

# **MARINE GENERAL LIABILITY**

## **MARINA OPERATOR'S LEGAL LIABILITY**

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ENDORSEMENTS

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

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

The word Insured means any person or organization qualifying as such under Section VI - Who is an Insured. Other words and phrases that appear in quotation marks have special meaning. Refer to Section IX – Definitions.

**SECTION I - MARINE OPERATIONS**

## 1. Insuring Agreement

## A. Marina Operator's Legal Liability

## 1) Marina Operator's Legal Liability – "Property Damage"

We will pay those sums that the Insured becomes legally obligated to pay as damages resulting from the Insured's operations as a Marina Operator because of "Property Damage" to watercraft of others, including equipment, cargo, or other interests on board the watercraft, while said items are in the care, custody, and control of the insured for the purpose of:

- a) Repair, alteration, maintenance or miscellaneous servicing;
- b) Storage;
- c) Mooring at slips, spaces or buoys;
- d) Hauling out or launching; or
- e) Fueling.

## 2) Marina Operator's Legal Liability – "Property Damage" Extension

We will pay those sums that the Insured becomes legally obligated to pay as damages because of "Property Damage" to the property of others other than that described in 1.A.1) above arising out of the marina operations described in 1.A.1) above.

## 3) Marina Operator's Legal Liability – "Bodily Injury"

We will pay those sums that the Insured becomes legally obligated to pay as damages because of "Bodily Injury" arising out of the marina operations described in 1.A.1) above.

## 4) Marina Operator's Protection and Indemnity

We will pay those sums that the Insured becomes legally obligated to pay as damages because of "Bodily Injury" or "Property Damage" resulting from the operation of watercraft described in 1.A.1) above by the Insured or the Insured's employees in connection with the Insured's operations as a Marina Operator however we will not pay for any liability, cost or expense arising from watercraft while being demonstrated for sale, delivery or testing for purchase and sale unless the insured or employee authorized by the insured is operating such property and possesses federal or state licenses where required; or any liability cost or expense while watercraft are engaged in any speed or race contest.

## 5) Removal of Wreck

We will pay the cost or expense of, or incidental to, the removal of wreck of watercraft described in 1.A.1) above, in connection with the Insured's operations as a Marina Operator, when such removal is compulsory by law. It is agreed that such cost or expense shall be reduced by the net proceeds of salvage that may inure to the benefit of the Insured.

B. We will have the right and duty to defend the insured against any "Suit" seeking damages covered by the insuring agreement in Section I. We may, at our discretion, investigate any "Occurrence" and settle any claim or "Suit" that may result. But,

- 1) The amount we will pay for damages is limited as described in the Limits of Insurance Section; and
- 2) We will not be obligated to pay any damages or to defend any claim or "Suit" after the applicable Limit of Insurance has been exhausted by payment of judgments, settlements, or related expenses under Section I, II, III, or IV; and
- 3) We will have no duty to defend the insured against any claim or "Suit" seeking damages to which this insurance does not apply.

C. This insurance applies to "Bodily Injury" and "Property Damage" only if:

- 1) The "Bodily Injury" or "Property Damage" is caused by an "Occurrence" that takes place at the location(s) scheduled in the Declarations page(s) or while watercraft are being moved by land or water within twenty-five (25) miles of the location scheduled in the Declarations page(s).
- 2) The "Bodily Injury" or "Property Damage" occurs during the policy period.

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

## 2. Exclusions

This insurance does not apply to:

- A. "Bodily Injury" or "Property Damage" excluded in Section II – General Liability, 2. Exclusions;
- B. Collision liability, tower's liability or liabilities insured against under the customary forms of hull or protection and indemnity policies arising out of the operation of any watercraft owned by, leased or chartered to, the insured or any affiliated or subsidiary concern or party;
- C. Loss, damage or expense arising in connection with work on any watercraft which has carried flammable or combustible liquid in bulk as fuel or cargo or any watercraft which has carried flammable compressed gas in bulk, unless such work is done in accordance with the requirements of the rules and regulations of the National Fire Protection Association applicable to such work;
- D. Loss or damage caused by or resulting from exceeding the registered or rated lifting capacity of any lifting device, marine railway or dry-dock;
- E. The expense of redoing the work improperly performed by or on behalf of the Insured or the cost of replacement of materials, parts or equipment furnished in connection therewith;
- F. The cost or expense of repairing, replacing or renewing any faulty designed part or parts which cause(s) loss of or damage to the watercraft, or for any expenditure incurred by reason of a betterment or alteration in design;

## **SECTION II - GENERAL LIABILITY**

### 1. Insuring Agreement

A. We will pay those sums that the insured becomes legally obligated to pay as damages because of "Bodily Injury" or "Property Damage" to which this insurance applies. We will have the right and duty to defend the insured against any "Suit" seeking those damages. However, we will have no duty to defend the insured against any "Suit" seeking damages for "Bodily Injury" or "Property Damage" to which this insurance does not apply. We may, at our discretion, investigate any "Occurrence" and settle any claim or "Suit" that may result. But,

- 1) The amount we will pay for damages is limited as described in the Limits of Insurance Section; and
- 2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements, or related expenses under Sections I, II, III or IV.

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

B. This insurance applies to "Bodily Injury" and "Property Damage" only if:

- 1) The "Bodily Injury" or "Property Damage" is caused by an "Occurrence" that takes place in the "Coverage Territory";
- 2) The "Bodily Injury" or "Property Damage" occurs during the policy period; and
- 3) Prior to the policy period, no insured listed under Paragraph 1. of Section VI – Who Is An Insured and no "Employee" authorized by you to give or receive notice of an "Occurrence" or claim, knew that the "Bodily Injury" or "Property Damage" had occurred, in whole or in part. If such a listed insured or authorized "Employee" knew, prior to the policy period, that the "Bodily Injury" or "Property Damage" occurred, then any continuation, change or resumption of such "Bodily Injury" or "Property Damage" during or after the policy period will be deemed to have been known prior to the policy period.

C. "Bodily Injury" or "Property Damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section VI – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "Occurrence" or claim, includes any continuation, change or resumption of that "Bodily Injury" or "Property Damage" after the end of the policy period.

D. "Bodily Injury" or "Property Damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section VI – Who Is An Insured or any "Employee" authorized by you to give or receive notice of an "Occurrence" or claim:

- 1) Reports all, or any part, of the "Bodily Injury" or "Property Damage" to us or any other insurer;
- 2) Receives a written or verbal demand or claim for damages because of the "Bodily Injury" or "Property Damage"; or
- 3) Becomes aware by any other means that "Bodily Injury" or "Property Damage" has occurred or has begun to occur.

E. Damages because of "Bodily Injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "Bodily Injury".

### 2. Exclusions

This insurance does not apply to:

#### A. Watercraft

"Bodily Injury" or "Property Damage" arising out of the ownership, maintenance, use or entrustment of others of any watercraft owned or operated by or rented or loaned to any insured. Use includes "Loading or Unloading".

This exclusion does not apply to:

- 1) A watercraft while ashore on premises owned or rented by you; and
- 2) An operation that is covered under Section I - Marine Operations.

B. Damage to Property

“Property Damage” to:

- 1) Property you own, rent, or occupy, including any costs or expenses incurred by you or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another’s property;
- 2) Premises your sell, give away, or abandon, if the “Property Damage” arises out of any part of those premises;
- 3) Property loaned to you;
- 4) Personal property in the care, custody or control of the insured;
- 5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the “Property Damage” arises out of those operations; or
- 6) That particular part of any property that must be restored, repaired or replaced because “Your Work” was incorrectly performed on it.

Paragraph 1), 3) and 4) of this exclusion do not apply to “Property Damage” (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented to You as described in Section VII – Limits of Insurance.

Paragraph 2) of this exclusion does not apply if the premises are “Your Work” and were never occupied, rented or held for rental by you.

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

Paragraph 6) of this exclusion does not apply to “Property Damage” included in the definition of “Products-Completed Operations Hazard”.

Paragraph 4) of this exclusion does not apply to an operation that is covered under Section I - Marine Operations.

C. Expected or Intended Injury

“Bodily Injury” or “Property Damage” expected or intended from the standpoint of the insured. This exclusion does not apply to “Bodily Injury” resulting from the use of reasonable force to protect persons or property.

D. Contractual Liability

“Bodily Injury” or “Property Damage” for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- 1) That the insured would have in the absence of the contract or agreement; or
- 2) Assumed in a contract or agreement that is an “Insured Contract”, provided the “Bodily Injury” or “Property Damage” occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an “Insured Contract”, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of “Bodily Injury” or “Property Damage”, provided:
  - a) Liability to such party for, or for the cost of, that party’s defense has also been assumed in the same “Insured Contract”; and

- b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

E. Liquor Liability

"Bodily Injury" or "Property Damage" for which any insured may be held liable by reason of:

- 1) Causing or contributing to the intoxication of any person;
- 2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- 3) Violation of any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

We have neither a duty to defend nor a duty to indemnify an insured if any proximate or contributing cause of an occurrence arises out of "bodily injury" or "property damage" above. This exclusion applies to all insureds regardless of whether you are in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages. There is no duty to defend any aspect of the claim or "suit" and this insurance does not apply.

F. Workers Compensation and Similar Laws

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

This exclusion also applies to the United States Longshore and Harbor Workers' Compensation Act, the Death on the High Seas Act, the Jones Act, and any other damages owed to a person under General Maritime Law.

G. Employer's Liability

"Bodily Injury" to:

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

H. Pollution

- 1) "Bodily Injury" or "Property Damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "Pollutants":
  - a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - i) "Bodily Injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- ii) "Bodily Injury" or "Property Damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
  - iii) "Bodily Injury" or "Property Damage" arising out of heat, smoke or fumes from a "Hostile Fire";
  - b) At or from 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;
  - c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - i) Any insured; or
    - ii) Any person or organization for whom you may be legally responsible; or
  - d) At or from 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 if the "Pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
    - i) "Bodily Injury" or "Property Damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "Mobile Equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "Bodily Injury" or "Property Damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - ii) "Bodily Injury" or "Property Damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
    - iii) "Bodily Injury" or "Property Damage" arising out of heat, smoke or fumes from a "hostile fire".
  - e) At or from 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 if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "Pollutants".
- 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) 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".

However, this paragraph does not apply to liability for damages because of "Property Damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "Suit" by or on behalf of a governmental authority.

I. Sub-Surface Operations or Property

- 1) Loss of, damage to, or loss of use of property directly or indirectly resulting from sub-surface operations of the insured; or
- 2) Removal of, loss of or damage to sub-surface oil, gas or any other substance.

J. Aircraft or "Auto"

"Bodily Injury" or "Property Damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft or "Auto" owned or operated by or rented or loaned to any insured. Use includes operation and "Loading or Unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "Occurrence" which caused the "Bodily Injury" or "Property Damage" involved the ownership, maintenance, use or entrustment to others of any aircraft or "Auto" that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- 1) Parking an "Auto" on, or on the ways next to, premises you own, or rent, provided the "Auto" is not owned by or rented or loaned to you or the insured.
- 2) Liability assumed under any "Insured Contract" for the ownership, maintenance or use of aircraft; or
- 3) "Bodily Injury" or "Property Damage" arising out of:
  - a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "Mobile Equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
  - b) the operation of any of the machinery or equipment listed in Paragraph F 2) or 3) of the definition of "Mobile Equipment".

K. "Mobile Equipment"

"Bodily Injury" or "Property Damage" arising out of

- 1) The transportation of "Mobile Equipment" by an "Auto" owned or operated by or rented or loaned to any insured; or
- 2) The use of "Mobile Equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

L. War, Hostilities, and Weapon Testing

"Bodily Injury" or "Property Damage" however caused, arising, directly or indirectly, resulting from or incurred by:

- 1) War, including undeclared or civil war; or
- 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; or
- 4) Capture, seizure, arrest, taking, restraint, detainment, confiscation, preemption, requisition or nationalization, and the consequences thereof or any attempted thereat, whether in time of peace or war and whether or not the Insured's liability therefore is based on negligence; or



- 5) Any weapon of war employing atomic or nuclear fission and/or fusion or other reaction or radioactive force or matter, or by any mine, bomb or torpedo; or
- 6) Hostilities or warlike operations (whether there be a declaration of war or not), but the phrase "hostilities or warlike operations (whether there be a declaration of war or not)" shall not exclude collision or contact with aircraft, rockets or similar missiles or with any fixed or floating object, stranding, heavy weather, fire or explosion unless caused directly (independently of the nature of the voyage or service which the watercraft concerned or in the case of a collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power; for the purposes of the foregoing, power includes any authority maintaining navy, military or air forces in association with a power. In addition to the foregoing exclusions, this insurance shall not cover any loss, damage or expense to which a warlike act or the use of military or naval weapons is a contributing cause, whether or not the Insured's liability therefore is based on negligence or otherwise, and whether in time of peace or war. The embarkation, carriage and disembarkation of troops, combatants, or material of war, or the placement of the watercraft in jeopardy as an act or measure of war taken in the actual process of a military engagement, with or without the consent of the Insured, shall be considered a warlike act for the purposes of this policy; or
- 7) The consequences of civil war, revolution rebellion, insurrection, military or usurped power, the imposition of martial law, or civil strife arising therefrom, or piracy, or from any loss, damage or expense caused by or resulting directly or indirectly from the act or acts of one or more persons, whether or not agents of a sovereign power, carried out for political or terrorist purposes, and whether any loss, damage or expense resulting therefrom is accidental or intentional; or
- 8) Strikes, lockouts, political or labor disturbances, civil commotion, riots, or the acts of any person or persons taking part in such "Occurrence" or disorder; or
- 9) The firing or testing of any weapon of war.

M. Damage to the "Your Product"

"Property Damage" to "Your Product" arising out of such products or any part of such products.

N. Damage to "Your Work"

"Property Damage" to "Your Work" arising out of it or any part of it and included in the "Products-Completed Operations Hazard".

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

O. Damage to "Impaired Property" or Property Not Physically Injured

"Property Damage" to "Impaired Property" or property that has not been physically injured arising out of:

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

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "Your Product" or "Your Work" after it has been put to its intended use.

P. Recall of Products, Work or "Impaired Property"

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- 1) "Your Product";
- 2) "Your Work"; or

## 3) "Impaired Property"

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

## Q. Asbestos

"Bodily Injury" or "Property Damage" arising out of or resulting from the disposal, existence, handling, ingestion, inhalation, removal, sale, storage, transportation or use of asbestos, asbestos fibers or products containing asbestos. This includes but is not limited to:

- 1) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
- 2) Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

## R. Lead

"Bodily Injury" or "Property Damage" arising out of the actual or alleged presence or actual, alleged or threatened dispersal of lead, or products containing lead, provided that the injury or damage is caused or contributed to by the hazardous properties of lead. This includes:

- 1) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
- 2) Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

## S. Employment-Related Practices

"Bodily Injury" to:

- 1) A person arising out of any:
  - a) Refusal to employ that person;
  - b) Termination of that person's employment; or
  - c) Employment-related practices, policies, acts or omissions such as, coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- 2) The spouse, child, parent, brother or sister of that person as a consequence of "Bodily Injury" to that person at whom any of the employment-related practices described in paragraphs a., b., or c. above is directed.

This exclusion applies:

- 1) Whether the insured may be held 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.

## T. Errors and Omissions

Any damage including but not limited to "Bodily Injury" or "Property Damage" that results from or arises out of negligence, error or omission, malpractice, the rendering or failure to render any professional service or any other mistake of a professional nature committed or alleged to have been committed by or on behalf of the Insured in the conduct of any of the Insured's business activities. Professional services includes but is not limited to the preparation or approval of maps, plans, opinions, reports, surveys, designs or declarations and supervisory, inspection, engineering, or data processing services.

## U. Directors and Officers

- 1) Actual or alleged liability arising out of an insured's capacity, duty or responsibility as an Officer, Director or Trustee of a corporation by reason of any breach of fiduciary duty, or improper conduct or conflict of interest in the performance of an Insured's duties, responsibilities or accountability as an Officer, Director or Trustee. This includes, but is

not limited to, any actual or alleged misstatement, misleading statement, gain of personal profit or advantage to which the insured was or is not entitled legally, any dishonest act, or bad faith conduct, in the insured's capacity as an Officer, Director or Trustee, or with respect to the capital or assets of the corporation, or any action taken beyond the scope of the Insured's authority as an Officer, Director or Trustee;

- 2) Actual or alleged liability arising out of a violation(s) of any federal or state law regulating, controlling or governing stock, bonds, or securities of any type or nature. This includes, but is not limited to, the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and the so called "Blue Sky" Laws of various State and other jurisdictions;
- 3) Actual or alleged liability arising out of any federal or state law regulating, controlling and governing antitrust or the prohibition of monopolies, activities in restraint of trade, unfair methods of competition or deceptive acts and practices in trade and commerce. This includes, but is not limited to, the Sherman Act, the Clayton Act, the Robinson-Patman Act, the Federal Trade Commission Act and the Hart-Scott Rodino Antitrust Improvements Act;
- 4) Actual or alleged liability of any Officer, Director or Trustee arising out of or asserted in a shareholder's derivative action; or
- 5) Actual or alleged liability arising out of the dishonesty or infidelity of any insured;

Exclusions A., B., and E. through U. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in the Limits of Insurance Section.

V. "Personal and Advertising Injury"

"Bodily Injury" arising out of "Personal and Advertising Injury".

W. Electronic Data

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

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

X. Nuclear Energy Liability (Broad Form)

- 1). Any Liability Coverage, to "Bodily Injury" or "Property Damage":
  - a) with respect to which an insured under this policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
  - b) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- 2) Any Medical Expenses Coverage, to expenses incurred with respect to "Bodily Injury" resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- 3) Any Liability Coverage, to "Bodily Injury" or "Property Damage" resulting from hazardous properties of nuclear material, if:

- a) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom;
- b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or
- c) the "Bodily Injury" or "Property Damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion 3. applies only to "Property Damage" to such nuclear facility and any property thereat.

As used in this exclusion X.:

Hazardous properties include radioactive, toxic or explosive properties;

Nuclear material means source material, special nuclear material or by-product material;

Source material, special nuclear material and by-product material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

Spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

Waste means any waste material (a) containing by-product material other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, and (b) resulting from the operation by any person or organization of any nuclear facility included under the first two paragraphs of the definition of nuclear facility.

Nuclear facility means:

1. any nuclear reactor;
2. any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste;
3. any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste; and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property Damage" includes all forms of radioactive contamination of property.

## **SECTION III - PERSONAL AND ADVERTISING INJURY**

1. Insuring Agreement
  - A. We will pay those sums that the insured becomes legally obligated to pay as damages because of "Personal and Advertising Injury" to which this insurance applies. We will have the right and duty to defend the insured against any "Suit" seeking those damages. However, we will have no duty to defend the insured against any "Suit" seeking damages for "Personal and Advertising Injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "Suit" that may result. But,
    - 1) The amount we will pay for damages is limited as described in the Limits of Insurance Section; and
    - 2) Our right and duty to defend end when we have used up the applicable limit of insurance of insurance in the payment of judgments or settlements under Sections I, II, III or IV.

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

- B. This insurance applies to "Personal and Advertising Injury" caused by an offense arising out of your business, but only if the offense was committed in the "Coverage Territory" during the policy period.

### 2. Exclusions

This insurance does not apply to:

- A. Knowing Violation Of Rights Of Another  
"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".
- B. Material Published With Knowledge Of Falsity  
"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.
- C. Material Published Prior To Policy Period  
"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.
- D. Criminal Acts  
"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.
- E. Contractual Liability  
"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.
- F. Breach Of Contract  
"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".
- G. Quality Or performance Of Goods – Failure To Conform To Statements  
"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".
- H. Wrong Description Of Prices  
"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".
- I. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade name, trade dress, trade secret or other intellectual property rights.

J. Insureds In Media And Internet Type Business

"Personal and advertising injury" committed by an insured whose business is:

- 1) Advertising, broadcasting, publishing or telecasting;
- 2) Designing or determining content of web-sites for others; or
- 3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14. A, B. and C. of "personal and advertising injury" under the Definitions Section.

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

K. Electronic Chatrooms Or Bulletin Boards

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

L. Unauthorized Use Of Another's Name Or Product

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

M. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

N. Pollution Related

Any loss, cost or expense arising out of 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) 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".

O. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

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

**SECTION IV - MEDICAL EXPENSES**

1. Insuring Agreement
  - A. We will pay medical expenses as described below for "Bodily Injury" caused by an accident:
    - 1) On premises you own or rent;
    - 2) On ways next to premises you own or rent; or
    - 3) Because of your operations; provided that:
      - a) The accident takes place in the "Coverage Territory" and during the policy period;
      - b) The expenses are incurred and reported to us within one year of the date of the accident; and
      - c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
  - B. We will make these payments regardless of fault. These payments will not exceed the applicable Limit of Insurance. We will pay reasonable expenses for:
    - 1) First aid administered at the time of an accident;
    - 2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
    - 3) Necessary ambulance, hospital, professional nursing and funeral services.
2. Exclusions
 

We will not pay expenses for "Bodily Injury":

  - A. Any Insured
 

To any Insured,
  - B. Hired Person
 

To a person hired to do work for or on behalf of any insured or a tenant of any insured.
  - C. Injury On Normally Occupied Premises
 

To a person injured on that part of premises you own or rent that the person normally occupies.
  - D. Workers Compensation And Similar Laws
 

To a person, whether or not an "Employee" of any insured, if benefits for the "Bodily Injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
  - E. Athletics Activities
 

To a person injured while practicing, instruction or participating in any physical exercises or games, sports, or athletic contests..
  - F. Products-Completed Operations Hazard
 

Included within the "Products-Completed Operations Hazard".
  - G. Section I or II Exclusions
 

Excluded under Section I or Section II.

**SECTION V - SUPPLEMENTARY PAYMENTS**

1. We will pay with respect to any claim we investigate or settle, or any "Suit" against an insured we defend:
  - A. Expenses we incur.
  - B. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the "Bodily Injury" Liability Coverage applies. We do not have to furnish these bonds.
  - C. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - D. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "Suit", including actual loss of earnings up to \$250 a day because of time off from work.

These payments will not reduce the limits of insurance.



**SECTION VI - WHO IS AN INSURED**

1. If you are designated in the Declarations page(s) 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 tour officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - E. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
  - A. Your "Volunteer Workers" only while performing duties related to the conduct of your business, or your "Employees", other than either your "Executive Officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "Employee's" or "Volunteer Workers" are insureds for:
    - 1) "Bodily Injury", or "Personal and Advertising Injury":
      - a) To you, to your partners or members (if you are a partnership or joint venture) to your members (if you are a limited liability company) to a co-"Employee" while in the course of his or her employment or while performing duties related to the conduct of your business, or to your other "Volunteer Workers" while performing duties related to the conduct your business;
      - b) To the spouse, child, parent, brother or sister of that co-"Employee" or "Volunteer Worker" as a consequence of paragraph 1.a. above;
      - c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs 1.a. or b. above; or
      - d) Arising out of his or her providing or failing to provide professional health care services.
    - 2) "Property Damage" to property:
      - a) Owned, occupied or used by,
      - b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "Employee's", "Volunteer Workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
  - B. Any person (other than your "Employee" or "Volunteer Worker"), or any organization while acting as your real estate manager.
  - C. Any person or organization having proper temporary custody of your property if you die, but only:
    - 1) With respect to liability arising out of the maintenance or use of that property; and
    - 2) Until your legal representative has been appointed.

- D. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or forms, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- A. Coverage under this provision is afforded only until the 90th day after you acquire or forms the organization or the end of the policy period, whichever is earlier;
  - B. Sections I and II do not apply to "Bodily Injury" or "Property Damage" that occurred before you acquired or formed the organization; and
  - C. Section III does not apply to "Personal and Advertising Injury" arising out of an offense committed 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 VII - LIMITS OF INSURANCE**

1. The Limits of Insurance shown in the Declarations page(s) 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 General Aggregate Limit is the most we will pay for the sum of:
  - A. Medical expenses under Section IV;
  - B. Damages under Sections I, II, and III, except damages because of "Bodily Injury" or "Property Damage" included in the "Products-Completed Operations Hazard".
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Sections I or II for damages because of "Bodily Injury" and "Property Damage" included in the "Products-Completed Operations Hazard".
4. Subject to 2. above, the "Personal and Advertising Injury" Limit is the most we will pay under Section III for the sum of all damages because of all "Personal and Advertising Injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each "Occurrence" Limit is the most we will pay for the sum of:
  - A. Damages under Section I; and
  - B. Damages under Section II; and
  - C. Medical expenses under Section IV
 because of all "Bodily Injury" and "Property Damage" arising out of any one "Occurrence".
6. Subject to 5. above, the Damages To Premises Rented To You Limit is the most we will pay under Section II for damages because of "Property Damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Section IV for all medical expenses because of "Bodily Injury" sustained by any one person.

The Limits of Insurance 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 page(s), 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 VIII - CONDITIONS**

### 1. Premium

- A. The Deposit premium shown in the Declarations page(s) shall be payable upon the inception date of this Policy.
- B. The first Named Insured, by acceptance of this Policy, agrees to keep an accurate record of all Gross Charges for operations covered under the terms and conditions of this Policy. All such records shall be available for examination by representatives of us at all times during business hours during the term of this policy, or thereafter. The first Named Insured further agrees to report to us, not later than thirty (30) days following policy expiration, the total Gross Charges thereof, collected and uncollected, during the policy period shown in the Declarations page(s).
- C. The earned premium will be computed at the rate(s) shown in the Declarations page(s) and applied against the Deposit Premium. Any earned premium exceeding the Deposit Premium shall be due and payable to us at the time of filing the report on which the earned premium is due. Any unearned premium, being the amount by which the Deposit Premium exceeds the earned premium, shall be refunded at the time of filing the report, however subject to the Minimum Premium described in 1.D. below.
- D. The Minimum Premium shown in the Declarations page(s) is the minimum premium retained by us except in the event of cancellation of this policy by us.

### 2. Deductible

No claim shall be payable hereunder unless the aggregate liability for any one "Occurrence", including claims, costs and expenses, including but not limited to Supplementary Payments, exceeds the Deductible amount shown in the Declarations page(s). This amount shall be deducted from the amount payable hereunder for each "Occurrence". The deductible does not apply to Section IV - Medical Expenses.

### 3. Cancellation

- A. This policy may be cancelled by the first Named Insured by mailing to us written notice stating when thereafter the cancellation shall be effective.
- B. This policy may be cancelled by us by mailing to the first Named Insured at the address shown in the Declarations page(s), written notice stating when not less than thirty (30) days thereafter such cancellation shall be effective; provided that in the event of nonpayment of premium, such notice shall state when not less than ten (10) days thereafter such cancellation shall be effective. Such notice sent to the first Named Insured in care of the agent or broker who negotiated this policy shall have the same effect as if sent directly to the first Named Insured.
- C. The effective date of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the first Named Insured or by us shall be equivalent to mailing.
- D. If the first Named Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If we cancel, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

### 4. Bankruptcy

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

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

- A. You must see to it that we are notified as soon as practicable of an "Occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - 1) How, when and where the "Occurrence" or offense took place;
  - 2) The names and addresses of any injured persons and witnesses; and

3) The nature and location of any injury or damage arising out of the "Occurrence" or offense.

B. If a claim is made or "Suit" is brought against any insured, you must:

- 1) Immediately record the specifics of the claim or "Suit" and the date received; and
- 2) Notify us as soon as practicable.

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

C. You and any other involved insured must:

- 1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "Suit";
- 2) Authorize us to obtain records and other information;
- 3) Cooperate with us in the investigation or settlement of the claim or defense against the "Suit"; and
- 4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

D. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without the consent of us.

#### 6. 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.

#### 7. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Sections I, II, or III, our obligations are limited as follows:

- A. This insurance is excess over any other insurance whether the other insurance is stated to be primary, pro rata, contributory, excess, contingent, umbrella, or on any other basis; unless the other insurance is issued to the named insured shown in the Declarations of this Coverage Part and is written explicitly to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.
- B. When this insurance is excess, we will have no duty under Sections I, II, or III to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- C. When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:
  - 1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
  - 2) The total of all deductible and self insured amounts under all that other insurance.

#### 8. Representations

By accepting this policy, you agree:

- A. The statements in the Declarations page(s) 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 the representations of you.

9. 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.

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

If the insured has rights to recover all or part of any payment we has made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At the request of us, the insured will bring "Suit" or transfer those rights to us and help us enforce them.

SPECIMEN

## **SECTION IX - DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - A. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - B. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an "Advertisement".
2. "Auto" means:
  - A. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or.
  - B. Any other land vehicle that is subject to a compulsory or financial responsibility or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "Auto" does not include "Mobile Equipment".
3. "Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage Territory" means: all parts of the world, provided Suit is first brought in The United States of America (including its territories and possessions), Puerto Rico or Canada.
5. "Employee" includes a "Leased Worker", a "Temporary Worker" and a "Volunteer Worker".
6. "Executive Officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile Fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired Property" means tangible property, other than "Your Product" or "Your Work", that cannot be used or is less useful because:
  - A. It incorporates "Your Product" or "Your Work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - B. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

  - A. The repair, replacement, adjustment or removal of "Your Product" or "Your Work"; or
  - B. Your fulfilling the terms of the contract or agreement.
9. "Insured Contract" means:
  - A. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "Insured Contract";
  - B. A sidetrack agreement;
  - C. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - D. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - E. An elevator maintenance agreement;
  - F. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "Bodily Injury" or "Property Damage"

to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph F. does not include that part of any contract or agreement:

- 1) That indemnifies a railroad for "Bodily Injury" or "Property Damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
  - 2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; or
    - b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - 3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in 2. above and supervisory, inspection, architectural or engineering activities or services; or
  - 4) That indemnifies another for the sole negligence of such other person or organization.
10. "Leased Worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased Worker" does not include a "Temporary Worker".
11. "Loading or Unloading" means the handling of property:
- A. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "Auto";
  - B. While it is in or on an aircraft, watercraft or "Auto"; or
  - C. While it is being moved from an aircraft, watercraft or "Auto" to the place where it is finally delivered; but "Loading or Unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "Auto".
12. "Mobile Equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- A. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - B. Vehicles maintained for use solely on or next to premises owned or rented by you;
  - C. Vehicles that travel on crawler treads;
  - D. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - 1) Power cranes, shovels, loaders, diggers or drills; or
    - 2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - E. Vehicles not described in A., B., C. or D. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - 1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - 2) Cherry pickers and similar devices used to raise or lower workers;
  - F. Vehicles not described in A., B., C. or D. above maintained primarily for purposes other than the transportation of persons or cargo.



However, self-propelled vehicles with the following types of permanently attached equipment are not "Mobile Equipment" but will be considered "Autos":

- 1) Equipment designed primarily for:
  - a) Snow removal;
  - b) Road maintenance but not construction or surfacing; or
  - c) Street cleaning;
- 2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- 3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "Mobile Equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "Autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions. All "bodily injury" or "property damage" arising out of an "occurrence" or series of related "occurrences" is deemed to take place at the time of the first such damage or injury even though the nature and extent of such damage or injury may change; and even though the damage may be continuous, progressive, cumulative, changing or evolving; and even though the "occurrence" causing such "bodily injury" or "property damage" may be continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and Advertising Injury" means injury, including consequential "Bodily Injury", arising out of one or more of the following offenses:
  - A. False arrest, detention or imprisonment;
  - B. Malicious prosecution;
  - C. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - D. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services.
15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, spoils, fumes, acids, alkalis, petroleum products or derivatives, chemicals, sewerage, dredging spoils, asbestos, and waste materials or substances. Waste materials or substances include materials to be recycled, reconditioned or reclaimed.
16. "Products-Completed Operations Hazard":
  - A. Includes all "Bodily Injury" and "Property Damage" occurring away from premises owned or rented by you and arising out of "Your Product" or "Your Work" except:
    - 1) Products that are still in your physical possession; or
    - 2) Work that has not yet been completed or abandoned. However, "Your Work" will be deemed completed at the earliest of the following times:
      - a) When all of the work called for in your contract has been completed.
      - b) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
      - c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
      - d) Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- B. Does not include "Bodily Injury" or "Property Damage" arising out of:
- 1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "Loading or Unloading" of that vehicle by any insured;
  - 2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
  - 3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "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 purpose of this insurance, electronic data is not tangible property.

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

For the purposes of this insurance, "property damage" is not physical injury to tangible property, any resultant loss of use of tangible property, nor loss of use of tangible property that is not physically injured that arises out of failure to complete or abandonment of "your work".

18. "Suit" means a civil proceeding in which damages because of "Bodily Injury", "Property Damage", or "Personal and Advertising Injury" to which this insurance applies are alleged. "Suit" includes:

- A. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with the consent of us; or
- B. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with the consent of us.

19. "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.

20. "Volunteer Worker" means a person who donates his or her work and acts at the direction of and with 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.

21. "Your Product" means:

- A. Any goods or products, other than real property manufactured, sold, handled, distributed or disposed of by:
  - 1) You;
  - 2) Others trading under your name; or
  - 3) A person or organization whose business or assets you have acquired; and
- B. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your Product" includes:

- A. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "Your Product"; and
- B. The providing of or failure to provide warnings or instructions.

“Your Product” does not include vending machines or other property rented to or located for the use of others but not sold.

22. “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:

- A. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “Your Work”; and
- B. The providing of or failure to provide warnings or instructions.

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