

**CONTRACTORS  
PROFESSIONAL LIABILITY  
INSURANCE POLICY**

©InsPro Corporation 2004  
RA&MCO 3052 10/04

**\*\*SPECIMEN\*\***

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## DEFINITIONS

Throughout this policy, wherever these words appear in capitalized print they are defined as follows:

**CLAIM** means:

1. The service of a summons on a suit or a demand for arbitration against YOU alleging YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES.
2. A demand or request of YOU, whether in writing or orally, for DAMAGES or services alleging YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES.
3. An allegation by another person of YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES.
4. An incident, circumstance, dispute or situation of which YOU first become aware during the POLICY PERIOD or an applicable Extended Reporting Period, which a reasonably prudent person might expect to give rise to a CLAIM and which subsequently does give rise to a CLAIM and of which YOU notify US as provided in this policy. It shall be considered a CLAIM from the date the incident, circumstance, dispute or situation was first reported to US.

**CLAIM EXPENSES** means:

Cost and expenses incurred by US or at OUR direction for the investigation, settlement, mediation, arbitration or litigation of a CLAIM covered by this policy. CLAIM EXPENSES include fees for attorneys, investigators, arbitrators, mediators, consultants and expert testimony as well as court and arbitration costs and expenses. CLAIM EXPENSES does not include OUR employees' time or salary nor office expenses.

WE shall be solely responsible for determining the need for and reasonableness of such CLAIM EXPENSES.

**COMPANION CLAIMS** means:

A related CLAIM or CLAIMS that have arisen or may arise out of the same or replicated alleged negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES.

## DEFINITIONS

### **DAMAGES** means:

Amounts intended to compensate another person or organization for loss or injury to person or property or for economic loss.

### DAMAGES do not include:

1. Any amount assessed against YOU of an exemplary or punitive nature or fines and penalties of any type, or any multiplication of compensatory DAMAGES provided by law.
2. A refusal by someone to pay YOU all or a portion of YOUR fees, or the return, withdrawal or reduction of YOUR fees.
3. A demand that YOU provide PROFESSIONAL SERVICES without pay, or for the providing of such services without pay in response to a CLAIM or a potential CLAIM.
4. The expense of consultants YOU hire to investigate a CLAIM or a potential CLAIM without OUR prior written consent or direction.

### **INSURED** means:

1. Any individual, or any officer, director, partner or employee of the Partnership, Joint Venture or Corporation designated as the POLICYHOLDER, but only while that person acted within the scope of his or her duties for the POLICYHOLDER,
2. Any other person or organization specifically added as an INSURED by endorsement or schedule, however, only while acting within the scope of its duties for the POLICYHOLDER,
3. Any retired or former employee for liability arising from that person's employment by the POLICYHOLDER,
4. Any spouse of a person insured by this policy, but only to the extent that the spouse may be legally liable for any debt or liability arising from matters covered by this policy,
5. Leased professional staff providing services under YOUR supervision, and
6. The POLICYHOLDER, as a co-venturer with others, but only for YOUR legal liability arising from PROFESSIONAL SERVICES performed by the joint venture.

## DEFINITIONS

**POLICYHOLDER** means:

The person or organization designated in the Declarations.

**POLICY PERIOD** means:

The period of coverage from the Effective Date to the Expiration Date shown in the Declarations.

**PROFESSIONAL SERVICES** means:

The preparation of engineering or architectural designs, plans, specifications, calculations and studies, review of shop drawings and submittals, issuance of change orders and clarifications, observation of construction, review of contractor's requests for payment, review of the project to determine the dates of substantial completion and Construction Management Services performed by licensed or similarly qualified individuals in design or consulting services either in the employ of the POLICYHOLDER or performed by others on behalf of the POLICYHOLDER pursuant to a written contract and for whom the POLICYHOLDER is held to be vicariously liable.

**WE-US-OUR** means:

Insurer(s) stated in the Declarations.

**YOU-YOUR** means:

The POLICYHOLDER named in the Declarations and all other INSUREDS covered by this policy.

## **YOUR COVERAGE**

### **THIS POLICY IS A CONTRACT**

This policy is a legally binding contract between YOU and US. It is issued by US in reliance upon the statements contained in the Application for this insurance and in consideration of the POLICYHOLDER's payment of the Premium stated in the Declarations.

### **OUR INSURING AGREEMENT**

#### *WE WILL PAY*

#### **COVERAGE A: PROFESSIONAL LIABILITY**

WE will pay DAMAGES and CLAIM EXPENSES in excess of YOUR Deductible, subject to all other provisions of this policy, that YOU become legally obligated to pay because of CLAIMS that arise from YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES anywhere in the world, provided suit for DAMAGES is brought within the United States of America, its territories or possessions or Canada. Upon prior request, WE may agree to pay DAMAGES and CLAIM EXPENSES for suits brought in specific countries outside of the United States of America, its territories or possessions or Canada. OUR duty to pay DAMAGES and CLAIM EXPENSES ends when OUR Limit of Liability has been exhausted by the payment of any combination of DAMAGES and CLAIM EXPENSES on YOUR behalf or when WE have deposited with a court the amount of OUR remaining Limit of Liability.

#### **COVERAGE B: POLLUTION LEGAL LIABILITY**

WE will pay DAMAGES and CLAIM EXPENSES in excess of YOUR Deductible, subject to all other provisions of this policy, that YOU become legally obligated to pay because of CLAIMS for the release, escape or dispersal of any waste material, contaminant or pollutant that arise from YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES anywhere in the world, provided suit for DAMAGES is brought within the United States of America, its territories or possessions or Canada. Upon prior request, WE may agree to pay DAMAGES and CLAIM EXPENSES for suits brought in specific countries outside of the United States of America, its territories or possessions or Canada. OUR duty to pay DAMAGES and CLAIM EXPENSES ends when OUR Limit of Liability has been exhausted by the payment of any combination of DAMAGES and CLAIM EXPENSES on YOUR behalf or when WE have deposited with a court the amount of OUR remaining Limit of Liability.

#### *WE WILL DEFEND*

WE will defend, as WE consider appropriate and with defense counsel of OUR choice, any CLAIM against YOU that is covered by this policy, even if the allegations are groundless or false. OUR duty to defend claims, suits or arbitration proceedings against YOU ends when OUR Limit of Liability has been exhausted by payment of DAMAGES and CLAIM EXPENSES on YOUR behalf or when WE have deposited with a court the amount of OUR remaining Limit of Liability.

## YOUR COVERAGE

### YOUR CLAIMS MADE AND REPORTED COVERAGE

#### *COVERAGE FOR SERVICES YOU PERFORMED FOR THE POLICYHOLDER DURING THIS POLICY PERIOD*

YOU are covered, subject to all other provisions of this policy, for CLAIMS of which YOU had no prior knowledge and which are first made and reported to US in writing, during this POLICY PERIOD or any applicable Extended Reporting Period.

#### *COVERAGE FOR SERVICES YOU PERFORMED FOR THE POLICYHOLDER PRIOR TO THIS POLICY PERIOD*

YOU are covered, subject to all other provisions of this policy, for a CLAIM of which WE receive written notice during this POLICY PERIOD, or any applicable Extended Reporting Period provided that:

1. Prior to this POLICY PERIOD YOU had no knowledge of the CLAIM, circumstance, dispute, situation or incident that could reasonably be expected to give rise to the CLAIM, and
2. YOUR actual or alleged negligent act, error or omission upon which the CLAIM is based took place subsequent to the Prior Acts Retroactive Date specified in the Declarations but prior to the Effective Date of this policy, and
3. There is no other valid and collectible insurance available to YOU for YOUR actual or alleged negligent act, error or omission that took place as specified in 2., above.

#### *COVERAGE FOR COMPANION CLAIMS*

Coverage is afforded by this policy for COMPANION CLAIMS. WE will neither defend YOU nor pay DAMAGES and CLAIM EXPENSES on YOUR behalf if the alleged negligent act, error or omission upon which the COMPANION CLAIM is based was known to YOU prior to the Effective Date of this policy.

#### *COVERAGE LIMITATION OF THIS CLAIMS MADE AND REPORTED POLICY*

By accepting this policy YOU acknowledge and agree that any CLAIM of which WE receive first notice subsequent to the Expiration Date as stated in the Declarations or any applicable Extended Reporting Period is not covered by this policy.



## YOUR COVERAGE

### EXTENDED REPORTING PERIOD

#### *AUTOMATIC EXTENDED REPORTING PERIOD*

Should WE cancel or refuse to renew this policy for any reason other than non-payment of premium or a failure to pay YOUR deductible when due, YOU may continue reporting CLAIMS to US within 60 days after cancellation or non-renewal provided that:

1. YOU first obtained knowledge of the CLAIM subsequent to the effective date of this POLICY PERIOD.
2. YOUR alleged negligent act, error or omission upon which the CLAIM is based took place prior to such cancellation or non-renewal of this policy.
3. There is no subsequent professional liability coverage available to YOU for such CLAIMS.

#### *OPTIONAL EXTENDED REPORTING PERIOD*

If this policy is cancelled or not renewed for any reason other than non-payment of premium or a failure to pay YOUR Deductible when due and if YOU wish to extend the time within which to report a CLAIM under this policy, WE must receive YOUR request, in writing, within 60 days after such cancellation or non-renewal. If YOU make a written request for and pay the additional premium, WE will issue an Extended Reporting Period endorsement for the period requested below at a premium not to exceed:

For 12 months: 100% of YOUR expiring premium

For 24 months: 150% of YOUR expiring premium

For 36 months: 185% of YOUR expiring premium

At the commencement of the optional Extended Reporting Period, the entire premium shall be considered earned.

Any such optional Extended Reporting Period:

1. Shall extend the time within which to report a CLAIM, but not reinstate or increase OUR Limit of Liability provided by this policy.
2. Shall be evidenced by the issuance of an endorsement to this policy;
3. Is subject to all of the terms and conditions of this policy; and
4. Shall require payment within 30 days from YOUR written request for such optional Extended Reporting Period.

## YOUR COVERAGE

### OUR LIMIT OF LIABILITY

OUR Limit of Liability for the POLICY PERIOD specified in the Declarations is in excess of YOUR each CLAIM Deductible. OUR Limit of Liability is the maximum amount WE will pay for any combination of DAMAGES and CLAIMS EXPENSES for all CLAIMS first made and reported to US during the POLICY PERIOD or any applicable Extended Reporting Period.

OUR Limit of Liability is the maximum amount WE will pay regardless of:

1. The number of INSUREDS covered by this policy,
2. The number of persons or organizations claiming DAMAGES,
3. When such CLAIMS are made, or
4. The number of CLAIMS or COMPANION CLAIMS reported.

Any CLAIM under this policy is subject to the Limit of Liability and Deductible which is in effect at the time notice of the CLAIM is received by US.

OUR Limit of Liability is in excess of YOUR deductible, and any DAMAGES and CLAIM EXPENSES that WE pay on YOUR behalf reduce the amount remaining under OUR Limit of Liability.

### YOUR DEDUCTIBLE

YOUR Deductible is shown in the Declarations. YOU must first pay DAMAGES and CLAIM EXPENSES as incurred as YOUR sole obligation until YOUR Deductible has been satisfied in full before WE are obligated to pay on YOUR behalf.

YOUR deductible shall apply only once to each separate negligent act, error or omission regardless of the number of COMPANION CLAIMS.

### *FORMAL MEDIATION DEDUCTIBLE CREDIT*

If any CLAIM made against YOU and reported to US during the POLICY PERIOD is resolved, with OUR agreement, through the use of FORMAL MEDIATION, YOUR Deductible as respects the CLAIM shall be reduced by 50 percent subject to a maximum reduction of \$12,500.

FORMAL MEDIATION means the voluntary and otherwise non-binding process by which a qualified, professional mediator, appointed by YOU and other parties to a CLAIM with OUR agreement, intercedes between the parties with the intention to reconcile them to resolve the CLAIM. Court ordered or imposed mediation, or other dispute resolution by litigation or arbitration are specifically excluded from this definition.

## YOUR COVERAGE

### EXCLUSIONS - WHAT YOUR POLICY DOES NOT COVER

*WE WILL NEITHER PAY DAMAGES AND CLAIM EXPENSES NOR WILL WE DEFEND YOU IF YOUR LIABILITY ARISES FROM ANY OF THE EXCLUSIONS LISTED BELOW.*

1. WE will not cover YOU for any liability YOU assume under any contract or agreement, whether written or oral, including but not limited to hold harmless and indemnity clauses, agreements to defend another, warranties, guarantees, certifications, penalty clauses or liquidated damages; however, this exclusion shall not apply if YOU would have been legally liable in the absence of contract or agreement because of YOUR negligent act, error or omission in the performance of YOUR PROFESSIONAL SERVICES.
2. WE will not cover YOU for any liability arising out of YOUR ownership, rental, leasing, maintenance, operation, loading or unloading, use or repair of any real or personal property. Personal property includes, but is not limited to, automobiles, mobile equipment, aircraft, watercraft or other kinds of conveyances, whether or not motor driven or required to be licensed.
3. WE will not cover YOU for any liability for DAMAGES or injury to real or personal property that:
  - a. YOU own, occupy, use, rent or lease,
  - b. Is in YOUR care, custody or control.
4. WE will not cover YOU for any obligation for which YOU or YOUR insurer may be liable under any Workers' Compensation, unemployment compensation or disability benefit law, or under any similar law, including but not limited to any liability for DAMAGES alleged to have been sustained by any of YOUR officers, directors, partners or employees in the course and scope of their employment by YOU.
5. WE will not cover YOU for any liability arising out of YOUR failure to provide or maintain any form of insurance, surety or bond, or to advise or require others to do so.
6. WE will not cover YOU for any liability arising out of any dishonest, fraudulent or criminal act or omission committed by YOU or at YOUR direction or for other intentional wrongful acts whether or not YOU also intended the magnitude of the resultant DAMAGE.
7. WE will not cover YOU for any CLAIMS by any current or former employee, officer or applicant for employment, or anyone making CLAIM through such persons for YOUR liability arising from unfair hiring or employment practices, hiring or employment discrimination, or wrongful termination.

## YOUR COVERAGE

### EXCLUSIONS (continued)

8. WE will not cover YOU for any liability that arises out of a CLAIM against YOU by:
  - a. An organization that is or was either wholly or in part owned, managed or controlled by YOU.
  - b. An organization that either wholly or in part does or did own, manage or control YOU, or
  - c. Any officer, director, partner, proprietor, or employee of such organization described in a. or b. above.
9. WE will not cover YOU for any liability that arises from a CLAIM against YOU by any other INSURED under this policy.
10. WE will not cover YOU for any liability for any CLAIM that arises out of or is related to YOUR performance of PROFESSIONAL SERVICES where, prior to the inception date of this policy, YOU were aware of a CLAIM, circumstance, dispute, situation or incident that had given rise to or could reasonably be expected to give rise in the future to a CLAIM or CLAIMS against YOU, whether or not YOU reported the CLAIM, circumstance, dispute, situation, or incident to US on YOUR initial application for insurance.
11. WE will not cover YOU for any liability for punitive or exemplary damages, fines or penalties or any multiplication of compensatory damages as provided by law sought from or awarded against YOU.
12. WE will not cover YOU for CLAIMS arising out of any failure to provide, procure or maintain any financing or real estate for the project or having a proprietary interest, whether direct, indirect, present, future or contingent in the project.
13. WE will not cover YOU for any liability arising out of duties or responsibilities normally or customarily performed by a General Contractor, and subject to legal liability arising from a General Contractor's non-professional standard of care and contractual undertakings, including, but not limited to, construction means, methods, techniques, sequences, procedures or job site safety, as well as faulty construction, workmanship, materials, parts or equipment performed or supplied by YOU or any party with whom YOU have contracted or for whom YOU are responsible.

## POLICY CONDITIONS

### YOUR DUTIES IN THE EVENT OF A CLAIM

#### *YOU MUST NOTIFY US*

If YOU become aware of a CLAIM which includes an incident, circumstance, dispute or situation that could reasonably be expected to give rise to a CLAIM, submit YOUR written report to US and with as much information as YOU have at that time.

Any CLAIM must be reported immediately and confirmed in writing to:

Director - Claims  
RISK Administration & Management Company  
2300 Clayton Road, Suite 1100  
Concord, CA 94520-2142  
(925) 685-1600  
CLAIM Hotline: (800) 684-RISK  
FAX: (925) 685-3638

Following YOUR initial report, YOU also must notify US as soon as possible of any development of which YOU become aware.

We have no obligation to pay or defend any CLAIM on YOUR behalf that would otherwise be covered if YOU fail to report that CLAIM or if YOUR delay in reporting has materially or substantially prejudiced OUR ability to investigate, defend or settle that CLAIM.

A report of a CLAIM to YOUR insurance representative, agent or broker does not constitute notification to US unless and until WE are in receipt of written notification of YOUR report.

#### *YOU MUST COOPERATE WITH US*

YOU must provide US, or OUR appointed representatives, with all information, records or documents that WE may require for the investigation, defense and/or settlement of any CLAIM.

YOU must be available to US, or to OUR appointed representatives, for meetings, hearings, answering interrogatories, depositions, trial preparation and attendance at trials. YOU shall assist US to secure and give evidence as well as to obtain the cooperation and attendance of witnesses as required.

YOU must assist US to enforce any right WE or YOU may have for contribution or indemnity from any other person or organization.

## **POLICY CONDITIONS**

### **YOUR DUTIES IN THE EVENT OF A CLAIM (continued)**

WE have no obligation to pay DAMAGES and CLAIM EXPENSES on YOUR behalf or defend YOU unless YOU have provided the cooperation described above. Any expenses YOU incur in providing such cooperation are not recoverable under this policy or chargeable against YOUR Deductible.

#### *WHAT YOU MUST NOT DO*

Do not delay YOUR first report to us of a CLAIM in hope that the situation will be resolved or while YOU attempt to acquire more information.

Do not admit responsibility, assume any obligation or make any commitment of money or services to others. Any payments YOU make, obligations YOU assume, services YOU provide or costs YOU incur without OUR prior written approval are not recoverable under this policy or chargeable against YOUR Deductible.

Do not take any action that may enlarge the injury or damage already sustained.

Do not imperil OUR rights to recovery for contribution or indemnity from any other person or organization.

### **IF WE PAY YOUR DEDUCTIBLE**

If WE are required to pay YOUR deductible, the POLICYHOLDER agrees to reimburse US for all DAMAGES and CLAIM EXPENSES WE pay on YOUR behalf which are chargeable against YOUR Deductible. Full reimbursement is due within 10 days of receipt of OUR notice by the POLICYHOLDER.

Should the POLICYHOLDER fail to reimburse US for any such amounts due, then WE have the right to recover from the POLICYHOLDER all costs, expenses and legal fees WE incur to enforce the collection of the amounts due and payable.

If a reimbursable amount remains unpaid 90 days after notification of OUR payment was received by the POLICYHOLDER, WE shall be entitled to collect interest on the unpaid amount running from the date of receipt by the POLICYHOLDER of OUR first notification letter and ending upon the date reimbursement is made. Interest shall be set at the prevailing rate for legal interest on judgments.

## **POLICY CONDITIONS**

### **YOUR CONSENT TO SETTLE**

WE will not settle any CLAIM without the POLICYHOLDER's prior written consent.

If the POLICYHOLDER refuses to give consent to a settlement amount recommended by US in writing and for which the CLAIM could have been settled, and by such refusal to give consent elects to pursue the litigation at the trial or appellate level then OUR liability for that CLAIM shall not exceed:

1. The amount for which the CLAIM could have been settled, and
2. The CLAIM EXPENSES WE incurred up to the date of YOUR refusal to give consent to settle.

### **OTHER INSURANCE**

The insurance provided by this policy is excess to any other valid and collectible insurance available to YOU, except that this policy does not apply at all:

1. If there is insurance available to YOU for CLAIMS arising from YOUR prior acts as described under Your Claims Made and Reported Coverage in this policy, or
2. To a CLAIM of which WE receive written notice during any automatic reporting extension of this policy or Extended Reporting Period as may be provided if there is other professional liability coverage in effect, or
3. If there is other liability insurance available to YOU for CLAIMS arising out of a specific project wherein a separate insurance policy has been issued on that project, regardless of whether or not such CLAIMS are covered, in whole or in part, for any reason whatsoever.

### **OUR RIGHT TO RECOVER FROM OTHERS**

If WE make a payment on YOUR behalf under this policy YOUR right to recover against any person or organization shall be transferred to US to the extent of OUR payment. YOU shall do whatever is needed to assist US, and YOU shall do nothing to prejudice OUR rights of recovery.

### **POLICY DISPUTES**

If YOU and WE do not agree on the meaning of any provision of this policy, the dispute shall be decided by a panel of three arbiters. YOU will select an arbiter; WE will select an arbiter; the two arbiters will select a third arbiter. The dispute shall be resolved by majority decision which shall be binding on both YOU and US.

YOU cannot seek arbitration until YOU have fully complied with all of the provisions of this policy.



## **POLICY CONDITIONS**

### **NO ASSIGNMENT OF THIS POLICY**

YOUR rights and duties under this policy may not be transferred or assigned without OUR express, written agreement. Should YOU die or be adjudged bankrupt or incompetent during the POLICY PERIOD, this policy shall cover YOUR legal representative to the same extent YOU would have been covered, but only while acting within the scope of its duties in that capacity.

Any notice of any kind from US mailed to the POLICYHOLDER's address shown in the Declarations shall be sufficient notice to YOUR legal representative.

### **OUR RIGHT TO AUDIT**

WE have the right at any time during and after the POLICY PERIOD to examine the books and records of the POLICYHOLDER and to require reports pertaining to information provided to US in the POLICYHOLDER's Application for Insurance. The POLICYHOLDER shall comply promptly with OUR requests for such information.

### **PREMIUM**

YOUR Premium for this policy is shown in the Declarations and is for coverage for the full POLICY PERIOD. The premium is a Flat Premium and is not subject to adjustment except as provided herein or amended by endorsement.

If during the POLICY PERIOD there is a change in coverage afforded, WE have the right to adjust the premium as of the date of change. Any premium adjustment made shall be in accordance with OUR prevailing rules and rates.

### **CANCELLATION**

#### *BY THE POLICYHOLDER*

The POLICYHOLDER may cancel this policy by mailing to US a written notice stating that cancellation shall take effect upon the date notice is received or at a specified date subsequent to the date of receipt. The date of receipt will be deemed the date of postmark.

#### *BY US*

If WE decide to cancel this policy, WE will mail a written notice to the POLICYHOLDER stating on what date cancellation shall be effective and the reason for cancellation.

If OUR reason is because of nonpayment of premium, then the date of cancellation will be at least 10 days from the date of OUR notice of cancellation.

If it is for any other reason, then the date of cancellation will be at least 60 days from the date of OUR notice of cancellation.



## **POLICY CONDITIONS**

### **CANCELLATION (continued)**

After this policy has been in effect for 60 days or more, WE shall limit the reasons for which WE would cancel this policy to the following:

1. Nonpayment of premium.
2. Fraud or material misrepresentation in obtaining this policy.
3. Substantial breach of policy terms and conditions.
4. Loss of reinsurance.
5. The risk originally accepted has significantly increased.

### *PREMIUM ADJUSTMENT*

Should the policy be cancelled by US before the Expiration Date the return portion of the premium shall be computed on a prorated basis.

Should the POLICYHOLDER cancel the policy before the Expiration Date, WE will return 90% of the unearned premium as computed on a prorated basis.

Cancellation is not contingent upon OUR tendering or paying the unearned premium or its acceptance by the POLICYHOLDER.

### **NON-RENEWAL**

If WE decide not to renew this policy, WE will mail a written notice to the POLICYHOLDER stating the reason for non-renewal at least 60 days before the Expiration Date of the policy.

### **POLICYHOLDER AS AGENT**

The POLICYHOLDER shall be considered to be the agent of all INSUREDS with respect to all matters involving this policy. The POLICYHOLDER shall be responsible for the payment of all premiums and for reimbursement to US of all amounts WE paid within the Deductible.

## POLICY CONDITIONS

### POLICY MAKEUP AND CHANGES

YOUR policy consists of the Declarations, the Table of Contents, the policy form and any applicable endorsements. YOUR policy coverage can be changed only by an endorsement in writing issued by US.

Should WE revise this policy form to provide more coverage without additional premium charge, then this policy will automatically provide the additional coverage as of the date the revision is effective in the state shown in the Declarations as the POLICYHOLDER's Mailing Address.

Any terms of this policy that are in conflict with any statute of the state where this policy is issued are hereby amended to the extent necessary to conform to such statute.

### NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

#### (Broad Form)

IT IS AGREED THAT THE POLICY DOES NOT APPLY:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
  - (a) With respect to which an INSURED under the policy is also an INSURED under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an INSURED under any such policy but for its termination upon exhaustion of its limit of liability; or
  - (b) Resulting from the Hazardous properties of Nuclear Material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the INSURED is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the Hazardous Properties of Nuclear Material and arising out of the operation of any Nuclear Facility by any person or organization.

## NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

### (Broad Form)

- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the Hazardous Properties of Nuclear Material if:
- (a) The Nuclear Material (1) is at any Nuclear Facility owned by, or operated by or on behalf of, an INSURED or (2) has been discharged or dispersed therefrom;
  - (b) The Nuclear Material is contained in Spent Fuel or Waste or at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an INSURED; or
  - (c) The injury, sickness, disease, death or destruction arises out of the furnishing by an INSURED of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility, but if such facility is located within the United States of America, its territories or possessions or Canada this exclusion (c) applies only to injury to or destruction of property at such Nuclear Facility.

- IV. As used in this endorsement:

“Hazardous Properties” include radioactive, toxic or explosive properties;

“Nuclear Material” means Source Material, Special Nuclear Material or By-products Material;

“Source Material,” “Special Material,” and “By-products Material” have the meaning given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

“Spent Fuel” means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a Nuclear Reactor;

“Waste” means any waste material (1) containing By-products Material and (2) resulting from the operation by any person or organization of any Nuclear Facility under paragraph (a) or (b) thereof;

“Nuclear Facility” means:

- (a) Any Nuclear Reactor,
- (b) Any equipment or device designated or Used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing Spent Fuel, or (3) handling, processing or packaging Waste,

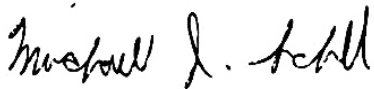
## NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

### (Broad Form)

- (c) Any equipment or device used for the processing, fabricating or alloying of Special Nuclear Material if at any time the total amount of such material in the equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of Waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

“Nuclear Reactor” means any apparatus designed or used to sustain nuclear fission in a self- supporting chain reaction or to contain a critical mass of fissionable material with respect to injury or to destruction of property, the word “injury” or “destruction” includes all forms of radioactive contamination of property.

**IN WITNESS WHEREOF**, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly authorized representative of the Company.



Michael J. Schell  
President & CEO



Christopher L. Martin  
Executive Vice President & Secretary

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**\*\*SPECIMEN\*\***