

**Policy Number:**

**ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC)  
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## ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC) COVERAGE FORM

Various provisions in this policy restrict coverage. Please read the entire policy carefully to determine rights, duties and what is and is not covered.

**COVERAGE PART III – SITE POLLUTION INCIDENT LEGAL LIABILITY** and **COVERAGE PART IV – PROFESSIONAL LIABILITY** of this policy provide claims-made coverage.

Throughout this policy the words “you” and “your” refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this Policy. The words “we”, “us” and “our” refer to the Company providing this insurance.

The word “insured” means any person or organization qualifying as such under **SECTION II – WHO IS AN INSURED**.

Defined terms, other than headings, appear in bold face type. Refer to **SECTION V - DEFINITIONS**.

### SECTION I – COVERAGES

#### COVERAGE PART I: COMMERCIAL GENERAL LIABILITY AND POLLUTION LIABILITY

##### COVERAGE PART I – Coverage Specific Insuring Agreements and Exclusions

###### Coverage A: General Bodily Injury and Property Damage Liability

###### 1. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies but only if:

- a. The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- b. The **bodily injury** or **property damage** takes place during the **policy period**.

###### 2. Exclusions

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

###### a. Aircraft, Auto or Watercraft

**Bodily injury** or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **loading or unloading**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is not being used to carry persons or property for a charge;
- (3) An aircraft hired or chartered by or loaned to an insured with a paid crew;
- (4) Parking an **auto** on, or on the ways next to, premises you own or rent, provided the **auto** is not owned by or rented or loaned to you or the insured;
- (5) Liability assumed under any **insured contract** for the ownership, maintenance or use of aircraft or watercraft; or
- (6) **Bodily injury** or **property damage** arising out of the operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of **mobile equipment** if it were not subject to a compulsory or financial responsibility law in the state where it is licensed or principally garaged or the operation of any of the machinery or equipment listed in paragraph **f. (2)** or **f. (3)** of the definition of **mobile equipment**.

**b. Asbestos and Lead**

- (1) **Bodily injury** arising out of the presence, ingestion, inhalation or absorption of, or exposure to, asbestos or lead in any form; or
- (2) **Property damage** arising out of the presence of, or exposure to, asbestos or lead in any form.

**c. Distribution Of Material In Violation Of Statutes**

**Bodily injury** or **property damage** arising directly or indirectly out of any action or omission that violates or is alleged to violate the Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law, the CAN-SPAM Act of 2003, including any amendment of or addition to such law or any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 that prohibits or limits the sending, transmitting, communication or distribution of material or information.

**d. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

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

**e. Employment - Related Practices**

**Bodily injury** to:

- (1) A person arising out of any refusal to employ that person, termination of that person's employment or employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of the person as a consequence of **bodily injury** to that person at whom any of the employment-related practices described in paragraphs (1) above is directed.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

**f. Liquor Liability**

**Bodily injury** or **property damage** for which any insured may be held liable by reason of causing or contributing to the intoxication of any person, the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol, or any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**g. Mobile Equipment**

**Bodily injury** or **property damage** arising out of the transportation of **mobile equipment** by an **auto** owned or operated by or rented or loaned to any insured or the use of **mobile equipment** in, or while in practice for or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

**h. Pollution**

(1) **Bodily injury** or **property damage** caused by a **pollution incident**.

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others incur **clean-up costs**; or

(b) **Claim** or **suit** by or on behalf of a governmental authority for damages because of **clean-up costs**.

**Coverage B: Hostile Fire and Building Equipment Liability**

**1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as damages to which this insurance applies because of:

**a. Bodily injury** sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests; and

**b. Bodily injury** or **property damage** arising out of heat, smoke or fumes from a **hostile fire**

But only if:

(1) The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**; and

(2) The **bodily injury** or **property damage** takes place during the **policy period**.

**2. Exclusions**

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

**a. Aircraft, Auto or Watercraft**

**Bodily injury** or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

**b. Asbestos and Lead**

(1) **Bodily injury** arising out of the presence, ingestion, inhalation or absorption of, or exposure to, asbestos or lead in any form; or

(2) **Property damage** arising out of the presence of, or exposure to, asbestos or lead in any form.

**Coverage C: Products Pollution and Exposure Liability**

**1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as damages to which this insurance applies because of:

- a. **Bodily injury, property damage** or **environmental damage** including **emergency response expense** arising out of a **pollution incident** caused by **your product**, and included in the **products-completed operations hazard**; and
- b. **Bodily injury** or **property damage** arising out of the ingestion, inhalation or absorption of, contact with, or exposure to, any fumes, dust, particles, vapors, liquids or other substances that are or originate from **your product**, and included in the **products-completed operations hazard**.

But only if:

- (1) The **bodily injury, property damage** or **environmental damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- (2) The **bodily injury, property damage** or **environmental damage** takes place during the **policy period**.

**2. Exclusions**

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

**a. Aircraft, Auto or Watercraft**

**Bodily injury** or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury, property damage** or **environmental damage** involved the ownership, maintenance, use or

entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

**b. Asbestos**

(1) **Bodily injury** arising out of the presence, ingestion, inhalation or absorption of, or exposure to, asbestos in any form; or

(2) **Property damage** arising out of the presence of, or exposure to, asbestos in any form.

(3) **Environmental damage** arising from asbestos or asbestos containing materials in, on, or applied to any building or other structure. This exclusion does not apply to **clean-up costs** for the remediation of soil, surfacewater or groundwater.

**c. Non-Owned Site Disposal**

**Bodily injury, property damage or environmental damage** arising out of the disposal of **your product** at any **location** which is not owned or operated by any insured.

**d. Products as Waste**

**Environmental damage** arising out of **your product** which is **waste**.

**Coverage D: Time-Element Pollution Bodily Injury and Property Damage Liability**

**1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies arising out of a **time-element pollution incident** on, at, under or migrating from any **location** which is owned or operated by any insured and which is not specifically scheduled as an **insured site** but only if:

- a. The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**;
- b. The **bodily injury** or **property damage** takes place during the **policy period**;
- c. The insured discovers the **pollution incident** no later than ten (10) calendar days after its commencement; and
- d. The **pollution incident** is reported to us in writing no later than thirty (30) business days after its commencement.

**2. Exclusions**

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

**a. Aircraft, Auto or Watercraft**

**Bodily injury** or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused

the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

**b. Criminal Fines, Penalties and Assessments**

Any criminal fines, criminal penalties or criminal assessments.

**c. Intentional Noncompliance**

**Bodily injury, property damage** or **environmental damage** that results from any **responsible executive's** intentional disregard of, or deliberate, willful or dishonest non-compliance with any **environmental law**.

**Coverage E: Non-Owned Site Pollution Bodily Injury and Property Damage Liability**

**1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies arising out of a **pollution incident** on, at, under or migrating from any **non-owned site** but only if:

- a. The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- b. The **bodily injury** or **property damage** takes place during the **policy period**.

**2. Exclusions**

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

**a. Aircraft, Auto or Watercraft**

**Bodily injury** or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

**b. Criminal Fines, Penalties and Assessments**

Any criminal fines, criminal penalties or criminal assessments.

**c. Intentional Noncompliance**

**Bodily injury, property damage** or **environmental damage** that results from any **responsible executive's** intentional disregard of, or deliberate, willful or dishonest non-compliance with any **environmental law**.

**d. Prior Pollutants or Pollution Incident**

**Bodily injury** or **property damage** arising out of pollutants or a **pollution incident** known by a **responsible executive** prior to the inception of the **policy period** but not specifically referenced, or identified on a Prior Pollutants or Pollution Incident Amendatory Endorsement, if any, attached to this policy.

## Coverage F: Pollution Liability during Transportation

### 1. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages to which this insurance applies because of:

- a. **Bodily injury, property damage or environmental damage** including **emergency response expense** arising out of a **pollution incident** during **transportation**; and
- b. **Bodily injury, property damage or environmental damage** including **emergency response expense** arising out of **misdelivery** during **transportation**;

But only if:

- (1) The **bodily injury, property damage or environmental damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- (2) The **bodily injury, property damage or environmental damage** takes place during the **policy period**.

### 2. Exclusions

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

#### a. Criminal Fines, Penalties and Assessments

Any criminal fines, criminal penalties or criminal assessments.

#### b. Damage to Conveyance

**Property damage** to any **conveyance** utilized during **transportation**. This exclusion does not apply to **claims** made by third-party carriers for such **property damage** arising from the insured's negligence.

#### c. Intentional Noncompliance

**Bodily injury, property damage or environmental damage** that results from any **responsible executive's** intentional disregard of, or deliberate, willful or dishonest non-compliance with any **environmental law**.

#### d. Prior Pollutants or Pollution Incidents

**Bodily injury, property damage or environmental damage** arising out of **pollutants** or a **pollution incident** known by a **responsible executive** prior to the inception of the **policy period** but not specifically referenced, or identified on a Prior Pollutants or Pollution Incident Amendatory Endorsement, if any, attached to this policy.

## Coverage G: Contractors Pollution Liability

### 1. Insuring Agreement

We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury, property damage or environmental damage**, including **emergency response expense**, to which this insurance applies arising out of a **pollution incident** caused by **your work** but only if:



- a. The **bodily injury, property damage or environmental damage** is caused by an **occurrence** that takes place in the **coverage territory**; and
- b. The **bodily injury, property damage or environmental damage** takes place during the **policy period**.

## 2. Exclusions

In addition to exclusions found in **COVERAGE PART I – Common Exclusions**, this insurance does not apply to:

### a. Aircraft, Auto or Watercraft

**Bodily injury, property damage or environmental damage** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **occurrence** which caused the **bodily injury, property damage or environmental damage** involved the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft that is owned or operated by or rented or loaned to any insured.

### b. Criminal Fines, Penalties and Assessments

Any criminal fines, criminal penalties or criminal assessments.

### c. Disposal Site

**Bodily injury, property damage or environmental damage** arising out of a **pollution incident** on, at, under or migrating from any transfer, storage, disposal, landfill, treatment or consolidation **location** beyond the boundary of a job site where **your work** is performed.

### d. Intentional Noncompliance

**Bodily injury, property damage or environmental damage** that results from any **responsible executive's** intentional disregard of, or deliberate, willful or dishonest non-compliance with any **environmental law**.

### e. Prior Pollution Incident

**Bodily injury, property damage or environmental damage** arising out of **pollutants** or a **pollution incident** resulting from **your work**, known by a **responsible executive** prior to the inception of the **policy period** but not specifically referenced, or identified on a Prior Pollutants or Pollution Incident Amendatory Endorsement, if any, attached to this policy.

## COVERAGE PART I – Common Insuring Agreement

The following insuring agreements apply to **Coverages A** through **G** inclusive:

1. We will have the right and duty to defend the insured against any **suit** seeking damages for **bodily injury, property damage or environmental damage** to which any of **Coverages A** through **G** applies. However, we will have no duty to defend the insured against any **suit** seeking damages to which any of those coverages do not apply. We may, at our discretion, investigate any **occurrence** and settle any **claim** or **suit** that may result. But:

- a. The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE**;
  - b. Our right and duty to defend ends when we have used up the applicable limits of insurance in the payment of judgments, settlements, **clean-up costs** or **emergency response expense** under the applicable coverage found in **Coverage Part I**; and
  - c. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **COVERAGE PART I – Supplementary Payments**.
2. **Bodily injury, property damage or environmental damage** will be deemed to have been known to have occurred at the earliest time when any **responsible executive**:
- a. Reports all, or any part, of the **bodily injury, property damage or environmental damage** to us or any other insurer;
  - b. Receives a written or verbal demand or **claim** for damages because of the **bodily injury, property damage or environmental damage**; or
  - c. Becomes aware by any other means that **bodily injury, property damage or environmental damage** has occurred or has begun to occur.
3. The following applies to progressive or indivisible **bodily injury, property damage or environmental damage**, including any continuation, change or resumption of such **bodily injury, property damage or environmental damage**, which takes place over a period of days, weeks, months or longer caused by continuous or repeated exposure to the same, related or continuous **(i) pollution incident, or (ii) general harmful conditions or substances**:
- a. Such **bodily injury, property damage or environmental damage** shall be deemed to have taken place only on the date of first exposure to such **pollution incident** or general harmful conditions or substances; or
  - b. Such **bodily injury, property damage or environmental damage** shall be deemed to have taken place during the **policy period** of the first policy providing coverage substantially the same as that provided by **COVERAGE PART I** of this policy for **bodily injury, property damage or environmental damage** that takes place during the **policy period** but only if:
    - (1) The date of first exposure cannot be determined or is before the inception date of the first policy issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART I** of this policy for **bodily injury, property damage or environmental damage** that takes place during the **policy period**; and
    - (2) Such **bodily injury, property damage or environmental damage** continues, in fact, to take place during this **policy period**.
4. If the same, related or continuous **pollution incident** or general harmful conditions or substances results in **bodily injury, property damage or environmental damage** that takes place during the policy periods of different policies issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART I** of this policy for **bodily injury, property damage or environmental damage** that takes place during the **policy period**:
- a. All such **bodily injury, property damage and environmental damage** shall be deemed to have taken place only during the first policy period of such policies in which any of the **bodily injury, property damage or environmental damage** took place; and

- b. All damages arising from all such **bodily injury, property damage or environmental damage** shall be deemed to have arisen from one **occurrence** and shall be subject to the Each Occurrence Limit applicable to the policy for such first policy period.
5. Damages because of **bodily injury** include damages claimed by any person or organization for care, loss of services or death resulting at any time from the **bodily injury**.

#### **COVERAGE PART I – Supplementary Payments**

1. We will pay, with respect to any **claim** we investigate or settle, or any **suit** against an insured we defend under **COVERAGE PART I**:
- a. All expenses we incur.
  - b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which **bodily injury** in **COVERAGE PART I** applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$500 a day because of time off from work.
  - e. All court costs taxed against the insured in the **suit**. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a **suit** and an indemnitee of the insured is also named as a party to the **suit**, we will defend that indemnitee if all of the following conditions are met:
- a. The **suit** against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an **insured contract**;
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same **insured contract**;
  - d. The allegations in the **suit** and the information we know about the **occurrence** are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
  - e. The indemnitee and the insured ask us to conduct and control the defense of the indemnitee against such **suit** and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:

(1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the **suit**;
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **suit**;
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a) Obtain records and other information related to the **suit**; and
- (b) Conduct and control the defense of the indemnitee in such **suit**.

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as **COVERAGE PART I – Supplementary Payments**. Notwithstanding the provisions of **COVERAGE PART I – Common Exclusions, Exclusion a.(2)**, such payments will not be deemed to be damages for **bodily injury, property damage and environmental damage** and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as **COVERAGE PART I – Supplementary Payments** ends when we have used up the applicable limit of insurance in the payment of judgments or settlements; or the conditions set forth above, or the terms of the agreement described in paragraph f. above, are no longer met.

#### **COVERAGE PART I – Common Exclusions:**

The insurance provided in **COVERAGE PART I** does not apply to:

##### **a. Contractual Liability**

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

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an **insured contract**, provided the **bodily injury, property damage or environmental damage** occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of **bodily injury, property damage or environmental damage**, provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
  - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**b. Damage to Property**

**Property damage** or **environmental damage** to:

- (1) Property you own or operate including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the **property damage** or **environmental damage** arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured; or
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the **property damage** or **environmental damage** arises out of those operations.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire, lightning or explosion) to premises, including the contents of such premises, rented to you for a period of 30 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE**.

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

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

**c. Damage to Your Product**

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

**d. Damage to Your Work**

**Property damage** or **environmental damage** to **your work** arising out of it or any part of it.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor or for liability assumed under a sidetrack agreement.

**e. Damage to Impaired Property or Property Not Physically Injured**

**Property damage** or **environmental damage** to impaired property or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

**f. Employer's Liability**

**Bodily injury to:**

- (1) An **employee** of the insured, arising out of and in the course of employment by the insured or performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that **employee** as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an **insured contract**.

**g. Expected or Intended Injury or Damage**

**Bodily injury, property damage or environmental damage** expected or intended from the standpoint of a **responsible executive**. This exclusion does not apply to **bodily injury or property damage** resulting from the use of reasonable force to protect persons or property.

**h. Known Injury or Damage**

**Bodily injury, property damage or environmental damage** that occurred in whole or in part prior to the **policy period** and was known prior to the **policy period** by a **responsible executive**. Any continuation, change or resumption of such **bodily injury, property damage or environmental damage** will be deemed to have been known by a **responsible executive** prior to the **policy period**.

**i. Nuclear Material**

Based upon or arising out of the radioactive, toxic or explosive properties of **nuclear material** and with respect to which the insured is:

- (1) Required to maintain financial protection pursuant to the Atomic Energy Act of 1954;
- (2) Entitled to indemnity from the United States of America or any agency thereof; or
- (3) An insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of limits.

**j. Recall of Products, Work or Impaired property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of, **your product, your work or impaired property** if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**k. War**

**Bodily injury, property damage or environmental damage**, however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;

- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### I. Workers Compensation and Similar Laws

Any obligation of the insured under workers compensation, disability benefits or unemployment compensation law or any similar law.

**COVERAGE PART I – Coverage A.**, paragraph 2., Exclusions a. and f. through h. inclusive, and **COVERAGE PART I – Common Exclusions**, Exclusion b., h. through k. inclusive and o. through q. inclusive do not apply to damage by fire, lightning or explosion to premises while rented to or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE**, paragraph 5.

#### COVERAGE PART II: MISCELLANEOUS COVERAGES

##### Coverage A: Personal and Advertising Injury Liability

###### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of **personal and advertising injury** to which this insurance applies. We will have the right and duty to defend the insured against any **suit** seeking those damages. However, we will have no duty to defend the insured against any **suit** seeking damages for **personal and advertising injury** to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any **claim** or **suit** that may result. But:
  - (1) The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE AND DEDUCTIBLE**;
  - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this **Coverage A**; and
  - (3) No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **COVERAGE PART II - Supplementary Payments**.
- b. This insurance applies to **personal and advertising injury** caused by an offense arising out of your business but only if the offense was committed in the **coverage territory** during the **policy period**.
- c. If the same, related or continuous offense is committed during the policy periods of different policies issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART II – Coverage A: Personal and Advertising Injury Liability** for offenses committed during the policy period, all such offenses shall be deemed to have taken place only during the first policy period of such policies in which any of the offenses were committed.

###### 2. Exclusions

This insurance does not apply to:

- a. **Material Published Prior to Policy period**

**Personal and advertising injury** arising out of oral or written publication of material whose first publication took place before the beginning of the **policy period**.

**b. Breach of Contract**

**Personal and advertising injury** arising out of a breach of contract, except an implied contract to use another's advertising idea in your **advertisement**.

**c. Criminal Acts**

**Personal and advertising injury** arising out of a criminal act committed by or at the direction of the insured.

**d. Contractual Liability**

**Personal and advertising injury** for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**e. Distribution Of Material In Violation Of Statutes**

**Bodily injury** or **property damage** arising directly or indirectly out of any action or omission that violates or is alleged to violate the Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law, the CAN-SPAM Act of 2003, including any amendment of or addition to such law or any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 that prohibits or limits the sending, transmitting, communication or distribution of material or information.

**f. Electronic Chatrooms or Bulletin Boards**

**Personal and advertising injury** arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**g. Infringement of Copyright, Patent, Trademark or Trade Secret**

**Personal and advertising injury** arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your **advertisement**.

However, this exclusion does not apply to infringement, in your **advertisement**, of copyright, trade dress or slogan.

**h. Insureds in Media and Internet Type Businesses**

**Personal and advertising injury** committed by an insured whose business is advertising, broadcasting, publishing or telecasting, designing or determining content of web-sites for others or an Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **33 a.**, **b.** and **c.** of **personal and advertising injury** under **SECTION V – DEFINITIONS**.

For the purpose of this exclusion, the placing of frames, borders, or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

**i. Knowing Violation of Rights of Another**



**Personal and advertising injury** caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**.

**j. Material Published with Knowledge of Falsity**

**Personal and advertising injury** arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

**k. Pollution**

**(1) Personal and advertising injury** arising out of a **pollution incident**.

**(2)** Any loss, cost or expense arising out of any:

**(a)** Request, demand, order or statutory or regulatory requirement that any insured or others incur clean-up costs; or

**(b) Claim or suit** by or on behalf of a governmental authority for damages because of **clean-up costs**.

**l. Quality of Performance of Goods – Failure to Conform to Statements**

**Personal and advertising injury** arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your **advertisement**.

**m. Unauthorized Use of Another’s Name or Product**

**Personal and advertising injury** arising out of the unauthorized use of another’s name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another’s potential customers.

**n. War**

**Bodily injury or property damage**, however caused, arising, directly or indirectly, out of:

**(1)** War, including undeclared or civil war;

**(2)** Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

**(3)** Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**o. Wrong Description of Prices**

**Personal and advertising injury** arising out of the wrong description of the price of goods, products or services stated in your **advertisement**.

**Coverage B: Employee Benefits Administration Liability**

**1. Insuring Agreement**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of a negligent act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, in the **administration** of your **employee benefits program** to which this insurance applies. We will have the right and duty to defend the insured against any **suit** seeking those damages. However, we will have no duty to defend the insured against any **suit** seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any **claim** or **suit** that may result. But:

(1) The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**;

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this **Coverage B**; and

(3) No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **COVERAGE PART II - Supplementary Payments**.

b. This insurance applies to damages only if the negligent act, error or omission takes place in the **coverage territory**.

## 2. Exclusions

This insurance does not apply to:

### a. Available Benefits

Any **claim** for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

### b. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

### c. ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

### d. Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

### e. Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

### f. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the **employee benefit program**.

### g. Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any claim based upon failure of any investment to perform, errors in providing information on past performance of investment vehicles or advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the **employee benefit program**.

**h. Prior Act, Error or Omission**

Any **claim** arising from any act, error or omission known, prior to the inception of the policy, to a **responsible executive** if such **responsible executive** knew or could have reasonably foreseen that such an act, error or omission could give rise to a **claim** under this policy.

**i. Taxes, Fines Or Penalties**

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

**j. Workers' Compensation And Similar Laws**

Any **claim** arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

**Coverage C: Medical Payments**

**1. Insuring Agreement**

a. We will pay medical expenses as described below for **bodily injury** caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the **coverage territory** and during the **policy period**;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral service.

**2. Exclusions**

We will not pay expenses for **bodily injury**:

**a. Any Insured**

To any insured, except **volunteer workers**.

**b. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletics contests.

**c. COVERAGE PART I Exclusions**

Excluded under **Coverage A** of **COVERAGE PART I** and **COVERAGE PART I - Common Exclusions**

**d. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**e. Injury on Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**f. Products-completed operations hazard**

Included within the **products-completed operations hazard**.

**g. Workers Compensation and Similar Laws**

To a person, whether or not an **employee** of any insured, if benefits for the **bodily injury** are payable or must be provided under workers compensation or disability benefits law or a similar law.

**COVERAGE PART II – Supplementary Payments:**

We will pay, with respect to any **claim** we investigate or settle, or any **suit** against an insured we defend under **COVERAGE PART II – Coverage A and B**:

1. All expenses we incur.
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$500 a day because of time off from work.
4. All court costs taxed against the insured in the **suit**. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

### COVERAGE PART III: SITE POLLUTION INCIDENT LEGAL LIABILITY

#### Coverage A – Bodily Injury and Property Damage Liability

##### 1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies arising out of a **pollution incident** on, at, under or migrating from an **insured site**. We will have the right and the duty to defend the insured against any **suit** seeking damages for **bodily injury** or **property damage** to which this coverage part applies. However, we will have no duty to defend the insured against any **suit** seeking damages to which this coverage part does not apply. We may, at our discretion, investigate any **pollution incident** and settle any **claim** or **suit** that may result. But:

- (1) The amount we will pay for damages is limited as described in **Section III – LIMITS OF INSURANCE AND DEDUCTIBLE**;
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance under **COVERAGE PART III** in the payment of judgments, settlements, **clean-up costs**, **emergency response expense** and **legal and claims expense payments** ; and
- (3) If under applicable law we cannot pay on behalf of the insured those sums covered under this Coverage A, we will indemnify the insured for those sums.

b. This insurance applies to **bodily injury** and **property damage** only if:

- (1) The **bodily injury** or **property damage** is caused by a **pollution incident** that commenced on or after the retroactive date applicable to the **insured site** and before the end of the **policy period**; and
- (2) A **claim** for damages because of the **bodily injury** or **property damage** is first made against any insured and reported to us in writing during the **policy period** or any **extended reporting period** we provide under **SECTION IV – CONDITIONS**, paragraph 7., **Extended Reporting Period**.

A **claim** received by the insured during the **policy period** and reported to us within 30 days after the end of the **policy period** will be considered to have been reported within the **policy period**.

c. If a **claim** is first made against an insured and reported to us during the **policy period**, additional **claims** arising from the same, related or continuous **pollution incident** that are made against an insured and reported to us during the **policy period** or during the policy period of a subsequent policy issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART III** for **claims** first made against the insured and reported to us during the **policy period**, then all such **claims** shall be:

- (1) Deemed to be one **claim**;
- (2) Deemed to have been first made and reported during this **policy period** on the date the first of such **claims** was first made and reported; and
- (3) Subject to the Each Incident Limit applicable to **COVERAGE PART III** stated in **Item 3.** of the Declarations.

Coverage under this policy for such **claims** shall not apply, however, unless at the time such subsequent **claims** are first made and reported, you have maintained with us coverage substantially the same as this coverage on a continuous, uninterrupted basis since the first such **claim** was made against an insured.

## Coverage B – First and Third Party On-Site Clean-Up Costs

### 1. Insuring Agreement

- a. We will pay for **clean-up costs** and **emergency response expense** on, at or under an **insured site** or **non-owned site** that the insured becomes legally obligated to pay because of **environmental damage** to which this insurance applies. We have the right and the duty to investigate, settle, contest or appeal any obligation asserted against an insured to pay **clean-up costs**. But:
- (1) the amount we will pay for such **clean-up costs** and **emergency response expense** is limited as described in **SECTION III – LIMITS OF INSURANCE**;
  - (2) Our right and duty to investigate, settle, contest or appeal ends when we have used up the applicable limit of insurance in the payment of judgments, settlements, **clean-up costs, emergency response expense and legal and claims expense payments**; and
  - (3) If under applicable law we cannot pay on behalf of the insured those sums coverage under this **Coverage B**, we will indemnify the insured for those sums.
- b. This insurance applies to **clean-up costs** and **emergency response expense** only if:
- (1) The **environmental damage** is caused by a **pollution incident** on, at or under:
    - (a) An **insured site** provided the **pollution incident** commenced on or after the retroactive date applicable to the **insured site** and before the end of the **policy period**; or
    - (b) A **non-owned site** in the **coverage territory** provided that the **pollution incident** commenced before the end of the **policy period**; and
  - (2) The insured:
    - (a) First discovers the **pollution incident** during the **policy period**. Discovery of a **pollution incident** happens when a **responsible executive (i)** first becomes aware of the **pollution incident**, **(ii)** reports the **pollution incident** to us in writing during the **policy period**, and **(iii)** promptly reports the **pollution incident** to the appropriate governmental authority as required by **environmental law**; or
    - (b) Becomes legally liable to pay **clean-up costs** as a result of a **claim**, the **claim** for which is first made against any insured and reported to us in writing during the **policy period** or any **extended reporting period** we provide under **SECTION IV – CONDITIONS**, paragraph 7., **Extended Reporting Period**. A **claim** received by the insured during the **policy period** and reported to us within 30 days after the end of the **policy period** will be considered to have been reported during the **policy period**.
- c. If a **claim** is first made against an insured and reported to us during the **policy period**, additional **claims** arising from the same, related or continuous **pollution incident** that are made against an insured and reported to us during the **policy period** or during the policy period of a subsequent policy issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART II** for **claims** first made against the insured and reported to us during the **policy period**, then all such **claims** shall be:
- (1) Deemed to be one **claim**;

(2) Deemed to have been first made and reported during this **policy period** on the date the first of such **claims** was first made and reported; and

(3) Subject to the Each Incident Limit applicable to **COVERAGE PART III** stated in **Item 3.** of the Declarations.

Coverage under this policy for such **claims** shall not apply, however, unless at the time such subsequent **claims** are first made and reported, you have maintained with us coverage substantially the same as this coverage on a continuous, uninterrupted basis since the first such **claim** was made against an insured and reported to us.

## 2. Exclusions

In addition to exclusions found in **COVERAGE PART III – Common Exclusions**, the following exclusions apply:

### a. Asbestos and Lead

**Environmental damage** arising from asbestos, asbestos containing materials or lead-based paint in, on, or applied to any building or other structure. This exclusion does not apply to **clean-up costs** for the remediation of soil, surfacewater or groundwater.

### b. Off-Site Clean-Up Costs and Emergency Response Expense

**Clean-up costs** and **emergency response expense** other than those on, at or under a **non-owned site** or an **insured site**.

## Coverage C – Off-Site Clean-Up Costs

### 1. Insuring Agreement

a. We will pay for off-site **clean-up costs** and **emergency response expense** beyond the boundary of an **insured site** or a **non-owned site** that the insured becomes legally obligated to pay because of **environmental damage** to which this insurance applies. We have the right and the duty to investigate, settle, contest or appeal any obligation asserted against an insured to pay **clean-up costs**. But:

(1) The amount we will pay for such **clean-up costs** and **emergency response expense** is limited as described in **SECTION III – LIMITS OF INSURANCE**;

(2) Our right and duty to investigate, settle, contest or appeal ends when we have used up the applicable limit of insurance in the payment of judgments, settlements, **clean-up costs**, **emergency response expense** and **legal and claims expense payments**; and

(3) If under applicable law we cannot pay on behalf of the insured those sums covered under this **Coverage C**, we will indemnify the insured for those sums.

b. This insurance applies to **clean-up costs** and **emergency response expense** only if:

(1) The **environmental damage** is caused by a **pollution incident** migrating from:

(a) An **insured site** provided the **pollution incident** commenced on or after the retroactive date applicable to the **insured site** and the **pollution incident** commenced before the end of the **policy period**; or

(b) A **non-owned site** in the **coverage territory** provided the **pollution incident** commenced prior to the end of the **policy period**; and

- (2) As respects **clean-up costs**, a **claim for clean-up costs** is first made against any insured and reported to us in writing during the **policy period** or any extended reporting period we provide under **SECTION IV – CONDITIONS**, paragraph 7., **Extended Reporting Period**.

A **claim** received by the insured during the **policy period** and reported to us within 30 days after the end of the **policy period** will be considered to have been reported within the **policy period**.

- c. If a **claim** is first made against an insured and reported to us during the policy period, additional **claims** arising from the same, related or continuous **pollution incident** that are made against an insured and reported to us during the **policy period** or during the policy period of a subsequent policy issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART II** for **claims** first made against the insured and reported to us during the **policy period**, then all such **claims** shall be:

- (1) Deemed to be one **claim**;
- (2) Deemed to have been first made and reported during this **policy period** on the date the first of such **claims** was first made and reported; and
- (3) Subject to the Each Incident Limit applicable to **COVERAGE PART III** stated in **Item 3.** of the Declarations.

Coverage under this policy for such **claims** shall not apply, however, unless at the time such subsequent **claims** are first made and reported, you have maintained with us coverage substantially the same as this coverage on a continuous, uninterrupted basis since the first such **claim** was made against an insured and reported to us.

## 2. Exclusions

In addition to exclusions found in **COVERAGE PART III – Common Exclusions**, the following exclusions apply:

### b. Asbestos and Lead

**Environmental damage** arising from asbestos, asbestos containing materials or lead-based paint in, on, or applied to any building or other structure. This exclusion does not apply to **Clean-Up Costs** for the remediation of soil, surfacewater or groundwater.

### b. On-Site Clean-Up Costs

**Clean-up costs** on at or under a **non-owned site** or an **insured site**.

## COVERAGE PART III - Common Exclusions

The insurance provided in **COVERAGE PART III** does not apply to:

### a. Contractual Liability

**Bodily injury, property damage** or **environmental damage** for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### b. Criminal Fines, Penalties and Assessments

Any criminal fines, criminal penalties or criminal assessment.



**c. Employer's Liability**

**Bodily injury to:**

**(1)** An **employee** of the insured arising out of and in the course of:

**(a)** Employment by the insured; or

**(b)** Performing duties related to the conduct of the insured's business; or

**(2)** The spouse, child, parent, brother or sister of that **employee** as a consequence of Paragraph **(1)** above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

**d. Expected or Intended Injury or Damage**

**Bodily injury, property damage or environmental damage** expected or intended from the standpoint of a **responsible executive**.

**e. Intentional Noncompliance**

**Bodily injury, property damage or environmental damage** that results from any responsible executive's intentional disregard of, or deliberate, willful or dishonest non-compliance with any **environmental law**.

**f. Material Change in Use**

Any **claim** arising from **clean-up costs** resulting from a material change in use or operation at any **insured site** from the use or operations at such **insured site** at the inception of the **policy period**

**g. Nuclear Material**

Any **claim** based upon or arising out of the radioactive, toxic or explosive properties of **nuclear material** and with respect to which the insured is:

**(1)** Required to maintain financial protection pursuant to the Atomic Energy Act of 1954;

**(2)** Entitled to indemnity from the United States of America or any agency thereof; or

**(3)** An insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of limits.

**h. Previously Reported Claim**

Any **claim** first made and reported to us during the **policy period** arising from the same, related or continuous **pollution incident** for which a claim was reported under any policy of which this policy is a renewal or replacement or succeeds in time, whether or not such prior policy affords coverage for such **claim**.

**i. Prior Pollutants or Pollution Incident:**

**Bodily injury, property damage or environmental damage** arising out of **pollutants** or a **pollution incident** known by a **responsible executive** prior to the inception of the **policy period** but not specifically referenced, or identified on a Prior Pollutants or Pollution Incident Amendatory Endorsement, if any, attached to this policy.

**j. Transportation**

**Bodily injury, property damage or environmental damage** including **emergency response expense** arising out of a **pollution incident** during **transportation**.

**k. Underground Storage Tanks**

Any **claim** based upon or arising out of any **underground storage tank**, the existence of which is known by a **responsible executive** prior to the inception of the **policy period**.

This exclusion does not apply to:

- (1) Any **underground storage tank** which has been closed, abandoned in place or removed prior to the inception of the **policy period** in accordance with **environmental laws**; or
- (2) Any **underground storage tank** scheduled to this policy by Endorsement.

**l. Upgrades, improvements or installations**

Any costs, charges or expenses for upgrade, improvement of, or installation of any control to, any property or processes on, at, within or under an **insured site** even if such upgrade, improvement or installation is required by **environmental laws**.

**m. War**

**Bodily injury, property damage or environmental damage**, however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**n. Workers' Compensation and Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**o. Your Product**

**Bodily injury, property damage or environmental damage** based upon or arising out of **your product** and occurring away from a **location** you own or operate or a **non-owned site**.

**COVERAGE PART IV – PROFESSIONAL LIABILITY**

## 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of a **professional incident** to which this insurance applies. We will have the right and duty to defend the insured against any **suit** seeking those damages. However, we will have no duty to defend the insured against any **suit** seeking damages to which this insurance does not apply. We may at our discretion investigate any **professional incident** and settle any **claim** or **suit** that may result. But:

- (1) The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance under **COVERAGE PART IV** in the payment of judgments, settlements and **legal and claims expense payments**.

- b. This insurance applies only if:

- (1) The **professional incident** takes place in the **coverage territory**;
- (2) The **professional incident** did not occur before the Retroactive Date shown in the Declarations or after the end of the **policy period**;
- (3) A **claim** for damages is first made against any insured and reported to us in writing during the **policy period** or any **extended reporting period** we provide under **SECTION IV – CONDITIONS**, Paragraph 7., **Extended Reporting Period**.

A **claim** received by the insured during the **policy period** and reported to us within 30 days after the end of the **policy period** will be considered to have been reported within the **policy period**.

- c. If a **claim** is first made against an insured and reported to us during the **policy period**, additional **claims** arising from the same, related or continuous **professional incident** that are made against an insured and reported to us during the **policy period** or during the policy period of a subsequent policy issued by us to you providing coverage substantially the same as that provided by **COVERAGE PART IV** for **claims** first made against the insured and reported to us during the **policy period**, than all such claims shall be:

- (1) Deemed to be one **claim**;
- (2) Deemed to have been first made and reported during this **policy period** on the date the first of such **claims** was first made and reported; and
- (3) Subject to the Each Incident Limit applicable to **COVERAGE PART IV** stated in **Item 3**. of the Declarations.

Coverage under this policy for such **claims** shall not apply, however, unless at the times such subsequent **claims** are first made and reported, you have maintained with us coverage substantially the same as this coverage on a continuous, uninterrupted basis since the first such **claim** was made against an insured.

## 2. Exclusions

This insurance does not apply to damages or **claims**:

### a. Aircraft, Auto or Watercraft

Based upon or arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and **transportation**.

This exclusion applies even if the **claims** against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

**b. Bankruptcy**

Based upon or arising out of the bankruptcy or insolvency of an insured or of any other person, firm or organization.

**c. Contractual Liability**

Based upon or arising out of damages for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**d. Construction and Demolition**

Based upon or arising out of construction or demolition done by you or on your behalf.

**e. Damage to Your Work**

Based upon or arising out of damage to **your work** or any part of **your work**.

**f. Dishonest or Fraudulent Act**

Arising out of a dishonest, fraudulent, criminal or malicious act, error or omission, provided that the act, error or omission is committed by or at the direction of a **responsible executive**.

**g. Discrimination**

Based upon or arising out of discrimination by an insured on the basis of race, creed, national origin, disability, age, marital status, sex, or sexual orientation.

**h. Disputed Fees**

Arising from disputes over the insured's fees or charges or claims for the return of fees or charges.

**i. Employer's Liability**

Arising from **bodily injury** to:

**(1)** An **employee** of the insured arising out of and in the course of:

**(a)** Employment by the insured; or

**(b)** Performing duties related to the conduct of the insured's business; or

**(2)** The spouse, child, parent, brother or sister of that **employee** as a consequence of paragraph **(1)** above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

**j. Failure to Maintain**

Arising out of the insured's requiring, obtaining, maintaining, advising or failing to require, obtain, maintain or advise of any bond, suretyship or any form of insurance.

**k. Failure To Comply**

Which results from or is directly or indirectly attributable to failure to comply with any applicable statute, regulation, ordinance, municipal code, administrative complaint, notice of violation, notice letter, administrative order, or instruction of any governmental agency or body, provided that failure to comply is a willful or deliberate act or omission of a **responsible executive**.

**l. Fiduciary Liability**

Based upon or arising out of:

- (1) Any insured's involvement as a partner, officer, director, stockholder, employer or **employee** of an entity that is not a named insured; or
- (2) Any insured's involvement as a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments, or any regulation or order issued pursuant thereto, or any other employee benefit plan.

**m. Fines, Penalties and Assessments**

Based upon or arising out of any fines, penalties or assessments or punitive, exemplary or multiplied damages.

**n. Insured versus Insured**

Brought by or on behalf of one insured against any other insured.

**o. Internal Expenses**

For costs, charges or expenses incurred by the insured for materials supplied or services performed by the insured.

**p. Nuclear Material**

Based upon or arising out of the radioactive, toxic or explosive properties of **nuclear material** and with respect to which the insured is:

- (1) Required to maintain financial protection pursuant to the Atomic Energy Act of 1954;
- (2) Entitled to indemnity from the United States of America or any agency thereof; or
- (3) An insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of limits.

**q. Owned Facilities**

Arising from or in connection with any **location** which is or was at any time owned, operated, rented, or occupied by you or by any entity that:

- (1) Wholly or partly owns, operates, manages, or otherwise controls you; or
- (2) Is wholly or partly owned, operated, managed, or otherwise controlled by you.

**r. Personal and Advertising Injury**

Arising out of **personal and advertising injury**.

**s. Previously Reported Claim**

Arising from the same, related or continuous **professional incident** that was the subject of a **claim** reported under any policy of which this policy is a renewal or replacement or which it may succeed in time, whether or not such prior policy affords coverage for such **claim**.

**t. Prior Professional Incident**

Arising from any **professional incident** known to a **responsible executive** prior to the inception of the **policy period**, if such **responsible executive** knew or could have reasonably foreseen that such **professional incident** could give rise to a **claim** under this policy.

**u. Your Product**

Based upon or arising out of **your product**.

**v. Warranties**

Based upon or arising out of express warranties or guarantees. This exclusion shall not apply if liability would have resulted in the absence of such express warranties or guarantees.

**w. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**SECTION II – WHO IS AN INSURED**

**1. If you are designated in the Declarations as:**

- a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b.** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

**2. Each of the following is also an insured:**

- a. Your **volunteer workers** only while performing duties related to the conduct of your business, or your **employees**, other than either your **executive officers** (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these **employees** or **volunteer workers** are insureds for:

**(1) Bodily injury or personal and advertising injury:**

- (a) To you, to your partners or members (if you are a partnership or joint venture) or to your members (if you are a limited liability company);
- (b) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** above; or
- (c) Arising out of the providing or failure to provide professional health care services except incidental health care services provided by any physician, dentist, nurse, emergency medical technician or paramedic who is employed by you to provide such services and provided you are not engaged in the business of providing such services.

**(2) Property damage or environmental damage to property:**

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by
- you, any of your **employees, volunteer workers**, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your **employee**), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only with respect to liability arising out of the maintenance or use of that property and until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
- e. Any subsidiary, associated, affiliated, allied or limited liability company or corporation, including subsidiaries thereof, of which you have more than 50% ownership interest at the inception of the **policy period**.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the **policy period**, whichever is earlier;
- b. Coverage under this policy does not apply to **bodily injury, property damage or environmental damage** that occurred before you acquired or formed the organization;
- c. Coverage under this policy does not apply to **personal and advertising injury** arising out of an offense committed before you acquired or formed the organization; and

- d. Coverage under this policy does not apply to damages arising out of any act, error or omission or **professional incident** that took place before you acquired or formed the organization.
- 4. Any person or organization with whom you agree to include as an insured in a written contract, written agreement or permit, but only with respect to **bodily injury, property damage, environmental damage or personal and advertising injury** arising out of your operations, **your work**, equipment or premises leased or rented by you, or **your products** which are distributed or sold in the regular course of a vendor's business, however:
  - a. A vendor is not an insured as respects **bodily injury, property damage, environmental damage or personal and advertising injury**:
    - (1) For which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement except that which the vendor would have in the absence of the contract or agreement;
    - (2) Arising out of any express warranty unauthorized by you;
    - (3) Arising out of any physical or chemical change in the product made intentionally by the vendor;
    - (4) Arising out of repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from you, and then repackaged in the original container;
    - (5) Arising out of any failure to make inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
    - (6) Arising out of demonstration, installation servicing or repair operations, except such operations performed at the vendor's location in connection with the sale of the product; or
    - (7) Arising out of products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
  - b. A manager or lessor of premises, a lessor of leased equipment, or a mortgagee, assignee, or receiver is not an insured as respects **bodily injury, property damage, environmental damage or personal and advertising injury**:
    - (1) Arising out of any **occurrence** that takes place after the equipment lease expires or you cease to be a tenant; or
    - (2) Arising out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor of premises, or mortgagee, assignee, or receiver.
- 5. Any person or organization that has at least a 50% controlling interest in you but only with respect to **bodily injury, property damage, environmental damage or personal and advertising injury** arising out of their financial control of you.

### SECTION III – LIMITS OF INSURANCE AND DEDUCTIBLE

- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;



- b. **Claims** made or **suits** brought;
  - c. Persons or organizations making **claims** or bringing **suits**;
  - d. **Pollution incidents**;
  - e. Acts, errors or omissions; or
  - f. Benefits included in your **employee benefit program**.
2. The General Aggregate Limit is the most we will pay for the sum of:
- a. Damages under **COVERAGE PART I**, except damages because of **bodily injury, property damage** or **environmental damage** included in the **products-completed operations hazard** other than damages covered under **COVERAGE PART I – Coverage G: Contractors Pollution Liability**;
  - b. Damages under **COVERAGE PART II**;
  - c. Medical expense under **COVERAGE PART II**;
  - d. Damages, **clean-up costs, emergency response expense** and **legal and claims expense payments** under **COVERAGE PART III**; and
  - e. Damages and **legal and claims expense payments** under **COVERAGE PART IV**.

The General Aggregate Limit shall apply separately as respects all damages caused by **occurrences** covered under **COVERAGE PART I, Coverages A, B, D, G** arising out of:

- a. Operations at a **location** owned or operated by any insured; or
  - b. Ongoing operations at a construction project where you are performing **your work**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay for damages because of **bodily injury, property damage** or **environmental damage** included in the **products-completed operations hazard** other than damages covered under **COVERAGE PART I – Coverage G: Contractors Pollution Liability**.
4. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit – COVERAGE PART I: Coverage A, B, C inclusive is the most we will pay for the sum of:
- a. Damages under **COVERAGE PART I – Coverage A: General Bodily Injury and Property Damage Liability**;
  - b. Damages under **COVERAGE PART I – Coverage B: Hostile Fire and Building Equipment Liability**; and
  - c. Damages under **COVERAGE PART I – Coverage C: Products Pollution and Exposure Liability**
- because of all **bodily injury, property damage** and **environmental damage** arising out of any one **occurrence**.
5. Subject to Paragraph 4. above, the Damage To Premises Rented To You Limit is the most we will pay under **COVERAGE PART I - Coverage A** for damages because of **property damage** to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

6. Subject to Paragraph 2. above, the Each Occurrence Limit – COVERAGE PART I: Coverage D, E, F inclusive is the most we will pay for the sum of:

- a. Damages under **COVERAGE PART I – Coverage D: Time-Element Pollution Bodily Injury and Property Damage Liability;**
- b. Damages under **COVERAGE PART I – Coverage E: Non-Owned Site Pollution Bodily Injury and Property Damage Liability;** and
- c. Damages under **COVERAGE PART I – Coverage F: Pollution Liability during Transportation**

because of all **bodily injury, property damage and environmental damage** arising out of any one **occurrence**.

7. Subject to Paragraph 2. above, the Contractors Pollution Liability Each Occurrence Limit: Coverage G is the most we will pay for the sum of all damages under **COVERAGE PART I – Coverage G: Contractors Pollution Liability.**

8. Subject to Paragraph 2. above, the Personal and Advertising Injury Limit is the most we will pay for the sum of all damages because of all **personal and advertising injury** sustained by any one person or organization.

9. Subject to Paragraph 2. above, the Employee Benefits Administration Liability Limit is the most we will pay for the sum of all damages sustained by any one **employee**, including damages sustained by such **employee's** dependents and beneficiaries. However, the amount paid shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the **employee benefit program.**

10. Subject to Paragraph 2. above, the Medical Expense Limit is the most we will pay under **COVERAGE PART II - Coverage C** for all medical expenses because of **bodily injury** sustained by any one person.

11. Subject to Paragraph 2. above, the Each Incident Limit – COVERAGE PART III: Site Pollution Legal Liability is the most we will pay for the sum of:

- a. Damages and **legal and claims expense payments** under **COVERAGE PART III – Coverage A: Bodily Injury and Property Damage;**
- b. **Clean-up costs, emergency response expense and legal and claims expense payments** under **COVERAGE PART III – Coverage B: First and Third Party On-Site Clean-Up Costs;** and
- c. **Clean-up costs, emergency response expense and legal and claims expense payments** under **COVERAGE PART III – Coverage C: Off-Site Clean-Up Costs**

because of all **bodily injury, property damage and environmental damage** arising out of the same, related or continuous **pollution incident.**

12. Subject to Paragraph 2. above, the Each Incident Limit – COVERAGE PART IV: Professional Liability is the most we will pay under **COVERAGE PART IV** for all damages and **legal and claims expense payments** arising out of the same, related or continuous **professional incident.**

13. The Limits of Insurance apply in excess of the Deductible amounts shown in **Item 3.** of the Declarations. The deductible amount applies as follows:

- a. As respects the Each Incident Limit, **(i)** to the sum of all damages, **clean-up costs, emergency response expense and legal and claims expense payments** because of **bodily injury, property damage or environmental damage** arising out of the same, related or continuous **pollution incident (ii)** to the sum of all damages and **legal and claims expense payments** arising out of the same, related or continuous **professional incident.**

- b. As respects the Each Occurrence Limit, to the sum of all damages because of **bodily injury, property damage or environmental damage** as a result of one **occurrence** regardless of the number of persons or organizations who sustain damages because of that **occurrence**.

We may pay any part or the entire deductible amount to effect settlement of any **claim** or **suit** or to pay **clean-up costs** or **emergency response expense** which may be covered under this policy and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

Subject to **SECTION IV – Conditions**, paragraph **16. Multiple Coverage Sections**, if the same or related **occurrence, pollution incident or professional incident** results in coverage under more than one coverage part, only the highest deductible under all coverage parts will apply.

- 14. The Limits of Insurance apply to the entire **policy period**. If the **policy period** is extended after policy issuance for an additional period, the additional period will be deemed part of the last preceding period for the purposes of determining the Limits of Insurance.

#### **SECTION IV – CONDITIONS**

##### **1. Assignment**

This policy may not be assigned without our prior written consent. Assignment of interest under this policy shall not bind us until our consent is endorsed thereon.

##### **2. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations.

##### **3. Cancellation**

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - (2) 90 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The **policy period** will end on that date.
- e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

##### **4. Changes**

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

#### 5. Choice of Forum

In the event that the insured and we have any dispute concerning or relating to this policy, including its formation, coverage provided hereunder, or the meaning, interpretation or operation of any term, condition, definition or provision of this policy resulting in litigation, arbitration or other form of dispute resolution, the insured agrees with us that any such litigation shall take place in the appropriate federal or state courts located in New York, New York and any arbitration or other form of dispute resolution shall take place in New York, New York.

#### 6. Choice of Law

In the event that the insured and we have any dispute concerning or relating to this policy, including its formation, coverage provided hereunder, or the meaning, interpretation or operation of any term, condition, definition or provision of this policy resulting in litigation, arbitration or other form of dispute resolution, the insured agrees with us that the internal laws of the State of New York shall apply without giving effect to any conflicts or choice of law principles. The terms and conditions of this policy shall not be deemed to constitute a contract of adhesion and shall not be construed in favor of or against any party hereto by reason or authorship or otherwise.

#### 7. Currency

All reimbursement shall be made in United States currency at the rate of exchange prevailing on:

- a. The date of judgment if judgment is rendered;
- b. The date of settlement if settlement is agreed upon with our written consent;
- c. The date of payment of **clean-up costs** and **emergency response expense**; or
- d. The date **legal and claims expenses payments** are paid

Whichever is applicable.

#### 8. Duties In The Event Of Occurrence, Offense, Pollution Incident, Professional Incident, Act, Error or Omission, Claim Or Suit

- a. Without limiting the requirements of any insuring agreement in this policy, you must see to it that we are notified as soon as practicable of an **occurrence**, offense, **pollution incident**, **professional incident** or act, error or omission which may result in a **claim**. To the extent possible, notice should include:
  - (1) How, when and where the **occurrence**, offense, **pollution incident**, **professional incident** or act, error or omission took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the **occurrence**, offense, **pollution incident**, **professional incident** or act error or omission.
- b. If a **claim** is made or **suit** is brought against any insured, you must:
  - (1) Immediately record the specifics of the **claim** or **suit** and the date received; and

(2) Notify us as soon as practicable.

You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable.

c. You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the **claim** or defense against the **suit**; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid and **emergency response expense**, without our consent.

e. When any insured becomes legally obligated to pay **clean-up costs** to which this insurance applies, the insured must:

(1) Submit, for our approval, all proposed work plans prior to submittal to any regulatory agency.

(2) Submit, for our approval, all bids and contracts for **clean-up costs** prior to execution or issuance.

(3) Forward progress submittals regarding **clean-up costs** at reasonable intervals and always prior to submittal to any regulatory agency that is authorized to review and approve such submittals.

We shall have the right, but not the duty, to assume direct control of such **clean-up costs**. Any **clean-up costs** incurred by us shall be applied against the applicable Limit of Insurance.

f. If we are prohibited under applicable law from investigating, defending or settling any such **claim** or **suit**, the insured shall, under our supervision, arrange for such investigation and defense thereof as is reasonably necessary, and subject to our prior authorization, shall effect such settlement thereof.

## 9. Economic and Trade Sanctions

In accordance with laws and regulation of the United States concerning economic and trade sanctions administered and enforced by The Office Of Foreign Assets Control (OFAC), 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 sanctions.

## 10. Enforceability

If any part of this policy is deemed invalid or unenforceable, it shall not affect the validity or enforceability of any other part of this policy, which shall be enforced to the full extent permitted by law.

## 11. Extended Reporting Period

This condition applies only as respects **COVERAGE PART III - SITE POLLUTION INCIDENT LEGAL LIABILITY** and **COVERAGE PART IV – PROFESSIONAL LIABILITY**.

a. This condition applies only if:

- (1) The policy is cancelled or non-renewed for any reason except non-payment of the premium; or
- (2) We renew or replace this policy with **COVERAGE PART III - SITE POLLUTION LIABILITY** or **COVERAGE PART IV – PROFESSIONAL LIABILITY** that provides claims-made coverage for **bodily injury, property damage, environmental damage** or **professional incident** and that has a Retroactive Date later than the one shown in the Declarations or for an **insured site**; and
- (3) You do not purchase coverage to replace the coverage described in paragraph a.(2).

b. Automatic **Extended Reporting Period**

You shall automatically have a period of ninety (90) days following the effective date of such termination of coverage in which to provide written notice to us of **claims** first made and reported within the automatic extended reporting period.

A **claim** first made and reported within the automatic **extended reporting period** will be deemed to have been made on the last day of the **policy period**, provided that the **claim** is for damages, **clean-up costs** or **emergency response expense** arising from a **pollution incident** which commenced on or after the Retroactive Date, if applicable, and before the end of the **policy period** or the **claim** is for damages arising from a **professional incident** that occurred on or after the Retroactive Date and before the end of the **policy period** and is otherwise covered by this policy.

No part of the automatic **extended reporting period** shall apply if the optional **extended reporting period** is purchased.

c. **Extended Reporting Period Option:**

- (1) A **claim** first made and reported within forty eight (48) months after the end of the **policy period** will be deemed to have been made on the last day of the **policy period**, provided that the **claim** is for damages, **clean-up costs** or **emergency response expense** arising from a **pollution incident** which commenced on or after the Retroactive Date, if applicable, and before the end of the **policy period** or the **claim** is for damages arising from a **professional incident** that occurred on or after the Retroactive Date and before the end of the **policy period** and is otherwise covered by this policy.
- (2) The Extended Reporting Period Endorsement will not reinstate or increase the Limits of Insurance or extend the **policy period**.

d. We will issue the Endorsement indicating the **Extended Reporting Period Option** has been accepted if the first Named Insured shown in the Declarations:

- (1) Makes a written request for it which we receive within 30 days after the end of the **policy period**; and
- (2) Promptly pays the additional premium, which will not exceed 200% of the annual premium for the policy, when due.

The Extended Reporting Period Endorsement will not take effect unless the additional premium is paid when due. If that premium is paid when due, the Endorsement may not be cancelled. The additional premium will be fully earned when the Endorsement takes effect.

- d. The Extended Reporting Period Endorsement will also amend **SECTION IV – CONDITIONS**, Paragraph 10, **Other Insurance** so the insurance provided will be excess over any other valid and collectible insurance available to the insured, whether primary, excess, contingent or on any other basis, whose policy period begins or continues after the Endorsement takes effect.

## 12. Headings

The descriptions in the headings and sub-headings of this policy are inserted solely for convenience and do not constitute any part of the terms or conditions on this policy

## 13. Independent Counsel

In the event the insured is entitled by law to select independent counsel to oversee our defense of a **suit** or **claim** at our expense, the attorney fees and all other litigation expenses we must pay to that counsel are limited to the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar **claims** or **suits** in the community where the **claim** or **suit** arose or is being defended.

Additionally, we may exercise the right to require that such counsel have certain minimum qualifications with respect to their competency including experience in defending **claims** or **suits** similar to the one pending against the insured and to require such counsel have errors and omissions insurance coverage. As respects any such counsel, the insured agrees that counsel will timely respond to our request for information regarding the **claims** or **suit**.

Furthermore, the insured may at any time, by the insured's written consent, freely and fully waive these rights to select independent counsel.

## 14. Inspections and Surveys

a. We have the right to:

- (1) Make inspections and surveys at any time;
- (2) Give you reports on the conditions we find; and
- (3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

This applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

## 15. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a **suit** asking for damages from an insured; or

- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

## 16. Multiple Coverage Sections

No **claim**, or part thereof, for which we have accepted coverage or coverage has been held to apply under one or more Coverages in this policy shall be covered under any other Coverages in this policy.

## 17. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this policy, our obligations are limited as follows:

### a. Primary Insurance

This insurance is primary except when paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in paragraph **c.** below. However, regardless of whether **b.** below applies, in the event that a written contract or agreement or permit requires this insurance to be primary for any person or organization with whom you agreed to insure and such person or organization is an insured under this policy, we will not seek contributions from any such other insurance issued to such person or organization

### b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for **property damage** to premises rented to you or temporarily occupied by you with permission of the owner; or

(iv) If the loss arises out of the maintenance or use of aircraft, **autos** or watercraft to the extent not subject to Exclusion a. of **COVERAGE PART I – Coverage A – General Bodily Injury And Property Damage Liability**.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(c) Any project specific primary insurance available to you covering liability for damages arising out of **your work**, for which you are an insured.



- (2) When this insurance is excess, we will have no duty to defend the insured against any **suit** if any other insurer has a duty to defend the insured against that **suit**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**18. Premiums and Deductible**

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums;
- b. Will be the payee for any return premiums we pay; and
- c. Is responsible for the payment of all deductibles.

**19. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

**20. Separation Of Insureds**

Except with respect to the Limits of Insurance, any insured versus insured exclusions, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom **claim** is made or **suit** is brought.

## 21. Service of Suit

Subject to **SECTION IV – CONDITIONS**, paragraph 5. above, it is agreed that in the event of failure of us to pay any amount claimed to be due hereunder, we, at the request of the insured, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon us and that in any suit instituted against us upon this contract, we will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, we hereby designate the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as 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 the insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

## 22. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. At our request, the insured will bring **suit** or transfer those rights to us and help us enforce them. However, if the insured has waived rights of recovery against any person or organization prior to a loss, we waive any right of recovery we may have under this policy against such person or organization.

## 23. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

## 24. When We Do Not Renew

If we decide not to renew, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than ninety (90) days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V – DEFINITIONS

### 1. Administration means:

- a. Providing information to **employees**, including their dependents and beneficiaries, with respect to eligibility for or the scope of **employee benefit programs**;
- b. Handling records in connection with the **employee benefit program**; or
- c. Effecting, continuing or terminating any **employee's** participation in any benefit included in the **employee benefit program**.

However, **administration** does not include handling payroll deductions.

2. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.

For the purposes of this definition:

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

3. **Auto** means

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment.
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law in the state where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment**.

4. **Bodily injury** means physical injury, sickness, disease, building-related illness, mental anguish, shock or emotional distress sustained by any person, including death resulting therefrom.
5. **Claim** means a demand, notice or assertion of a legal right alleging liability or responsibility on the part of the insured.
6. **Clean-up costs** means reasonable and necessary expenses including **restoration costs** incurred with our prior written consent, to investigate, remove, dispose of, abate, contain, treat, neutralize, monitor or test soil, surfacewater, groundwater or other contaminated media but only:
- a. To the extent required by **environmental laws**;
  - b. In the absence of a. above, to the extent recommended in writing by an **environmental professional**; or
  - c. For those costs that have been incurred by the government or any political subdivision within definition **8a.** of **coverage territory**, or by parties other than you.

**Clean-up costs** does not include:

- a. costs, charges or expenses incurred by the insured for materials supplied or services performed by the insured unless such costs, charges or expenses are incurred with our prior written approval.
- b. **Property damage**

7. **Conveyance** means any **auto**, railcar, train, watercraft or aircraft. **Conveyance** does not include pipelines.

8. **Coverage territory** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

- b. International waters or airspace, provided the injury or damage occurs in the course of travel or **transportation** to or from any place included in Paragraph **a.** above;
- c. All other parts of the world if the injury or damage arises out of:
  - (1) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
  - (2) **Personal and advertising injury** offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a **suit** on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to; or

- d. All other parts of the world if the injury or damage arises out of **your product**, however:
  - (1) We assume no responsibility for furnishing certificates or evidence of insurance or bonds; and
  - (2) We will not be liable for any fine or penalty imposed on you for failing to comply with insurance laws.

9. **Emergency response expense** means reasonable and necessary costs, charges or expenses incurred by you to abate or otherwise respond to an imminent and substantial threat to human health or the environment arising from a **pollution incident**. Such reasonable and necessary costs, charges or expenses must be incurred within seventy-two (72) hours of the **pollution incident**.
10. **Employee** includes a **leased worker** and a **temporary worker**. As respects Employee Benefits Administration Liability, **employee** also means a person actively employed, formerly employed, on leave of absence or disabled, or retired.
11. **Employee benefits program** means a program providing some or all of the following benefits to **employees**, whether provided through a plan authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars or otherwise:
- a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an **employee** may subscribe to such benefits and such benefits are made generally available to those **employees** who satisfy the plan's eligibility requirements;
  - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an **employee** may subscribe to such benefits and such benefits are made generally available to all **employees** who are eligible under the plan for such benefits;
  - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
  - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies
12. **Environmental damage** means physical damage to land, any structure on land, any watercourse or body of water including groundwater or the atmosphere giving rise to **clean-up costs** or **emergency response expense**. **Environmental damage** does not include **property damage**.
13. **Environmental laws** means any federal, state, provincial, municipal or other local laws, including, but not limited to, statutes, rules, ordinances, guidance documents, regulations and all amendments thereto, including state voluntary cleanup or risk based action guidance, and governmental, judicial or administrative orders and directives, that are applicable to a **pollution incident**.

**14. Environmental professional** means an individual approved and designated by us in writing who is duly certified or licensed in a recognized field of environmental science as required by a state board, a professional association, or both, who meet certain minimum qualifications and who maintain specified levels of errors and omissions insurance coverage acceptable to us. We shall consult with the insured in conjunction with the selection of the **environmental professional**.

**15. Executive officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

**16. Extended reporting period** means the claims reporting provision described in **SECTION IV – CONDITIONS**, paragraph **7. Extended Reporting Period**.

**17. Hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be.

**18. Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:

- a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by, the repair, replacement, adjustment or removal of **your product** or **your work** or your fulfilling the terms of the contract or agreement.

**19. Insured contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises in excess of 30 consecutive days that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **bodily injury, property damage** or **environmental damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement that indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (1) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

(2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

**20. Insured site** means a **location** listed on the Schedule of Insured Sites endorsed to this policy.

**21. Leased worker** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.

**22. Legal and Claims Expense Payments** means:

- a. All expenses we incur.
- b. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$500 a day because of time off from work.
- c. All court costs taxed against the insured in the **suit**. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- d. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- f. Expenses incurred by the insured for first aid administered to others at the time of any accident, for **bodily injury** to which this insurance applies.

**23. Loading or unloading** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
- b. While it is in or on an aircraft, watercraft or **auto**; or
- c. While it is being moved from an aircraft, watercraft or **auto** to the place where it is finally delivered.

**Loading or unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or **auto**.

**24. Location** means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

**25. Mold matter** means fungi, mold and mildew, whether or not such **mold matter** is living.

**26. Misdelivery** means the delivery of any liquid product into a wrong receptacle or to a wrong address or the erroneous delivery of one liquid product for another.

**27. 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 power cranes, shovels, loaders, diggers or drills or 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:
  - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical 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**:

- (1) Equipment designed primarily for snow removal, road maintenance (but not construction or resurfacing) or street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressor, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However **mobile equipment** does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered **autos**.

**28. Natural resource damage** means physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any state, local or provincial government, any foreign government, any Native American tribe, or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

**29. Non-owned site** means any **location** which:

- a. Was not at any time owned or operated by any insured; and
- b. Which is not specifically scheduled as an **insured site**.

**Non-owned site** does not include:

- a. Any **location** which is not licensed by the appropriate state or federal authority to perform storage, disposal, processing or treatment of waste from your operations or **your work** in compliance with **environmental law**.

- b. Any **location** or any part thereof that has been subject to a consent order or corrective action under **environmental law** or is listed or proposed to be listed on the Federal National Priorities list (NPL) prior to waste from your operations or **your work** being legally consigned for delivery or delivered for storage, disposal, processing or treatment at such **location**.
  - c. **Any location of a purchaser or user of your product.**
30. **Nuclear material** means source material, special nuclear material or byproduct material which have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
31. **Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
32. **Personal and advertising injury** means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your **advertisement**;
  - g. Infringing upon another's copyright, trade dress or slogan in your **advertisement**; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person provided such discrimination or humiliation:
    - (1) is done without the direction, knowledge or consent of (i) any insured; or (ii) any executive officer, director, officer, stockholder, partner or member of any insured; and
    - (2) Is not directly or indirectly related to employment, former or prospective employment, termination of employment, or application for employment of any person or persons by any insured.
33. **Policy Period** means the period of time stated in **Item 2.** of the Declarations however, if the policy is cancelled in accordance with **SECTION IV – CONDITIONS**, paragraph **2. Cancellation**, the **policy period** ends on the effective date of such cancellation.
34. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, soot, vapors, fumes, acids, alkalis, chemicals, hazardous substances, hazardous materials, waste materials including medical, infectious and pathological wastes, at levels in excess of those naturally occurring. **Pollutants** includes electromagnetic fields, **mold matter** and legionella pneumophila.



**35. Pollution incident** means the discharge, dispersal, release, escape, migration, or seepage of **pollutants** on, in, into, or upon land and structures thereupon, the atmosphere, surface water, or groundwater. **Pollution incident** includes the illicit abandonment of **pollutants** at an **insured site** provided that such abandonment was committed by parties other than the insured and without the knowledge of a **responsible executive**.

**36. Products - completed operations hazard:**

a. Includes all **bodily injury, property damage** or **environmental damage** occurring away from a **location** you own or operate and arising out of **your product** or **your work** except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include **bodily injury, property damage** or **environmental damage** arising out of the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the **loading or unloading** of that vehicle by any insured or the existence of tools, uninstalled equipment or abandoned or unused materials.

**37. Professional incident** means any act, error or omission in the providing or failure to provide **professional services** by or on behalf of the insured.

**38. Professional services** means those services performed by you or those acting on your behalf, including but not limited to, architect, engineer, consultant, inspector, technician and surveyor that you or those acting on your behalf are qualified to perform for others and are consistent with your corporate statements of qualifications.

**39. Property damage** means:

a. Physical injury to or destruction of tangible property, including all resulting loss of use and diminished value of that property;

b. Loss of use of tangible property that is not physically injured or destroyed arising out of physical injury to or destruction of other tangible property; and

c. **Natural resource damage**

**Property damage** does not include **environmental damage**.

For the purpose of this insurance, electronic data is not tangible property. As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer

software, including systems and applications software, hard or floppy disks, CDROMS, tapes drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- 40. Responsible executive** means you, your manager of an **insured site**, your manager or supervisor responsible for environmental affairs, health and safety affairs, control or compliance or any other **employee** authorized by you to give or receive notice of an **occurrence** or **claim**.
- 41. Restoration costs** means reasonable and necessary costs incurred by the insured with our prior written consent, to repair, restore or replace damaged real or personal property in order to restore the property to the condition it was in prior to the **pollution incident**. Restoration costs shall not exceed the lesser of actual cash value of such real or personal property or the cost of repairing, restoring or replacing the damaged property with other property of like kind and quality. An adjustment for depreciation and physical condition shall be made in determining actual cash value. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.
- 42. Suit** means a civil proceeding in which damages because of **bodily injury, property damage, environmental damage** or **personal and advertising injury** to which this insurance applies are alleged. A **suit** includes an arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent or any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 43. Temporary worker** means a person who is furnished to you to substitute for a permanent worker on leave or to meet seasonal or short-term workload conditions.
- 44. Time-Element pollution incident** means a **pollution incident** demonstrable as having first commenced at an identified time and place during the **policy period** provided:
- a. Such **pollution incident** does not originate or arise from, or relate to an **underground storage tank**; and
  - b. Such **pollution incident** is not (i) heat, smoke or fumes from a **hostile fire** or (ii) solely with respect to **bodily injury**, smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.
- 45. Transportation** means the movement of goods, product, merchandise, supplies or waste in a **conveyance** by the insured or a third party carrier properly licensed to transport such goods, products, merchandise, supplies or waste from the time of movement from the point of origin until delivery to the final destination. **Transportation** includes the movement of goods, products, merchandise, supplies or waste into, onto or from a **conveyance**.
- 46. Underground storage tank** means any tank that has at least ten (10) percent of its volume below ground at inception of the **policy period**, or installed thereafter including associated underground piping connected to the tank.
- 47. Volunteer worker** means a person who is not your **employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 48. Waste** means all waste and includes materials to be recycled, reconditioned or reclaimed.
- 49. Your product** means:
- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed by:
    - (1) You;
    - (2) Others trading under your name; or

(3) A person or organization whose business or assets you have acquired; and

- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**Your product** includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
- b. The providing of or failure to provide warnings or instructions.

**50. Your work** means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed and attested, but this Policy will not be valid unless countersigned by a duly authorized representative of the Insurer, to the extent required by applicable law.

Secretary

President

SPECIMEN