the **named insured** assumes the tort liability of the client to pay compensatory damages to a third party for a **pollution incident** that results from **your** activities or the activities of any person or entity for whom **you** are liable; and
- B. such written contract or agreement is placed in effect prior to the **pollution incident** and requires the client to be named as an additional insured under the **named insured's** contractors' **pollution incident** Policy.

For purposes of this definition, tort liability means liability for a civil or private wrong imposed by law in the absence of any contract or agreement.

Mediation means the use of non-binding intervention by a neutral third party.

Microbe means any non-fungal microorganism or non-fungal, colony-form organism that causes infection or disease. **Microbe** includes any spores, mycotoxins, odors, or any other substances, products, or byproducts produced by, released by, or arising out of the current or past presence of **microbes**. But **microbe** does not mean **microbes** that were transmitted directly from person to person.

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

- A. bulldozers, farm machinery, forklifts, and other vehicles designed for use principally off public roads;
- B. vehicles maintained for use solely on or next to premises **you** own or rent;
- C. vehicles that travel on crawler treads;
- D. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 1. power cranes, shovels, loaders, diggers or drills; or
 2. road construction or resurfacing equipment such as graders, scrapers or rollers;
- E. vehicles not described in A., B., C. or D. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:



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1. air compressors, pumps and generators, including spraying, welding, building cleaning, geo-physical exploration, lighting and well servicing equipment; or
 2. cherry pickers and similar devices used to raise or lower workers;
- F. vehicles not described in A., B., C. or D. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:

- a. equipment designed primarily for:
 - i. snow removal;
 - ii. road maintenance, but not construction or resurfacing; or
 - iii. street cleaning;
- b. cherry pickers and similar devices mounted on an automobile or truck chassis and used to raise or lower workers; and
- c. air compressors, pumps and generators, including spraying, welding, building cleaning, geo-physical exploration, lighting and well servicing equipment.

Named Insured means the persons or entities listed in Item 1. on the Declarations.

Newly Acquired Subsidiary means any entity, newly formed or acquired by a **Named Insured** during the **policy term**, in which such **Named Insured** has more than a 50% legal or beneficial interest. However, no such entity will be deemed a **newly acquired subsidiary** beyond 90 days after the **Named Insured** acquires or forms it. For coverage to continue beyond the first 90 days, the following conditions apply:

- A. within 90 days of such formation or acquisition, the **Named Insured** must provide us with full particulars of such **newly acquired subsidiary**;
- B. we, after receipt of such notice, must agree to endorse this Policy to insure such **newly acquired subsidiary**; and
- C. the **Named Insured** must pay the additional premium, if any, and agree to any amendment of the provisions of this Policy by reason of such formation or acquisition.

Coverage exists for **claims** made against a **newly acquired subsidiary** only if, prior to the earlier of the acquisition date or formation date, no officer, director, principal, partner or insurance manager of the **Named Insured** or such **newly acquired subsidiary** knew or could reasonably have expected that a **claim** would be made.

Nuclear Facility means the site where a nuclear reactor is located or where nuclear waste or material is disposed.



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Policy Term means the period of time from the effective date and time of this Policy to the date and time of termination, as shown in Item 3. on the Declarations, or its earlier cancellation date. **Policy term** does not include any **extended reporting period**.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed. **Pollutants** does not mean heat, smoke, vapor, soot or fumes from a **hostile fire** or explosion.

Pollution Incident means the actual or alleged discharge, dispersal, seepage, migration, release or escape of **pollutants** into or upon land, the atmosphere, or any watercourse or body of water, which:

- A. results in **bodily injury** or **property damage**; and
- B. did not arise from dishonest, fraudulent, malicious, or criminal conduct committed by **you** or at **your** direction or with **your** prior knowledge.

Professional Services means:

- A. services that **you**, or others for whom **you** are legally liable, are qualified to perform for others on behalf of a **Named Insured**, in the capacity of an architect, engineer, land surveyor, or landscape architect.
- B. construction management and management of your sub-consultants in their capacity as architects, engineers, land surveyors or landscape architects, but only to the extent such management services are specifically defined in a written contract between **you** and **your** client before a **wrongful act** occurs.

Property Damage means:

- A. physical injury to or destruction of tangible property, soils, surface water, groundwater or plant or animal life including the resulting loss of use thereof;
- B. clean up costs incurred by a third party or mandated by any governmental entity;
- C. loss of use of tangible property that has not been physically injured or destroyed.

For purposes of this definition, **electronic data** is not tangible property.

Related claims means all **claims** made against **you** and reported to us during any **policy term** arising out of:

- A. a single **wrongful act** or related **wrongful acts**, or
- B. activities or related activities that result in **pollution incidents**.

Respirable Dust means respirable particulate matter but does not include living organisms.



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Self-Insured Retention means the amount stated on the Declarations which **you** are obligated to pay for every **claim** made during the **policy term**. This amount must be paid prior to any payment being made by us under the terms and conditions of this Policy of insurance.

Silica means the chemical compound silicon dioxide (SiO₂) in any form, including dust which includes silica.

Wrongful Act means a negligent act, error or omission in the performance of **professional services** for others by **you** or any person or entity, including joint ventures, for whom **you** are legally liable. A **wrongful act** cannot arise from dishonest, fraudulent, malicious, or criminal conduct committed by **you** or at **your** direction or with **your** prior knowledge.

You or **Your** means the **Named Insured**, a **newly acquired subsidiary** and:

- A. any person who is or becomes an officer, director, member, partner, stockholder or employee of the **Named Insured**, or **newly acquired subsidiary** or leased personnel under the direct supervision of the **Named Insured**, but only while acting within the scope of their duties for the **Named Insured** or **newly acquired subsidiary**;
- B. any person who was previously affiliated with the **Named Insured** or **newly acquired subsidiary** as an officer, director, member, partner, stockholder or employee of the **Named Insured**, or **newly acquired subsidiary** or leased personnel under the direct supervision of the **Named Insured** or **newly acquired subsidiary**, but only while acting within the scope of their duties for the **Named Insured** or **newly acquired subsidiary**;
- C. any partner, officer, director, member or employee of the **Named Insured** who has retired from such position but who during the **policy term**, is engaged by the **Named Insured** to provide consulting services as an independent contractor, but only for those consulting services provided on behalf of the **Named Insured**.

IV. EXCLUSIONS

We will not defend or pay under this Policy for any **claim**:

- A. for:
 1. liquidated damages in excess of **your** liability caused by a **wrongful act** or a **pollution incident**; or
 2. fines or penalties imposed on **you** or any **insured client**; or
 3. the failure or refusal of a client to pay money due **you**; or
 4. punitive damages imposed on **you** or any **insured client** as a result of a **pollution incident**;
- B. arising out of the liability of others **you** assume under any oral or written contract or agreement, unless the liability is caused by a **wrongful act**;

This exclusion does not apply to liability assumed by **you** from an **insured client**.



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- C. arising out of express warranties or guarantees;
- D. arising out of the cost to repair or replace **your** faulty workmanship in connection with any construction, erection, fabrication, installation, assembly, manufacture or remediation including any materials, parts or equipment furnished in connection therewith;

However, this exclusion does not apply to damages from a **pollution incident**.

- E. arising out of the sale or distribution of goods or products by **you**, or by others under license from **you**. This exclusion does not apply to software created or modified specifically for a client in connection with **your professional services** for that client;
- F. made against **you** by any entity:
 - 1. which is operated, managed or controlled by **you**;
 - 2. in which **you** have an ownership interest in excess of 25%; or
 - 3. which wholly or partly owns, operates or manages **you**;

- G. arising out of
 - 1. any **bodily injury** to **you**, or to any person employed by any person or entity, including joint ventures, for whom **you** are liable; or
 - 2. any obligation **you** must pay an injured party under any unemployment, workers' compensation, disability benefits or other similar law.

This exclusion applies:

- a. whether **you** may be liable as an employer or in any other capacity; and
 - b. to any obligation to share in or repay any amount someone else must pay because of the injury;
- H. arising out of actual or alleged unlawful discrimination by **you** against:
 - 1. a past or present employee, officer, or employment applicant of **yours**; or
 - 2. any party in the awarding of or failure to award any contract;
 - I. arising out of a **pollution incident** at, onto or from any real or personal property which are or were at any time owned, rented or leased by **you** or by any person or entity for whom **you** are legally liable;
 - J. arising out of the ownership, maintenance, use, operation, loading or unloading of any **auto**, aircraft, watercraft or rolling stock. This exclusion does not apply to a **pollution incident** resulting from:



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1. **mobile equipment;**
 2. a watercraft **you** do not own that is:
 - b. less than 26 feet long; and
 - c. not being used to carry persons or property for a charge;
 3. the operation of any of the equipment listed in paragraphs F.a., b. and c. in the definition of **mobile equipment;**
 4. a condition in or on an **auto**, not owned or operated by **you**, and that condition was created by the loading or unloading of that **auto**, by **you** or by any person or entity for whom **you** are legally liable;
 5. a condition in or on an **auto**, owned or operated by **you**, while at a job site, and that condition was created by the loading or unloading of that **auto**, by **you** or by any person or entity for whom **you** are legally liable while at that job site;
- K. brought by **you** or on **your** behalf against another **you** covered by this Policy;
- L. arising out of nuclear reaction, radiation or contamination, under any circumstances and regardless of cause, within or originating from a **nuclear facility;**
- M. arising out of **your** acts or omissions related to any form of insurance, suretyship, bonding, financing, or monies for any projects;
- N. arising out of:
1. the actual or alleged specification or installation of a product, material or process containing **asbestos**, whether by **you** or any entity under contract or subcontracted to **you**, or in joint venture with **you**, or any entity for whom **you** are legally liable;
 2. the actual or alleged removal, abatement, disturbance, failure to detect, identify or quantify the existence of a product, material or process containing **asbestos** prior to January 1, 1990, whether by **you** or any entity under contract or subcontracted to **you**, or in joint venture with **you**, or any entity for whom **you** are legally liable;
- O. arising out of the failure to perform any **professional services** on time, complete any project on time or any other delay. This exclusion does not apply if **your** delay or failure is a direct result of a **wrongful act** in the preparation of drawings and specifications;
- P. arising out of bankruptcy or insolvency;
- Q. arising out of the ownership, rental or leasing of any real or personal property, including damage to property at any time owned by or rented or leased by or to **you** or by any person or entity for whom **you** are legally liable;



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- R. for **bodily injury, property damage** or damage to **electronic data** arising from the construction means, methods, techniques, sequences and procedures employed by you in connection with **your** operations in your capacity as a construction contractor;

This exclusion does not apply to **bodily injury** or **property damage** arising from a **pollution incident**.

- S. based on, arising out of or relating to, in whole or in part the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, growth or presence of any **fungi** or **microbes**;

This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to such **claim**.

- T. arising out of one or more of the following:

1. War (whether or not declared), invasion, acts of foreign enemies, and hostilities, or any act, condition, or warlike operation incident to war.
2. Warlike action by a regular or irregular military force or civilian agents, or any action taken by any government, sovereign or other authority to hinder or defend against an actual or expected attack.
3. Civil war, insurrection, rebellion, revolution, attempt to usurp power, or popular uprising, or any action taken by governmental or martial authority in hindering or defending against any of these.
4. Discharge, explosion, or use of a weapon of mass destruction, whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason;

- U. arising out of:

1. the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of; or
2. the actual or alleged failure to detect, report, test for, monitor, clean-up, remove, contain, dispose of, treat, detoxify, neutralize, or in any way respond to, assess the effects of or advise of the existence of;

respirable dust or **silica**.

V. LIMITS OF LIABILITY/SELF-INSURED RETENTION

- A. Limits of Liability

1. The limit of liability shown under Item 6.a. on the Declarations is the maximum we will pay for any **claim** first made against **you** and reported to us during this **policy term**. This limit applies as excess over any **self-insured retention** amount.



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2. The aggregate limit of liability shown under Item 6.b. on the Declaration is the maximum we will pay for all **claims** first made against **you** and reported to us during the **policy term**. This limit applies as excess over any **self-insured retention** amount.

The **policy term** limits of liability as set forth above may not be aggregated or transferred, in whole or in part, so as to provide any additional coverage with respect to **claims** first made or deemed made during any other **policy term**. If the limits of liability as specified above for any **policy term** are exhausted, our obligation for that **policy term** shall be deemed completely fulfilled and extinguished.

3. All **related claims** shall be considered a single **claim** first made and reported to us within the **policy term** in which the earliest of the **related claims** was first made and reported to us.
4. **Claim expenses** are subject to and included within the applicable limit of liability.

B. Self-Insured Retention

You shall have the obligation to pay up to the **self-insured retention** amount shown in Item 5. on the Declarations resulting from a **claim**, including but not limited to **claim expenses**, for all **claims** first made during the **policy term**.

C. Mediation Credit

If we and **you** agree to use **mediation** and if we and **you** resolve any **claim** by **mediation** we will reduce **your self insured-retention** obligation for the claim by 50% or \$25,000, whichever is less. **Self-insured retention** payments made prior to the application of the above credit will be reimbursed within thirty (30) days of the resolution of the **claim**.

D. Reimbursement

If we have paid any amounts in excess of the applicable limit of liability, or within the amount of **your self-insured retention**, **you** shall be liable to us for all such amounts, and upon demand, shall pay such amounts to us.

E. More Than One of You

Neither the applicable limit of liability nor **your self-insured retention** shall be increased because more than one of **you** is named in a **claim**.

VI. CONDITIONS

A. Your Rights and Duties As The First Named Insured On The Policy Declarations

The first **Named Insured**, on behalf of all of **you**, will be:

1. authorized to make changes in the terms of this Policy with our written consent;
2. authorized to receive any amounts we refund;



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3. responsible for:
 - a. the payment of all premiums and **self-insured retention** obligations due us;
 - b. keeping records of the information we need for premium computation, and sending us copies as we may request; and
 - c. notifying us of any cancellation or non-renewal.

B. Your Duties If There Is A **Claim**

If there is a **claim**, **you** must do the following:

1. promptly notify us in writing. This notice must be sent to the attention of:
Vice President, Claims
CNA AEC Professional Liability
Two Wisconsin Circle
Suite 900
Chevy Chase, Maryland 20815-7003

The notice must be given to us within the **policy term** or within sixty (60) days after its expiration or termination;

2. specify the names and addresses of the persons making **claim** against **you** and provide us with information on the time, place and nature of the **claim**;
3. promptly forward to us all documents that **you** receive in connection with the **claim**;
4. fully cooperate with us or our designee in the defense of the **claim**, including but not limited to assisting us in the conduct of suits or other proceedings, settlement negotiations, and the enforcement of any right of contribution or indemnity against another who may be liable to **you**. **You** shall attend hearings and trials, assist in securing evidence and obtaining the attendance of witnesses; and
5. refuse, except solely at **your** own cost, to voluntarily, without our approval, make any payment, admit liability, assume any obligation or incur any expense.

After **you** report a **circumstance** or a **claim** is made and **you** have the right under any contract to either reject or demand arbitration or other alternative dispute resolution process, **you** shall only do so with our written consent.

C. Your Rights And Duties In The Event Of A **Circumstance**

If **you** report a **circumstance** for which there may be coverage under this Policy and **you** give us written notice containing:

1. what happened and the **professional services** and activities **you** performed;



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2. the nature of any possible injury or damages; and
3. how **you** first became aware of such **circumstance**;

then any **claim** that may subsequently be made against **you** arising out of such **circumstance** shall be deemed to have been made on the date we received written notice of the **circumstance**.

You will cooperate with us in addressing the **circumstance**, and refuse, except solely at **your** own cost, to voluntarily, without our approval, make any payment, admit liability, assume any obligation or incur any expense.

D. Subrogation

If any of **you** have rights to recover amounts from another, those rights are transferred to us to the extent of our payment. **You** must do everything necessary to secure these rights and must do nothing after a **claim** is made to jeopardize them. We hereby waive subrogation rights against **your** client to the extent that **you** had, prior to the **claim** or **circumstance**, a written agreement to waive such rights.

E. Premium

All premium charges under this Policy will be computed according to the rules, rates and rating plans that apply at the effective date of the current **policy term**.

F. Examination and Audit

You agree to allow us to examine and audit **your** financial books and records that relate to this insurance. We may do this at any time during the **policy term** or any extensions, and up to three years after the end of the **policy term**.

G. Legal Action Limitation

1. **You** agree not to bring any legal action against us concerning this Policy unless **you** have fully complied with all the provisions of this Policy.
2. If, after the final adjudication or settlement of a **claim**, there is any dispute concerning tort allegations against us regarding the handling or settlement of any **claim**, we and **you** agree to submit such dispute to any form of alternative dispute resolution acceptable to both parties. Should we and **you** be unable to agree to the form of alternative dispute resolution, then such dispute shall be submitted to binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

H. Changes to Policy

None of the provisions of this Policy will be waived, changed, or modified except by written endorsement to this Policy.

I. Transfer of Interest



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For a transfer of interest or an assignment of this Policy to be effective, the first **Named Insured** must obtain our written consent.

J. Other Insurance

If there is other collectible insurance, including but not limited to project specific insurance, that applies to a **claim** covered by this Policy, the other insurance must pay first and this Policy is excess over the other insurance. This Policy applies to the amount of the **claim** that exceeds the available limit of liability and any deductibles or retention amounts of the other insurance.

K. Cancellation/Non-Renewal

This Policy may be cancelled by **you** by written notice to us stating at what future date cancellation is to be effective.

This policy may be cancelled or non-renewed by us by written notice to the first of **you** named on this policy declaration at the address last known to us. We will provide at least sixty (60) days notice before cancellation or non-renewal is to be effective. However, **you** will be given ten (10) days notice if we cancel because **you** have failed to pay premium when due, or if **you** have failed to pay amounts in excess of our limit of liability or within the **self-insured retention**.

If this policy is cancelled by us, earned premium will be computed pro rata. If **you** cancel only 90% of the unearned premium will be returned to **you**. We will make the premium adjustment with **you** at the time that cancellation is effective or as soon as practicable after that time.

The offering of terms and conditions different from the expiring terms and conditions shall not constitute a refusal to renew.

L. Severability/ Innocent Parties

Any of **you** who did not commit, participate in or have prior knowledge of dishonest, fraudulent, malicious, or criminal conduct, or did not fail to comply with Condition B., shall have the coverage otherwise provided by this Policy.

M. Extended Reporting Period

1. Automatic Extended Reporting Period

If this Policy is canceled or non-renewed by either us or by the first **Named Insured**, we will provide an automatic, non-cancelable **extended reporting period** starting at the termination of the **policy term** if the first **Named Insured** has not obtained similar coverage. This automatic **extended reporting period** will terminate after sixty (60) days.

2. Optional Extended Reporting Period

If this Policy is cancelled or non-renewed by either us or by the first **Named Insured**, then the first **Named Insured** shall have the right to purchase an optional **extended reporting period**.



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Such right must be exercised by the first **Named Insured** within sixty (60) days of the termination of the **policy term** by providing:

- a. written notice to us; and
- b. with the written notice, the amount of additional premium described below.

The first sixty (60) days of the optional **extended reporting period**, if purchased, run concurrently with the sixty (60) days of the automatic **extended reporting period**.

3. Additional Premium

The additional premium for the optional **extended reporting period** shall be based upon the rates for such coverage in effect at the beginning of the **policy term** and shall be for one (1) year at 100% of the **policy term** premium; three (3) years at 190% of the **policy term** premium; five (5) years at 250% of the **policy term** premium.

4. Extended Reporting Period Limitations

No additional or optional **extended reporting period** shall apply to:

- a. any **claim** or proceedings pending at the **inception date** of such **extended reporting period**;
- b. any paid **claim**; or
- c. **claims** that are covered under any subsequent insurance purchased by **you**, or that would be covered but for exhaustion of the limits of liability applicable to such **claims**.

5. Automatic and Optional **Extended Reporting Periods** Limits of Liability

Our liability for all **claims** reported during any automatic and optional **extended reporting periods** shall be part of and not in addition to the limits of liability for the final **policy term**.

N. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives, assigns and spouses of those of **you** who are natural persons shall be considered insured under this Policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, assigns and spouses only for a **claim** arising solely out of their status as such and, in the case of a spouse, where such **claim** seeks damages from marital community property, jointly held property or property transferred from such of **you** to the spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative, assign or spouse.

O. Service of Suit

In the event of our failure to pay any amount claimed to be due hereunder, we, at **your** request, will submit to the jurisdiction of any court of competent jurisdiction within the United States and will



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comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is agreed that service of process in such suit may be made upon our General Counsel, CNA Plaza, Chicago, Illinois 60685 and that in any suit instituted against such person upon this Policy, we will abide by the final decision of such court or of any appellate court in the event of an appeal.

The General Counsel is authorized and directed to accept service of process on our behalf in any such suit and, upon **your** request, to give a written undertaking to **you** that he will enter a general appearance upon us in the event such suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision thereof, provided **you** shall first notify us of **your** intention to sue, we hereby designate the superintendent, commissioner or director of insurance, or other officer as designated in such statute, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of **you** or any beneficiary hereunder arising out of this Policy, and hereby designate the above-named as the person to whom the said officer is authorized and directed to accept service of process on our behalf in any such suit.

P. Economics and Trade Sanctions

In accordance with laws and regulations of the United States concerning economic and trade embargoes, this policy is void ab initio solely with respect to any term or condition of this policy that violates any laws or regulations of the United States concerning economic and trade embargoes including, but not limited to the following:

1. Any insured or any person or entity claiming the benefits of an insured, who is or becomes a Specially Designated National or Blocked Person or who is otherwise subject to the U.S. economic or trade sanctions;
2. Any **claim** or suit that is brought in a Sanctioned Country or by a Sanctioned Country Government, where any action in connection with such **claim** or suit is prohibited by U.S. economic or trade sanctions;
3. Any **claim** or suit that is brought by any Specially Designated National or Blocked Person or any person or entity who is otherwise subject to U.S. economic or trade sanctions;
4. Property that is located in a Sanctioned Country or that is owned by, rented to or in the care, custody or control of a Sanctioned Country Government, where any activities related to such property are prohibited by U.S. economic or trade sanctions; or
5. Property that is owned by, rented to or in the care, custody or control of a Specially Designated National or Blocked Person, or any person or entity who is otherwise subject to the U.S. economic or trade sanctions.

As used in this condition a Specially Designated National or Blocked Person is any person or entity that is on the list of Specially Designated Nationals and Blocked Persons issued by the U.S. Treasury Department's Office of Foreign Asset Control (O.F.A.C.) as it may be from time to time amended.



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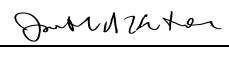
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As used in this condition a Sanctioned Country is any country that is the subject of trade or economic embargoes imposed by the laws or regulations of the United States of America.

IN WITNESS WHEREOF, we have this Policy to be signed by its Chairman and Secretary at Chicago, Illinois, but the same shall not be binding upon the Insurer unless signed by our duly authorized representative.

Chairman

Secretary

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