

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

Paragraph A and Paragraph B of the Common Policy Conditions that apply to this Coverage Part are changed to the following:

### Notice Of Cancellation

**a. Cancellation Of Policies In Effect For Fewer Than 60 Days Which Are Not Renewals**

If this policy has been in effect for fewer than 60 days and is not a renewal of a policy we issued, we may cancel this policy for any reason, subject to the following:

**(1) Cancellation for nonpayment of premium**

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 10 days before the effective date of cancellation.

**(2) Cancellation for any other reason**

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

**b. Cancellation Of Renewal Policies And New Policies In Effect For 60 Days Or More**

If this policy has been in effect for 60 days or more, or is a renewal of a policy we issued, we may cancel only for one or more of the following reasons:

**(1) Nonpayment of premium;**

**(2) Fraud or material misrepresentation made by you or with your knowledge with the intent to deceive in obtaining the policy, continuing the policy, or in presenting a claim under the policy;**

**(3) Activities or omissions by you which change or increase any hazard insured against;**

**(4) Change in the risk which increases the risk of loss after we issued or renewed this policy including an increase in exposure due to regulation, legislation, or court decision;**

**(5) Determination by the Commissioner of Insurance that the continuation of this policy would jeopardize our solvency or would place us in violation of the insurance laws of this or any other state;**

**(6) The insured's violation or breach of any policy terms or conditions; or**

**(7) Any other reasons that are approved by the Commissioner of Insurance.**

We will mail or deliver written notice of cancellation under Paragraph a., to the first Named Insured at least:

**(a) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or**

**(b) 30 days before the effective date of cancellation if we cancel for a reason described in Paragraphs b.(2) through (7) above.**

### Notice Of Cancellation

**a. If your premium payment check or other negotiable instrument is returned to us or our agent or a premium finance company because it is uncollectible for any reason, we may cancel the policy subject to Paragraphs a.(1). and b.(7).**

**b. We may cancel the policy effective from the date the premium payment was due, by sending you written notice by certified mail, or by delivering such notice to you within 10 days of the date that we receive notice of the returned check or negotiable instrument.**

**c. The cancellation notice will also advise you that the policy will be reinstated effective from the date the premium payment was due, if you present to us a cashier's check or money order for the full amount of the returned check or other negotiable instrument within 10 days of the date that the cancellation notice was mailed.**

### **Premium Refund**

If this policy is cancelled, we will return any premium refund due. The cancellation will be effective even if we have not made or offered a refund.

- a. If we cancel, the refund will be pro rata.
- b. If the first Named Insured cancels, the refund may be less than pro rata, and will be returned within 30 days after the effective date of cancellation.

### **NONRENEWAL**

1. If we decide not to renew this policy, we will mail or deliver written notice of nonrenewal to the first Named Insured, mortgageholder, pledgee or other known person shown in the policy to have an insurable interest in any loss, at least 60 days before its expiration date, or its anniversary date if it is a policy written for a term of more than one year or with no fixed expiration date.
2. We need not mail or deliver this notice if:
  - a. We or another company within our insurance group have offered to issue a renewal policy; or
  - b. You have obtained replacement coverage or have agreed in writing to obtain replacement coverage.
3. Any notice of nonrenewal will be mailed or delivered to the first Named Insured, mortgageholder, pledgee or other known person shown in the policy to have an insurable interest in any loss, at the last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.
4. Such notice to the insured shall include the insured's loss run information for the period the policy has been in force within, but not to exceed, the last three years of coverage.

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## LOUISIANA CHANGES – LEGAL ACTION AGAINST US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

The **Legal Action Against Us** Condition (Section IV – Conditions) is replaced by the following.

### **Legal Action Against Us**

A person or organization may bring a "suit" against us including, but not limited to, a "suit" 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.

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## **LOUISIANA CHANGES – TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

The **Transfer Of Rights Of Recovery Against Others To Us Condition Section IV – Conditions** is replaced by the following:

### **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

In the event of any payment under this Coverage Part, we will be entitled to the insured's rights of recovery against any person or organization, and the insured will do whatever is necessary to secure such rights. Our right to recover is subordinate to the insured's right to be fully compensated.

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## LOUISIANA CHANGES – ASBESTOS AND NUCLEAR EXCLUSIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

A. The following exclusions replace Exclusions Paragraph 2. c., Asbestos, Nuclear of Section I – Coverage A – Bodily Injury And Property Damage Liability:

**2. Exclusions**

This insurance does not apply to:

**c. Nuclear**

"Bodily injury" or "property damage" arising directly or indirectly out of, or in any way related to any radioactive matter or nuclear material.

**2. Exclusions**

This insurance does not apply to:

**Asbestos**

"Bodily injury" or "property damage" arising directly or indirectly out of, or in any way related to any asbestos –containing material.

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## LOUISIANA CHANGES – FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

- A. The following exclusion replaces Exclusions Paragraph 2. p., Fungi or Bacteria, of Section I – Coverage A – Bodily Injury And Property Damage Liability:

**2. Exclusions**

This insurance does not apply to:

**p. Fungi Or Bacteria**

- (1) "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, dispersal, exposure to, existence of, or presence of, any "fungi" or "bacteria" on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or "bacteria", by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or "bacteria" that are, are on, or are contained in, a good or product intended for bodily consumption.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

**2. Exclusions**

This insurance does not apply to:

**FUNGI OR BACTERIA**

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or "bacteria" on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or "bacteria", by any insured or by any other person or entity.

- C. The following definition is added to Section V – Definitions::

"Bacteria" means any type, kind or form of bacterium.

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## TOTAL POLLUTION EXCLUSION ENDORSEMENT WITH A BUILDING HEATING, COOLING AND DEHUMIDIFYING EQUIPMENT EXCEPTION, HOSTILE FIRE EXCEPTION, AND SEWAGE, POOL OR WATER TREATMENT AND PESTICIDE OR HERBICIDE EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART (CLAIMS-MADE)

Exclusion v., **Pollution**, under Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

This insurance does not apply to:

### v. **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.
- (2) 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) Any "claim" 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".
- (3) This exclusion does not apply to "bodily injury" or "property damage" that results from:
  - (a) "Bodily injury" if sustained within a building which is or was at any time owned or occupied by, or rented or loaned to, any insured and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests; or
  - (b) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:
    - (i) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or
    - (ii) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".
  - (c) chemicals you use in your sewage treatment, swimming pool maintenance, or water purification operations; or
  - (d) natural gas or propane gas you use in your sewage treatment, swimming pool maintenance, or water purification operations; or
  - (e) the application of any pesticide or herbicide by or for you if such application or use meets all legal or license requirements of any governmental agency or authority which apply to it.
- (4) This exclusion does not apply to "bodily injury" or "property damage" that results from the application or use of any "pollutants" in the providing of:

- (a) "Potable water" which you supply to others; or
  - (b) Urgent response for the protection of property, human life, health or safety conducted away from premises owned by or rented to or regularly occupied by you; or
  - (c) "Training operations" by you; or
  - (d) Water runoff from the cleaning of equipment used in an "emergency service activity".
- (5) This exclusion does not apply to "bodily injury" or "property damage" to a building or its contents if such "bodily injury" or "property damage" is caused by the escape or back-up of sewage or waste water from any sewage treatment facility or fixed conduit or piping that you own, operate, lease, control or for which you have the right of way, but only if "bodily injury" or "property damage" occurs away from land you own or lease; and does not result from any corrosive or radioactive pollutants" in the sewage or waste water.

Paragraphs (3), (4), and (5) of this exclusion only apply if the discharge is accidental, unintended and stopped as soon as possible. The entirety of any discharge or series of related discharges will be deemed a single discharge regardless of the length of time over which the "pollutants" are released. The entirety of any discharge or series of related discharges will be deemed to have occurred at the date the earliest discharge commenced.

Discharge as used in this exclusion includes dispersal, seepage, migration, release or escape.

# EMPLOYEE BENEFITS LIABILITY COVERAGE FORM

Various provisions in this form restrict coverage. Read the entire form 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. 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 VI – DEFINITIONS**.

## SECTION I – EMPLOYEE BENEFITS LIABILITY COVERAGE

### 1. INSURING AGREEMENT

We will pay those sums that the insured becomes legally obligated to pay as "damages" because of "employee benefits injury" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Employee Benefits Liability Coverage. The "claim" must arise out of a negligent act, error or omission in the "administration" of "employee benefits programs" which occurs during the policy period. The negligent act, error or omission must take place in the "coverage territory". We will have the right and duty to defend any "claim" or "suit" seeking such "damages". But:

- a. The amount we will pay for "damages" is limited as described in **SECTION III – LIMITS OF INSURANCE**;
- b. We may, at our discretion, investigate any alleged act, error or omission and settle any "claim" or "suit" that may result; and
- c. 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 Employee Benefits Liability Coverage. This applies both to "claims" and "suits" pending at that time and to those filed thereafter.

### 2. EXCLUSIONS

This insurance does not apply to:

- a. The failure by an insured to comply with any law concerning workers compensation, unemployment compensation, social security, disability benefits law or any similar legislation that may be enacted or fiduciary liability or fiduciary responsibility imposed by the Employee Retirement Income Security Act of 1974, as amended, or any similar legislation that may be enacted.
- b. "Bodily injury", "property damage" or "personal and advertising injury".
- c. Any dishonest, fraudulent, criminal or malicious act.
- d. The failure of any investment or saving program to perform as represented by an insured.
- e. An "employee benefits injury" that arises out of advice given by any insured to an employee to participate or not to participate in any "employee benefits program".
- f. The failure of any person or organization to perform any obligation or to fulfill any guarantee with respect to:
  - (1) The payment of benefits under "employee benefits programs"; or
  - (2) The providing, handling or investing of funds related thereto.
- g. "Bodily injury":
  - (1) Arising out of any:
    - (a) Refusal to employ;
    - (b) Termination of employment;
    - (c) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity;
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury; and

(3) To any and all acts committed by:

- (a) The insured;
- (b) The insured's employees; or
- (c) Additional insureds or their employees

whether committed with or without the knowledge of the insured or by or at the direction of the insured, the insured's employees or any additional insureds named on the policy.

h. "Personal and advertising injury":

(1) Arising out of any:

- (a) Refusal to employ;
- (b) Termination of employment;
- (c) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity;
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury; and
- (3) To any and all acts, committed by:
  - (a) The insured;
  - (b) The insured's employees; or
  - (c) Additional insureds or their employees

whether committed with or without the knowledge of the insured or by or at the direction of the insured, the insured's employees or any additional insureds named on the policy.

- i. Loss arising out of failure of performance of contract by any insurer.
- j. Loss arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefits program".
- k. Loss or damage for which benefits have accrued under the terms of an employee benefit plan to the extent that such benefits are available from funds accrued by the insured for such benefits or from collectible insurance, notwithstanding the insured's act, error or omission in administering the plan which precluded the claimant from receiving such benefits.
- l. Loss arising out of the investment, divestment or non-investment of funds.

### 3. SUPPLEMENTARY PAYMENTS – EMPLOYEE BENEFITS LIABILITY COVERAGE

We will pay, with respect to any "claim" or "suit" we defend:

- a. All expenses we incur.
- b. 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.
- c. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim" or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- d. All costs taxed against the insured in the "suit".
- e. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your executive officers and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
- a. Any other person for whose acts you are legally liable, provided such person is authorized to act in the "administration" of your "employee benefits programs".
  - b. 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.
3. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will be deemed to be a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the end of the current policy period; and
  - b. Employee Benefits Liability Coverage does not apply to "employee benefits injury" that occurred before you acquired or formed the organization.

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 or "suits" brought;
  - c. Persons or organizations making "claims" or bringing "suits";
  - d. Acts, errors or omissions that result in loss; or
  - e. Plans included in your "employee benefits program".
2. The Employee Benefits Liability Aggregate Limit is the most we will pay for all "damages" to which this insurance applies.
3. Subject to 2. above the Each Claim Limit is the most we will pay for all "damages" with respect to any one "claim".
4. All "claims" arising from a single negligent act, error or omission or a series of related negligent acts, errors or omissions in the "administration" of "employee benefit programs" shall be deemed to be a single "claim".

The limits of this Coverage Part 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 Limits of Insurance.

### **SECTION IV – DEDUCTIBLE**

1. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in Item 4. of the Declarations as applicable to each employee. The Limits of Insurance applicable to each employee will be reduced by the amount of this deductible. The Aggregate Limit shall not be reduced by the application of such deductible amount.
2. The deductible amount stated in the Declarations applies to all damages sustained by an employee because of an act, error or omission covered by this insurance.
3. The terms of this insurance including those with respect to:
  - a. Our right and duty to defend any "suits" seeking those "damages"; and
  - b. Your duties in the event of an act, error or omission, "claim", or "suit"
 apply irrespective of the application of the deductible amount.
4. We may pay any part or all of the 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.

## **SECTION V – EMPLOYEE BENEFITS LIABILITY CONDITIONS**

### **1. BANKRUPTCY**

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

### **2. DUTIES IN THE EVENT OF EMPLOYEE BENEFITS INJURY, CLAIM OR SUIT**

a. You must see to it that we are notified as soon as practicable of an "employee benefits injury" which may result in a "claim". To the extent possible, notice should include:

- (1) How, when and where the "employee benefits injury" took place; and
- (2) The names and addresses of any injured persons and witnesses.

Notice of an "employee benefits injury" is not notice of a "claim".

b. If a written "claim" is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the "claim" or "suit".

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, settlement or defense of the "claim" or "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 "employee benefits injury" to which this insurance may also apply.

d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation or incur any expense other than for first aid, without our consent.

### **3. 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 obtained after an actual trial; 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.

### **4. OTHER INSURANCE**

This Employee Benefits Liability Insurance is excess over and above any other valid and collectible insurance (including any deductible portion) or agreement of indemnity, available to the insured.

### **5. 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.

Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term 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.

### **6. REPRESENTATIONS**

By accepting this policy, you agree:

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

## 7. 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.

## 8. 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.

## SECTION VI – DEFINITIONS

### Administration

"Administration" means:

- a. Giving counsel to your employees or their dependents and beneficiaries, with respect to interpreting the scope of your "employee benefits program" or their eligibility to participate in such program;
- b. Handling records in connection with your "employee benefits program"; and
- c. Starting or stopping any employee's participation in your "employee benefits program".

### Advertisement

"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.

### Bodily Injury

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

### Claim

"Claim" means a written demand received by any insured for "damages" alleging "employee benefits injury", including the institution of a "suit" for such "damages" against any insured.

### Coverage Territory

"Coverage territory" means anywhere. However, the insured's responsibility to pay damages must be determined in a settlement we agree to or in a "suit" on the merits brought within the United States of America (including its territories and possessions), Puerto Rico or Canada.

### Damages

"Damages" means money damages including prejudgment interest awarded against the insured on that part of the judgment we pay. "Damages" do not include:

- a. Fines;
- b. Penalties; or
- c. Damages for which insurance is prohibited by the law applicable to the construction of this Coverage Form.

### Employee Benefits Injury

"Employee benefits injury" means injury that arises out of any negligent act, error or omission in the "administration" of your "employee benefits program".

### Employee Benefits Program

"Employee benefits program" means a formal program or programs of employee benefits maintained in connection with your business or operation to which participation is limited to employees or those entitled to claim benefits under such plans only through an employee's participation. Such programs may include, but are not limited to:

- a. Group life insurance, group accident or health insurance, profit sharing plans, defined benefit or defined contribution pension plans and stock subscription plans; and
- b. Unemployment insurance, social security benefits, workers' compensation and disability benefits.

### **Personal and Advertising Injury**

"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 on or behalf of its owner, landlord or lessor;
- d. Oral or written publication 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 of material that violates a person's right of privacy;
- f. The use of another's advertising ideas in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

### **Property Damage**

"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.

### **Suit**

"Suit" means a civil proceeding in which "damages" because of "employee benefits 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES – EMPLOYEE BENEFITS LIABILITY

This endorsement modifies insurance provided under the following:

### EMPLOYEE BENEFITS LIABILITY COVERAGE FORM

1. Section V – EMPLOYEE BENEFITS LIABILITY CONDITIONS, paragraph 3. LEGAL ACTION AGAINST US is replaced by the following:

3. Legal Action Against Us

- A person or organization may bring a "suit" against us including, but not limited to a "suit" 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 of the claimant's legal representative.

2. Section V – EMPLOYEE BENEFITS LIABILITY CONDITIONS, paragraph 8. is deleted in its entirety and replaced by the following:

8. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US.

- If we make any payment under this policy and the person to or for whom payment was made has a right to recover damages from another, we shall be subrogated to that right. However, our right to recover is subordinated to the injured person's right to be fully compensated for his or her injuries.

# PUBLIC OFFICIALS ERRORS AND OMISSIONS COVERAGE FORM CLAIMS-MADE and SELF-INSURED RETENTION

## for Government Risks

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered. We have no duty to provide coverage unless there has been full compliance with all the **SECTION VI – CONDITIONS** contained in this coverage part.

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 coverage part. 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 IV – WHO IS AN INSURED**

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VII – DEFINITIONS**

### **SECTION I – COVERAGES**

#### **A. Insuring Agreement – Liability for Wrongful Acts**

1. We will pay those sums in excess of the Self-Insured Retention Amount in the Declarations that the insured becomes legally obligated to pay as "damages" resulting from a "wrongful act" to which this insurance applies. This insurance DOES NOT apply to any "claim" resulting from a "wrongful act" which takes place in whole or in part prior to the Retroactive Date shown in the Declarations or subsequent to the termination of this policy.
2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". We have no duty to defend the insured against any "suit" seeking "damages" for a "wrongful act" to which this insurance does not apply. We may, at our discretion, investigate any "wrongful act" and settle any "claim" that may result.

However:

- a. The amount we will pay for "damages" is limited as described in **SECTION V – LIMITS OF INSURANCE**; and
- b. Our right 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 (Section I. D.)**

3. This insurance applies to "damages" resulting from a "wrongful act" only if the "wrongful act" was committed:
  - a. By an insured in the course and scope of their duties for you;
  - b. On or after the Retroactive Date shown in the Declarations and before the end of the policy period; and
  - c. A "claim" for "damages" is first made in writing against any insured during the policy period or any Extended Reporting Period we provide under **SECTION VIII – EXTENDED REPORTING PERIODS**

A "claim" will be deemed to have been made when written notice of such "claim" is received by any insured or by us, whichever comes first. All "claims" resulting from a "wrongful act" or a series of "related wrongful acts" will be deemed to have been made when the first of those "claims" is made against any insured.

Notice to us that:

- all or part of any insured's acts or omissions may in the future be discovered to be a "wrongful act"; and
  - any insured may in the future receive written notice of a "wrongful act" or "claim";
- is not notice of a "wrongful act".

4. We will consider each "wrongful act" in a series of "related wrongful acts" to have been committed on the date of the first "wrongful act", including any continuation, change or resumption of such "wrongful act".

This insurance applies to "damages" arising out of a "wrongful act" committed anywhere in the world, but only if the insured's liability for "damages" is determined in a "claim" on the merits brought: in the United States of America, including its territories and possessions and Puerto Rico; and Canada; or in a settlement agreed to by us.

#### **B. Insuring Agreement – Liability for Employment Practices Offense**

1. We will pay those sums in excess of the Self-Insured Retention Amount in the Declarations that the insured becomes legally obligated to pay as "damages" resulting from an "employment practices offense" to which this insurance applies. This insurance DOES NOT apply to any "claim" resulting from an "employment practices offense" which takes place in whole or in part prior to the Retroactive Date shown in the Declarations or subsequent to the termination of this policy.
2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". For the purposes of this Coverage B, "suit" shall include an Equal Employment Opportunity Commission (EEOC) hearing or proceeding or equivalent state or local agency hearing or proceeding. We have no duty to defend the insured against any "suit" seeking "damages" for an "employment practices offense" to which this insurance does not apply. We may, at our discretion, investigate any "employment practices offense" and settle any "claim" that may result.

However:

- a. The amount we will pay for "damages" is limited as described in **SECTION V – LIMITS OF INSURANCE**; and
- b. Our right 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 (Section I. D)**.

3. This insurance applies to "damages" resulting from an "employment practices offense" only if the "employment practices offense" was committed:
  - a. By an insured in the course and scope of their duties for you;
  - b. On or after the Retroactive Date shown in the Declarations and before the end of the policy period; and
  - c. A "claim" for "damages" is first made in writing against any insured during the policy period or any Extended Reporting Period we provide under **SECTION VIII – EXTENDED REPORTING PERIODS**.

A "claim" will be deemed to have been made when written notice of such "claim" is received by any insured or by us, whichever comes first. All "claims" resulting from an "employment practices offense" or a series of "related employment practices offenses" will be deemed to have been made when the first of those "claims" is made against any insured.

Notice to us that:

- all or part of any insured's acts or omissions may in the future be discovered to be an "employment practices offense"; and
- any insured may in the future receive written notice of an "employment practices offense" or "claim";

is not notice of an "employment practices offense".

4. We will consider each "employment practices offense" in a series of "related employment practices offenses" to have been committed on the date of the first "employment practices offense", including any continuation, change or resumption of such "employment practices offense".

This insurance applies to "damages" arising out of an "employment practices offense" committed anywhere in the world, but only if the insured's liability for "damages" is determined in a "claim" on the merits brought in the United States of America, including its territories and possessions and Puerto Rico; and Canada; or in a settlement agreed to by us.

#### **C. Insuring Agreement – Liability for Employee Benefit Administration Offenses**

1. We will pay those sums in excess of the Self-Insured Retention Amount in the Declarations that the insured becomes legally obligated to pay as "damages" resulting from an offense in the "administration" of your "employee benefit plans" to which this insurance applies. This insurance DOES NOT apply to any "claim" resulting from an offense in the "administration" of "employee benefit plans" which takes place in whole or in part prior to the Retroactive Date shown in the Declarations or subsequent to the termination of

this policy.

2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". We have no duty to defend the insured against any "suit" seeking "damages" for an offense in the "administration" of "employee benefit plans" to which this insurance does not apply. We may, at our discretion, investigate any offense in the "administration" of "employee benefit plans" and settle any "claim" that may result.

However:

- a. The amount we will pay for "damages" is limited as described in **SECTION V – LIMITS OF INSURANCE**; and
- b. Our right 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 (Section I. D.)**.

3. This insurance applies to "damages" resulting from an offense in the "administration" of "employee benefit plans" only if the offense in the "administration" of "employee benefit plans" was committed:
  - a. On or after the Retroactive Date shown in the Declarations and before the end of the policy period; and
  - b. A "claim" for "damages" is first made in writing against any insured during the policy period or any Extended Reporting Period we provide under **SECTION VIII – EXTENDED REPORTING PERIODS**.

A "claim" will be deemed to have been made when written notice of such "claim" is received by any insured or by us, whichever comes first. All "claims" resulting from an offense in the "administration" of your "employee benefit plans" or a series of related offenses will be deemed to have been made when the first of those "claims" is made against any insured.

Notice to us that:

- all or part of any insured's acts or omissions may in the future be discovered to be an offense; and
- any insured may in the future receive written notice of an offense or "claim";

is not notice of an offense in the "administration" of your "employee benefit plans".

4. We will consider each offense in the "administration" of "employee benefit plans" in a series of related offenses to have been committed on the date of the first such offense including any continuation, change or resumption of such offense.

This insurance applies to "damages" arising out of an offense in the "administration" of "employee benefit plans" committed anywhere in the world, but only if the insured's liability for "damages" is determined in a "claim" on the merits brought in the United States of America, including its territories and possessions and Puerto Rico; and Canada; or in a settlement agreed to by us.

#### **D. Supplementary Payments**

You shall pay with respect to any "claim" within or equal to the Self-Insured Retention Amount and we will pay, with respect to any "claim" we investigate or settle, or any "suit" against an insured we defend:

1. All "loss adjustment expenses".
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds, nor will we be a principal under these bonds.
3. Up to \$1,000 a day for loss of earnings (but not other income) because of attendance at hearings or trials at our request.
4. All court costs taxed against the insured in the "claim", but only for that portion of the judgment we are obligated to pay. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured. Instead, those costs, if awarded or paid in a settlement for a covered "claim", will be subject to **SECTION V – LIMITS OF INSURANCE**.
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

7. The costs of any required appeal bond, but only for bond amounts for that portion of the judgment that is for "damages" that we are obligated to pay and which are within the applicable limit of insurance. We will pay or reimburse you for the cost of higher appeal bond amounts if we are required to do so. We do not have to furnish these bonds, nor will we be a principal under these bonds.

These payments will not reduce the limits of insurance. However, our duty to make such payments ends when we have used up the limit of coverage that applies with the payment of judgments or settlements.

If we undertake the investigation, defense and/or settlement of any "claim" or "suit" as your claim administrator, the Self-Insured Retention Amount applies to those payments.

## SECTION II – YOUR RETENTION

Our obligation to pay "damages" on your behalf applies only to the amount of "damages" and "loss adjustment expenses" in excess of any Self-Insured Retention Amount shown in the policy Declarations for Coverage A or Coverage B or Coverage C.

You have the obligation to provide adequate investigation and defense of any "claim" or "suit" within, equal, or in excess of the Self-Insured Retention Amount. We have the right, but no obligation, in all cases, to assume charge of the investigation, defense and/or settlement of any "claim" or "suit". If we choose to do so on any basis other than as your claim administrator, we'll pay all expenses we incur for such investigation or defense. Such investigation or defense expenses we incur are not subject to either the Self-Insured Retention Amount or the Limit of Insurance.

You will accept any offer of settlement within the Self-Insured Retention Amount deemed reasonable by us. We will not pay any "damages", "loss adjustment expenses" or Supplementary Payments above what we would have paid had the loss been settled for any reasonable offer within the Self-Insured Retention Amount.

1. Limits of Insurance applicable to each "wrongful act", "employment practices offense", or an offense in the "administration" of your "employee benefit plans" will not be reduced by the Self-Insured Retention Amount. The aggregate limit applicable to Coverage A or Coverage B or Coverage C will not be reduced by the application of the Self-Insured Retention Amount. The Self-Insured Retention Aggregate limit, if shown in the Declarations is the most you will be responsible for the combined total of all Self-Insured Retention Amounts under this Coverage Part.
2. The Self-Insured Retention Amount applies to all "damages" and "loss adjustment expenses" for each "wrongful act", for each "employment practices offense", or for each offense in the "administration" of your "employee benefit plans" regardless of the number of insureds, persons, or organizations making "claims" or "claims" made because of such "wrongful act", "employment practices offense", or offense in the "administration" of your "employee benefit plans".
3. We'll consider any voluntary payment of, or assumption of any obligation to pay "damages" or "loss adjustment expenses" in excess of a Self-Insured Retention to be your responsibility if they are paid or assumed without our consent.
4. The terms of this insurance, including those with respect to:
  - a. Our right to defend any "suits" seeking those "damages"; and
  - b. Your duties in the event of a "wrongful act", "employment practices offense", or for each offense in the "administration" of your "employee benefit plans" or "claim"apply irrespective of the application of the Self-Insured Retention Amount.
5. We may pay any part or all of the Self-Insured Retention Amount to effect settlement of any "claim" and, upon notification of the action taken, you shall promptly reimburse us for such part of the Self-Insured Retention Amount paid by us.
6. In the event this policy is extended, your Self-Insured Retention Aggregate limit will be increased by the proportionate share the policy extension bears to the original policy term.
7. If two or more Self-Insured Retention Amounts apply to the same loss, we will apply only the largest of those retentions. This section applies only if those retentions are applicable to a policy issued by us to you.

## SECTION III – EXCLUSIONS

This insurance does not apply under either Coverage A or Coverage B or Coverage C to:

### 1. Asbestos, Fungi or Bacteria, Nuclear

Any "claim" arising directly or indirectly out of, or in any way related to:

- a. asbestos or asbestos-containing materials;

b. any radioactive matter or nuclear material;

c. "fungi" or bacteria

**2. Bodily Injury, Property Damage, Personal and Advertising Injury**

"Bodily injury", "property damage", or "personal and advertising injury" except "personal and advertising injury" when resulting from a covered "employment practices offense", under Coverage B of this Coverage Part.

This exclusion does not apply to loss of use and/or value of tangible property that is not physically impaired as a result of a land use approval process or permitting process associated with land use or building.

**3. Claims Against Other Insureds**

Any "claim" against any insured by any other insured.

This exclusion does not apply to Coverage B, of this Coverage Part.

**4. Contracts**

Any "claim" arising directly or indirectly out of, or in any way related to liability assumed under any contract or agreement or breach of contract to which the insured is a party or a third-party beneficiary, or any representations made in anticipation of such contract or agreement or any "claim" against any insured arising directly or indirectly out of, or in any way related to tortious interference with a contract or business relations. However this exclusion does not apply to liability the insured would have in the absence of the contract or agreement.

**5. Criminal Acts**

Any "claim" arising directly or indirectly out of, or in any way related to a dishonest, malicious, fraudulent, or criminal act, or the willful violation of any statute, ordinance or regulation committed by or with the knowledge of the insured.

However, we will defend the insured for a "suit" subject to the other terms of this coverage part until either a judgment or final adjudication established such an act or the insured confirms such an act.

**6. Debt Financing**

Any "claim" arising directly or indirectly out of, or in any way related to debt financing issued by or for you.

**7. Declaratory & Injunctive Relief**

Any "claim" or any part of any "claim" seeking injunctive, declaratory or equitable relief and related costs inclusive of any attorneys' fees or attorneys' expenses. This includes any amount required to comply with a court or administrative order, judgment, ruling, or decree that results from any action or demand, including, but not limited to, costs of physical alterations required to comply with the Americans with Disabilities Act or similar laws.

This exclusion does not apply to our duty to defend an EEOC or similar state or local agency administrative hearing or proceeding under Coverage B. of this Coverage Part.

**8. Eminent Domain or Condemnation**

Any "claim" arising directly or indirectly out of, or in any way related to any impairment, deprivation or destruction of property, including loss of use or diminution in value thereof, resulting from proceedings in eminent domain or from inverse condemnation, by whatever name called.

**9. Employment Practices**

Any "claim" arising directly or indirectly out of, or in any way related to your "employment practices offenses". This exclusion does not apply to Coverage B. of this Coverage Part.

**10. ERISA, COBRA, OSHA, WARN and NLRA Act Liability**

Any "claim" arising directly or indirectly out of, or in any way related to an insured's obligations under:

- a. the Employee Retirement Income Security Act of 1974 (ERISA);
- b. the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA);
- c. Fair Labor Standards Act of 1938 (except Equal Pay Act);
- d. the Worker Adjustment and Retraining Notification Act, Public Law 100-379 (1988) (WARN);
- e. Occupational Safety and Health Act (OSHA);
- f. National Labor Relations Act of 1947 (NLRA); or
- g. any similar federal, state, or local laws or regulations;

including subsequent amendments or any regulations promulgated thereunder.

This exclusion does not apply to a retaliation offense under Coverage B of this Coverage Part.

**11. Failure to Maintain Insurance**

The failure to effect or maintain:

- a. Insurance of any kind, including adequate limits of insurance; or
- b. Suretyship or bonds.

This exclusion does not apply to Coverage C of this Coverage Part.

**12. Fines and Penalties**

Fines and penalties. This exclusion does not apply to punitive or exemplary damages where allowed by law.

**13. Governmental Enforcement Action**

Any "claim" arising directly or indirectly out of, or in any way related to an insured's willful violation of any federal, state, or local law, rule, or regulation.

**14. Health Care and Social Services**

Any "claim" arising directly or indirectly out of, or in any way related to a "health care and social services wrongful act", or services provided by any medical doctor, wherever provided or any services provided by a nurse at a nursing home, hospice or similar residential facility.

This exclusion does not apply to:

- a. an "employment practices offense" involving your health care or social service agency under Coverage B. of this Coverage Part;
- b. an offense in the "administration" of "employee benefit plans" involving your health care or social service agency under Coverage C of this Coverage Part.

**15. Known Prior Acts**

Any "claim" arising directly or indirectly out of, or in any way related to any "wrongful act", "employment practices offense" or any offense in the "administration" of "employee benefit plans" which takes place prior to the inception date of this Coverage Part or any continuous Coverage Part issued by us or any affiliated insurance company, if any of your officers, your legal department or an "employee" you designate to give or receive notice of a "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" knew or reasonably should have foreseen that such "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" would give rise to a "claim".

A "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" will be considered known to have taken place at the earliest time when any of your officers, your legal department or an "employee" you designate to give or receive notice of a "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" or "claim":

- (a) Reports all, or any part, of the "wrongful act", "employment practices offense" or any offense in the "administration" of "employee benefit plans" to us or any other insurer;
- (b) Receives a written or verbal demand or "claim" for damages; or
- (c) Becomes aware by any other means that a "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" has taken place or has begun to take place.

**16. Law Enforcement**

Any "claim" arising directly or indirectly out of, or in any way related to any "law enforcement activity". This exclusion does not apply to:

- a. an "employment practices offense" committed by your law enforcement agency under Coverage B. of this Coverage Part;
- b. an offense in the "administration" of "employee benefit plans" committed by your law enforcement agency under Coverage C. of this Coverage Part.

**17. Performance of Employee Benefit Plans**

Any "employment practices offense" or any offense in the "administration" of "employee benefit plans" arising directly or indirectly out of, or in any way related to:

- a. Failure of any investment program, individual securities or savings program to perform as held forth by or represented by an insured;

- b. Advice given by an insured in connection with participation or non-participation in stock subscription plans, savings programs or any other "employee benefit plan";
- c. Errors in providing information or failing to provide information on past performance of investment vehicles;
- d. Failure of any insured or any insurer, fiduciary, trustee or fiscal agent to perform any of their duties or obligations or to fulfill any of their guarantees with respect to the payment of benefits under "employee benefit plans" or the providing, handling or investment of funds;
- e. The liability of others which is assumed by any insured under a contract or agreement, except to the extent the insured would have been liable in the absence of the contract or agreement;
- f. Any "claim" for the return of compensation paid by any insured if a court determines that the payment was illegal; or
- g. Any "claim" for benefits that are lawfully paid or payable to a beneficiary from the funds of an "employee benefit plan".

**18. Pollution**

- a. Any "claim" arising directly or indirectly out of, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.
- b. Any "claim" arising directly or indirectly or in any way related to any:
  - (1) 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
  - (2) Any "claim" 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".

**19. Profit, Advantage or Remuneration**

Any "claim" arising directly or indirectly out of, or in any way related to any insured gaining any profit, advantage or remuneration to which that insured is not legally entitled.

**20. Sexual Abuse**

Any "claim" arising directly or indirectly out of, or in any way related to "sexual abuse" of any person; or the negligent:

- a. employment;
- b. investigation;
- c. supervision;
- d. reporting to the proper authorities, or failing to so report;
- e. retention;

of any person who actually or allegedly committed or attempted to commit "sexual abuse" for whom any insured is or ever was legally responsible.

**21. Strikes, Riot, Civil Commotion or Mob Action**

Any "claim" arising directly or indirectly out of, or in any way related to any lockout, strike, picket line, replacement or other similar actions resulting from labor disputes or labor negotiations or any act or omission in connection with the prevention or suppression of a riot, civil commotion or mob action.

**22. Tax Assessments**

Any "claim" arising directly or indirectly out of, or in any way related to any tax assessments or adjustments, or the collection, refund, disbursement or application of any taxes. This exclusion does not apply to the use or prioritization of your operating funds.

**23. War**

Any "claim", however caused, arising directly or indirectly out of, or in any way related to:

- 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.

#### **24. Workers' Compensation and Similar Laws**

Any "claim" arising directly or indirectly out of, or in any way related to any obligation of any insured under a workers' compensation, disability benefits or unemployment compensation law, or any similar law.

#### **SECTION IV – WHO IS AN INSURED**

If you are designated in the Declarations as a governmental unit, you are an insured. Each of the following is also an insured;

1. Your current or previously elected or appointed officials, but only for the conduct of their duties as your elected or appointed officials.
2. Any authorities, boards, commissions, councils, districts or other governmental units of the named insured and their employees, which you control and which is funded and operated as part of your total operating budget, and for which no other similar insurance is available.
3. Your "employee" or "volunteer workers" but only for acts within the course and scope of their employment or volunteer activities by or for you.
4. Any person or organization providing services to you under any mutual aid or similar agreement, but only within the scope of the mutual aid or agreement.

Upon death of an insured, their legal representative, but only with respect to duties as such. That representative will have all the rights and duties of such insured.

#### **SECTION V – LIMITS OF INSURANCE**

1. Regardless of the number of covered insureds, claimants, "claims" made or applicable Self-Insured Retentions, the most we will pay for the sum of all "damages" resulting from any one "wrongful act" or "related wrongful acts" is the Each Wrongful Act Limit shown in the Declarations.
2. Regardless of the number of covered insureds, claimants, "claims" made or applicable Self-Insured Retentions, the most we will pay for the sum of all "damages" resulting from any one "employment practices offense" or "related employment practices offenses" is the Each Employment Practices Offense Limit shown in the Declarations.
3. Regardless of the number of covered insureds, claimants, "claims" made or applicable Self-Insured Retentions, the most we will pay for the sum of all "damages" resulting from any one offense or series of related offenses in Employee Benefit Administration is the Each Employee Benefit Administration Offense Limit shown in the Declarations.
4. The most we will pay for all "damages", "claims", "suits" or actions under Coverage A is the Wrongful Act Aggregate Limit shown in the Declarations, in excess of your Self-Insured Retention.
5. The most we will pay for all "damages", "claims", "suits" or actions under Coverage B is the Employment Practices Offense Aggregate Limit shown in the Declarations, in excess of your Self-Insured Retention.
6. The most we will pay for all "damages", "claims", "suits" or actions under Coverage C is the Each Employee Benefit Administration Aggregate Limit shown in the Declarations, in excess of your Self-Insured Retention.

In the event you are unable to satisfy your obligations under a Self-Insured Retention, this Coverage Part and Limit will only apply to "damages" and "loss adjustment expenses" that would have exceeded your Self-Insured Retention.

#### **SECTION VI – CONDITIONS**

##### **1. Bankruptcy**

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

Under no circumstances shall we be required to drop down or assume any obligations of a financially impaired insured.

##### **2. Claims Administrator**

In the event you utilize a claim administrator, we must approve those claims services. Furthermore, you may not change or terminate an approved claim administrator without our prior written approval.

**3. Duties In The Event Of A Wrongful Act, Employment Practices Offense, Employee Benefit Administration Offense, Claim Or Suit**

- a. You must see to it that your claim administrator is notified as soon as practicable of a "wrongful act", "employment practices offense", an offense in the "administration" of your "employee benefit plans", or an offense which may result in a "claim". To the extent possible, notice should include:
- (1) How, when and where the "wrongful act", "employment practices offense", or an offense in the "administration" of your "employee benefit plans", 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 "wrongful act", "employment practices offense", or an offense in the "administration" of your "employee benefit plans".
  - (4) The manner in which each insured first became aware of the circumstances involved.

Notice of a "wrongful act", "employment practices offense" or an offense in the "administration" of "employee benefit plans" is not notice of a "claim".

- b. If a "claim" is made against any insured, you must:

- (1) Immediately record the specifics of the "claim" and the date received; and
- (2) Notify your claim administrator as soon as practicable.

You must see to it that your claim administrator receives written notice of the "claim" as soon as practicable.

- c. You must report to us as soon as practicable each "claim" or loss for which your estimated amount of loss, including "loss adjustment expenses", is 50% or more of the applicable Self-Insured Retention Amount. You must also report all cases of serious injury including but not limited to the following:

- (1) Paraplegia;
- (2) Quadriplegia;
- (3) Severe Burns;
- (4) Fatalities;
- (5) Amputation or loss of use of a Major Extremity;
- (6) Sensory Loss (sight, hearing, smell, etc.);
- (7) Significant Psycho-Neurotic Involvement;
- (8) Discrimination or violation of civil rights;
- (9) Sexual Abuse;
- (10) Sexual Harassment;
- (11) Class actions or any "claim" seeking class certification
- (12) Punitive or extra-contractual damages, even if not covered.

- d. You must cooperate with us and upon our request, assist in making settlement in the conduct of "claims" and in enforcing any right of contribution or indemnity against any person or organization who may be liable to you.
- e. You must provide us with quarterly reports, within 20 days of the end of each quarterly period, of all "claims" or incidents occurring within the Self-Insured Retention Amount including a description of each "claim", assigned claim number and amounts paid and/or reserved.
- f. You must provide access, at our discretion, to conduct claim audits during normal business hours after we provide you with reasonable notice, as frequently as we determine necessary.
- g. You must at all times provide such information and assistance as we may require in the defense of a "claim" exceeding the Self-Insured Retention Amount.

**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

If other valid and collectible insurance is available to any insured for a loss we cover under Coverages A, B or C of this Coverage Part, our obligations are limited as follows:

Other Insurance means insurance, or the funding of losses, that is provided by or through:

- Another insurance company;
- Any of our affiliated insurance companies;
- Any risk retention group;
- Any self-insurance, group self-insurance, or similar risk transfer approach, other than any funded by you and to which this coverage part applies.

However, other insurance does not mean umbrella or excess insurance issued to you to apply in excess of the limits of this coverage part.

### a. Excess Insurance

1. This insurance is excess over any other primary insurance available to you covering liability for "damages" arising out of "wrongful acts", "employment practices offense" or an offense in the "administration" of "employee benefit plans".
2. This insurance is excess over any other insurance that is available during any applicable Supplemental Reporting Period, whether on a primary, excess, contingent, or any other basis.
3. When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - (b) The total of all deductible and self-insured amounts under all that other insurance.
4. We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

### b. Method Of Sharing

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

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

### c. Risk Transfer

Whenever you enter into an agreement with another party requiring the other party to provide liability insurance to you, this Coverage Part will be excess over any other valid and collectible insurance that has been provided to you, except insurance specifically arranged to be excess of this Coverage Part.

When this insurance is excess, we will have no duty under Coverages A, B or C to defend any 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.

## 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.
- d. We may waive this condition at our option.

## **7. Representations**

By accepting this policy, you agree:

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

The unintentional error or omission in any information provided by you will not be deemed to be a misrepresentation. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or non-renewal.

## **8. Self-Insured Retention**

You agree not to insure or otherwise reinsure your Self-Insured Retention Amount(s) without our knowledge and written permission. If insurance with any other insurer is available to cover a "claim" that is within the Self-Insured Retention Amount(s), such other insurance is excess over the Self-Insured Retention Amount(s). We will not make any payments until the other insurance and the applicable Self-Insured Retention Amount has been exhausted.

## **9. Separation Of Insureds**

Except with respect to all exclusions contained within Section I – Coverages, Section V - Limits of Insurance, your Self-Insured Retention Amount 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.

## **10. Transfer Of Rights Of Recovery Against Others To Us**

If any 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. In the event of recovery, the proceeds will be divided in the following priority, including those expenses incurred in pursuing such recovery:

- a. Any insured or insurer who paid amounts in excess of the Limits of Insurance of this Coverage Part;
- b. Our expenses and payments made under this Coverage Part;
- c. Your and or any other insurer who paid amount below our Limits of Insurance of this Coverage Part.

## **11. 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.

## **SECTION VII – DEFINITIONS**

1. "Administration" means any of the following acts that you do or authorize a person to do:
  - a. Counseling "employees" or "volunteer workers", other than giving legal advice, on "employee benefit plans";
  - b. Interpreting your "employee benefit plans";
  - c. Handling records for your "employee benefit plans"; and
  - d. Effecting enrollment, termination or cancellation of "employees" or "volunteer workers" under your "employee benefit plans".
2. "Bodily injury" means physical harm, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" also includes mental anguish, emotional distress, or illness if the mental anguish emotional distress or illness results from such physical harm, sickness or disease at any time. "Bodily injury" also includes loss of care or services resulting from such physical harm, sickness or disease at any time.
3. "Claim(s)" means an oral or written demand, including a "suit", for payment of money "damages".
4. "Computer system" means all associated hardware, software, and electronic data.
5. "Damages" means money damages. "Damages" does not include any amount awarded as liquidated damages pursuant to any federal or state statute nor the multiple portion of any multiplied damage award.

6. "Discrimination" means violation of a person's civil rights with respect to such person's race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition, or any other protected class or characteristic established by any federal, state or local statutes, rules or regulations.
7. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
8. "Employee benefit plans" means group life insurance, group accident or health insurance, profit sharing plans, pension plans, employee stock subscription plans, employee travel, vacation, or savings plans, workers compensation, unemployment insurance, social security and disability benefits insurance, and any other similar benefit program applying to employees or volunteers.
9. "Employment practices offense(s)" means any of the following involving an actual, prospective, or former "employee" or "volunteer worker":
  - a. Demotion or failure to promote, negative evaluation, reassignment or discipline of your current "employee" or "volunteer worker" or wrongful refusal to employ;
  - b. Wrongful termination, meaning the actual or constructive termination of an "employee" or "volunteer worker";
  - c. Negligent hiring or supervision which results in any of the other offenses listed in this definition;
  - d. Retaliatory action against an "employee" or "volunteer worker";
  - e. Coercing an "employee" or "volunteer worker" to commit an unlawful act or omission within the scope of that person's employment;
  - f. Work-related harassment or "sexual harassment";
  - g. Employment-related libel, slander, invasion of privacy, defamation, humiliation or misrepresentation;
  - h. Other work-related verbal, physical, mental or emotional abuse arising from "discrimination";
10. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by "fungi".
11. "Health care and social services wrongful act" means an error, omission, or negligent act:
  - a. in the performance of or failure to perform health care services by an "employee" or "volunteer worker" who is a first responder, nurse, jail nurse, emergency medical technician, or paramedic while acting within the scope of his or her duties for you;
  - b. in the performance of or failure to perform social services including counseling, advice and instruction, by any licensed, certified, or trained "employee" or "volunteer worker" of your social services department, health and human services, health clinic or similar operation;
  - c. in the handling of patients by an "employee" or "volunteer worker" who is a first responder, nurse, jail nurse, emergency medical technician or paramedic:
    - (1) from the place where they are accepted for movement into or onto the means of transport,
    - (2) during transport, and
    - (3) from the means of transport to the place where they are finally delivered; and
  - d. relating to the dispatching of, including the failure or refusal to dispatch, personnel to provide any of the above services.
12. "Law enforcement activity(ies)" means:
  - a. any official activity conducted in the course of your law enforcement operations;
  - b. any officially sanctioned off-duty activity conducted in the course of law enforcement operations;
  - c. ownership, maintenance, operation or use of any premises by your law enforcement operations;
  - d. any criminal prosecution activity by judicial officers, prosecution attorneys, and staff other than public defenders or criminal defense attorneys.
13. "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".
14. "Loss adjustment expenses" means those expenses incurred to adjust a "claim" and include fees paid to attorneys, experts, investigators or independent adjusters used to defend a "suit". "Loss adjustment expenses" does not include the cost of our salaried claims staff or their office expenses, the fees, costs or expenses of your claim administrator, or the salary or wages of any insured or your employees.

15. "Network security" means your activities to protect your "computer system" from malicious code or unauthorized use or unauthorized access.
16. "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. "Publication" of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. "Publication" 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.
17. "Personal information" means an individual's social security number, medical or healthcare data, other protected health information, drivers license number, state identification number, credit card number, debit card number, account number, account histories, passwords, or other nonpublic personal information as defined in "Privacy Regulations". "Personal information" shall not include information that is lawfully made available to the general public for any reason, including but not limited to information from federal, state or local government records.
18. "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.
19. "Privacy regulations" means the following statutes and regulations associated with the care, custody, control or use of personally identifiable financial, medical or other sensitive information:
  - a. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191);
  - b. Gramm-Leach-Bliley Act of 1999;
  - c. California Security Breach Notification Act (CA SB 1386),
  - d. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), but solely for alleged violations of unfair or deceptive acts or practices in or affecting commerce; or
  - e. other similar state, federal, and foreign identity theft and privacy protection legislation that requires commercial entities that collect "personal information" to post privacy policies, adopt specific privacy or security controls, or notify individuals in the event that "personal information" has potentially been compromised.
20. "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.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
21. "Publication" means any method of announcing or disseminating any material to any third party.
22. "Related employment practices offenses" means any multiple, repeated, or continuous "employment practices offense" that is causally connected by facts or circumstances or a series of any "employment practices offenses" causally connected by the same facts or circumstances
23. "Related wrongful acts" means any multiple, repeated, or continuous "wrongful act" that is causally connected by facts or circumstances or a series of any "wrongful acts" causally connected by the same facts or circumstances.

24. "Sexual abuse" means any actual, attempted or alleged sexual conduct by a person, or by persons acting in concert, which causes injury. "Sexual abuse" includes sexual molestation, sexual assault, sexual exploitation or sexual injury, but does not include "sexual harassment".
25. "Sexual harassment" means any actual, attempted or alleged unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature by a person, or by persons acting in concert, which causes injury. "Sexual harassment" includes:
  - a. The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
  - b. The above conduct when such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.
26. "Suit" means a civil proceeding alleging "damages" to which this insurance applies. "Suit" includes:
  - a. An arbitration proceeding in which "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 "damages" are claimed and to which the insured submits with our consent.
27. "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.
28. "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.
29. "Wrongful act(s)" means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty by an insured. "Wrongful act" includes violations of "privacy regulations" and your liability for "damages" to others due to any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach relating to "network security".

#### SECTION VIII – EXTENDED REPORTING PERIODS

1. We will provide one or more Extended Reporting Periods, as described below, if:
  - a. This Coverage Part is cancelled or not renewed; or
  - b. We renew or replace this Coverage Part with insurance that:
    - (1) Has a Retroactive Date later than the date shown in the Declarations of this Coverage Part; or
    - (2) Does not apply to a "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to "claims" for:
  - a. A "Wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" that take place before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations.

Once in effect, Extended Reporting Periods may not be cancelled and the entire premium shall be deemed fully earned and non-refundable upon payment.

3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for sixty days. During this period, you will have the right, subject to part 2. of this section, to report "claims" made and consistent and in accordance with paragraph 2.a. of **PART VI – CONDITIONS**, any "wrongful act", "employment practices offense" or offense in the "administration" of "employee benefit plans" which may later result in a "claim".

The Basic Extended Reporting Period does not apply to "claims" that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such "claims".

4. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
5. A Supplemental Extended Reporting Period is available, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in paragraph 3. above, ends.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium

promptly when due and you have fulfilled all other duties, and complied with all other conditions and requirements, under this Coverage Part.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- a. The exposures insured;
- b. Previous types and amounts of insurance;
- c. Limits of Insurance available under this Coverage Part for future payment of "damages"; and
- d. Other related factors.

The additional premium will not exceed 200% of the annual premium for this Coverage Part

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

6. If the Supplemental Extended Reporting Period is in effect, we will provide the supplemental aggregate limits of insurance described below, but only for "claims" first received and recorded during the Supplemental Extended Reporting Period.

The supplemental aggregate limits of insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for such of the following limits of insurance for which a dollar amount has been entered:

- Each Wrongful Act
- Each Employment Practices Offense
- Each Employee Benefit Administration
- Wrongful Act Aggregate Limit
- Employment Practices Offense Aggregate Limit
- Employee Benefit Administration Aggregate Limit

The **LIMITS OF INSURANCE** (Section V) provisions of this coverage part will be amended accordingly.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION – LIABILITY FOR EMPLOYEE BENEFIT ADMINISTRATION OFFENSES**

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART  
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART (CLAIMS-MADE)

**SECTION I – COVERAGES** is amended to delete Coverage C. Insuring Agreement – Liability for Employee Benefit Administration Offenses in its entirety.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES – INSURING AGREEMENT

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART SELF-INSURED RETENTION

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART CLAIMS-MADE AND SELF-INSURED RETENTION

- A. Paragraph 2. of **Section I – Coverages, A – Insuring Agreement - Liability for Wrongful Acts** is replaced with the following:
2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". We may, at our discretion, investigate any "wrongful act" and settle any "claim" that may result.  
However:
    - a. The amount we will pay for "damages" is limited as described in **SECTION V. LIMITS OF INSURANCE**; and
    - b. Our right and duty to defend end 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 (Section i. D)**
- B. Paragraph 2. of **Section I – Coverages, Coverage B –Liability For Employment Practices Offense** is replaced with the following:
2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". For the purposes of this Coverage B, "suit" shall include Equal Employment Opportunity Commission (EEOC) hearing or proceeding or equivalent state or local agency hearing or proceeding. We may, at our discretion, investigate any "employment practices offense" and settle any "claim" that may result.  
However:
    - a. The amount we will pay for "damages" is limited as described in **SECTION V LIMITS OF INSURANCE**; and
    - b. Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments.No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **Supplementary Payments (Section i. D.)**.
- C. Paragraph 2. of **Section I – Coverages, Coverage C– Liability for Employee Benefit Administration Offenses**
2. We will have the right, but not the duty to defend the insured against any "suit" seeking those "damages". We may, at our discretion, investigate any offense in the "administration" of "employee benefit plans" and settle any "claim" that may result.  
However:
    - a. The amount we will pay for "damages" is limited as described in **SECTION V – LIMITS OF INSURANCE** and
    - b. Our right and duty to defend end 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 (Section I. D)**.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## TOTAL POLLUTION EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART CLAIMS-MADE  
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART CLAIMS-MADE AND SELF-  
INSURED RETENTION

Exclusion 18., **Pollution**, under **SECTION III - EXCLUSIONS** is replaced by the following:

This insurance does not apply under either **Coverage A** or **Coverage B** or **Coverage C** to:

**18. Pollution**

Any "claim" arising directly or indirectly or in any way related to any:

- (1) 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
- (2) Any "claim" 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".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES – ASBESTOS, FUNGI OR BACTERIA, NUCLEAR EXCLUSION

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART  
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART CLAIMS-MADE  
PUBLIC OFFICIALS ERRORS AND OMISSIONS COVERAGE FORM SELF-INSURED RETENTION  
PUBLIC OFFICIALS ERRORS AND OMISSIONS COVERAGE FORM CLAIMS-MADE AND SELF-INSURED RETENTION

- A. The following exclusion replaces Exclusions Paragraph 1. **Asbestos, Fungi or Bacteria, Nuclear of Section III – Exclusions.**

This insurance does not apply under either **Coverage A or Coverage B or Coverage C** to:

1. **Asbestos**

Any "claim" arising directly or indirectly out of, or in any way related to asbestos or asbestos-containing materials.

- B. The following exclusions are added to **Section III – Exclusions.**

**Nuclear**

Any "claim" arising directly or indirectly out of, or in any way related to any radioactive matter or nuclear material.

**"Fungi" or "bacteria"**

Any "claim" arising directly or indirectly out of, or in any way related to "fungi" or "bacteria".

- C. The following definition is added to **Section VII – Definitions:**

"Bacteria" means any type, kind or form of bacterium.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES – LEGAL ACTION AGAINST US

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART  
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART (CLAIMS-MADE)

The **Legal Action Against Us** Condition (Section VI – Conditions) is replaced by the following.

### **Legal Action Against Us**

A person or organization may bring a "suit" against us including, but not limited to, a "suit" 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **LOUISIANA CHANGES – TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US CONDITION**

This endorsement modifies insurance provided under the following:

PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART  
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY COVERAGE PART (CLAIMS-MADE)

The **Transfer Of Rights Of Recovery Against Others To Us Condition Section VI – Conditions** is replaced by the following:

### **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

In the event of any payment under this Coverage Part, we will be entitled to the insured's rights of recovery against any person or organization, and the insured will do whatever is necessary to secure such rights. Our right to recover is subordinate to the insured's right to be fully compensated.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## @VANTAGE FOR GOVERNMENT RISKS

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

The following schedule lists the coverage extensions provided by this endorsement. Refer to the individual provisions to determine the extent of your coverage.

| SCHEDULE OF COVERAGE EXTENSIONS                         |  |
|---|--|
| 1. Additional Insured By Contract                       | 10. Employees and Volunteers as Insureds       |
| 2. Airbag Discharge                                     | 11. Expected or Intended Injury Exclusion      |
| 3. Auto Theft Reward                                    | 12. Fellow Employee Exclusion                  |
| 4. Bodily Injury Redefined – Mental Anguish             | 13. Freezing Coverage – Emergency Vehicles     |
| 5. Commandeered Autos                                   | 14. Glass Repair – Waiver of Deductible        |
| 6. Customized Vehicles                                  | 15. Hired Auto Physical Damage Coverage        |
| 7. Duties In The Event of Accident, Claim, Suit or Loss | 16. Lease Gap Coverage                         |
| 8. Elected or Appointed Officials As Insureds           | 17. Liability Coverage – Supplementary Payment |
| 9. Electronic Equipment                                 | 18. Physical Damage – Transportation Expenses  |

#### 1. ADDITIONAL INSURED BY CONTRACT

The **Who Is An Insured** provision under **SECTION II – LIABILITY COVERAGE** is amended to include as an additional insured any person or organization with whom you agreed in a written contract, written agreement or permit, to provide insurance such as is afforded under this Coverage Form. Such person or organization is an insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part by your maintenance, operation or use of your covered "autos".

With respect to the insurance afforded to these additional insureds, this insurance does not apply:

- a. Unless the written contract or agreement has been executed or the permit has been issued prior to the "bodily injury" or "property damage";
- b. To any person or organization included as an insured by endorsement or in the Declarations, or
- c. To any lessor of "autos" when their contract or agreement with you for such leased "auto" ends.

#### 2. AIRBAG DISCHARGE

If you purchased physical damage coverage for a covered "auto" under this policy, we will pay to reset or replace an airbag that accidentally discharges without the vehicle being involved in an accident. No deductible applies to this additional coverage. However, this coverage only applies if the airbag is not covered under a manufacturer's warranty and you did not intentionally cause the airbag to discharge.

#### 3. AUTO THEFT REWARD

We will pay up to a \$2,000 reward in the event of a covered loss, for information leading to the arrest and conviction of anyone stealing a covered "auto". A reward will not be paid to you, a family member, employee or any public official while performing their duty.

#### 4. BODILY INJURY REDEFINED – MENTAL ANGUISH

The definition of "bodily injury" under **SECTION V – DEFINITIONS** is replaced by the following:

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

#### 5. COMANDEERED AUTOS

The definition of an "auto" under **SECTION V – DEFINITIONS** is amended to include:

Any "auto" that you commandeer for the purpose of performing emergency operations. A commandeered "auto" is covered even though not shown in the Declarations.

The **Who Is An Insured** provision under **SECTION II – LIABILITY COVERAGE** is amended to add owners of commandeered "autos" while such commandeered "auto" is in your temporary care, custody and control.

## 6. CUSTOMIZED VEHICLES

a. The following is added under **SECTION III — PHYSICAL DAMAGE** Coverage Extensions.

We will pay the additional repair or replacement costs necessary to customize a damaged covered "auto" with permanently installed equipment of like kind and quality. We will also pay the cost of installation of such permanently installed equipment onto a replacement "auto" if the covered "auto" is not repairable. Customization includes:

1. Emergency lights, light bars and sirens;
2. Paint and decals;
3. Permanently installed radios and other communication equipment;
4. Permanently installed computer equipment

This coverage extension is excess over any other collectible insurance and does not apply to any covered "auto" if insured on an Agreed Value basis.

b. The definition of an "auto" under **SECTION V – DEFINITIONS** is amended to include any permanently attached machinery or equipment.

## 7. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Under **SECTION IV – BUSINESS AUTO CONDITIONS** –the Duties In The Event Of Accident, Claim, Suit Or Loss Condition is amended as follows:

The requirements that you must

- a. notify us of an "accident", claim, "suit" or "loss" and
- b. send us documents concerning a claim or "suit"

apply only when such "accident", claim, "suit" or "loss" is known to your officers, your legal department or an "employee" you designate to give or receive notice of an "accident", claim, "suit" or "loss".

## 8. ELECTED OR APPOINTED OFFICIALS AS INSUREDS

The **Who Is An Insured** provision under **SECTION II – LIABILITY COVERAGE** is changed by adding the following:

Your elected or appointed officials while using a covered "auto", but only for the conduct of their duties as your elected or appointed officials.

## 9. ELECTRONIC EQUIPMENT

The exclusion for electronic equipment under **Exclusions** of **SECTION III – PHYSICAL DAMAGE COVERAGE** does not apply to "loss" of any installed audio, visual, communications or radar equipment, including:

1. Citizen's band radio;
  2. Two-way mobile radio or telephone;
  3. Scanning monitor receiver;
  4. GPS Navigation System;
  5. Radar/Laser equipment;
  6. Visual equipment;
  7. Audio equipment; and
  8. Laptop computers,
- including its antenna and other accessories.

However, this coverage extension does not apply to electronic data, tapes, records, discs and software.

This coverage is excess over any other collectible insurance.

## 10. EMPLOYEES AND VOLUNTEERS AS INSURED

The **Who Is An Insured** provision under **SECTION II – LIABILITY COVERAGE** is changed by adding the following:

Any "employee" or "volunteer worker" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs. This coverage is excess over any other collectible insurance.

The following is added to **SECTION V – DEFINITIONS**.

"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.

## 11. EXPECTED OR INTENDED INJURY EXCLUSION

The Expected Or Intended Injury exclusion under **SECTION II – LIABILITY COVERAGE** does not apply if the "bodily injury" or "property damage" results from the use of reasonable force to protect people or property.

## 12. FELLOW EMPLOYEE EXCLUSION

The Fellow Employee exclusion under **SECTION II - LIABILITY COVERAGE** does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire. This coverage is excess over any other insurance.

## 13. FREEZING COVERAGE – EMERGENCY VEHICLES

The exclusion for "loss" caused by freezing in subparagraph 3.a. of **B. EXCLUSIONS**, under **SECTION III – PHYSICAL DAMAGE COVERAGE** does not apply to any "loss" to permanently attached special equipment common to a fire truck, ambulance or rescue vehicle, including pumps, gauges and tanks. However, this coverage extension does not apply to "loss" caused by freezing due to failure to properly maintain such equipment or to a vehicle's engine due to freezing.

## 14. GLASS REPAIR – WAIVER OF DEDUCTIBLE

Under Paragraph **D – Deductible** – of **SECTION III - PHYSICAL DAMAGE COVERAGE**, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

## 15. HIRED AUTO – PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" under **SECTION II – LIABILITY COVERAGE** and if **Comprehensive, Specified Causes of Loss, or Collision** coverages are provided under this policy for any "auto" you own, then **SECTION III - PHYSICAL DAMAGE COVERAGE** is extended to "autos" you hire, subject to the following limit:

The most we will pay for "loss" to any hired "auto" is the lesser of:

- a. \$50,000,
- b. The actual cash value, or
- c. The cost of repairing or replacing it with other property of like kind or quality.

The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage Coverage is excess over any other collectible insurance.

Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if the following conditions are met:

- a. it results from an accident,
- b. you are legally liable, and
- c. the lessor incurs an actual financial loss.

The most we will pay for this loss of use coverage is \$1,000 per "accident".

## 16. LEASE GAP COVERAGE

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

If a covered "auto" is leased, we will also pay the difference between the actual cash value of a covered "auto" at the time of "loss" and the remaining balance on your lease if the following conditions are met:

- a. The "auto" has a long term lease and is covered on this policy.
- b. The lessor is added as an Additional Insured in a written lease agreement.
- c. You are legally obligated for the remaining balance.

We will not pay for any amounts representing excess wear and tear charges; additional mileage charges; taxes; overdue payments; penalties, interest or charges resulting from overdue payments; or lease termination fees.

## 17. LIABILITY COVERAGE EXTENSIONS – SUPPLEMENTARY PAYMENTS

Under SECTION II – LIABILITY COVERAGE, the Coverage Extension for Supplementary Payments is revised as follows:

- a. The limit for the cost of bail bonds is amended to \$3,500.
- b. The limit for reasonable expenses incurred by the "insured" is amended to \$500 a day.

## 18. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES COVERAGE

Under SECTION III – PHYSICAL DAMAGE Coverage Extensions, the limit for Transportation Expenses is amended to \$75 per day and the maximum is amended to \$2,250.

# BUSINESS AUTO 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. The words "we", "us" and "our" refer to the company providing this insurance.

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

## SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

### A. Description Of Covered Auto Designation Symbols

| Symbol | Description Of Covered Auto Designation Symbols               |   |
|--------|---|---|
| 1      | Any "Auto"  |   |
| 2      | Owned "Autos" Only  | Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.   |
| 3      | Owned Private Passenger "Autos" Only                          | Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.   |
| 4      | Owned "Autos" Other Than Private Passenger "Autos" Only       | Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.  |
| 5      | Owned "Autos" Subject To No-fault                             | Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.                  |
| 6      | Owned "Autos" Subject To A Compulsory Uninsured Motorists Law | Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.       |
| 7      | Specifically Described "Autos"                                | Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).  |
| 8      | Hired "Autos" Only  | Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.  |
| 9      | Non-owned "Autos" Only  | Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs. |

|    |  |   |
|----|--|---|
| 19 | Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only | Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged. |
|----|--|---|

**B. Owned Autos You Acquire After The Policy Begins**

1. If Symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
  - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

**C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos**

If Liability Coverage is provided by this coverage form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. 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.

**SECTION II – LIABILITY COVERAGE**

**A. Coverage**

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

**1. Who Is An Insured**

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow 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" 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.
- c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

## 2. Coverage Extensions

### a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 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.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

### b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

## B. Exclusions

This insurance does not apply to any of the following:

### 1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

### 2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. 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; or
- b. That the "insured" would have in the absence of the contract or agreement.

### 3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

### 4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

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

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the coverage form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

### 5. Fellow Employee

"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.

### 6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

### 7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or
- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

### 8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

### 9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

### 10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

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

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.

- (3) 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.

#### 11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and

- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

#### 12. War

"Bodily injury" or "property damage" 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.

#### 13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

#### C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

### SECTION III – PHYSICAL DAMAGE COVERAGE

#### A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

**a. Comprehensive Coverage**

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

**b. Specified Causes Of Loss Coverage**

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

**c. Collision Coverage**

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

**2. Towing**

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

**3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

**a. Glass breakage;**

**b. "Loss" caused by hitting a bird or animal; and**

**c. "Loss" caused by falling objects or missiles.**

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

**4. Coverage Extensions**

**a. Transportation Expenses**

We will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 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".

**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 only 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 \$20 per day, to a maximum of \$600.

#### B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

**a. Nuclear Hazard**

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

**b. War Or Military Action**

- (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.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:

- a. Wear and tear, freezing, mechanical or electrical breakdown.
- b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Any device designed or used to detect speed-measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed-measurement equipment.
- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.
- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";
- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

**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 with other property of like kind and quality.

2. \$1,000 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. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

#### D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

#### SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

##### A. Loss Conditions

###### 1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

###### 2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
  - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".

- (4) Authorize us to obtain medical records or other pertinent information.

- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

###### 3. Legal Action Against Us

No one may bring a legal action against us under this coverage form until:

- a. There has been full compliance with all the terms of this coverage form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

###### 4. Loss Payment – Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

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

If any person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

### B. General Conditions

#### 1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this coverage form.

#### 2. Concealment, Misrepresentation Or Fraud

This coverage form is void in any case of fraud by you at any time as it relates to this coverage form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This coverage form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this coverage form.

#### 3. 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.

#### 4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this coverage form.

### 5. Other Insurance

a. For any covered "auto" you own, this coverage form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this coverage form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this coverage form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own.
- (2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

c. Regardless of the provisions of Paragraph a. above, this coverage form's Liability Coverage is primary for any liability assumed under an "insured contract".

d. When this coverage form and any other coverage form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our coverage form bears to the total of the limits of all the coverage forms and policies covering on the same basis.

### 6. Premium Audit

a. The estimated premium for this coverage form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this coverage form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

## 7. Policy Period, Coverage Territory

Under this coverage form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if:
  - (a) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
  - (b) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

## 8. Two Or More Coverage Forms Or Policies Issued By Us

If this coverage form and any other coverage form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the coverage forms or policies shall not exceed the highest applicable Limit of Insurance under any one coverage form or policy. This condition does not apply to any coverage form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

## SECTION V - DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means:
  1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. 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".

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any 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
2. Any 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".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or re-released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

- E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H. "Insured contract" means:
1. A lease of premises;
  2. A sidetrack agreement;
  3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. 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 to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. 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".

An "insured contract" does not include that part of any contract or agreement:

- a. 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, roadbeds, tunnel, underpass or crossing;
  - b. 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
  - c. 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.
- I. "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".
- J. "Loss" means direct and accidental loss or damage.
- K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  2. Vehicles maintained for use solely on or next to premises you own or rent;
  3. Vehicles that travel on crawler treads;
  4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - a. Power cranes, shovels, loaders, diggers or drills; or
    - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
  5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
    - b. Cherry pickers and similar devices used to raise or lower workers; or
  6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
    - a. Equipment designed primarily for:
      - (1) Snow removal;
      - (2) Road maintenance, but not construction or resurfacing; or
      - (3) Street cleaning;
    - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.
- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
  1. Damages because of "bodily injury" or "property damage"; or
  2. A "covered pollution cost or expense";
 to which this insurance applies, are alleged.
 

"Suit" includes:

  - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" 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 or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "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.
- P. "Trailer" includes semitrailer.

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".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## LOUISIANA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided under this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

### A. Changes In Liability Coverage

1. The third paragraph of **A. Coverage** in the Business Auto, Truckers and Motor Carrier Coverage Forms is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

2. With respect to **"Garage Operations" – Other Than Covered "Autos"** in the Garage Coverage Form, the second paragraph of **A.1.a.** is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for these damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the applicable Liability Coverage Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" has been exhausted by payment of judgments or settlements.

3. With respect to **"Garage Operations" – Covered "Autos"** in the Garage Coverage Form, the third paragraph of **A.2.** is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance – "Garage Operations" – Covered "Autos" has been exhausted by payment of judgments or settlements.

4. The lead-in to Paragraph **A.1.b.** of the **Who Is An Insured** Provision in the Business Auto, Motor Carrier and Truckers Coverage Forms and the lead-in to Paragraph **A.3.a.(2)** of the **Who Is An Insured** Provision in the Garage Coverage Form are replaced by the following:

Anyone else while using with your express or implied permission a covered "auto" you own, hire or borrow except:

5. Paragraph **A.1.b.(3)** of the **Who Is An Insured** Provision in the Business Auto, Truckers and Motor Carrier Coverage Forms is replaced by the following:

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. However, such persons are "insureds" up to the financial responsibility limits required by Louisiana Motor Vehicle Safety Responsibility law.

6. Paragraph **A.3.a.(2)(c)** of the **Who Is An Insured** Provision in the Garage Coverage Form is replaced by the following:

Someone using a covered "auto" while he or she is working in a business of selling, servicing or repairing "autos" unless that business is yours. However, such persons are "insureds" up to the financial responsibility limits required by Louisiana Motor Vehicle Safety Responsibility law.

### B. Changes In Physical Damage Coverage

1. Exclusion **4.c.** in the Business Auto Coverage Form, Exclusion **2.c.** in the Business Auto Physical Damage Coverage Form and Exclusion **2.e.** in the Garage, Motor Carrier and Truckers Coverage Forms do not apply to equipment designed for use as a two-way mobile radio or telephone which operates above or below the citizens' band range of frequencies on frequencies assigned by the Federal Communications Commission.

2. The **Limit Of Insurance Provision** in Paragraph C.2. of the Business Auto, Business Auto Physical Damage, Garage and Motor Carrier Coverage Forms does not apply to equipment designed for use as a two-way mobile radio or telephone which operates above or below the citizens' band range of frequencies on frequencies assigned by the Federal Communications Commission.

3. If Collision Coverage, Comprehensive Coverage or Specified Causes Of Loss Coverage is provided by this coverage form on at least one covered "auto", then the following type of vehicle is also a covered "auto" for that 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.

However, if Comprehensive Coverage and Specified Causes Of Loss Coverage are provided separately by this coverage form on at least one covered "auto", then any temporary substitute "auto", as described above, is a covered "auto" for Comprehensive Coverage.

### C. Changes In Conditions

1. The **Appraisal For Physical Damage Loss Condition** in the Business Auto, Garage, Motor Carrier and Truckers Coverage Forms and the **Appraisal Condition** in the Business Auto Physical Damage Coverage Form are replaced by the following:

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will not be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

2. The lead-in to the **Duties In The Event Of Accident, Claim, Suit Or Loss Condition** in the Business Auto, Garage, Motor Carrier and Truckers Coverage Forms and the **Duties In The Event Of Loss Condition** in the Business Auto Physical Damage Coverage Form are replaced by the following:

We have no duty to provide coverage under this policy if the failure to comply with the following duties is prejudicial to us:

3. The **Legal Action Against Us Condition** is replaced by the following:

A person or organization may bring a "suit" against us including, but not limited to, a "suit" 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.

4. The following is added to the **Loss Payment - Physical Damage Coverages Condition** in the Business Auto, Garage, Motor Carrier and Trucker Coverage Forms and the **Loss Payment Condition** of the Business Auto Physical Damage Coverage Form:

Loss payment will be made within 30 days after receipt of satisfactory proof of loss from the insured.

5. The **Transfer Of Rights Of Recovery Against Others To Us Condition** is replaced by the following:

If any person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, our right to recover is subordinate to an "insured's" right to be fully compensated.

6. The **Concealment, Misrepresentation Or Fraud Condition** is replaced by the following:

This coverage form is void in any case of fraud by you at any time as it relates to this coverage form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This coverage form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this coverage form.

However, such voidance of coverage applies only to the extent that such acts or omissions are made with the intent to deceive at the time of application under this coverage form.

7. With respect to a temporary replacement "auto", the **Other Insurance Condition** in the Garage Coverage Form is changed by adding the following:

When this coverage form and any other coverage form or policy providing liability and/or physical damage coverage apply to an "auto", and:

- a. One provides coverage to an "insured" engaged in the business of selling, repairing or servicing "autos";
- b. The other provides coverage to a person not engaged in that business; and
- c. At the time of an "accident", a person covered by a coverage form described in **C.2.b.** is operating an "auto" provided by the business covered by a coverage form described in **C.2.a.** as a temporary replacement "auto", while that person's "auto" is being serviced or repaired, or for demonstration or test-driving purposes;

then that person's liability and/or physical damage coverage is primary, and the coverage form issued to a business covered by a coverage form described in **C.2.a.** is excess over any coverage available to the person covered by a coverage form described in **C.2.b.**

8. With respect to rental motor vehicles, the **Other Insurance** Condition in the Business Auto, Business Auto Physical Damage and Garage Coverage Forms and the **Other Insurance – Primary And Excess Insurance Provisions** Condition in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

Payments from applicable coverage provided under liability coverage and/or physical damage coverage for rental motor vehicles will be made in the following order of priority:

- a. From a policy or coverage purchased by the operator from the owner of the rental motor vehicle;
- b. From a personal policy of liability and/or physical damage coverage insuring the operator of a rented motor vehicle; and

when this coverage form and any other coverage form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our coverage form bears to the total of the limits of all the coverage forms and policies covering on the same basis.

#### **D. Changes In Auto Medical Payments Coverage**

Paragraph A. is amended by the addition of the following:

However, if the "bodily injury" is diagnosed within one year of the "accident" and reported to us within three years of such "accident", we will not limit the time period in which we will pay reasonable expenses incurred for necessary medical and funeral services resulting from such "bodily injury".

#### **E. Changes In Trailer Interchange Coverage**

Paragraph A.2. of the **Coverage** Provision in the Truckers and Motor Carrier Coverage Forms is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

#### **F. Changes In Garagekeepers Coverage**

Paragraph A.2. of the **Coverage** Provision in the Garage Coverage Form is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

#### **G. Changes In Truckers Endorsement**

If the Truckers Endorsement is attached, Paragraph B.1.c. of the **Trailer Interchange Coverage** Provision is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

#### **H. Changes In Broadened Coverage – Garages Endorsement**

If the Broadened Coverage – Garages Endorsement is attached, the second paragraph of **A. Coverage in Section I – Personal And Advertising Injury Liability Coverage** is replaced by the following:

##### **A. Coverage**

We will have the right and duty to defend any "insured" against a "suit" asking for these damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Personal And Advertising Injury Limit of Insurance has been exhausted by payment of judgments or settlements.

**I. Changes In Garagekeepers Coverage Endorsement**

If the Garagekeepers Coverage Endorsement is attached, Paragraph B.2. of the Coverage Provision is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

**J. Changes In Garagekeepers Coverage – Customers' Sound-receiving Equipment Endorsement**

If the Garagekeepers Coverage – Customers' Sound-receiving Equipment Endorsement is attached, Paragraph B.2. of the Coverage Provision is replaced by the following:

We have the right and duty to defend any "insured" against a "suit" asking for such damages. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
SINGLE INTEREST AUTOMOBILE PHYSICAL DAMAGE INSURANCE POLICY  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury, damage, loss or expense, are enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:

a. That involve the following or preparation for the following:

- (1) Use or threat of force or violence; or
- (2) Commission or threat of a dangerous act; or
- (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. When one or both of the following applies:

- (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
- (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

2. "Any injury, damage, loss or expense" means any injury, damage, loss or expense covered under any Coverage Form or Policy to which this endorsement is applicable, and

includes but is not limited to "bodily injury", "property damage", "personal injury", "personal and advertising injury", "loss", "loss of use, rental reimbursement after "loss" or "covered pollution cost or expense", as may be defined under this Coverage Form, Policy or any applicable endorsement.

B. Except with respect to Physical Damage Coverage, Trailer Interchange Coverage, Garagekeepers Coverage, Garagekeepers Coverage - Customers' Sound Receiving Equipment or the Single Interest Automobile Physical Damage Insurance Policy, the following exclusion is added:

### EXCLUSION OF TERRORISM

We will not pay for "any injury, damage, loss or expense" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury, damage, loss or expense" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury, damage, loss or expense. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or

4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs B.5. and B.6. are exceeded.

With respect to this Exclusion, Paragraphs B.5. and B.6. describe the thresholds used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form, Policy or any applicable endorsement.

- C. With respect to Physical Damage Coverage, Trailer Interchange Coverage, Garagekeepers Coverage, Garagekeepers Coverage – Customers' Sound Receiving Equipment or the Single Interest Automobile Physical Damage Insurance Policy, the following exclusion is added:

#### EXCLUSION OF TERRORISM

We will not pay for any "loss", loss of use or rental reimbursement after "loss" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the threshold in Paragraph C.5. is exceeded.

With respect to this Exclusion, Paragraph C.5. describes the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form, Policy or any applicable endorsement.

D. In the event of any incident of "terrorism" that is not subject to the Exclusion in Paragraphs B. or C., coverage does not apply to "any injury, damage, loss or expense" that is otherwise excluded under this Coverage Form, Policy or any applicable endorsement.

# EXCESS LIABILITY COVERAGE FORM

## for Government Risks

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered. We have no duty to provide coverage unless there has been full compliance with all the **SECTION V – CONDITIONS** contained in this coverage part.

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.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION VI – DEFINITIONS**.

### SECTION I – COVERAGE

#### A. Insuring Agreement – Excess Liability

1. We will pay those sums that the insured becomes legally obligated to pay as "damages" in excess of all "underlying insurance", but only after all "underlying insurance" has been exhausted by the actual payment of the Limits of Liability of the "underlying insurance".
2. This excess liability insurance coverage is subject to the insuring agreement terms, exclusions, limitations, conditions, and definitions contained within the "underlying insurance" except as described in **SECTION III – EXCLUSIONS**.
3. The amount we will pay for "damages" is limited as described in **SECTION IV – LIMITS OF INSURANCE**.

### SECTION II – DEFENSE

1. We have no duty to defend or assume charge of any settlement or defense of any "claim" made, "suit" brought, or proceedings instituted against the insured. However, we have the right, but not the duty, and will be provided the opportunity to associate with the insured in the investigation, settlement or defense of any "claim", "suit" or proceeding which in our opinion may create liability under this excess liability policy, whether or not the Limits of Liability of the "underlying insurance" have been exhausted.
2. If the defenses are included within the Limit(s) of Liability of any "underlying insurance" by the terms of that "underlying insurance", any defense expenses we incur under this policy in excess of that "underlying insurance" will reduce the applicable Limit of Insurance of this policy.
3. If the defense expenses are not included within the Limit(s) of Liability of any "underlying insurance" by the terms of that "underlying insurance", any defense expenses we incur under this policy in excess of that "underlying insurance" will not reduce the applicable Limit of Insurance of this policy.

### SECTION III – EXCLUSIONS

This insurance does not apply to:

#### 1. Automobile Underinsured or Uninsured Motorists Laws

Any "claim" arising directly or indirectly or in any way related to an obligation under an automobile underinsured motorists and or uninsured motorists regulation or law.

#### 2. Automobile Medical Payments or No-Fault

Any "claim" arising directly or indirectly or in any way related to an obligation under any first-party automobile medical payments or automobile personal injury protection or other automobile no-fault regulation or law.

#### 3. No Coverage Provided by Underlying Insurance

Any "claim" which is not covered for any reason by any "underlying insurance" to this policy.

#### 4. Failure to Supply

Any "claim" arising directly or indirectly from the failure to adequately supply electricity, gas, oil, steam, or water service. However, we won't apply this exclusion if the failure to supply results from accidental injury to tangible property owned or used by any insured to obtain, produce, process or transmit such service.

#### 5. Pollution

- (1) Any "claim" arising directly or indirectly 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.

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

- (a) Request, demand, order or statutory or regulatory requirement that any insured or other 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".

#### 6. Sexual Abuse

Any "claim" arising directly or indirectly out of "sexual abuse" of any person; or the negligent:

- (a) employment;
- (b) investigation;
- (c) supervision;
- (d) reporting to the proper authorities, or failing to so report;
- (e) retention;

of any person for whom any insured is or ever was legally responsible.

### SECTION IV – 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 or "suits" brought; or
  - c. Persons or organizations making "claims" or bringing "suits".
2. The Aggregate Limit shown in the Declarations is the most we will pay for all "damages" for all "claims" or "suits" in excess of the "underlying insurance".
3. Subject to 2. above, The Each Claim Limit shown in the Declarations is the most we will pay for "damages" in excess of the underlying Each Occurrence, Each Offense, Each Health Care and Social Services Wrongful Act, Each Wrongful Act, Each Employment Practices Offense, Each Administration Offense, Each Law Enforcement Wrongful Act or Each Accident Limits of Insurance that may apply as "underlying insurance".

### SECTION V – CONDITIONS

#### 1. Bankruptcy

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

#### 2. Duties In The Event Of A Claim

- a. You must see to it that we are notified as soon as practicable of an occurrence, offense, wrongful act, or accident which may result in a "claim". To the extent possible, notice should include:
  - (1) How, when and where the occurrence, offense, wrongful act or accident took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the occurrence, offense, wrongful act or accident.
- 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.

### 3. 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.

### 4. Other Insurance

The insurance provided by this policy is excess over any other collectible insurance.

We will pay only our share of the amount of loss, if any, that exceeds the sum of:

- a. The total amount that all other insurance would pay in the absence of this insurance; and
- b. The total of all deductible and self-insured amounts under the other insurance.

If we share the loss, we will do so by equal share contribution if allowed by the other insurance. If equal share contribution is not permitted, we will contribute by the ratio our limit bears to the total applicable limits of all insurance.

Other insurance means insurance, or the funding of losses, that is provided by or through:

- Another insurance company;
- Any of our affiliated insurance companies;
- Any risk retention group;
- Any self-insurance, group self-insurance, or similar risk transfer approach, other than any funded by you and to which this coverage part applies.

However, we will not consider umbrella insurance, or excess insurance, that you bought specifically to apply in excess of the limits of coverage that apply under this agreement to be other insurance.

### 5. 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.
- d. We may waive this condition at our option.

### 6. Representations

By accepting this policy, you agree:

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

The unintentional error or omission in any information provided by you will not be deemed to be a misrepresentation. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or non-renewal.

### 7. Separation Of Insureds

Except with respect to all exclusions contained within **SECTION III – EXCLUSIONS, SECTION IV – 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.

#### **8. Transfer Of Rights Of Recovery Against Other 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.

#### **9. 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.

#### **10. Maintenance of Underlying Insurance**

- a. This policy is subject to the same representations as are contained in any application for any "underlying insurance" and the same insuring agreement terms, exclusions, limitations, conditions, and definitions as are contained within the "underlying insurance". In no event will this Coverage Part grant broader coverage than would be provided by "underlying insurance".
- b. "Underlying insurance" must be maintained in full effect during the policy period except for any reduction or exhaustion of any aggregate limits contained within "underlying insurance" due to the payment of "damages".

#### **11. Extended Reporting Periods**

When "underlying insurance" provides coverage on a claims-made basis, we will provide an extended reporting period(s) to the extent the "underlying insurance" provides an extended reporting period. An additional premium will apply.

### **SECTION VI – DEFINITIONS**

1. "Claim(s)" means a written or oral notice including a "suit" demanding payment of money to compensate for "damages".
2. "Damages" means money damages. "Damages" does not include any amount awarded as liquidated damages pursuant to any federal or state statute nor the multiple portion of any multiplied damage award.
3. "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.
4. "Sexual Abuse" means any actual, attempted or alleged sexual conduct by a person, or by persons acting in concert, which causes injury. "Sexual Abuse" includes sexual molestation, sexual assault, sexual exploitation or sexual injury, but does not include "sexual harassment".
5. "Sexual harassment" means any actual, attempted, or alleged unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature by a person, or persons acting in concert, which causes injury. "Sexual harassment" includes:
  - a. The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
  - b. The above conduct when such conduct has the purpose or effect of unreasonably interfering with person's work performance or creating an intimidating, hostile or offensive work environment.
6. "Suit" means a civil proceeding alleging "damages" to which this insurance applies. "Suit" includes:
  - a. An arbitration proceeding in which "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 "damages" are claimed and to which the insured submits with our consent.
7. "Underlying insurance" means the Schedule of Liability insurance policies, carriers, policy terms and policy limits shown in the Declarations for this Coverage Part.