



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/19/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>M&amp;O Agencies, Incorporated</b> 2625 W Geronimo Place, Suite 350 Chandler, AZ 85224	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): <b>(480) 730-4920</b>	FAX (A/C, No): <b>(480) 730-4929</b>
	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>INSURER A : <b>NATIONWIDE MUTUAL INSURANCE COMPANY</b></b>	
	<b>INSURER B : <b>Certain Underwriters at Lloyds</b></b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	


<b>INSURED</b>	<b>CERTIFICATE NUMBER:</b>	<b>REVISION NUMBER:</b>
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**CKEPUSA, LLC**  
 6077 North Travel Center Drive  
 Tucson, AZ 85741

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	ACP3059437182	10/1/2025	10/1/2026	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>5,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	ACP3059437182	10/1/2025	10/1/2026	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>0</b>	X		ACP3059437182	10/1/2025	10/1/2026	EACH OCCURRENCE \$ <b>5,000,000</b> AGGREGATE \$ <b>5,000,000</b> Prod/ Comp Ops \$ <b>5,000,000</b>
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y / <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	ACP3059437182	10/1/2025	10/1/2026	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
B	<b>Pollution Coverage</b>	X	X	PF02255A25	10/1/2025	10/1/2026	\$ <b>2,000,000 ea Claim/</b>
A	<b>Installation / Build</b>			ACP3059437182	10/1/2025	10/1/2026	<b>At One Location</b> 1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Holder Includes: The Alachua County Board of County Commissioners, its officials, employees and volunteers. Stored Materials valued up to \$1,000,000 is included in the installation floater policy; applicable limit determined by written contract, up to but no more than \$1,000,000. Additional Insured ongoing and completed operations, waiver of subrogation and primary and noncontributory per attached forms. Pollution Additional Insured, waiver of subrogation and primary and noncontributory per attached forms. Auto Additional insured and waiver of subrogation per attached forms. Workers Compensation Wavier of Subrogation per attached form. Excess follows form.

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
<b>Alachua County Board of County Commissioners</b> 12 SE 1st Street Gainesville, FL 32601	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

### **Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **GENERAL LIABILITY ENHANCEMENT: WHOLESALE/DISTRIBUTORS**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions, and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

<b>Coverage Applicable</b>	<b>Limit of Insurance</b>	<b>Page #</b>
Additional Insured – Vendors	Included	4
Additional Insured – Grantor of Franchise or License	Included	5
Additional Insured – Managers or Lessors of Premises	Included	5
Additional Insured – Co-owner of Insured Premises	Included	5
Additional Insured – Controlling Interest	Included	5
Additional Insured – Lessor of Leased Equipment	Included	5
Additional Insured – Mortgagee, Assignee or Received	Included	6
Additional Insured – Owners or Other Interest From Whom Land has been leased.	Included	6
Additional Insured – State or Political subdivision	Included	6
Aggregate Limit Per Location	Included	6
Blanket Waiver of Subrogation	Included	7
Blanket Primary and Non-contributory	Included	7
Broadened definition of Bodily Injury	Includes mental anguish	6
Broad Form Named Insured	Included	4
Coverage for injury to Leased Workers	Included	4
Damage to Premises Rented to you	\$1,000,000	4
Delivery Errors and Omissions	\$25,000 Occ/\$50,000 Agg	2
Duties in the event of Occurrence, Claim or Suit	Included	7
Incidental Medical Malpractice	Included	4
Liberalization	Included	7
Newly Formed or Acquired Organizations	180 days to report	4
Non-owned Watercraft	Less than 51 feet	3
Personal and Advertising Injury	Includes discrimination	7

Property of others in the Care, Custody or Control of the insured(Expanded Property Damage)	\$25,000 Occ/\$500 ded	3
Supplementary Payments – Bail Bonds/Loss of earnings	\$2,500/\$500	4
Supplementary Payments – Loss of Earnings	\$500 per day	3
Unintentional Failure to Disclose a Hazard	Included	7

**A. DELIVERY ERRORS AND OMISSIONS**

The following is added to **SECTION I – COVERAGES:**

**COVERAGE D – DELIVERY ERRORS AND OMISSIONS**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of a failure to deliver or a misdelivery of items you hold for sale by you or any of your “employees” or by a concessionaire trading under your name.
- b. We will have the right and duty to defend the insured against any “suit” seeking those damages even if the allegations of such “suit” are groundless, false or fraudulent. 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 claim and settle any claim or “suit” that may result. But:

- (1) The amount we will pay for damages is limited as described in the Limits of Insurance section as stated in paragraph 3. below; and
- (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.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- c. This insurance applies only to errors in deliveries that take place or omissions of such deliveries that should have taken place in the “coverage territory” and during the policy period.

**2. Exclusions**

This insurance does not apply to:

- a. Intentional error or intentional misdelivery or intentional failure to deliver.

- b. “Bodily injury”, “property damage” or “personal and advertising injury”.
- c. Discrimination based on a customer’s race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition or residence location.
- d. Fines or penalties imposed on any insured.
- e. Liability for damages which the insured is obligated to pay by reason of the assumption of liability in a contract or agreement, whether or not such contract or agreement is an “insured contract”. This exclusion does not apply to liability for damages that the insured would have had in the absence of the contract or agreement.
- f. Non-pecuniary relief including but not limited to injunctive and other equitable relief.

**3. Limits of Insurance**

For the purposes of this Delivery Errors and Omissions coverage, the following is added to **SECTION III – LIMITS OF INSURANCE:**

- a. The most we will pay under this Delivery Errors and Omissions coverage for the sum of all damages arising out of any one “occurrence” is \$25,000 subject to a \$50,000 annual aggregate limit. Subject to the any one “occurrence” limit set forth in this paragraph, the annual aggregate limit is the most we will pay for the sum of all damages under this Delivery Errors and Omissions coverage. The limits of insurance set forth in this paragraph are the most we will pay regardless of the number of “insureds”, acts, errors or omissions resulting in covered damages, claims made or “suits” brought, or persons or organizations making claims or bringing “suits”. For purposes of determining the limits of insurance, any loss based upon a series of related errors, omissions and negligent acts constitutes only one “occurrence” which will be deemed to have arisen when the

first error, omission or negligent act of that series occurred.

- b. The Limits of Insurance of Delivery Errors and Omissions coverage apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Annual Aggregate and in which event the Annual Aggregate will be increased in proportion to the period of extension.
  - c. Our obligation under the Delivery Errors and Omissions coverage to pay damages on your behalf applies only to the amount of damages in excess of \$500 as a result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence". We may pay any part or all of this deductible amount to effect settlement of any claim or "suit" 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.
4. For the purposes of this Delivery Errors and Omissions coverage, the **Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition** under **Section IV – Commercial General Liability Conditions** is replaced by the following:
- 2. **Duties in The Event of a Delivery Error or Omission**
    - a. You must see to it that we are notified as soon as practicable of an error or omission which may result in a claim. To the extent possible, notice should include:
      - (1) How, when and where the error or omission took place; and
      - (2) The names and addresses of the person(s) making claim against you.
    - 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 pertinent correspondence received in connection with the claim or "suit";

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

- (3) Cooperate with us in our 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 an error or omission to which this insurance may apply.

**5. Supplementary Payments**

The **Supplementary Payments** provisions applicable to **Coverages A and B** also apply to this Delivery Errors and Omissions.

**B. SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended as follows:

- 1. **g. Aircraft, Auto or Watercraft (2) (a)** is replaced with:

- (a) Less than 51 feet long; and

- 2. Exclusion **j.** is amended as follows:

- (a) Exclusions **j.(3), j(5), and j.(6)** are deleted in their entirety.

- (b) Exclusion **j.(4)** is deleted in its entirety and replaced by the following:

- (4) Personal Property in the care, custody or control of the insured:

- (a) While being transported by any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured.

**Limit of Insurance** – The most we will pay for damages for "property damage" coverage provided by this coverage in any one "occurrence" is \$25,000.

**Deductible** – Our obligation to pay for a coverage loss applies only to the amount of loss in excess of \$500. We will pay the deductible amount to effect settlement of any

claim or “suit” and, upon notification of this action having been taken; you shall promptly reimburse us for the deductible as has been paid by us. This insurance is excess over any valid and collectible insurance.

3. The last paragraph of **2. Exclusions** is replaced by the following:

If **Damage to Premises Rented to You** is not otherwise excluded, exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or sprinkler leakage to premises while rented to you 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**.

4. With respect to the Employer’s Liability exclusion (**SECTION I**) only, the definition of “employee” in the **DEFINITIONS** Section is replaced by the following: “Employee” does not include a “leased worker” or a “temporary worker”.

**C. SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

1. **1.b.** replaced with:
  - b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
2. **1. d.** replaced with:
  - d. All reasonable expenses incurred by the insured at our request to assist use in the “suit”, including actual loss of earnings up to \$500 a day because of time off from work.

**D. ADDITIONAL INSURED SECTION II WHO IS AN INSURED** is amended as follows:

1. **3.a.** is replaced with:
  - a. Coverage under this provision is afforded only until the 180<sup>th</sup> day after you acquire or form the organization or the end of the policy period, whichever is earlier;
2. The following is added to paragraph 2.:
  - e. Any organization which is a legally incorporated entity of which you own a majority interest of the voting stock on the effective date of this Coverage Form will be a Named Insured, provided there is no other available insurance to that organization.

3. **Incidental Medical Malpractice –Employed Physicians, Nurses, EMT’s and Paramedics 2.a.(1)(d)** does not apply to a physician, nurse, emergency medical technician or paramedic employed by you if you are not engaged in the business or occupation of providing medical, paramedical, surgical, dental, x-ray or nursing services.

4. The following is added:

**4. Additional Insured – Automatic Status When required in an Agreement with You**

**Who is an insured** includes person(s) or organization(s) described in Paragraph a. – i. below with whom you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy.

- a. **Vendors** – but only with respect to “bodily injury” or “property damage” arising out of “your products” which are distributed or sold in the regular course of the vendor’s business. The following additional exclusions:

- (1) The insurance afforded the vendor does not apply to:
  - (a) “Bodily injury” or property damage” for which the vendor 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 vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by the vendor;
  - (d) Repackaging, except when unpacked solely for purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - (e) Any failure to make such 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;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - (g) 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; or
  - (h) "Bodily injury" or "property damage" arising out of the negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf and which was not caused in whole or in part by you or any person or organization acting on your behalf. However, this exclusion does not apply to:
    - (i) The exceptions contained in Subparagraphs d. or f. above; or
    - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed with you to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container entering into, accompanying or containing such products.'

However, this insurance afforded to such additional insureds described above:

- (a) Only applies to the extent permitted by law and
- (b) Will not be broader than that which you are required by the

contract or agreement to provide for such additional insured.

**b. Grantor of Franchise or License** with respect to their liability as grantor of a franchise or license to you. However, their status as additional insured under this policy ends:

- (1) when their contract or agreement with you granting the franchise or license ends or expires.
- (2) When your licenses is terminated or revoked prior to expiration of the license as stipulated by the contract or agreement.

**c. Managers or Lessors of Leased Premises** – with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you. This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization.

However, their status as additional insured under this policy ends when you cease to be a tenant of such premises.

**d. Co-owners of Insured Premises** – with respect to their liability as co-owner of the premises.

However, their status as additional insured under this policy ends when you cease to be co-owner of such premises with that person or organization.

**e. Controlling Interest** – with respect to their liability arising out of their financial control of you; or premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

However, their status as additional insured under this policy ends when they cease to have such controlling interest.

- f. **Lessors of Leased Equipment** – with respect to their liability for “bodily injury”, “property damage” or “personal and advertising injury” caused in whole or in part by your maintenance, operation, or use of equipment leased to you by such person(s) or organization(s). This insurance does not apply to any “occurrence” which takes place after the equipment lease expires.

However, their status as additional insured under this policy ends when their lease, contract or agreement with you for such leased equipment ends.

- g. **Mortgagee, Assignee, or Receiver** – as respect to their liability as mortgagee, assignee, or receiver, and arising out of the ownership, maintenance or use of the premises by you.

This insurance does not apply to structural alterations, new constructions and demolition operations performed by or for that person or organization.

However, their status as additional insured under this policy ends when their status as mortgagee, assignee or receiver ends.

- h. **Owners or Other Interest from Whom Land has been Leased** – with respect to their liability arising out of the ownership, maintenance or use of that part of the land leased to you.

This insurance does not apply to:

- (a) Any “occurrence” which takes place after you cease to lease the land.
- (b) Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization.

However, their status as additional insured under this policy ends when you cease to lease that land.

- i. **State or Political Subdivisions – Permits Relating to Premises** - with respect to the following hazards for which the state or governmental agency or subdivision or political

subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
- (b) The ownership, maintenance or use of any elevators covered by this insurance.

This insurance does not apply to:

- (a) “Bodily injury” or “property damage” included within the “products- completed operations hazard”.

However, such state or political subdivisions status as additional insured under this policy ends when the permit ends.

However, this insurance afforded to such additional insureds a. – i. described above:

- (a) Only applies to the extent permitted by law and
- (b) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**E. SECTION III – LIMITS OF INSURANCE is amended as follows:**

1. The following paragraph is added to paragraph 2: The General Aggregate Limit under Section III Limits of Insurance applies separately to each of your “locations” owned by or rented to you or temporarily occupied by you with the permission of the owner.
2. Paragraph 6 is replaced with:
  6. Subject to 5. Above, the Damage To Premises Rented to You Limit is the most we will pay under Coverage A for damages because of “property damage” to any one premises, while rented to you or in the case of damage by fire, lightning, explosion, smoke or sprinkler leakage, while rented to or temporarily occupied by you with permission of the owner. The limit is increased to \$1,000,000.
3. With respect to the insurance afforded any additional insureds, the following is added:

8. If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
  1. Required by the contract or agreement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

**F. SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:**

**1. Knowledge of An Occurrence – The Following**

is added to **2. Duties in the Event of Occurrence, Offense, Claim or Suit condition:**

e. Knowledge of an “occurrence”, offense, claim or “suit” by an agent or employee of an insured shall not in itself constitute knowledge of the insured unless you, a partner, if you are a partnership’ or an executive officer or insurance manager, if you are a corporation received such notice of an “occurrence”, offense, claim or “suit” from the agent or employee.

**2. 6. Representations is amended to include:**

d. Your failure to disclose all hazards or prior “occurrences” or offenses existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior occurrences” or offenses is not intentional. This provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal

**3. 8. Transfer of Rights of Recovery Against Others to Us is amended to include:**

If required by written contract executed prior to loss, we waive any right of subrogation we may have against the contracting person or organization because of payments we make for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “products-completed operations hazards”.

**4. The following condition is added as follows:**

**10. Liberalization**

If we revise this coverage form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

**5. The following condition is added to 4. Other Insurance Condition and supersedes any provision to the contrary:**

**Primary and Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance’ and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**G. SECTION V – DEFINITIONS is amended as follows:**

**1. 3. “Bodily Injury” is deleted and replaced with the following:**

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

**2. 14. Personal and Advertising Injury paragraph h. is added as follows:**

**h.** Discrimination because of race, color, creed, national origin, age, sex or physical disability, where insurance therefore is not prohibited by law, but only if such discrimination is:

- (1) not done intentionally by or at the direction of:
  - (a) the insured; or
  - (b) any executive officer, director, stockholder, partner or member of the insured staff; and
- (2) not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.

**All terms and conditions of this policy apply unless modified by this endorsement.**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Designated Construction Project(s):</b>
ALL PROJECTS

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I – Coverage A**, and for all medical expenses caused by accidents under Section **I – Coverage C**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
  2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
    - a. Insureds;
    - b. Claims made or "suits" brought; or
    - c. Persons or organizations making claims or bringing "suits".
  3. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
  4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I – Coverage A**, and for all medical expenses caused by accidents under Section **I – Coverage C**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
  2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting

parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

- E.** The provisions of Section **III** – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BUSINESS AUTO PROTECTION - PLATINUM**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

### **SUMMARY OF COVERAGES**

- A. Effect of This Endorsement
- B. Newly Acquired or Formed Entities
- C. Employees as insureds – Nonowned Autos
- D. Additional Insured by Contract, Permit or Agreement
- E. Supplementary Payments – Bail Bonds
- F. Supplementary Payments – Loss of Earnings
- G. Personal Effects and Property of Others Extension
- H. Prejudgment Interest Coverage
- I. Fellow Employees
- J. Hired Auto Physical Damage
- K. Temporary Substitute Autos – Physical Damage Coverage
- L. Expanded Towing Coverage
- M. Auto Loan or Lease Coverage
- N. Original Equipment Manufacturer Parts – Leased Private Passenger Types
- O. Deductible Amendments
- P. Expanded Transportation Expense
- Q. Extra Expense – Stolen Autos
- R. Physical Damage Limit of Insurance
- S. New Vehicle Replacement Cost
- T. Physical Damage Coverage Extensions
- U. Business Income and Extra Expense Coverage
- V. Transfer of Rights Of Recovery Against Others To Us
- W. Section IV – Business Auto Conditions – Notice of and Knowledge of Occurrence
- X. Hired Car Coverage Territory
- Y. Emergency Lockout
- Z. Cancellation Condition

**A. EFFECT OF THIS ENDORSEMENT**

Coverage provided under this policy is modified by the provisions of this endorsement. If there is any conflict between the provisions of this endorsement and the provision(s) of any state-specific endorsement also attached to this policy, then the provision(s) of the state-specific endorsement shall apply instead of the provisions of this endorsement that are in conflict, but only to the extent of the conflict, and only to the extent necessary to bring such provisions into conformance with the state requirement(s) contained in the provision(s) of the state-specific endorsement.

**B. NEWLY ACQUIRED OR FORMED ENTITIES**

The Named Insured shown in the Declarations is amended to include 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 (more than 50%) interest; if there is no other similar insurance available to that organization. Coverage under this provision is afforded until the 180<sup>th</sup> day after you acquire or form the organization or the end of the policy period, whichever is later.

**C. EMPLOYEES AS INSUREDS – NONOWNED AUTOS**

The following is added to paragraph A.1. Who Is An Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

d. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

**D. ADDITIONAL INSURED BY CONTRACT, PERMIT OR AGREEMENT**

The following is added to A.1. Who Is An Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization that you are required to name as an additional insured in a written contract or agreement that is executed or signed by you prior to a "bodily injury" or "property damage" occurrence is an "insured" for Covered Auto Liability coverage. However, with respect to covered "autos", such person or organization is an insured only to the extent that person or organization qualifies as an "insured" under A.1. Who is an Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

If specifically required by the written contract or agreement referenced in the paragraph above, any coverage provided by this endorsement to an additional insured shall be primary and any other valid and collectible insurance available to the additional insured shall be non-contributory

with this insurance. If the written contract does not require this coverage to be primary and the additional insured's coverage to be non-contributory, then this insurance will be excess over any other valid and collectible insurance available to the additional insured.

**E. SUPPLEMENTARY PAYMENTS – BAIL BONDS**

Supplementary Payments of SECTION II – COVERED AUTOS LIABILITY COVERAGE is revised as follows:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

**F. SUPPLEMENTARY PAYMENTS – LOSS OF EARNINGS**

Supplementary Payments of SECTION II – COVERED AUTOS LIABILITY COVERAGE is revised as follows:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$1,000 a day because of time off from work.

**G. PERSONAL EFFECTS AND PROPERTY OF OTHERS EXTENSION**

1. The Care, Custody or Control Exclusion of SECTION II – COVERED AUTOS LIABILITY COVERAGE, does not apply to "property damage" to property, other than your property, up to an amount not exceeding \$500 in any one "accident". Coverage is excess over any other valid and collectible insurance.

2. The following paragraph is added to A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE:

c. We will pay up to \$1,000 for your property that is lost or damaged as a result of a covered "loss", without applying a deductible. Coverage is excess over any other valid and collectible insurance.

**H. PREJUDGMENT INTEREST COVERAGE**

The following paragraph is added to SECTION II – COVERED AUTOS LIABILITY COVERAGE, 2. Coverage Extensions, a. Supplementary Payments:

(7) 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.

**I. FELLOW EMPLOYEE**

The Fellow Employee Exclusion of SECTION II - COVERED AUTOS LIABILITY COVERAGE, does

not apply if the "bodily Injury" results from the use of a covered "auto" you own or hire. The insurance provided under this provision is excess over any other collectible insurance.

#### J. HIRED AUTO PHYSICAL DAMAGE

If covered "auto" designation symbols 1 or 8 apply to Liability Coverage and if at least one "auto" you own is covered by this policy for Comprehensive, Specified Causes of Loss, or Collision coverages, then the Physical Damage coverages provided are extended to "autos" you lease, hire, rent or borrow without a driver; and provisions in the Business Auto Coverage Form applicable to Hired Auto Physical Damage apply up to a limit of \$125,000. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. Any Comprehensive deductible does not apply to fire or lightning.

#### K. TEMPORARY SUBSTITUTE AUTOS – PHYSICAL DAMAGE COVERAGE

The following is added to paragraph C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos of SECTION I – COVERED AUTOS:

If Physical Damage Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:

- a. Breakdown;
- b. Repair;
- c. Servicing;
- d. "Loss"; or
- e. Destruction

The coverage that applies is the same as the coverage provided for the vehicle being replaced.

#### L. EXPANDED TOWING COVERAGE

1. We will pay up to:
  - a. \$150 for a covered "auto" you own of the private passenger type, or
  - b. \$750 for a covered "auto" you own that is not of the private passenger type,
 for towing and labor costs incurred each time the covered "auto" is disabled. However, the labor must be performed at the place of disablement.
2. This coverage applies only for an "auto" covered on this policy for Comprehensive or

Specified Causes of Loss Coverage and Collision Coverages.

3. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto".

#### M. AUTO LOAN OR LEASE COVERAGE

1. In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease, including up to a maximum of \$500 for early termination fees or penalties, for your covered "auto" less:
  - a. The amount paid under SECTION III – PHYSICAL DAMAGE COVERAGE of this policy; and
  - b. Any:
    - (1) Overdue lease/loan payments at the time of the "loss";
    - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
    - (3) Security deposits not refunded by a lessor;
    - (4) Costs of extended warranties, Credit Life insurance, Health, Accident, or Disability insurance purchased with the lease; and
    - (5) Carry-over balances from previous leases.
2. This coverage only applies to a "loss" which is also covered under this policy for Comprehensive, Specified Causes of Loss, or Collision coverage.
3. Coverage does not apply to any unpaid amount due on a loan for which the covered "auto" is not the sole collateral.

#### N. ORIGINAL EQUIPMENT MANUFACTURER PARTS – LEASED PRIVATE PASSENGER TYPES

Under Paragraph C. Limit of Insurance of SECTION III – PHYSICAL DAMAGE COVERAGE, Section 4 is added as follows:

4. We will use new original equipment vehicle manufacturer parts for any private passenger type covered "auto" where required by the lease agreement which has a term of at least six months. If a new original equipment vehicle manufacturer part is not in production or distribution we may use a like, kind and quality replacement part.

#### O. DEDUCTIBLE AMENDMENTS

The following are added to the Deductible provision of SECTION III – PHYSICAL DAMAGE COVERAGE:

If another policy or coverage form that is not an automobile policy or coverage form issued by this company applies to the same "accident", the following applies:

1. If the deductible under this coverage is the smaller (or smallest) deductible, it will be waived:
2. If the deductible under this coverage is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

If a Comprehensive or Specified Causes of Loss Coverage "loss" from one "accident" involves two or more covered "autos", only the highest deductible applicable to those coverages will be applied to the "accident," if the cause of the loss is covered for those vehicles. This provision only applies if you carry Comprehensive or Specified Causes of Loss Coverage for those vehicles, and does not extend coverage to any covered "autos" for which you do not carry such coverage.

No deductible applies to glass if the glass is repaired, in a manner acceptable to us, rather than replaced.

**P. EXPANDED TRANSPORTATION EXPENSE**

Paragraph A.4.a. of SECTION III – PHYSICAL DAMAGE COVERAGE is replaced by the following:

We will pay up to \$50 per day to a maximum of \$1500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

We will only pay for those covered "autos" for which you carry Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 24 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

**Q. EXTRA EXPENSE – STOLEN AUTOS**

The following paragraph is added to Section A.4. of SECTION III – PHYSICAL DAMAGE COVERAGE:

- c. We will pay for up to \$5,000 for the expense of returning a stolen covered "auto" to you. We will pay only for those covered "autos" for which you carry Comprehensive or Specified Causes of Loss Coverage.

**R. PHYSICAL DAMAGE LIMIT OF INSURANCE**

Under SECTION III – PHYSICAL DAMAGE COVERAGE, Paragraph C., Limit of Insurance is replaced by the following:

**C. Limit Of Insurance**

1. The most we will pay for "loss" in any one "accident" is the lesser of:
  - a. The actual cash value of the damaged or stolen property as of the time of the "loss", or
  - b. The cost of repairing or replacing the damaged or stolen property.
2. \$2000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:
  - a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment.
  - b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
  - c. An integral part of such equipment.
3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
4. The cost of repairing or replacing may:
  - a. Be based on an estimate which includes parts furnished by the original equipment manufacturer or other sources including non-original equipment manufacturers and
  - b. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the net improvement.
5. If we offer to pay the actual cash value of the damaged or stolen property, we will value auto advertising wraps, paint customization, and similar business related advertising modifications, in addition to the actual cash value of the property. Auto advertising wraps, paint customization, and similar business related advertising modifications will be valued at the cost to replace them with an adjustment made for depreciation and physical condition.

**S. NEW VEHICLE REPLACEMENT COST**

The following is added to the Limit of Insurance provision of SECTION III – PHYSICAL DAMAGE COVERAGE:

5. The provisions of paragraphs 1.and 3. do not apply to a covered “auto“ of the private passenger type or a vehicle with a gross vehicle weight rating of 20,000 pounds or less which is a “new vehicle.”

In the event of a total “loss” to your “new vehicle” to which this coverage applies, we will pay at your option:

- a. The verifiable “new vehicle” purchase price you paid for your damaged vehicle, not including any insurance or warranties purchased;
- b. If it is available, the purchase price, as negotiated by us, of a “new vehicle” of the same make, model, and equipment or the most similar model available, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturers’ dealership; or .
- c. The market value of your damaged vehicle, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturer’s dealership.

We will not pay for initiation or set up costs associated with loans or leases

As used in this endorsement, a “new vehicle” means an “auto” of which you are the original owner that has not been previously titled and which you purchased less than 365 days before the date of the “loss”.

**T. PHYSICAL DAMAGE COVERAGE EXTENSIONS**

Under SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, b. Loss of Use Expenses is replaced by the following:

- b. Loss of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an “insured” becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision if the Declarations indicate that Comprehensive Coverage is provided for any covered “auto”;
- (2) Specified Causes of Loss only if the Declarations indicate that Specified

Causes of Loss Coverage is provided for any covered “auto”; or

- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered “auto”.

However, the most we will pay for any expenses for loss of use is \$50 per day, to a maximum of \$1,500. The insurance provided by this provision is excess over any other collectible insurance.

**U. BUSINESS INCOME AND EXTRA EXPENSE COVERAGE**

**1. Business Income Coverage**

We will pay the actual loss of business income sustained by you as a result of the necessary suspension of your business during the period of restoration due to “loss” to a covered “auto” used in your business. The loss must be caused by a cause of loss covered under item A1 of Physical Damage Coverage in this Coverage Part.

**2. Extra Expense Coverage**

We will pay the necessary and reasonable extra expenses that you incur during the period of restoration that you would not have incurred had there been no “loss” to a covered “auto” used in your business. The loss must be caused by a cause of loss listed under item A1 of Physical Damage Coverage in this Coverage Part. Extra Expenses means those expenses you incur to avoid or minimize the suspension of business and to continue your business operations.

**3. Additional Conditions**

We will not pay for “loss” or expenses caused by suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of your business, we will cover such “loss” that affects your business income. We will not pay under this coverage if you do not repair or replace the covered “auto”. You must resume all or part of your business as quickly as possible. If you have other autos you can use to reduce the amount of loss payable under this coverage, you are required to use them. We will pay for expenses you incur to reduce the amount that otherwise would have been payable under this coverage. We will not pay more than the amount by which you actually reduce the business income loss or extra expense incurred.

**4. Limit**

The most we will pay for "loss" arising out of one covered "auto" is \$10,000 per loss with an annual aggregate of \$20,000. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto".

**5. Definitions**

- a. "Business Income" means the:
  - (1) Net income (Net profit or loss before income taxes) that would have been earned or incurred if no loss would have occurred; and
  - (2) Continuing normal operating expenses incurred, including payroll.
- b. "Period of Restoration" means the period of time that:
  - (1) Begins:
    - (a) 24 hours after the time of loss for Business Income Coverage; or
    - (b) Immediately after the time of loss for Extra Expense Coverage; and
  - (2) Ends at the earliest of:
    - (a) The time required to resume your normal business operations; or
    - (b) The time that is reasonably necessary to repair or replace the covered auto with a maximum time period of 180 days. Period of Restoration does not include any increased period required due to the enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of pollutants. The expiration date of this policy will not cut short the period of restoration.

**V. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

The following is added to the Transfer Of Rights Of Recovery Against Others To Us Condition:

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" because of payments we make for damages under this coverage form.

**W. NOTICE OF AND KNOWLEDGE OF OCCURRENCE**

SECTION IV – BUSINESS AUTO CONDITIONS, Paragraph A is amended as follows:

**6. NOTICE OF AND KNOWLEDGE OF OCCURRENCE**

- a. Your obligation in the Duties in the Event of Accident, Claim, Suit or Loss Condition relative to notification requirements applies only when the "accident" or "loss" is known to:
  - (1) You, if you are an individual;
  - (2) A partner, if you are a partnership;
  - (3) A member, if you are a limited liability company; or
  - (4) An executive officer or insurance manager, if you are a corporation.
- b. Your obligation in the Duties in the Event of Accident, Claim, Suit or Loss Condition relative to providing us with documents concerning a claim or "suit" will not be considered breached unless the breach occurs after such claim or "suit" is known to:
  - (1) You, if you are an individual;
  - (2) A partner, if you are a partnership;
  - (3) A member, if you are a limited liability company; or
  - (4) An executive officer or insurance manager, if you are a corporation.

**X. HIRED CAR – COVERAGE TERRITORY**

Item (5) of the Policy Period, Coverage Territory General Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

**Y. EMERGENCY LOCKOUT**

We will reimburse you up to \$100 for reasonable expense incurred for the services of a locksmith to gain entry into your covered "auto" subject to these provisions:

- 1. Your door key, electronic key or key entry pad has been lost, stolen or locked in your covered "auto" and you are unable to enter such "auto" ; or
- 2. Your keyless entry device battery dies and you are unable to enter such "auto" as a result;
- 3. Your key, electronic key or key entry pad has been lost or stolen and you have changed the lock to prevent an unauthorized entry; and

4. Original copies of receipts for services of a locksmith must be provided before reimbursement is payable.

**Z. CANCELLATION CONDITION**

Paragraph A.2. of the COMMON POLICY CONDITION – CANCELLATION applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the First Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states that require more than 60 days prior notice of cancellation.

**All terms and conditions of this policy apply unless modified by this endorsement.**

# COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM

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

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.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages for such "bodily injury" or "property damage" when the "underlying insurance" does not provide coverage or the limits of "underlying insurance" have been exhausted. When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other "suit" seeking damages to which this insurance may apply. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. At our discretion, we may investigate any "occurrence" that may involve this insurance and settle any resultant claim or "suit" for which we have the duty to defend. But:

- (1) The amount we will pay for the "ultimate net loss" 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 in the payment of judgments or settlements under Coverages A or B.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" or "property damage" that is subject to an applicable "retained limit". If any other limit, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "bodily injury" or "property damage" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "underlying insurance".
- c. This insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1.a. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- d. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1.a. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- e. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1.a. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

f. 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".

**2. Exclusions**

This insurance does not apply to:

**a. Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

**b. Contractual Liability**

"Bodily injury" or "property 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" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property 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 attorneys' 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.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

(a) The supervision, hiring, employment, training or monitoring of others by that insured; or

(b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage" involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

This exclusion does not apply to the extent that valid "underlying insurance" for the liquor liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" and "property damage". To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the liquor liability risks described above will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance", unless otherwise directed by this insurance.

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

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

**e. ERISA**

Any obligation of the insured under the Employee Retirement Income Security Act of 1974 (ERISA), and any amendments thereto or any similar federal, state or local statute.

**f. Auto Coverages**

(1) "Bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" which is not a "covered auto"; or

(2) Any loss, cost or expense payable under or resulting from any first-party physical damage coverage; no-fault law; personal injury protection or auto medical payments

coverage; or uninsured or underinsured motorist law.

#### g. 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.

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

With respect to injury arising out of a "covered auto", this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits. For the purposes of this insurance, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

This exclusion does not apply to the extent that valid "underlying insurance" for the employer's liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury". To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the employer's liability risks described above will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance", unless otherwise directed by this insurance.

#### h. Employment-related Practices

"Bodily injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily

injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b), or (c) above is directed.

This exclusion applies whether the injury-causing event described in Paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person.

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.

#### i. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time; or
- (2) "Pollution cost or expense".

This exclusion does not apply if valid "underlying insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" and "property damage". To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the pollution risks described above will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance", unless otherwise directed by this insurance.

#### j. Aircraft Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft 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 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:
  - (a) Less than 50 feet long; and

- (b) Not being used to carry persons or property for a charge;
- (3) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (4) The extent that valid "underlying insurance" for the aircraft or watercraft liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" or "property damage". To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the aircraft or watercraft risks described above will follow the same provisions, exclusions and limitations that are contained in the "underlying insurance", unless otherwise directed by this insurance; or
- (5) Aircraft that is:
  - (a) Chartered by, loaned to, or hired by you with a paid crew; and
  - (b) Not owned by any insured.

**k. Racing Activities**

"Bodily injury" or "property damage" arising out of the use of "mobile equipment" or "autos" in, or while in practice for, or while being prepared for, any prearranged professional or organized racing, speed, demolition, or stunting activity or contest.

**l. 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.

**m. Damage To Property**

"Property damage" to:

- (1) Property:
  - (a) You own, rent, or occupy, 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; or

- (b) Owned or transported by the insured and arising out of the ownership, maintenance or use of a "covered auto".
- (2) Premises you sell, give away or abandon, if the "property 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;
- (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" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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 (1)(b), (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to liability assumed under a written Trailer Interchange agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**n. Damage To Your Product**

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

**o. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

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.

**p. Damage To Impaired Property Or Property Not Physically Injured**

"Property 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.

**q. 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:

- (1) "Your product";
- (2) "Your work"; or
- (3) "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.

**r. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**s. Professional Services**

"Bodily injury" or "property damage" due to rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- (3) Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- (4) Engineering services, including related supervisory or inspection services;
- (5) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (6) Any health or therapeutic service treatment, advice or instruction;
- (7) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- (8) Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- (9) Optometry or optical or hearing aid services including the prescribing, preparation,

fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (10) Body piercing services;
- (11) Services in the practice of pharmacy;
- (12) Law enforcement or firefighting services; and
- (13) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

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 rendering of or failure to render any professional service.

**t. 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.

However, this exclusion does not apply to liability for damages because of "bodily injury".

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.

This exclusion does not apply if valid "underlying insurance" for the electronic data risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" and "property damage". The insurance provided under this Coverage Part will follow the same provisions, exclusions and limitations that are contained in the applicable "underlying insurance", unless otherwise directed by this insurance.

**u. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" 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 damages for such "personal and advertising injury" when the "underlying insurance" does not provide coverage or the limits of "underlying insurance" have been exhausted. When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other "suit" seeking damages to which this insurance may apply. 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. At our discretion, we may investigate any offense that may involve this insurance and settle any resultant claim or "suit" for which we have the duty to defend. But:

- (1) The amount we will pay for the "ultimate net loss" is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" that is subject to an applicable "retained limit". If any other limit, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "personal and advertising injury" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "underlying insurance".
- c. 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.

**2. Exclusions**

This insurance does not apply to:

- a. "Personal and advertising injury":

**(1) Knowing Violation Of Rights Of Another**  
 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".

**(2) Material Published With Knowledge Of Falsity**  
 Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

**(3) Material Published Prior To Policy Period**  
 Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

**(4) Criminal Acts**  
 Arising out of a criminal act committed by or at the direction of the insured.

**(5) Contractual Liability**  
 For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to:

- (a) Liability for damages that the insured would have in the absence of the contract or agreement.
- (b) Liability for false arrest, detention or imprisonment assumed in a contract or agreement.

**(6) Breach Of Contract**  
 Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

**(7) Quality Or Performance Of Goods – Failure To Conform To Statements**  
 Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

**(8) Wrong Description Of Prices**  
 Arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**(9) Infringement Of Copyright, Patent, Trademark Or Trade Secret**  
 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.

**(10) Insureds In Media And Internet Type Businesses**

Committed by an insured whose business is:

- (a) Advertising, broadcasting, publishing or telecasting;
- (b) Designing or determining content of web sites for others; or
- (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes 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.

**(11) Electronic Chatrooms Or Bulletin Boards**

Arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**(12) Unauthorized Use Of Another's Name Or Product**

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.

**(13) Pollution**

Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**(14) Employment-related Practices**

To:

- (a) A person arising out of any:
  - (i) Refusal to employ that person;
  - (ii) Termination of that person's employment; or
  - (iii) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious

prosecution directed at that person; or

- (b) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph **(i)**, **(ii)** or **(iii)** above is directed.

This exclusion applies whether the injury-causing event described in Paragraph **(i)**, **(ii)** or **(iii)** above occurs before employment, during employment or after employment of that person.

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.

**(15) Professional Services**

Arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (a) Legal, accounting or advertising services;
- (b) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- (c) Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- (d) Engineering services, including related supervisory or inspection services;
- (e) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (f) Any health or therapeutic service treatment, advice or instruction;
- (g) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- (h) Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- (i) Optometry or optical or hearing aid services including the prescribing,

preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (j) Body piercing services;
- (k) Services in the practice of pharmacy;
- (l) Law enforcement or firefighting services; and
- (m) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

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 offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional service.

**(16) War**

However caused, arising, directly or indirectly, out of:

- (a) War, including undeclared or civil war;
- (b) 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
- (c) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**(17) Recording And Distribution Of Material Or Information In Violation Of Law**

Arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (a) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (b) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (c) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (d) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending,

transmitting, communicating or distribution of material or information.

- b. "Pollution cost or expense".

**SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend, when the duty to defend exists:

- a. All expenses we incur.
- b. Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "occurrence" we cover. 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 \$250 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. When we have the right but not the duty to defend the insured and elect to participate in the defense, we will pay our own expenses but will not contribute to the expenses of the insured or the "underlying insurer".
- 3. 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 that 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 Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property 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 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.

## SECTION II – WHO IS AN INSURED

1. Except for liability arising out of the ownership, maintenance or use of "covered autos":
  - a. If you are designated in the Declarations as:
    - (1) 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.
    - (2) 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.
    - (3) 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.
    - (4) 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.
    - (5) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
  - b. Each of the following is also an insured:
    - (1) 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:
      - (a) "Bodily injury" or "personal and advertising injury":
        - (i) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" in the course of his or her employment or performing duties related to the conduct of your business or to your other "volunteer workers" while performing duties related to the conduct of your business;
        - (ii) To the spouse, child, parent, brother or sister of that co-"employee" or

"volunteer worker" as a consequence of Paragraph **(a)(i)** above; or

- (iii)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(a)(i)** or **(ii)** above.
- (b)** "Property damage" to property:
  - (i)** Owned, occupied or used by;
  - (ii)** 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).
- (2)** Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- (3)** Any person or organization having proper temporary custody of your property if you die, but only:
  - (a)** With respect to liability arising out of the maintenance or use of that property; and
  - (b)** Until your legal representative has been appointed.
- (4)** 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 Coverage Part.
- c.** 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:
  - (1)** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - (2)** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - (3)** Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

- 2.** Only with respect to liability arising out of the ownership, maintenance or use of "covered autos":
  - a.** You are an insured.
  - b.** Anyone else while using with your permission a "covered auto" you own, hire or borrow is also an insured except:
    - (1)** The owner or anyone else from whom you hire or borrow a "covered auto". This exception does not apply if the "covered auto" is a trailer or semitrailer connected to a "covered auto" you own.
    - (2)** Your "employee" if the "covered auto" is owned by that "employee" or a member of his or her household.
    - (3)** Someone using a "covered auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
    - (4)** Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a "covered auto".
    - (5)** A partner (if you are a partnership), or a member (if you are a limited liability company) for a "covered auto" owned by him or her or a member of his or her household.
    - (6)** "Employees" with respect to "bodily injury" to:
      - (a)** Any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
      - (b)** The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **(a)** above.
  - c.** Anyone liable for the conduct of an insured described above is also an insured, but only to the extent of that liability.
- 3.** Any additional insured under any policy of "underlying insurance" will automatically be an insured under this insurance.
 

Subject to Section III – Limits Of Insurance, if coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

  - a.** Required by the contract or agreement, less any amounts payable by any "underlying insurance"; or

b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "underlying insurance".

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

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, "suits" brought, or number of vehicles involved; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss" under:
  - a. Coverage **A**, except "ultimate net loss" because of "bodily injury" or "property damage" arising out of the ownership, maintenance or use of a "covered auto"; and
  - b. Coverage **B**.
3. Subject to Paragraph 2. above, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under Coverage **A** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all "ultimate net loss" because of all "personal and advertising injury" sustained by any one person or organization.
5. If there is "underlying insurance" with a policy period that is nonconcurrent with the policy period of this Commercial Liability Umbrella Coverage Part, the "retained limit(s)" will only be reduced or exhausted by payments for:
  - a. "Bodily injury" or "property damage" which occurs during the policy period of this Coverage Part; or
  - b. "Personal and advertising injury" for offenses that are committed during the policy period of this Coverage Part.

However, if any "underlying insurance" is written on a claims-made basis, the "retained limit(s)" will only be reduced or exhausted by claims for that insurance that are made during the policy period, or any Extended Reporting Period, of this Coverage Part.

The Aggregate Limit, as described in Paragraph 2. above, applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – CONDITIONS

#### 1. Appeals

If the "underlying insurer" or insured elects not to appeal a judgment in excess of the "retained limit", we may do so at our own expense. We will also pay for taxable court costs, pre- and postjudgment interest and disbursements associated with such appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in Section III – Limits Of Insurance.

#### 2. Bankruptcy

##### a. Bankruptcy Of Insured

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

##### b. Bankruptcy Of Underlying Insurer

Bankruptcy or insolvency of the "underlying insurer" will not relieve us of our obligations under this Coverage Part.

However, this insurance will not replace the "underlying insurance" in the event of bankruptcy or insolvency of the "underlying insurer". This insurance will apply as if the "underlying insurance" were in full effect.

#### 3. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense, regardless of the amount, which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense 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" or offense.
- 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, without our consent.

**4. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- 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 Coverage Part 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 Coverage Part 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.

**5. Other Insurance**

- a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, we will have no duty under Coverages **A** or **B** 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.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of the insurance provided under this Coverage Part; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

**6. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**7. Representations Or Fraud**

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;
- c. We have issued this policy in reliance upon your representations; and
- d. This policy is void in any case of fraud by you as it relates to this policy or any claim under this policy.

**8. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part 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.

**9. 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 Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them.

At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

#### 10. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### 11. Loss Payable

Liability under this Coverage Part does not apply to a given claim unless and until:

- a. The insured or insured's "underlying insurer" has become obligated to pay the "retained limit"; and
- b. The obligation of the insured to pay the "ultimate net loss" in excess of the "retained limit" has been determined by a final settlement or judgment or written agreement among the insured, claimant and us.

#### 12. Transfer Of Defense

When the underlying limits of insurance have been used up in the payment of judgments or settlements, the duty to defend will be transferred to us. We will cooperate in the transfer of control to us of any outstanding claims or "suits" seeking damages to which this insurance applies which would have been covered by the "underlying insurance" had the applicable limit not been used up.

#### 13. Maintenance Of/Changes To Underlying Insurance

Any "underlying insurance" must be maintained in full effect without reduction of coverage or limits except for the reduction of the aggregate limit in accordance with the provisions of such "underlying insurance" that results from payment of claims, settlement or judgments to which this insurance applies.

Such exhaustion or reduction is not a failure to maintain "underlying insurance". Failure to maintain "underlying insurance" will not invalidate insurance provided under this Coverage Part, but insurance provided under this Coverage Part will apply as if the "underlying insurance" were in full effect.

If there is an increase in the scope of coverage of any "underlying insurance" during the term of this policy, our liability will be no more than it would have been if there had been no such increase.

You must notify us in writing, as soon as practicable, if any "underlying insurance" is cancelled, not renewed, replaced or otherwise

terminated, or if the limits or scope of coverage of any "underlying insurance" is changed.

#### 14. Expanded Coverage Territory

- a. If a "suit" is brought in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from defending the insured, the insured will initiate a defense of the "suit". We will reimburse the insured, under Supplementary Payments, for any reasonable and necessary expenses incurred for the defense of a "suit" seeking damages to which this insurance applies, that we would have paid had we been able to exercise our right and duty to defend.

If the insured becomes legally obligated to pay sums because of damages to which this insurance applies in a part of the "coverage territory" that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and we are prevented by law, or otherwise, from paying such sums on the insured's behalf, we will reimburse the insured for such sums.

- b. All payments or reimbursements we make for damages because of judgments or settlements will be made in U.S. currency at the prevailing exchange rate at the time the insured became legally obligated to pay such sums. All payments or reimbursements we make for expenses under Supplementary Payments will be made in U.S. currency at the prevailing exchange rate at the time the expenses were incurred.
- c. Any disputes between you and us as to whether there is coverage under this policy must be filed in the courts of the United States of America (including its territories and possessions), Canada or Puerto Rico.
- d. The insured must fully maintain any coverage required by law, regulation or other governmental authority during the policy period, except for reduction of the aggregate limits due to payments of claims, judgments or settlements.

Failure to maintain such coverage required by law, regulation or other governmental authority will not invalidate this insurance. However, this insurance will apply as if the required coverage by law, regulation or other governmental authority was in full effect.

#### SECTION V – DEFINITIONS

1. "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.
2. "Auto" means:
- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.
- However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, disability, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".
4. "Coverage territory" means anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.
5. "Covered auto" means only those "autos" to which "underlying insurance" applies.
6. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
7. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
8. "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.
9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of

premises that indemnifies any person or organization for damage by fire 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, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- 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 contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".
- g. 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" or "property 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.

Paragraphs f. and g. do not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
  - (2) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
  - (3) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a "covered auto" over a route or territory that person or organization is authorized to serve by public authority.
10. "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".

**11.** "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;

but "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".

**12.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - (1)** Power cranes, shovels, loaders, diggers or drills; or
  - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **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 Paragraph **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:
  - (a)** Snow removal;
  - (b)** Road maintenance, but not construction or resurfacing; or

**(c)** Street cleaning;

- (2)** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law 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".

**13.** "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**14.** "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"; or
- g.** Infringing upon another's copyright, trade dress or slogan in your "advertisement".

**15.** "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**16.** "Pollution cost or expense" means any loss, cost or expense arising out of any:

- a.** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- b.** Claim or suit by or on behalf of a governmental authority for damages because of testing for,

monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**17. "Products-completed operations hazard":**

**a.** Includes all "bodily injury" and "property damage" occurring away from premises you own or rent 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" or "property damage" arising out of:

- (1)** 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
- (2)** The existence of tools, uninstalled equipment or abandoned or unused materials.

**18. "Property damage" means:**

- a.** Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b.** Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

With respect to the ownership, maintenance or use of "covered autos", property damage also includes "pollution cost or expense", but only to the extent that coverage exists under the

"underlying insurance" or would have existed but for the exhaustion of the underlying limits.

For the purposes of this insurance, with respect to other than the ownership, maintenance or use of "covered autos", 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, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- 19.** "Retained limit" means the available limits of "underlying insurance" scheduled in the Declarations or the "self-insured retention", whichever applies.
- 20.** "Self-insured retention" means the dollar amount listed in the Declarations that will be paid by the insured before this insurance becomes applicable only with respect to "occurrences" or offenses not covered by the "underlying insurance". The "self-insured retention" does not apply to "occurrences" or offenses which would have been covered by "underlying insurance" but for the exhaustion of applicable limits.
- 21.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
  - a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent or the "underlying insurer's" consent.
- 22.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 23.** "Ultimate net loss" means the total sum, after reduction for recoveries or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of settlement or judgments or any arbitration or other alternate dispute method entered into with our consent or the "underlying insurer's" consent.
- 24.** "Underlying insurance" means any policies of insurance listed in the Declarations under the Schedule of "underlying insurance".
- 25.** "Underlying insurer" means any insurer who provides any policy of insurance listed in the Schedule of "underlying insurance".

**26.** "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.

**27.** "Your product":

**a.** Means:

**(1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

**(a)** You;

**(b)** Others trading under your name; or

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

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

**b.** Includes:

**(1)** Warranties or representations made at any time with respect to the fitness, quality,

durability, performance or use of "your product"; and

**(2)** The providing of or failure to provide warnings or instructions.

**c.** Does not include vending machines or other property rented to or located for the use of others but not sold.

**28.** "Your work":

**a.** Means:

**(1)** Work or operations performed by you or on your behalf; and

**(2)** Materials, parts or equipment furnished in connection with such work or operations.

**b.** Includes:

**(1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

**(2)** The providing of or failure to provide warnings or instructions.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.  
ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

Blanket, as required by written contract

**Location(s) Of Covered Operations**

**All locations required by written contract or agreement**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply: This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**All terms and conditions of this policy apply unless modified by this endorsement.**

**ACP3059437182**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.  
ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Additional Insured Person(s) Or Organization(s):**

Blanket, as required by written contract

**Location And Description Of Completed Operations:**

**All locations required by written contract or agreement**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

**All terms and conditions of this policy apply unless modified by this endorsement.**

ACP3059437182

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY  
WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS  
ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**SCHEDULE**

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement Effective 10/1/2025  
Insured Arizona Restaurant Supply

Policy No. ACP3059437182

Endorsement No. 1  
Premium

Insurance Company  
Nationwide Assurance Company

Countersigned By \_\_\_\_\_

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY  
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) –  
AUTOMATIC**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
ELECTRONIC DATA LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES  
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

We waive any right of recovery against any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

## PREAMBLE

This Policy is a contract of insurance between **you** and **us**. Please read the entire Policy carefully to determine **your** rights, duties, and what is covered/not covered. The Policy must be read together with the Declarations page and any Endorsements.

This coverage is provided on a Claims Made and Reported basis. Except as otherwise provided, this coverage applies only to **claims** first made against **you** during the **policy period** and reported in writing to **us** pursuant to the terms of this Policy. Please review the coverage afforded under this Policy carefully and discuss with **your** insurance agent or broker if necessary.

Terms in bold, lower case print are defined terms and have a special meaning as set forth in Section XI. DEFINITIONS. Words stated in the singular will include the plural and vice versa.

In consideration of payment of the premium due, and in reliance upon the information that **you** have provided to **us** prior to the commencement of this Policy, **we** agree to provide the cover as set out below.

## I. INSURING CLAUSES - WHAT WE COVER

It is condition precedent to **our** obligations to **you** that:

1. any **claim** must first be made against **you** during the **policy period** or any applicable **extended reporting period**;
2. any **claim** or **rectification event** be reported to **us** in writing as soon as practicable during the **policy period**, but in no event later than sixty days (60) after the expiration of the **policy period**, or during any applicable **extended reporting period**;
3. the acts, errors or omissions, including any series of related acts errors or omissions, that give rise to the **claim** or **rectification event** occur wholly on or after the Retroactive Date;
4. prior to the inception of this Policy, **you** had no knowledge of any facts or **circumstances** that give rise to any **claim** or **rectification event**.

## PROFESSIONAL LIABILITY

**We** agree to pay those sums which **you** become legally obligated to pay as **damages** and **claims expenses** for any **claim** arising out of any:

### INSURING CLAUSE 1: DESIGN/ENGINEERING/CONSTRUCTION PROFESSIONAL LIABILITY

negligent act, error, omission or **pollution condition** in rendering or failing to render **professional services** by **you** or by any person, including an independent contractor, for whose negligent act, error or omission **you** are legally responsible.

## INSURING CLAUSE 2: TECHNOLOGY-BASED SERVICES & PRODUCTS

- A. negligent act, error or omission, or any unintentional breach of contract, in rendering or failing to render **technology-based services** by **you** or by any person, including an independent contractor, for whose negligent act, error or omission or unintentional breach of contract **you** are legally responsible.
- B. negligent act, error or omission, or any unintentional breach of contract by **you** that results in the failure of **technology products** to perform their function or serve the purpose intended.

## RECTIFICATION COVER

**We** agree to pay rectification costs reasonably and necessarily incurred by **you** with **our** prior written consent for a **rectification event** provided that:

### INSURING CLAUSE 3: RECTIFICATION COSTS

- A. prior to incurring any rectification cost, **you** can demonstrate to **us** the likelihood of a **claim** being made against **you** in the absence of such efforts;
- B. the proposed rectification costs are less than the expected **damages** from the anticipated **claim**; and
- C. the proposed rectification costs do not include any provision for salaries or other remuneration of **your** employees, any provision for **your** loss of profit or any provision for **your** normal operating expenses.

## POLLUTION & MOLD LIABILITY

**We** agree to pay those sums which **you** become legally obligated to pay as **damages** and **claims expenses** resulting from any **claim**:

### INSURING CLAUSE 4: POLLUTION LIABILITY

for any **pollution condition**:

- A. arising out of the performance of or failing to perform **contracting services** by **you** or by any person, including an independent contractor, for whom **you** are legally responsible.
- B. wholly occurring during and resulting solely from **transportation**. This Insuring Clause shall not be utilized to evidence **your** financial responsibility under any federal, state, provincial or local law.
- C. originating from a **non-owned disposal site** and that is on, at, under or migrates from such **non-owned disposal site**; provided that the **pollution condition** arises from waste or materials generated by the performance of **contracting services**.

## INSURING CLAUSE 5: MOLD LIABILITY

for any **mold condition** arising out of the **completed operations hazard**.

## CYBER LIABILITY

We agree to pay those sums which **you** become legally obligated to pay as **damages** and **claims expenses** resulting from any **claim**:

## INSURING CLAUSE 6: CYBER, PRIVACY & COMPUTER NETWORK SECURITY

arising out of any negligent act, error or omission resulting in a **first party privacy breach, third party privacy breach** or **network security event**. In order for coverage to be triggered **you** must, at the time of such acts, errors or omissions, have in place a **privacy policy** that addresses the subsections contained with the definition of **privacy breach** or **network security event**.

## MEDIA & ADVERTISING LIABILITY

We agree to pay **damages** and **claims expenses** resulting from any **claim**:

## INSURING CLAUSE 7: MEDIA & ADVERTISING LIABILITY

for liability imposed by law or **assumed under contract** arising out of:

- a. defamation, libel, slander, product disparagement, trade libel, prima facie tort, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
- b. invasion of or interference with the right to privacy or of publicity;
- c. misappropriation of any name or likeness for commercial advantage;
- d. false arrest, detention or imprisonment or malicious prosecution;
- e. invasion of or interference with any right to private occupancy, including trespass, wrongful entry, eviction or eavesdropping;
- f. plagiarism, piracy or misappropriation of ideas under implied contract;
- g. infringement of copyright;
- h. infringement of trade dress, domain name, title or slogan, or the dilution or infringement of trademark or service mark;

- i. negligence regarding the content of any media communication, including harm caused through any reliance or failure to rely upon such content; or
- j. misappropriation of trade secret;

in the course of **your** performance of **professional services, media activities or technology-based services**.

Provided, however, this Policy shall not apply to any **claim** for, or arising out of the disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person prior to the date he or she became an employee, officer, director, principal or partner of **yours**.

## II. SUPPLEMENTARY PAYMENTS

Payments made under this Section are not subject to the Each Claim Deductible and are payable by **us** in addition to the Limits of Liability (see Declarations and Section III. HOW MUCH WE WILL PAY):

### A. Court/Mediation Attendance Reimbursement

Upon **our** request, **you** shall attend mediation meetings, arbitration proceedings, hearings, depositions and trials relative to the defense of a **claim**. After the first 3 days' attendance required for each **claim**, **we** shall reimburse **you**, upon written request, for actual loss of earnings and reasonable expenses due to such attendance up to \$500 for each day, subject to a maximum amount of \$10,000 for each **claim**.

### B. Regulatory / Administrative Actions Reimbursement

Upon **your** written request **we** will reimburse **you** for legal fees and expenses up to \$30,000 in the aggregate for the **policy period** that **you** incur, with our prior written consent, in responding to a regulatory or administrative action brought directly against **you** during the **policy period** by a government agency under the Americans with Disabilities Act of 1990 (ADA), the Fair Housing Act (FHA) or the Occupational Safety and Health Act (OSHA) or any similar law or legislation of any state, provided that the regulatory or administrative action:

- i. arises out of **your** rendering of or failure to render **professional services**; and
- ii. is reported to **us** during the **policy period**.

**We** have no duty to defend **you** against any regulatory or administrative action or to pay any fine, penalty or award resulting from any regulatory or administrative action. After **we** have paid \$30,000 under this Section II.B., **we** shall not be obligated to pay any further legal fees and expenses.

### C. Disciplinary Proceedings Reimbursement

Upon **your** written request **we** will reimburse **you**, upon written request, for legal fees and expenses up to \$10,000 in the aggregate for the **policy period**, incurred by **you** with **our** prior written consent, in responding to a disciplinary proceeding brought directly against **you** during the **policy period** provided that the disciplinary proceeding:

- i. arises out of **your** rendering of or failure to render **professional services**; and

- ii. is reported to the **us** during the **policy period**.

**We** have no duty to defend **you** against any disciplinary proceeding or to pay any fine, penalty or award resulting from any disciplinary proceeding. After **we** have paid \$10,000 under this Section II.C., **we** will not be obligated to pay any further legal fees and expenses.

#### D. Reputation Management Reimbursement

**We** will reimburse **you** up to \$15,000 in in the aggregate for the **policy period**, for costs for reputational management consulting services provided by a public relations firm which are incurred, by **you**, in connection with a **claim** covered under this Policy which **you** reasonably believe will have a material adverse effect upon **your** reputation.

After **we** have paid \$15,000 under this Section II.D., **we** shall not be obligated to pay any further Reputational Management Expenses.

### III. HOW MUCH WE WILL PAY

- A. The Limit of Liability stated in Item 3.(a) of the Declarations for Each Claim is the limit of what **we** will pay for all **damages** and **claims expenses** arising out of any single **claim**, or for rectification costs due to a **rectification event**, subject to any applicable sub-limits stated in Item 3.(b) of the Declarations. If more than one Insuring Clause is triggered by a single **claim**, only one Each Claim limit will apply and this will be the highest of the Each Claim limits available.
- B. The Overall Policy Aggregate Limit of Liability stated in Item 3.(c) of the Declarations is **our** combined total Limit of Liability for all **claims** and **rectification events** which are covered under the terms and conditions of this Policy, subject to any applicable sub-limits stated in Item 3.(c) of the Declarations.
- C. When **we** defend a **claim**, **we** will pay **claims expenses** incurred with **our** prior written consent. The Limit of Liability available to pay **damages** shall be reduced by, and may be completely exhausted by, payment of **claims expenses**. **Damages** and **claims expenses** shall be applied against the Each Claim Deductible.
- D. Neither the inclusion of more than one Insured under this Policy, nor the making of **claims** by more than one person or entity shall increase the Limit of Liability.
- E. **Our** maximum aggregate Limit of Liability with respect to all **claims** brought by, or on behalf of, or in the name of, or involving the same claimant on a single project or related projects, shall not exceed the Each Claim Limit of Liability stated in Item 3.(a) of the Declarations.

### IV. YOUR DEDUCTIBLE

- A. The Each Claim Deductible stated in Item 4. of the Declarations applies separately to each **claim** or **rectification event**. It is **your** obligation to satisfy the Each Claim Deductible by payment of **damages**, **claims expenses** or both. **Your** payment of the Each Claim Deductible is a condition precedent to **our** obligations to pay covered **damages** and **claims expenses**, and **we** shall be liable only for amounts in excess of said Deductible.

- B. If **you** are covered for **damages** and/or **claims expenses** under any other Policy of insurance, **your** payment of any Deductible under those Policies will not satisfy **your** obligation to pay the Each Claim Deductible under this Policy.
- C. If, upon **our** request, **you** agree to use mediation to resolve a **claim** prior to the commencement of litigation, and the **claim** is resolved as a result of the mediation, then **your** Deductible obligation shall be reduced by fifty percent (50%) to a maximum reduction of \$25,000.

## V. YOUR OBLIGATIONS IN THE EVENT OF A CLAIM/CIRCUMSTANCE

- A. If any **claim** is made against **you**, **you** shall forward as soon as practicable through the persons named in Item 8. of the Declarations, written notice of the **claim to us** by email or letter which should include any related documents **you** have received. This must be received by **us** no later than sixty calendar days (60) after the expiration of the **policy period**, or by the end of the **extended reported period** if purchased.
- B. **You** shall not take any action which in any way increases **our** exposure under the Policy. **You** shall not, without **our** prior written consent:
  1. admit liability;
  2. make any payment;
  3. assume any obligations;
  4. incur any expense;
  5. enter into any settlement;
  6. stipulate to any judgement or award; or
  7. dispose of any **claim**.
- C. A **claim** shall be considered as reported to **us** when written notice is first received by **us**.
- D. If, during the **policy period**, **you** become aware of any **circumstance**, **you** should report the following in writing to the persons named in Item 8. of the Declarations:
  1. the specific details of the act, error or omission, **pollution condition** or **mold condition** that gave rise to the **circumstance**;
  2. the injury or damage which may result or has resulted from the **circumstance**; and
  3. the facts by which **you** first became aware of the **circumstance**.

Any subsequent **claim** made against **you** arising out of such **circumstance** will be deemed to have been made at the time written notice complying with the above requirements was first received by **us**.

## VI. YOUR ASSISTANCE, COOPERATION & REPRESENTATIONS

- A. **You** shall cooperate with **us** in all investigations, including investigations regarding the **application** for and coverage under this Policy.
- B. Upon **our** request, **you** shall render all assistance as is requested by **us**, including:
1. executing all papers;
  2. assisting in making settlements;
  3. assisting in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to **you** because of acts, errors, omissions, **pollution conditions**, **mold conditions** or **media activities** with respect to which insurance is afforded under this Policy; and
  4. attending hearings and trials and assisting in securing and giving evidence and obtaining the attendance of witnesses.
- C. If **you** shall make any **claim** under this Policy knowing such **claim** to be false or fraudulent, with regards to the amount or otherwise, this Policy shall become null and void, and all coverage hereunder shall be forfeited.
- D. By acceptance of this Policy, **you** agree that the statements contained in any **application** submitted therewith are **your** agreements and representations, that they shall be deemed material to the risk assumed by **us**, and that this Policy is issued in reliance upon the truth thereof. The misrepresentation or non-disclosure of any matter by **you** or **your** agent in any **application** submitted to **us** will render the Policy null and void and relieve **us** from all liability under the Policy. The **application** is deemed incorporated into and made a part of this Policy.

## VII. OUR OBLIGATIONS IN THE EVENT OF A CLAIM/CIRCUMSTANCE

- A. **We** shall have the right and duty to defend, subject to the Limit of Liability, exclusions and other terms and conditions of this Policy:
1. any **claim** against **you** seeking **damages** which are payable under the terms of this Policy, even if any of the allegations of the **claim** are groundless, false or fraudulent; or
  2. any **claim** in the form of a civil suit against **you** that seeks injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction) for one or more of the acts listed in Insuring Clause 7.a.

- B. **We** shall have the right to make any investigation **we** deem necessary, including, without limitation, any investigation with respect to the **application** and statements made in the **application** and with respect to coverage.

However, notwithstanding the above, **your** rights under this Policy shall not be prejudiced by any refusal to disclose the identity of any confidential source of information, or to produce any documentation or information obtained in the course of **media activities** in respect of which **you** have asserted a claim of reporter's privilege or any other privilege regarding the protection of news-gathering activities.

- C. **We** have the right, at **our** discretion, to negotiate and settle any **claim** but will not enter into a settlement without **your** written consent. If **you** shall refuse to consent to any settlement or compromise **we** recommend which is acceptable to the claimant and **you** elect to contest the **claim**, **our** liability for any **damages** and **claims expenses** shall not exceed:
1. the amount for which the **claim** could have been settled, less the remaining Each Claim Deductible, plus the **claims expenses** incurred up to the time of such refusal; and
  2. 30% of any **damages** and **claims expenses** incurred after the date such settlement or compromise was recommended to **you**, with the remaining 70% of such **damages** and **claims expenses** to be borne by **you** at **your** own risk and uninsured; or
  3. the applicable Limit of Liability, whichever is less.

At that point **we** shall have the right to withdraw from the further defense thereof by tendering control of said defense to **you**. The portion of any proposed settlement or compromise that requires **you** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity, or is attributable to future royalties or other amounts that are not **damages**, shall not be considered in determining the amount for which a **claim** could have been settled.

- D. It is further provided that **we** shall not be obligated to pay any **damages** or **claims expenses**, or to undertake or continue defense of any suit or proceeding after the applicable Limit of Liability has been exhausted, or after deposit of the applicable Limit of Liability in a court of competent jurisdiction.
- E. In the event **we** make any payment under this Policy, **we** shall be subrogated to all of **your** rights of recovery therefore against any person, organization or other third party, and **you** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. **You** will do nothing to prejudice such subrogation rights.

Any amount recovered upon the exercise of such rights of subrogation shall be applied as follows: first, to the repayment of expenses incurred toward subrogation; second, to **damages** and/or **claims expenses** paid by **us**; and third, to the Deductible. Any additional amounts recovered shall be paid to **you**.

**We** agree to waive **our** rights of recovery against any client of **yours** for a **claim** which is covered pursuant to this Policy if **you** had, prior to such **claim**, a written agreement in place to waive such rights.

- F. This Insurance shall apply in excess of and shall not contribute with:
1. any other insurance or indemnification available to **you**, whether such insurance or indemnification is collectible or uncollectible, whether such insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, including, but not limited to, any project specific professional liability, contractors pollution liability and/or products and completed operations liability insurance; and
  2. any self-insured retention or deductible portion thereof;

unless such other insurance is written only as specific excess insurance over the Limit of Liability of this Policy.

## VIII. CANCELLATION

- A. **You** may cancel this Policy with thirty days' (30) notice by:
1. surrendering a copy of the Policy to **us**; or
  2. delivering to **us** written notice stating **your** desire to cancel the Policy and providing a date for cancellation.
- B. **We** may cancel this Policy by delivering to **you** at the address shown in the Declarations, written notice stating **our** intention to cancel the policy with the reasons for cancellation.

This written notice must be delivered to **you** not less than thirty days (30) prior to the proposed cancellation date. The effective date of cancellation stated in the notice shall become the end of the **policy period**.

If **you** fail to pay a premium when due, then upon ten days' notice to **you**, the Policy is cancelled at inception and no coverage will be provided by **us**.

- C. If this Policy is cancelled by **you**, **we** shall retain the pro rata portion of the premium as determined by the cancellation date, subject to a minimum amount of 30% of the annual premium. If this Policy is cancelled by **us**, **we** shall retain the pro rata portion of the premium as determined by the cancellation date. Payment or tender of any unearned premium by **us** shall not be a condition precedent to the effectiveness of cancellation.
- D. In the event of any **claim** or **circumstance** under this Policy, all premium shall be deemed as earned at the time of notice of such **claim** or **circumstance**, and **we** are not obligated to return any premium to **you** in the event of pursuant cancellation by **you** or **us**.

## IX. OPTIONAL EXTENDED REPORTING PERIOD

- A. If this Policy is cancelled or non-renewed by **us** (except for non-payment of premium) or cancelled by **you**, then **you** shall have the right, upon payment of an additional premium calculated at that percentage shown in Item 7.(a) of the Declarations of the total premium for this Policy, to an extension of the coverage granted by this Policy with respect to any **claim** first made against **you** and reported in writing to **us** during the period of time set forth in Item 7.(b) of the Declarations after the end of the **policy period**, but only with respect to any act, error, omission, **pollution condition** or **mold condition** committed, performed or arising wholly on or after the Retroactive Date and wholly before the effective date of cancellation or non-renewal.
- B. As a condition precedent to **your** right to purchase an **extended reported period**, the total premium for this Policy, and any Deductible payments due, must have been paid. The right to purchase an **extended reported period** shall terminate unless written notice together with full payment of the premium for the **extended reported period** is given to **us** within thirty days (30) after the effective date of cancellation or non-renewal.
- C. At the commencement of the **extended reported period**, the entire premium shall be deemed fully earned, and in the event of **you** terminating the **extended reported period** for any reason, **we** shall not be liable to return to **you** any portion of the premium received.
- D. The Limit of Liability for the **extended reported period** shall be part of, and not in addition to the Limit of Liability for the **policy period**, and is in no way increased by its purchase.

## X. EXCLUSIONS

**We** will have no obligation to defend **you**, or to pay any **damages** or **claims expenses** **you** become obligated to pay for any **claim** based upon, arising out of, attributable to or involving directly or indirectly:

### A. EXCLUSIONS APPLICABLE TO ALL INSURING CLAUSES

#### 1. Criminal, Dishonest, Intentional, Fraudulent, Malicious, Wilful or Knowing Acts

any criminal, dishonest, intentional, fraudulent, malicious, willful or knowing act, error or omission committed by **you**; however, this Policy shall apply to **claims expenses** incurred in defending any such **claim** alleging the foregoing until such time as there is a final adjudication, judgment, binding arbitration decision or conviction against **you**, or admission by **you**, establishing such criminal, dishonest, intentional, fraudulent, malicious willful or knowing conduct, or a plea of *nolo contendere* or no contest regarding such conduct, at which time **you** shall reimburse **us** for all **claims expenses** incurred defending the **claim**, and **we** shall have no further liability for **claims expenses**.

Provided, that this exclusion shall not apply to any **claim** based upon or arising from **your** unintentional breach of a written agreement to refrain from disclosing confidential or proprietary information in rendering or failure to render **professional services** or in the performance of or failure to perform **contracting services**.

#### 2. Prior Knowledge, Prior Notice and Prior Acts

any actual or alleged act, error or omission, **pollution condition** or **mold condition** committed or arising prior to the inception date of this Policy;

- a. if any director, officer, principal, partner, insurance manager or any member of **your** risk management or legal department knew or could have reasonably foreseen, on or before the inception date, that such act, error or omission, **pollution condition** or **mold condition** might be expected to be the basis of a **claim**; or
- b. in respect of which **you** have given notice of a **claim** or **circumstance** to the insurer of any other policy in force prior to the inception date of this Policy.

### 3. Insured versus Insured

any entity or individual that qualifies as an Insured under this Policy as per Section XI. PP., provided, that this exclusion shall not apply to a **Claim** by or on behalf of any of **your** clients who qualify as an Insured by virtue of Section XI. PP.7.

### 4. Ownership Interest and Outside Positions

any of **your** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than **your** own, or any entity which:

- a. is operated, managed or controlled by **you** or in which **you** have an ownership interest which cumulatively exceeds fifteen percent (15%), or in which **you** are an officer or director; or
- b. operates, controls or manages **you**, or has an ownership interest of more than fifteen percent (15%) in **you**.

### 5. Discrimination, Humiliation, Harassment and Misconduct

any actual or alleged discrimination, humiliation, harassment or misconduct because of age, color, race, sex, creed, national origin, marital status, sexual preference or orientation, religion, disability or pregnancy; provided, that this exclusion shall not apply to any **claim** based upon the Americans with Disabilities Act of 1990 (ADA), as amended, or the Fair Housing Act (FHA), or any state or local versions of those acts, and arising out of **your** rendering or failure to render **professional services**.

### 6. Contractual Liability

the breach of any contractual obligation except:

- a. an express or implied duty to exercise a degree of care or skill as is consistent with applicable industry standards; or
- b. any liability that would exist in the absence of such contract.

### 7. Express Warranties, Representations, Guarantees and Promises

the breach of any:

- a. express warranty or representation except for an agreement to perform within

a reasonable standard of care or skill consistent with applicable industry standards; or

- b. guarantee or any promise including, without limitation, cost saving, cost of construction, maximum construction price, financing, profit, or return on investment, unless proximately caused by **your** negligent act, error or omission in rendering or failure to render **professional services**.

#### 8. Faulty Workmanship

the cost to repair or replace any faulty workmanship performed in whole or in part by **you** on any construction, erection, fabrication, installation, assembly, manufacture or remediation, including any materials, parts, labor or equipment furnished in connection with such repair or replacement. However, this exclusion does not apply if the faulty workmanship is proximately caused by **your** negligent act, error or omission in rendering or failure to render **professional services**.

#### 9. Asbestos / Lead Based Paint

any asbestos or lead-based paint, or any materials containing asbestos or lead-based paint in whatever form or quantity; provided, that this exclusion does not apply to:

- a. any **claim** which is proximately caused by a negligent act, error or omission in rendering or failure to render **professional services** on or after January 1<sup>st</sup> 1990, or the Retroactive Date set forth in Item 6. of the Declarations (whichever is later) by or on behalf of **you**;
- b. any **claim** arising out of any asbestos or lead abatement operations performed on behalf of **you** by a certified and insured asbestos and/or lead abatement subcontractor or subconsultant;
- c. any **claim** arising out of the inadvertent disturbance of asbestos or lead-based paint or materials containing asbestos or lead-based paint by or on behalf of **you** during the rendering of **professional services** or the performance of **contracting services**; or
- d. any **claim** which is covered pursuant to Insuring Clause 4.B. or 4.C. of this Policy.

#### 10. Employers Liability and Workers Compensation

- a. **bodily injury** to **you**, including any of **your** employees or independent contractors, arising out of and in the course of their employment by **you**;
- b. **your** employment obligations, decisions, practices or policies as an employer; or
- c. any obligation which **you**, or any carrier as **your** insurer, may be liable under any worker's compensation, unemployment compensation or disability benefits law or similar law.

#### 11. Products Liability

the design or manufacture of any goods or products which are sold or supplied by **you**, or by others under license from **you**, provided that this exclusion shall not apply to;

- a. any **claim** arising from **your professional services** in the design of a good or product which is a custom design and replicated no more than five times;
- b. the design of any system or process which is a custom design, whereby the individual components or products might be replicated in nature, but the overall system or process is a one-off;
- c. any **claim** which is covered pursuant to Insuring Clause 4.A. of this Policy arising out of the fabrication, assembly or installation of any goods or products provided by **you**; or
- d. any **claim** which is covered pursuant to Insuring Clause 2.B. of this Policy.

## 12. Property Liability

**your** ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment or condemnation of any real or personal property including without limitation; automobiles, aircraft, watercraft and other kinds of conveyances; provided, that this exclusion does not apply to:

- a. any **claim** which is covered pursuant to Insuring Clause 4.A. of this Policy arising out of any property **you** have voluntarily or involuntarily sold, transferred, exchanged, given away or abandoned, or that has been condemned where **you** performed **contracting services** and **you** have never occupied, used, rented or leased such property; or
- b. any **claim** which is covered pursuant to Insuring Clause 4.B. of this Policy.

## 13. Property Damage to Your Work and Products

any **property damage** under Insuring Clause 4.A. or 5.:

- a. to work performed by or on behalf of **you**, or resulting from the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith; or
- b. to any goods or products which are sold or supplied by **you**, or by others under license from **you**, resulting from such goods or products or any portion thereof.

## 14. Patent Infringement

the actual or alleged infringement of patent or patent rights or misuse of patent.

## 15. Failure to Maintain Finance

the advising or requiring of, or failure to advise or require, or failure to maintain or procure any financing or monies for the payment of any portion of any project, or of services or labor connected with any project.

## 16. Gypsum Board

the specification, installation, purchase, use or construction of any building with gypsum board, drywall or other wall covering material that is alleged to have been contaminated with sulfur or any other toxic compound or contaminant.

## 17. Unsolicited Communications

any actual or alleged violation of:

- a. the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
- b. the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or
- c. any other law, regulation, or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

## B. EXCLUSIONS APPLICABLE TO INSURING CLAUSES 2, 6 AND 7 ONLY

### 1. Business Risks

any:

- a. inaccurate, inadequate or incomplete description of the price of goods, products or services;
- b. cost guarantees, cost representations, or contract price estimates of probable costs or cost estimates actually or allegedly being exceeded;
- c. failure of goods, products, or services to conform with any represented quality or performance contained in **advertisements**; or
- d. actual or alleged gambling, contest, lottery, promotional game or other game of chance.

### 2. Licensing Fees and Royalty Payments

any actual or alleged obligation to make licensing fee or royalty payments, including but not limited to the amount or timeliness of such payments.

### 3. Reprinting, Recall, Removal, Disposal, Withdrawal, Inspection, Repair, Replacement, Reproduction Costs and Expenses

any costs or expenses incurred, or to be incurred by **you** or others for:

- d. the reprinting, recall, removal or disposal of any **media material**, including any media or products containing such **media material**; or
- e. the withdrawal, recall, inspection, repair, replacement, reproduction, removal or disposal of:
  - i. **technology products**, including any products or other property of others that incorporate **technology products**;
  - ii. work product resulting from or incorporating the results of **technology-based services**; or

- iii. any products or other property on which **technology-based services** are performed;

provided, that this exclusion shall not apply to **claims** for the resulting loss of use of such **media material** or **technology products**, or loss of use of the work product resulting from such **technology-based services**.

4. Electrical and Telecommunications Failure and Malfunction and Force Majeure

any:

- a. failure or malfunction of electrical or telecommunications infrastructure or services, unless under **your** operational control; or
- b. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical or force majeure event.

5. Antitrust

any actual or alleged antitrust violation, restraint of trade, unfair competition, violation of the Sherman Antitrust Act, the Clayton Act, the Robinson-Patman Act, as amended, or any similar law or legislation of any state, province or other jurisdiction, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive or misleading **advertisement**.

6. Federal Trade Commission and Federal Communications Commission

the Federal Trade Commission, the Federal Communications Commission, or any similar governmental entity, in such entity's regulatory or official capacity.

7. Copyright and Trade Secret Infringement of Technology Products

any actual or alleged infringement of copyright or misappropriation of trade secret arising out of or related to **technology products**.

8. Electromagnetic Fields and Radiation

the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property.

9. Delay in Delivery or Performance

any delay in delivery or performance, or failure to deliver or perform at or within an agreed upon period of time.

10. Governmental Action

any action or order of any domestic or foreign governmental authority or regulatory, administrative, law enforcement or judicial body to confiscate, intercept, monitor or analyze **your computer systems** or data, whether with or without **your** authorization.

11. Social Engineering

the transfer of money, funds or securities, including those arising out of any **social engineering event**.

## 12. Betterment

the need to improve, update, upgrade, repair, replace or restore any component of any **computer system**, or data stored on any **computer system**, to a level beyond that which existed prior to any **privacy breach** or **network security event**, unless recommended by a forensic investigator as necessary to return the functionality of any **computer system** to a level that existed prior to the **privacy breach** or **network security event**.

## 13. Activity Unrelated to a Breach

the need to restore, repair or replace:

- a. any component of any **computer system** or the data stored therein, due to direct physical loss of or damage to the **computer system** that does not result from a **privacy breach** or **network security event**; or
- b. any mobile computer or device not owned, leased or licensed by **you**.

# XI. DEFINITIONS

Wherever used in this Policy:

- A. **Advertisement** means any material which promotes **your** product, service or business.
- B. **Application** means all signed applications, including attachments and associated correspondence, and all other materials and information provided by **you** to **us** for the purposes of underwriting or issuing this Policy, or any policy of which this Policy is a direct or indirect renewal or replacement.
- C. **Assumed under contract** means liability assumed by **you** under a written hold harmless or indemnity agreement regarding the content of **media material** used in a **media communication**, but only with respect to acts for which insurance is afforded under Insuring Clause 7.a.
- D. **Bodily injury** means physical injury, sickness, disease or death of any person, and includes emotional distress or mental anguish whether or not accompanied by physical injury, sickness or disease.
- E. **Breach notice law** means any state, federal or foreign statute or regulation that requires notice to persons whose **personally identifiable non-public information** was accessed or may reasonably have been accessed by an unauthorized person.
- F. **Circumstance** means any fact, event or situation that could reasonably be the basis for a **claim**.
- G. **Claim** means a demand received by **you**;
  1. for money or services including the threat or service of suit, or institution of arbitration proceedings;
  2. threatening, or initiating suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction); or

3. asking **you** to comply with any state statute governing notice of defects in construction.

Multiple **claims** arising from the same or a series of related or repeated acts, errors, omissions, **pollution conditions** or **mold conditions**, or from any continuing acts, errors, omissions, **pollution conditions** or **mold conditions** shall be considered a single **claim** for the purposes of this Policy, irrespective of the number of claimants or insureds involved in the **claim**. All such **claims** shall be deemed to have been made at the time of the first such **claim**.

H. **Claims expenses** means:

1. reasonable fees charged by any attorney designated by **us**, or selected by **you** and agreed to by **us**;
2. all other fees, costs and expenses resulting from the investigation and defense of a **claim** incurred by **us**, or by **you** with **our** prior written consent, including any premiums for appeal bonds.

**Claims expenses** shall not include any:

1. salaries or overheads incurred by **you**;
2. costs relating to any supervisory counsel retained by **you**; or
3. costs incurred by **you** to remediate any potential claim under this Policy without **our** prior written consent.

The determination by **us** as to the reasonableness of **claims expenses** shall be binding on **you**.

- I. **Cleanup costs** means reasonable and necessary costs, charges and expenses incurred with **our** prior written consent in the investigation, removal, neutralization and/or remediation of a **pollution condition**.

**Cleanup costs** will not include improvements or betterments to third party property, or costs that exceed the actual cash value of such property.

- J. **Completed operations hazard** means all **bodily injury** and **property damage** occurring away from premises **you** own or rent and arising out of **contracting services** performed by **you** or by any person, including an independent contractor, for whom **you** are legally responsible, except work or services that have not yet been completed or have been abandoned.

However, work or services will be deemed completed at the earliest of the following times:

1. when all of the work or services called for in **your** contract have been completed;
2. when all of the work or services to be done at a job site have been completed if **your** contract calls for work or services at more than one job site; or
3. when that part of the work or services done at a job site have been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

K. **Computer systems** means computers and associated software, input and output devices, data storage devices, networking equipment and back up facilities:

1. operated by and either owned by or leased to **you**; or
2. operated by a third party service provider and used for the purpose of providing hosted computer application services to **you**, or for processing, maintaining, hosting or storing **your** electronic data or electronic data belonging to a third party which is in **your** care, custody or control, pursuant to a written contract for such services between **you** and the third party service provider.

L. **Contracting services** means the performance of construction, erection, fabrication, installation, assembly, manufacturing, drilling, operation and/or maintenance services, or remediation activities by or on behalf of **you**.

M. **Damages** means:

1. compensatory sums;
2. monetary judgments, award or settlements;
3. pre-judgment and post-judgment interest; or
4. **cleanup costs** (solely with respect to coverage afforded under Insuring Clause 4).

**Damages** shall not include:

1. future profits, restitution, disgorgement of unjust enrichment or profits by **you**, or the costs incurred by **you** to comply with orders granting injunctive or equitable relief;
2. any damages which are a multiple of compensatory damages;
3. punitive or exemplary damages, unless insurable by law under the law under which this Policy is construed;
4. liquidated damages to the extent that such damages exceed the amount for which **you** would have been liable in the absence of such liquidated damages agreement;
5. return or offset of fees, charges, or commissions for goods or services already provided or contracted to be provided;
6. costs incurred by **you** to correct, re-perform or complete any **media activities** or **technology-based services**;
7. fines, taxes or loss of tax benefits, sanctions or penalties assessed against **you**;
8. discounts, coupons, prizes, awards or other incentives offered to **your** customers or clients;
9. any amounts for which **you** are not liable, or for which there is no legal recourse against **you**; or

10. matters deemed uninsurable under the law pursuant to which this Policy shall be construed.

- N. **Extended reported period** means the period of time after the end of the **policy period** for reporting **claims** as provided in Section IX. of this Policy.
- O. **First party privacy breach** means a **privacy breach** affecting the **personally identifiable non-public information** of **your** employees.
- P. **Malicious code** means any unauthorized, corrupting or harmful software code, including computer viruses, Trojan horses, keystroke loggers, cookies, spyware, adware, worms and logic bombs.
- Q. **Media activities** means any **media communication** and/or the gathering, collection or recording of **media material** for inclusion in any **media communication** in the ordinary course of **your** business.
- R. **Media communication** means the display, broadcast, dissemination, distribution or release of **media material** to the public by **you**.
- S. **Media material** means any data, text, sounds, graphics, images or similar matter, including **advertisements**. **Media material** shall not include **technology products** or anything incorporated into or otherwise part of **your technology products**.
- T. **Mold condition** means any actual or alleged discharge, dispersal, release or escape of any fungus or spore or any substance, vapor or gas produced by or arising out of any fungus or spore, into or upon land or structures thereupon, the atmosphere or any watercourse or body of water, which results in **bodily injury** or **property damage**.

For the purpose of this definition:

- 1. Fungus includes but is not limited to; a) any form or type of mold, mushroom or mildew; b) any other fungal structure; and c) any volatile organic compounds, mycotoxins, allergenic proteins or other substances or gases produced by or arising out of any mold, mushroom, mildew, fungal structure or spore.
  - 2. Spore means any reproductive body produced by or arising out of any fungus.
- U. **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 enrolled member of a Native American Tribe.
- V. **Network security event** means:
- 1. the inability of a third party, who is authorized to do so, to gain access to **computer systems** or **your technology-based services**;
  - 2. the failure to prevent unauthorized access to **computer systems** that results in:
    - a. the destruction, deletion or corruption of electronic data on **computer systems**;

- b. **theft of data** from **computer systems**; or
  - c. denial of service attacks against Internet sites or computers; or
3. the failure to prevent transmission of malicious code from **computer systems** to third party computers and systems.

W. **Non-owned disposal site** means any location used by **you** for the treatment, storage or disposal of waste or material provided that such location:

- 1. is not managed, operated, owned or leased by **you** or an affiliate of **yours**; and
- 2. such location is permitted and/or licensed by the applicable federal, state, local or provincial authorities to accept such waste or materials as of the date the waste or materials are treated, stored or disposed of at such location; and
- 3. such location is within the United States, its territories or possessions, or in Canada; and
- 4. such location is not listed on a proposed or final Federal National Priorities List and/or any state or provincial equivalent National Priority List, Superfund or Hazardous Waste List prior to the treatment, storage or disposal of the waste or material at such location.

X. **Personally identifiable non-public information** means an individual's name in combination with one or more of the following:

- 1. information concerning the individual that constitutes "non-public personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and regulations issued pursuant to the Act;
- 2. medical or health care information concerning the individual, including "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations issued pursuant to the Act; or
- 3. the individual's social security number, driver's license or state identification number, credit, debit or other financial account numbers and associated security codes, access codes, passwords or pins that allows access to the individual's financial account information.

Y. **Policy period** means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Policy, and specifically excludes any **extended reported period** or any prior **policy period** or renewal period.

Z. **Pollution condition** means the actual or alleged discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land or structures thereupon, the atmosphere or any watercourse or body of water, which results in **bodily injury, property damage** or **cleanup costs**.

The term **pollution condition** shall not include or mean a **mold condition**.

AA. **Privacy breach** means:

1. theft or misuse of **personally identifiable non-public information** or **third party corporate information** that is in **your** care, custody or control, or an independent contractor that is holding or processing such information on **your** behalf;
2. **your** failure to timely disclose a **security breach** in violation of any **breach notice law**;
3. failure by **you** to comply with that part of a **privacy policy** that specifically:
  - a. prevents or prohibits improper or intrusive collection of **personally identifiable non-public information** from a person;
  - b. requires notice to a person of **your** collection or use of, or the nature of the collection or use of his or her **personally identifiable non-public information**;
  - c. provides a person with the ability to assent to or withhold assent for (e.g. opt-in or opt-out) **your** collection or use of his or her **personally identifiable non-public information**;
  - d. prohibits or restricts **your** disclosure, sharing or selling of a person's **personally identifiable non-public information**;
  - e. requires **you** to provide access to **personally identifiable non-public information** or to correct incomplete or inaccurate **personally identifiable non-public information** after a request is made by a person; or
  - f. mandates procedures and requirements to prevent the loss of **personally identifiable non-public information**.

BB. **Privacy policy** means the internal or publicly accessible written documents that set forth **your** policies, standards and procedures for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to **personally identifiable non-public information**.

CC. **Professional services** means the preparation and/or review of architectural and engineering designs, plans, specifications and calculations, and construction management services including observation of construction, issuance of change orders and clarifications, review of contractors' requests for payment and review of projects to determine dates of substantial completion, performed by licensed or similarly qualified professionals in the design, construction or consulting field under **your** employment, or performed by others on behalf of **you** pursuant to a written contract for whom **you** are to be held vicariously liable.

The term **professional services** shall not include or mean:

1. any negligent act, error or omission which is not professional in nature;

2. services within construction means, methods, techniques, sequences, procedures and job site safety employed by **you** in connection with operations in **your** capacity as a construction contractor; or
3. property manager or real estate asset manager services, real estate and real estate asset management consultant services, real estate appraisal services, real estate broker services, financial or investment advisory services, legal services or any services resulting from the acquisition of any real estate or the securing of financing for the acquisition of any real estate.

DD. **Property damage** means:

1. physical injury to or destruction of any tangible property, including the loss of use thereof;
2. loss of use of tangible property which has not been physically injured or destroyed;
3. diminished value of property owned by third parties; or
4. **natural resource damage**.

However, **property damage** does not mean injury to, loss or destruction of, or loss of use of intangible property, including data.

EE. **Rectification event** means **your** awareness during the **policy period** of any act, error or omission in rendering or failing to render **professional services** that could lead to a **claim** against **you** if not remedied in reasonably prompt time.

FF. **Security breach** means **unauthorized access** of **computer systems**, infection of **computer systems** by **malicious code** or transmission of **malicious code** from **computer systems**, whether any of the foregoing is a specifically targeted attack or a generally distributed attack. A series of continuing **security breaches** or related or repeated **security breaches** shall be considered a single **security breach** and be deemed to have occurred at the time of the first such **security breach**.

GG. **Social engineering event** means the fraudulent manipulation of an individual Insured by any person, including any other Insured, which results in any transfer of funds, whether by electronic means, bank wire or otherwise, or other disbursement or theft of money, securities or other financial assets from any of the following:

1. a financial account owned by **you** or in **your** care, custody or control; or
2. a financial account held by any other person or entity if the transfer or disbursement or funds is authorized or directed by any Insured.

For the purpose of this exclusion, Insured shall mean any person qualifying as per Section XI. PP. of this Policy.

HH. **Technology-based services** means computer and electronic technology services, including data processing, Internet services, data and application hosting, computer systems analysis, technology consulting and training, custom software programming for a specific client of **yours**, computer and

software systems installation and integration, computer and software support, use of Building Information Modelling Systems and network management services performed by **you**, or by others acting under **your** trade name, for others for a fee, but shall not mean **technology products**.

- II. **Technology products** means a computer or telecommunications hardware or software product, or related electronic product that is created, manufactured or developed by **you** for others, or distributed, licensed, leased or sold by **you** to others for compensation, including software updates, service packs and other maintenance releases provided for such products.
- JJ. **Theft of data** means the unauthorized taking, misuse or disclosure of information on **computer systems**, including but not limited to charge, debit, and credit card information, banking, financial, and investment services account information, proprietary information, and personal, private, and confidential information.
- KK. **Third party corporate information** means any trade secret, data, design, interpretation, forecast, formula, method, practice, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to **you** subject to a mutually executed written confidentiality agreement or marked "confidential" in writing by such third party.
- LL. **Third party privacy breach** means a **privacy breach** affecting the **personally identifiable non-public information** of a third party.
- MM. **Transportation** means the movement of cargo, after being accepted by the carrier, from the place where **contracting services** are being performed toward the place designated for delivery by **you**.

**Transportation** includes the carrier's loading and unloading of cargo onto or from a motorized land vehicle, provided that the loading and unloading is performed by or on behalf of **you**.

NN. **Unauthorized access** means:

1. the use of or access to **computer systems** by a person not authorized to do so by **you**; or
2. the authorized use of or access to **computer systems** in a manner not authorized by **you**.

OO. **We/our/us** means the Underwriters.

PP. **You/your** means:

1. the Named Insured(s) as listed in the Declarations;
2. **your** directors or officers (past or present), but only with respect to the performance of their duties on **your** behalf;
3. **your** employees (past or present), but only for work done while acting within the scope of their employment by **you** and related to the conduct of **your** business;

4. a principal (if **you** are a sole proprietorship) or a partner (if **you** are a partnership), past or present, but only with respect to the performance of their duties on **your** behalf;
5. **your** estate, heirs, executors, administrators, assigns and legal representatives in the event of **your** death, incapacity, insolvency or bankruptcy, but only to the extent that **you** would otherwise be provided coverage under this Policy;
6. **your** participation in a joint venture, but solely for **your** proportion, not the entire joint venture;
7. any client of **yours**, provided that a written contract or agreement is in effect between **you** and them. However, such clients are covered solely with respect to their vicarious liability arising from **your professional services or contracting services**, and not for the client's own acts, errors or omissions.

## XII. OTHER CONDITIONS

### A. Territory

This Policy applies to **claims** made and acts, errors or omissions, **pollution conditions** or **mold conditions** committed or arising anywhere in the world (subject to Section XI.W. and any applicable Sanctions).

### B. Bankruptcy

**Your** bankruptcy or insolvency shall not relieve **us** of **our** obligations nor deprive **us** of **our** rights or defenses under this Policy.

### C. Assignment

**You** cannot assign any of **your** interests under this Policy without **our** written consent.

### D. Innocent Insured

Whenever coverage under this Policy would be excluded or lost due to Exclusion (Section X.) A.1., **we** agree that coverage that would otherwise be afforded under this Policy will apply with respect to those Insureds – as defined by Section XI. PP. – who did not personally commit or participate or remain passive after having knowledge of such excluded acts, unless any of those acts were known to any of **your** principals, partners, directors or officers.

**Our** obligation to pay in such event shall only be excess of the full extent of any recoverable assets of any Insured – as defined by Section XI. PP. – to whom Exclusion A.1. applies, and shall be subject to the remaining terms and conditions of this Policy.

### E. General Liability Warranty

## PRIMARY NON-CONTRIBUTORY ENDORSEMENT

In consideration of the premium charged for this Policy, it is hereby understood and agreed that Section VII. OUR OBLIGATIONS IN THE EVENT OF A CLAIM/CIRCUMSTANCE, subsection F. is amended by the addition of the following:

Notwithstanding the foregoing, where required by a written contract or agreement coverage under this Policy shall qualify as primary and non-contributory insurance to any client of **yours** if;

1. a **claim** is made against them and **you** would have been liable and coverage would have been afforded under the terms and conditions of this Policy had such **claim** been made against **you**; and
2. the **claim** does not include allegations or facts indicating actual or alleged independent or direct liability on the part of **your** client.

However, this insurance provided to the additional Insured shall still apply in excess of and shall not contribute with valid and collectible other insurance whether primary, excess, contingent or on any other basis, that is available to the additional Insured when that person or entity is an additional Insured under any other Policy.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED