

Policy Number: **ULP101020202**

ESNJ-PF-AVENEL LLC  
33 COTERS LN.  
EAST BRUNSWICK NJ 08816

ATTACHED ARE DOCUMENTS FOR THE FOLLOWING NAMED INSURED:

ESNJ-PF-AVENEL LLC  
33 COTERS LN.  
EAST BRUNSWICK NJ 08816

**Policy Number**  
**ULP101020202**

**COMMON POLICY DECLARATIONS**

**ARCH INSURANCE COMPANY**

Named Insured ESNJ-PF-AVENEL LLC

Effective Date: 11-21-18

12:01 A.M., Standard Time

Agent Name POWER ENERGY RISK

Agent No. 21409

<b>Item 1. Named Insured and Mailing Address</b>		<b>Agent Name and Address</b>	
ESNJ-PF-AVENEL LLC 33 COTERS LN. EAST BRUNSWICK NJ 08816		POWER ENERGY RISK A SERIES OF RSG UNDERWRITING MANAGE 23 CORPORATE PLAZA SUITE 248 NEWPORT BEACH CA 92660 Agent No. 21409	
<b>Item 2. Policy Period</b>	From: 11-21-2018	To: 11-21-2019	
at 12:01 A.M., Standard Time at your mailing address shown above.			
<b>Item 3. Business Description:</b> Form of Business: LIMITED LIABILITY COMPANY			
<b>Item 4.</b> In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.			
This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.			
<b>Coverage Part(s)</b>		<b>Premium</b>	
Commercial Property Coverage Part		NOT COVERED	
Commercial General Liability Coverage Part		NOT COVERED	
Commercial Crime Coverage Part		NOT COVERED	
Commercial Inland Marine Coverage Part		NOT COVERED	
Commercial Auto (Business or Truckers) Coverage Part		NOT COVERED	
Commercial Garage Coverage Part		NOT COVERED	
COMMERCIAL UMBRELLA COVERAGE PART		\$	6,000.00
TAX OR SURCHARGE		\$	36.00
<b>Total Policy Premium</b>		\$	6,036.00
<b>Item 5. Forms and Endorsements</b>			
Forms(s) and Endorsement(s) made a part of this policy at time of issue:			
<b>See Schedule of Forms and Endorsements</b>			

Countersigned:

Date: 12-11-18

By:

*Robert D. Bates*

Authorized Representative

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

**FAIC-SKLBUS-CPD (6/01)**



## **ARCH INSURANCE COMPANY**

(A Missouri Corporation)

Home Office Address:

3100 Broadway, Suite 511

Kansas City, MO 64111

Administrative Address:

300 Plaza Three, 3rd Floor

Jersey City, NJ 07311

Tel: (866) 413-5550

## **COMMERCIAL LIABILITY UMBRELLA POLICY**

### **DECLARATIONS**

POLICY NUMBER: ULP101020202

RENEWAL OF: ULP101020201

EFFECTIVE DATE: 11-21-2018

PRODUCER CODE: 21409

EXPIRATION DATE: 11-21-2019

**At 12:01 AM STD Time at the Address of the Named Insured**

#### **Item 1. Named Insured and Producer**

Named Insured: ESNJ-PF-AVENEL LLC

Mailing Address: 33 COTERS LN.

EAST BRUNSWICK, NJ 08816

Producer Name: POWER ENERGY RISK

Mailing Address: 23 CORPORATE PLAZA SUITE 248  
NEWPORT BEACH, CA 92660

**Item 2. Named Insured is classified as:**

☐ Individual ☐ Partnership ☐ Joint Venture ☒ LLC ☐ Corporation

**Item 3. Limits of Insurance**

- (a) Each Occurrence Limit (Liability Coverage) \$4,000,000
- (b) Personal & Advertising Injury Limit \$4,000,000 Any one person or organization
- (c) Aggregate Limit (Liability Coverage) (except with respect to covered autos) \$4,000,000

**Item 4. Self-Insured Retention**

Each Occurrence or Offense \$10,000

**Item 5. Limits of Liability of Underlying Insurance: (See Schedule of Underlying Insurance which forms a part of these Declarations.)**

**Item 6. Policy Provisions, Forms and Endorsements Attached to this Policy at Inception: (See Schedule Of Forms And Endorsements)**

**Item 7. Total Policy Premium: \$6,036.00**

THESE DECLARATIONS WITH THE SCHEDULE OF UNDERLYING INSURANCE, TOGETHER WITH THE  
COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM AND ENDORSEMENTS, ARE ISSUED AS PART  
OF, AND IN COMPLETION OF, THE ABOVE NUMBERED POLICY.

Countersigned:

Date: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Authorized Representative

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## COMMERCIAL UMBRELLA/ EXCESS LIABILITY SUPPLEMENTAL SCHEDULE OF UNDERLYING INSURANCE

### SCHEDULE OF UNDERLYING INSURANCE

(Show insurer, policy number, policy period, coverage, and limits of insurance)

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<b>Commercial Liability Limits:</b>	Each Occurrence	<u>\$ 1,000,000</u>
<u>X</u> w/Personal Injury	Personal & Advertising Injury Liability	<u>\$ 1,000,000</u>
and Advertising Injury	General Aggregate	<u>\$ 2,000,000</u>
Liability Coverage	Products/Completed Work Aggregate	<u>\$ 2,000,000</u>
w/Broad Form		
Contractual		
Liability Coverage		
w/Non-Owned Auto		
Liability Coverage/		
Hired Auto Liability		
Coverage		
<u>X</u> Occurrence Form		
Claims-Made Form		

Retroactive Date: \_\_\_\_\_

Insurer: ARCH INSURANCE COMPANY

Policy Number: EPO1009001-02

Policy Period: 11/21/18 - 11/21/19

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<b>Auto Liability Limits:</b>	Combined Single Limit Or	<u>\$ 1,000,000</u>
<u>X</u> w/Non-Owned Auto	Bodily Injury-Each Person	_____
Liability Coverage/	Bodily Injury-Each Accident	_____
Hired Auto Liability	Property Damage-Each Accident	_____
Coverage		

Insurer: ARCH INSURANCE COMPANY

Policy Number: CAB1010501-02

Policy Period: 11/21/18 - 11/21/19

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<b>Employers Liability Limits:</b>	Combined Single Limit Or	_____
(Separate Policy)	Bodily Injury by Accident-Each Accident	_____
	Bodily Injury by Disease-Policy Limit	_____
	Bodily Injury by Disease-Each Employee	_____

Insurer: NOT APPLICABLE

Policy Number: \_\_\_\_\_

Policy Period: -

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<b>Watercraft Liability Limits:</b>	Combined Single Limit Or	_____
	Bodily Injury-Each Person	_____
	Bodily Injury-Each Accident	_____
	Property Damage-Each Accident	_____

Insurer: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Policy Period: \_\_\_\_\_ - \_\_\_\_\_

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<b>Liquor Liability Limits</b>	Each Occurrence	_____
	Aggregate	_____

\_\_\_\_\_ Occurrence Form  
\_\_\_\_\_ Claims-Made Form

Retroactive Date: \_\_\_\_\_  
Insurer: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Policy Period: \_\_\_\_\_ - \_\_\_\_\_

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<b>Miscellaneous Liability</b>	Each Occurrence	\$ 1,000,000
	Aggregate	\$ 1,000,000

Type: Employee Benefits (Describe)

\_\_\_\_\_ Occurrence Form  
☒ Claims-Made Form

Retroactive Date: 11/21/2016  
Insurer: ARCH INSURANCE COMPANY  
Policy Number: EPO1009001-02  
Policy Period: 11/21/18 - 11/21/19

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<b>Miscellaneous Liability</b>	Each Occurrence	_____
	Aggregate	_____

Type: Garage (Describe)

\_\_\_\_\_ Occurrence Form  
\_\_\_\_\_ Claims-Made Form

Retroactive Date: \_\_\_\_\_  
Insurer: \_\_\_\_\_  
Policy Number: \_\_\_\_\_  
Policy Period: \_\_\_\_\_ - \_\_\_\_\_

SCHEDULE OF FORMS AND ENDORSEMENTS

ARCH INSURANCE COMPANY

Named Insured ESNJ-PF-AVENEL LLC

Effective Date: 11-21-18

12:01 A.M., Standard Time

Agent Name POWER ENERGY RISK

Agent No. 21409

COMMON POLICY FORMS AND ENDORSEMENTS

FAIC-SKLBUS-CPD	06-01	COMMON POLICY DECLARATIONS
IL 00 17	11-98	COMMON POLICY CONDITIONS
05 ML0002 00	12-14	ARCH INSURANCE GROUP SIGNATURE PAGE
00 ML0065 00	06-07	U.S. TREASURY DEPARTMENT'S OFFICE
05 CP0028 00	07-03	CLAIMS HANDLING PROCEDURES
IL 01 41	09-08	NEW JERSEY CHANGES - CIVIL UNION
IL 02 08	09-07	NJ CHANGES-CANC & NONRENL
FAIC-SKLBUS-FE	06-01	SCHEDULE OF FORMS AND ENDORSEMENTS
FAIC-SKLBUS-TSF	06-01	SCHEDULE OF TAXES, SURCHARGES OR FEES
INSTALL-FORM	01-02	INSTALLMENT SCHEDULE

UMBRELLA FORMS AND ENDORSEMENTS

05 CLU0077 00	09-13	COMMERCIAL LIABILITY UMBRELLA POLICY DEC
UM 0041	04-00	COMM UMBRELLA/EXCESS LIAB SUP. SCHED
CU 00 01	04-13	COMMERCIAL LIAB UMBRELLA COVERAGE FORM
00 CLU0053 00	06-11	ASBESTOS EXCLUSION ENDORSEMENT
00 CLU0055 00	06-11	ELECTROMAGNETIC RADIATION EXCL ENDT
00 CLU0057 00	06-11	FINES AND PENALTIES EXCLUSION ENDT
00 CLU0059 00	06-11	LEAD EXCLUSION ENDORSEMENT
00 CLU0062 00	06-11	NON CONTRIBUTING INSURANCE WHERE REQ BY
00 CLU0065 00	06-11	RADIOACTIVE MATTER EXCLUSION ENDT
CU 04 03	12-07	EMPLOYEE BENEFITS LIABILITY COVERAGE
CU 21 23	02-02	NUCLEAR ENERGY LIABILITY EXCLUSION ENDT
CU 21 27	12-04	FUNGI OR BACTERIA EXCLUSION
CU 21 35	01-15	EXCL OF CERT ACTS OF TERR & EXCL OF OTHR
CU 21 50	03-05	SILICA OR SILICA-RELATED DUST EXCLUSION
CU 21 86	05-14	EXCL-ACC/DISC OF PI W/ LTD BI EXCEPTION
CU 22 09	04-13	EXCLUSION - FAILURE TO SUPPLY
CU 24 03	09-00	WVR OF TRANSFR RIGHTS RCVRY AGNST OTHR
CU 24 36	12-05	PRODUCTS-COMPLETED OPS AGGR LIMIT OF INS
CU 24 37	12-05	NON-CONCURRENCY OF POL PERIODS-RET LIMIT



**Policy Number**  
**ULP101020202**

**SCHEDULE OF TAXES, SURCHARGES OR FEES**

**ARCH INSURANCE COMPANY**

**Named Insured** ESNJ-PF-AVENEL LLC

**Effective Date:** 11-21-18  
12:01 A.M., Standard Time

**Agent Name** POWER ENERGY RISK

**Agent No.** 21409

SKLBUS-CPD (cont.)

TAXES/SURCHARGES DETAILED BREAKDOWN :

NJ-PLIGA SURCHARGE	\$	36.00
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TOTAL TAXES/SURCHARGES	\$	36.00

**Policy Number**  
**ULP101020202**

**INSTALLMENT SCHEDULE**  
**ARCH INSURANCE COMPANY**

**Named Insured** ESNJ-PF-AVENEL LLC

**Effective Date:** 11-21-18  
12:01 A.M., Standard Time

**Agent Name** POWER ENERGY RISK

**Agent No.** 21409

**IT IS HEREBY AGREED AND UNDERSTOOD THAT THIS POLICY IS  
PAYABLE ON INSTALLMENTS AS FOLLOWS:**

	<b>DUE</b>		<b>PREMIUM</b>		<b>SURCHARGE</b>		<b>REVISED INSTALLMENT TOTAL</b>
<b>DEPOSIT</b>	<b>11/21/2018</b>	<b>\$</b>	<b>6,000.00</b>	<b>\$</b>	<b>36.00</b>	<b>\$</b>	<b>6,036.00</b>

Failure to pay the Installment Premium by the Date Due shown shall constitute non-payment of premium for which we may cancel this policy.

**INSTALL-FORM (01/02)**

# COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM

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

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

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

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

## SECTION I – COVERAGES

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

#### 1. Insuring Agreement

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

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

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

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

e. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1.a. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

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

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

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

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

### b. Contractual Liability

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

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

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

### c. Liquor Liability

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

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

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

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

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

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

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

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

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

**e. ERISA**

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

**f. Auto Coverages**

- (1) "Bodily injury" or "property damage" arising out of the ownership, maintenance or use of any "auto" which is not a "covered auto"; or
- (2) Any loss, cost or expense payable under or resulting from any first-party physical damage coverage; no-fault law; personal injury protection or auto medical payments coverage; or uninsured or underinsured motorist law.

**g. Employer's Liability**

"Bodily injury" to:

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

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

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

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

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

**h. Employment-related Practices**

"Bodily injury" to:

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

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

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

**i. Pollution**

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

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

**j. Aircraft Or Watercraft**

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

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

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 50 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (4) The extent that valid "underlying insurance" for the aircraft or watercraft liability risks described above exists or would have existed but for the exhaustion of underlying limits for "bodily injury" or "property damage". To the extent this exclusion does not apply, the insurance provided under this Coverage Part for the aircraft or watercraft risks described above will follow the same provisions, exclusions and limitations that are contained in the "underlying insurance", unless otherwise directed by this insurance; or

**(5) Aircraft that is:**

- (a) Chartered by, loaned to, or hired by you with a paid crew; and
- (b) Not owned by any insured.

**k. Racing Activities**

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

**l. War**

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

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

**m. Damage To Property**

"Property damage" to:

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

- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

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

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

**n. Damage To Your Product**

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

**o. Damage To Your Work**

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

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

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

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

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

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

**q. Recall Of Products, Work Or Impaired Property**

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

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

- (3) "Impaired property";

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

**r. Personal And Advertising Injury**

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

**s. Professional Services**

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

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- (3) Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- (4) Engineering services, including related supervisory or inspection services;
- (5) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (6) Any health or therapeutic service treatment, advice or instruction;
- (7) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- (8) Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- (9) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (10) Body piercing services;
- (11) Services in the practice of pharmacy;
- (12) Law enforcement or firefighting services; and
- (13) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", involved the rendering of or failure to render any professional service.

**t. Electronic Data**

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

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

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

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

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

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

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

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

**1. Insuring Agreement**

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

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

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

- b. This insurance applies to "personal and advertising injury" that is subject to an applicable "retained limit". If any other limit, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "personal and advertising injury" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "underlying insurance".
- c. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.



## 2. Exclusions

This insurance does not apply to:

### a. "Personal and advertising injury":

#### (1) **Knowing Violation Of Rights Of Another**

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

#### (2) **Material Published With Knowledge Of Falsity**

Arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

#### (3) **Material Published Prior To Policy Period**

Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

#### (4) **Criminal Acts**

Arising out of a criminal act committed by or at the direction of the insured.

#### (5) **Contractual Liability**

For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to:

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

#### (6) **Breach Of Contract**

Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

#### (7) **Quality Or Performance Of Goods – Failure To Conform To Statements**

Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

#### (8) **Wrong Description Of Prices**

Arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

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

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

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

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

Committed by an insured whose business is:

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

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

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

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

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

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

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

#### (13) **Pollution**

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

#### **(14) Employment-related Practices**

To:

- (a)** A person arising out of any:
  - (i)** Refusal to employ that person;
  - (ii)** Termination of that person's employment; or
  - (iii)** Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (b)** The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph **(i)**, **(ii)** or **(iii)** above is directed.

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

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

#### **(15) Professional Services**

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

- (a)** Legal, accounting or advertising services;
- (b)** Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- (c)** Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- (d)** Engineering services, including related supervisory or inspection services;
- (e)** Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;

**(f)** Any health or therapeutic service treatment, advice or instruction;

**(g)** Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;

**(h)** Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;

**(i)** Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

**(j)** Body piercing services;

**(k)** Services in the practice of pharmacy;

**(l)** Law enforcement or firefighting services; and

**(m)** Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional service.

#### **(16) War**

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

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

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

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

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

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

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

**b.** "Pollution cost or expense".

**SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

- 1.** We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend, when the duty to defend exists:
    - a.** All expenses we incur.
    - b.** Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "occurrence" we cover. We do not have to furnish these bonds.
    - c.** The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
    - d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
    - e.** All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - f.** Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- These payments will not reduce the limits of insurance.
- 2.** When we have the right but not the duty to defend the insured and elect to participate in the defense, we will pay our own expenses but will not contribute to the expenses of the insured or the "underlying insurer".
  - 3.** If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
    - a.** The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
    - b.** This insurance applies to such liability assumed by the insured;
    - c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
    - d.** The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
    - e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f.** The indemnitee:
    - (1)** Agrees in writing to:
      - (a)** Cooperate with us in the investigation, settlement or defense of the "suit";
      - (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
      - (c)** Notify any other insurer whose coverage is available to the indemnitee; and

- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (2) Provides us with written authorization to:
  - (a) Obtain records and other information related to the "suit"; and
  - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

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

## **SECTION II – WHO IS AN INSURED**

1. Except for liability arising out of the ownership, maintenance or use of "covered autos":
  - a. If you are designated in the Declarations as:

- (1) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- (2) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- (3) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- (4) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (5) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- b. Each of the following is also an insured:

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

- (a) "Bodily injury" or "personal and advertising injury":
  - (i) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" in the course of his or her employment or performing duties related to the conduct of your business or to your other "volunteer workers" while performing duties related to the conduct of your business;

- (ii) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (a)(i) above; or
- (iii) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (a)(i) or (ii) above.

- (b) "Property damage" to property:
  - (i) Owned, occupied or used by;
  - (ii) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- (2) Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- (3) Any person or organization having proper temporary custody of your property if you die, but only:
    - (a) With respect to liability arising out of the maintenance or use of that property; and
    - (b) Until your legal representative has been appointed.
  - (4) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
  - c. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
    - (1) Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
    - (2) Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
    - (3) Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
2. Only with respect to liability arising out of the ownership, maintenance or use of "covered autos":
- a. You are an insured.
  - b. Anyone else while using with your permission a "covered auto" you own, hire or borrow is also an insured except:
    - (1) The owner or anyone else from whom you hire or borrow a "covered auto". This exception does not apply if the "covered auto" is a trailer or semitrailer connected to a "covered auto" you own.
    - (2) Your "employee" if the "covered auto" is owned by that "employee" or a member of his or her household.
    - (3) Someone using a "covered auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
  - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a "covered auto".
  - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a "covered auto" owned by him or her or a member of his or her household.
  - (6) "Employees" with respect to "bodily injury" to:
    - (a) Any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
    - (b) The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph (a) above.
  - c. Anyone liable for the conduct of an insured described above is also an insured, but only to the extent of that liability.
3. Any additional insured under any policy of "underlying insurance" will automatically be an insured under this insurance.
- Subject to Section III – Limits Of Insurance, if coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
- a. Required by the contract or agreement, less any amounts payable by any "underlying insurance"; or
  - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.
- Additional insured coverage provided by this insurance will not be broader than coverage provided by the "underlying insurance".
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

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

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

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

### SECTION IV – CONDITIONS

#### 1. Appeals

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

#### 2. Bankruptcy

##### a. Bankruptcy Of Insured

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

##### b. Bankruptcy Of Underlying Insurer

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

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

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

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense, regardless of the amount, which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

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

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

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

- c. You and any other involved insured must:

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

- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

#### **4. Legal Action Against Us**

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

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

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

#### **5. Other Insurance**

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

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

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

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

- (2) The total of all deductible and self-insured amounts under all that other insurance.

#### **6. Premium Audit**

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

#### **7. Representations Or Fraud**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us;
- c. We have issued this policy in reliance upon your representations; and
- d. This policy is void in any case of fraud by you as it relates to this policy or any claim under this policy.

#### **8. Separation Of Insureds**

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

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

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

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

## 10. When We Do Not Renew

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

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

## 11. Loss Payable

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

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

## 12. Transfer Of Defense

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

## 13. Maintenance Of/ Changes To Underlying Insurance

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

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

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

You must notify us in writing, as soon as practicable, if any "underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "underlying insurance" is changed.

## 14. Expanded Coverage Territory

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

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

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

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



## SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, disability, sickness or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".
4. "Coverage territory" means anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.
5. "Covered auto" means only those "autos" to which "underlying insurance" applies.
6. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
7. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;

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

9. "Insured contract" means:
  - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".
  - g. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or

- (3) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a "covered auto" over a route or territory that person or organization is authorized to serve by public authority.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
11. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - (1) Power cranes, shovels, loaders, diggers or drills; or
    - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
  - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".
13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your "advertisement"; or
  - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

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

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

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

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

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

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

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

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

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

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

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

- b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

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

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

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

With respect to the ownership, maintenance or use of "covered autos", property damage also includes "pollution cost or expense", but only to the extent that coverage exists under the "underlying insurance" or would have existed but for the exhaustion of the underlying limits.

For the purposes of this insurance, with respect to other than the ownership, maintenance or use of "covered autos", electronic data is not tangible property.

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

**19. "Retained limit"** means the available limits of "underlying insurance" scheduled in the Declarations or the "self-insured retention", whichever applies.

**20. "Self-insured retention"** means the dollar amount listed in the Declarations that will be paid by the insured before this insurance becomes applicable only with respect to "occurrences" or offenses not covered by the "underlying insurance". The "self-insured retention" does not apply to "occurrences" or offenses which would have been covered by "underlying insurance" but for the exhaustion of applicable limits.

**21. "Suit"** means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent or the "underlying insurer's" consent.
- 22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 23. "Ultimate net loss" means the total sum, after reduction for recoveries or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of settlement or judgments or any arbitration or other alternate dispute method entered into with our consent or the "underlying insurer's" consent.
- 24. "Underlying insurance" means any policies of insurance listed in the Declarations under the Schedule of "underlying insurance".
- 25. "Underlying insurer" means any insurer who provides any policy of insurance listed in the Schedule of "underlying insurance".
- 26. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 27. "Your product":
  - a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 28. "Your work":
  - a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - (2) The providing of or failure to provide warnings or instructions.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation 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 any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

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

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

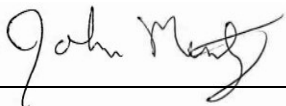
Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.


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



Signature Page

IN WITNESS WHEREOF, Arch Insurance Company has caused this policy to be executed and attested.

  
\_\_\_\_\_  
John Mentz  
President

  
\_\_\_\_\_  
Patrick K. Nails  
Secretary

# U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site — <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.

## Claims Handling Procedures

An important value of your insurance coverage is the ability of the insurance company to respond when you have a claim. Arch Insurance Company is committed to providing its insureds with effective claim services.

Notices of each incident, claim or suit must be sent immediately to:

**Arch Insurance Company**  
ATTN: CLAIMS  
10909 Mill Valley Road, Suite 210  
P.O. Box 542033  
Omaha, NE 68154  
Phone: 877 688-ARCH (2724)  
Fax: 866 266-3630  
E-mail: [Claims@ArchInsurance.com](mailto:Claims@ArchInsurance.com)

You will be contacted by a representative of the company's Claim Department. This representative will confirm receipt of the loss notice directly to you, provide a company claim number for all future correspondence, refer to an adjuster if necessary, and discuss further handling of the claim.



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

## **NEW JERSEY CHANGES – CIVIL UNION**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART  
 COMMERCIAL GENERAL LIABILITY COVERAGE PART  
 COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
 ELECTRONIC DATA LIABILITY COVERAGE PART  
 EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
 FARM COVERAGE PART  
 FARM UMBRELLA LIABILITY POLICY  
 LIQUOR LIABILITY COVERAGE PART  
 MEDICAL PROFESSIONAL LIABILITY COVERAGE PART  
 OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
 POLLUTION LIABILITY COVERAGE PART  
 PRODUCT WITHDRAWAL COVERAGE PART  
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
 UNDERGROUND STORAGE TANK POLICY

**A. The term "spouse" is replaced by the following:**

Spouse or party to a civil union recognized under New Jersey law.

**B. Under the Commercial Auto Coverage Part, the term "family member" is replaced by the following:**

"Family member" means a person related to the:

1. Individual Named Insured by blood, adoption, marriage or civil union recognized under New Jersey law, who is a resident of such Named Insured's household, including a ward or foster child; or
2. Individual named in the Schedule by blood, adoption, marriage or civil union recognized under New Jersey law, who is a resident of the individual's household, including a ward or foster child, if the Drive Other Car Coverage – Broadened Coverage For Named Individual Endorsement is attached.

**C. With respect to coverage for the ownership, maintenance, or use of "covered autos" provided under the Commercial Liability Umbrella Coverage Part, the term "family member" is replaced by the following:**

"Family member" means a person related to you by blood, adoption, marriage or civil union recognized under New Jersey law, who is a resident of your household, including a ward or foster child.

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

## **NEW JERSEY CHANGES – CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
EQUIPMENT BREAKDOWN COVERAGE PART  
FARM COVERAGE PART  
FARM UMBRELLA LIABILITY POLICY  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A.** Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.
- This provision shall not apply to any policy which has been in effect for less than 60 days at the time notice of cancellation is mailed or delivered, unless the policy is a renewal policy.
- B.** Paragraph 2. of the **Cancellation** Common Policy Condition is replaced by the following:
- 2.** If this policy has been in effect for less than 60 days, we may cancel this policy for any reason subject to the following:
- a.** We may cancel this policy by mailing or delivering to the first Named Insured and any person entitled to notice under this policy written notice, of cancellation, at least:
- (1)** 10 days before the effective date of cancellation if we cancel for:
- (a)** Nonpayment of premium; or
- (b)** Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f) as follows:
- (i)** "The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a 'moral hazard'; and
- (ii)** "The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporate, partnership or other insured that will increase the probability of such a loss or liability may be considered a 'moral hazard'".

- (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- b. In the notice of cancellation which is sent to the first Named Insured, we will state the reason for cancellation.
- C. The following is added to the **Cancellation** Common Policy Condition:
- 7. Cancellation Of Policies In Effect For 60 Days Or More**
- a. If this policy has been in effect for 60 days or more, or is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:
- (1) Nonpayment of premium;
  - (2) Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f);
  - (3) Material misrepresentation or nondisclosure to us of a material fact at the time of acceptance of the risk;
  - (4) Increased hazard or material change in the risk assumed which we could not have reasonably contemplated at the time of assumption of the risk;
  - (5) Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;
  - (6) Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;
  - (7) Fraudulent acts against us by the insured or its representative that materially affect the nature of the risk insured;
  - (8) Loss of or reduction in available insurance capacity;
  - (9) Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or any subsequent renewal;
  - (10) Loss of or substantial changes in applicable reinsurance;
  - (11) Failure by the insured to comply with any Federal, State or local fire, health, safety or building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;
  - (12) Failure by the insured to provide reasonable and necessary underwriting information to us upon written request therefore and a reasonable opportunity to respond.
- (13) Agency termination, provided:
- (a) We document that replacement coverage at comparable rates and terms has been provided to the first Named Insured, and we have informed the first Named Insured, in writing, of the right to continue coverage with us; or
  - (b) We have informed the first Named Insured, in writing, of the right to continue coverage with us and the first Named Insured has agreed, in writing, to the cancellation or nonrenewal based on the termination of the first Named Insured's appointed agent.
- (14) Any other reasons in accordance with our underwriting guidelines for cancellation of commercial lines coverage.
- b. If we cancel this policy based on Paragraph 7.a.(1) or (2) above, we will mail or deliver a written notice, to the first Named Insured and any person entitled to notice under this policy, at least 10 days before the effective date of cancellation. If we cancel this policy for any other reason listed above, we will mail or deliver a written notice to the first Named Insured and any person entitled to notice under this policy, not more than 120 days nor less than 30 days before the effective date of such cancellation.
- c. In the notice of cancellation which is sent to the first Named Insured, we will state the reason for cancellation. For cancellation due to the nonpayment of premium, the notice will state the effect of nonpayment by the due date. Cancellation for nonpayment of premium will not be effective if payment of the amount due is made before the effective date set forth in the notice.
- d. Notice will be sent to the last mailing addresses known to us, by:
- (1) Certified mail; or
  - (2) First class mail, if we have obtained from the post office a date stamped proof of mailing showing names and addresses.

- e. We need not send notice of cancellation if you have:
  - (1) Replaced coverage elsewhere; or
  - (2) Specifically requested termination.
- D. The following is added and supersedes any other provision to the contrary:

**NONRENEWAL**

- 1. We may elect not to renew this policy for any reason permitted to cancel it. If we elect not to renew this policy, we will mail a notice of nonrenewal, stating the reasons for nonrenewal, to the first Named Insured at least 30 days but not more than 120 days before the expiration date of this policy. If this policy does not have a fixed expiration date, it shall be deemed to expire annually on the anniversary of its inception.
- 2. This notice will be sent to the first Named Insured at the last mailing address known to us by:
  - a. Certified mail; or
  - b. First class mail, if we have obtained from the post office a date stamped proof of mailing showing the first Named Insured's name and address.
- 3. We need not mail or deliver this notice if you have:
  - a. Replaced coverage elsewhere; or
  - b. Specifically requested termination.

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

**ASBESTOS EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

The following exclusion is added to Paragraph 2. **Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2. **Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to any claim, "suit", demand or loss that alleges "bodily injury", "property damage" or "personal and advertising injury" that, in any way, in whole or in part, arises out of, relates to or results from the "asbestos hazard".

This exclusion includes, but is not limited to, compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, "suit", demand, loss, cost, or expense arising out of, relating to or resulting from the investigation of, 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 "asbestos", as well as any loss, costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of, relating thereto or resulting therefrom.

As used in this exclusion, "asbestos hazard" means:

- (1) The actual, alleged or threatened exposure to, consumption, ingestion of, inhalation of, absorption of, existence of, or presence of, "asbestos" in any manner or form whatsoever, either directly or indirectly;
- (2) The actual or alleged failure to warn, advise or instruct related to "asbestos" in any manner or form whatsoever;
- (3) The actual or alleged failure to prevent exposure to "asbestos" in any manner or form whatsoever; or
- (4) The actual or alleged presence of "asbestos" in any manner or form whatsoever, in any place whatsoever, whether or not within a facility owned or used by the Named Insured, including its contents.

As used in this exclusion, "asbestos" means any substance, regardless of its form or state, containing asbestos.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018

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

**ELECTROMAGNETIC RADIATION EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

The following exclusion is added to Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph **2. Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to “bodily injury”, “property damage”, or “personal and advertising injury” arising out of:

1. The hazardous properties of electromagnetic radiation;
2. The costs of abatement, inspection, removal, treatment or mitigation of, or in any way responding to or assessing the effects of:
  - a. Electromagnetic radiation; or
  - b. Exposure to electromagnetic radiation;
3. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with paragraphs **1.** or **2.** above; or
4. Any obligation to share damages with or repay anyone else who must pay damages in connection with paragraphs **1.**, **2.**, or **3.** above.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018

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

**FINES AND PENALTIES EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

The following exclusion is added to Paragraph **2. Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph **2. Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to any claim, "suit", demand, loss or award for fines or penalties.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018

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

**LEAD EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

The following exclusion is added to Paragraph 2. **Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2. **Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to any claim, "suit", demand or loss that alleges "bodily injury", "property damage", or "personal and advertising injury" that in any way, in whole or in part, arises out of, relates to or results from "lead hazard";

This exclusion includes but is not limited to compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any loss, cost or expense arising out of or relating to the investigation of, 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, lead, as well as any costs, fees, expenses, penalties, judgments, fines, or sanctions arising from or relating thereto.

As used in this exclusion, "lead hazard" means the:

- (1) actual, alleged or threatened exposure to, consumption, ingestion of, inhalation of, absorption of, existence of, or presence of, lead in any manner or form whatsoever, either directly or indirectly;
- (2) actual or alleged failure to warn, advise or instruct related to lead in any manner or form whatsoever;
- (3) actual or alleged failure to prevent exposure to lead in any manner or form whatsoever; or
- (4) actual or alleged presence of lead in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including its contents.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018



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

**NON-CONTRIBUTING INSURANCE WHERE REQUIRED BY WRITTEN  
CONTRACT(S) ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

Under **SECTION IV – CONDITIONS**, Condition **5. Other Insurance** is amended by the addition of the following paragraph:

- c. Where you are specifically required by a written contract to provide insurance that is non-contributory and the written contract so requiring is executed by you before any “occurrence” or offense, this insurance will be non-contributory in excess of the “retained limit”, but only if and to the extent:
  - (1) Required by that written contract; and
  - (2) Coverage required by such written contract is provided in the applicable and collectible “underlying insurance” or would have been provided but for the exhaustion of the underlying limits.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018

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

**RADIOACTIVE MATTER EXCLUSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

The following exclusion is added to Paragraph 2. **Exclusions** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2. **Exclusions** of **Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to “bodily injury”, “property damage” or “personal and advertising injury” arising out of the actual, alleged or threatened exposure of person(s) or property to the “radioactive matter hazard”.

This exclusion includes but is not limited to compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any loss, cost or expense arising out of or relating to the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or in any way responding to, or assessing the effects of, “radioactive matter”, as well as any costs, fees, expenses, penalties, judgments, fines, or sanctions arising from or relating thereto.

This exclusion also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the “bodily injury”, “property damage” or “personal and advertising injury”.

As used in this exclusion, the “radioactive matter hazard” means the:

- (1) Actual, alleged or threatened exposure to, consumption, ingestion of, inhalation of, absorption of, existence of, or presence of, “radioactive matter” in any manner or form whatsoever, either directly or indirectly;
- (2) Actual or alleged failure to warn, advise or instruct related to “radioactive matter” in any manner or form whatsoever;
- (3) Actual or alleged failure to prevent exposure to “radioactive matter” in any manner or form whatsoever; or
- (4) Actual or alleged presence of “radioactive matter” in any manner or form whatsoever, in any place whatsoever, whether or not within a building or structure, including the contents thereof.

As used in this exclusion, “radioactive matter” means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy or emits radiation.

All other terms and conditions of this Policy remain unchanged.

Endorsement Number:

This endorsement is effective on the inception date of this policy unless otherwise stated herein.

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

Policy Number: ULP101020202

Named Insured: ESNJ-PF-AVENEL LLC

Endorsement Effective Date: 11/21/2018

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

## **EMPLOYEE BENEFITS LIABILITY COVERAGE**

**THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.  
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

### **SCHEDULE**

Additional Covered Employee Benefits Programs	
Limit Of Insurance	Retained Limit
\$ 4,000,000 Each Employee	\$ 1,000,000
\$ 4,000,000 Aggregate	
Retroactive Date: 11/21/2016	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. The following is added to Section I – Coverages:**

**COVERAGE – EMPLOYEE BENEFITS LIABILITY**

**1. Insuring Agreement**

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages for such an act, error or omission when the "underlying insurance" does not provide coverage or the limits of "underlying insurance" have been exhausted. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. At our discretion, we may investigate any report of an act, error or omission and settle any resultant "claim" or "suit", for which we have a duty to defend. But:

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

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

**b. This insurance applies only if:**

- (1) The act, error or omission, is negligently committed in the "administration" of your "employee benefit program";
- (2) The act, error or omission, did not take place before the Retroactive Date, if any, shown in the Schedule nor after the end of the policy period; and

- (3) A "claim" for damages, because of an act, error or omission, is first made against any insured, in accordance with Paragraph **c.** below, during the policy period or an Extended Reporting Period we provide under Paragraph **F.** of this endorsement.
- c.** A "claim" seeking damages will be deemed to have been made at the earlier of the following times:
  - (1) When notice of such "claim" is received and recorded by any insured or by the "underlying insurer" or us if the limits of the "underlying insurance" have been used up, whichever comes first; or
  - (2) When we make settlement in accordance with Paragraph **1.a.** above or settlement is made by the "underlying insurer" with our agreement.

A "claim" received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the claim.
- d.** All "claims" for damages made by an "employee" because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such "employee's" dependents and beneficiaries, will be deemed to have been made at the time the first of those "claims" is made against any insured.

## 2. Exclusions

This insurance does not apply to:

- a. Dishonest, Fraudulent, Criminal Or Malicious Act**  
 Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.
- b. Bodily Injury, Property Damage, Or Personal And Advertising Injury**  
 "Bodily injury", "property damage" or "personal and advertising injury".
- c. Failure To Perform A Contract**  
 Damages arising out of failure of performance of contract by any insurer.
- d. Insufficiency Of Funds**  
 Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

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

Any "claim" based upon:

- (1) Failure of any investment to perform;
- (2) Errors in providing information on past performance of investment vehicles; or
- (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

## **f. Workers' Compensation And Similar Laws**

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

## **g. ERISA**

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

## **h. Available Benefits**

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

## **i. Taxes, Fines Or Penalties**

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

## **j. Employment-Related Practices**

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

## **B. For the purposes of the coverage provided by this endorsement:**

- 1. All references to Supplementary Payments — Coverages **A** and **B** are replaced by Supplementary Payments — Coverages **A**, **B** and **Employee Benefits Liability**.
- 2. Paragraphs **1.b.** and **3.** of the Supplementary Payments provision do not apply.

C. For the purposes of the coverage provided by this endorsement, Paragraphs **1.b.** and **1.c.** of **Section II – Who Is An Insured** are replaced by the following:

1. Except for liability arising out of the ownership, maintenance, or use of "covered autos":

b. Each of the following is also an insured:

(1) Each of your "employees" who is or was authorized to administer your "employee benefit program".

(2) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.

(3) 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 endorsement.

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

(1) Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

(2) Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.

D. For the purposes of the coverage provided by this endorsement, **Section III – Limits Of Insurance** is replaced by the following:

1. Our obligation to pay damages on behalf of the insured applies only to the amount of "ultimate net loss" in excess of the "retained limit" shown in the Schedule of this endorsement. If there is "underlying insurance" with a policy period that is non-concurrent with the policy period of this endorsement, the "retained limit" will only be reduced or exhausted by "claims" for that insurance that are made during the policy period or the Extended Reporting Period of this endorsement.

2. The Limits of Insurance shown in the Schedule 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; or

(e) Benefits included in your "employee benefit program".

3. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss" because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

4. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for the sum of all "ultimate net loss" for damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

(a) An act, error or omission; or

(b) A series of related acts, errors or omissions; negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

The Limits of Insurance of this endorsement 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 of the policy to which this endorsement is attached, 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.

E. For the purposes of the coverage provided by this endorsement, Condition 3. of **Section IV – Commercial Liability Umbrella Conditions** is replaced by the following:

**3. Duties In The Event Of An Act, Error Or Omission, Or "Claim" Or "Suit"**

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim". To the extent possible, notice should include:
  - (1) What the act, error or omission was and when it occurred; and
  - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a "claim" is made or "suit" is brought against any insured, you must:
  - (1) Immediately record the specifics of the "claim" or "suit" and the date received; and
  - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission 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 without our consent.

F. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added, or, if this endorsement is attached to a claims-made Coverage Part, replace any similar Section in that Coverage Part.

**EXTENDED REPORTING PERIOD**

1. You will have the right to purchase an Extended Reporting Period, as described below, if:
  - a. This endorsement is canceled or not renewed; or
  - b. We renew or replace this endorsement with insurance that:
    - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
    - (2) Does not apply to an act, error or omission on a claims-made basis.
2. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to "claims" for acts, errors or omissions that were first committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Schedule. Once in effect, the Extended Reporting Period may not be canceled.
3. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

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

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 "employee benefit programs" insured;
  - b. Previous types and amounts of insurance;
  - c. Limits of insurance available under this endorsement for future payment of damages; and
  - d. Other related factors.

The additional premium will not exceed 100% of the annual premium for this endorsement.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the 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 Extended Reporting Period starts.

4. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the dollar amount shown in the Schedule of this endorsement under Limits Of Insurance.

Paragraph **D.3.** of this endorsement will be amended accordingly. The Each Employee Limit shown in the Schedule will then continue to apply as set forth in Paragraph **D.4.**

- G. For the purposes of the coverage provided by this endorsement, the following definitions are added to the **Definitions** Section:

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

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

2. "Cafeteria plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.
3. "Claim" means any demand, or "suit", made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.

4. "Employee benefit program" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:

- a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
- b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
- c. Unemployment insurance, social security benefits, workers' compensation and disability benefits;
- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
- e. Any other similar benefits designated in the Schedule or added thereto by endorsement.

- H. For the purposes of the coverage provided by this endorsement, Definitions **6.** and **21.** in the **Definitions** Section are replaced by the following:

6. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
21. "Suit" means a civil proceeding in which damages because of an act, error or omission 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.

## NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

### COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

I. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, 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

- (2) 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.

B. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1) 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;

- (2) 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

- (3) 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.

II. As used in this endorsement:

"Hazardous properties" includes 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:

- (a) Any "nuclear reactor";
- (b) 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";
- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the 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;

- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

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

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

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

## **FUNGI OR BACTERIA EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

**2. Exclusions**

This insurance does not apply to:

**FUNGI OR BACTERIA**

- a.** "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, 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.
- b.** 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 the Definitions Section:**

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

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

## **EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

**A. The following exclusion is added:**

This insurance does not apply to:

**TERRORISM**

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism", or out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico), but within the "coverage territory". However, with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000 (valued in US dollars). 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
2. 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; or
3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or

4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

**B. The following definitions are added:**

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part or underlying insurance to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part or underlying insurance.
2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
  - a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act;
  - b. The act resulted in damage:
    - (1) Within the United States (including its territories and possessions and Puerto Rico); or

- (2) Outside of the United States in the case of:
- (a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
  - (b) The premises of any United States mission; and
- c. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
3. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".
- Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.
- C. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for injury or damage that is otherwise excluded under this Coverage Part.

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

## **SILICA OR SILICA-RELATED DUST EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL LIABILITY UMBRELLA COVERAGE PART**

**A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

**2. Exclusions**

This insurance does not apply to:

**SILICA OR SILICA-RELATED DUST**

- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- c. Any loss, cost or expense arising, in whole or in part, 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, "silica" or "silica-related dust", by any insured or by any other person or entity.

**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:

**SILICA OR SILICA-RELATED DUST**

- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
  - b. Any loss, cost or expense arising, in whole or in part, 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, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
- 1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
  - 2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

### COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

- A. Exclusion 2.t. of **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

#### 2. Exclusions

This insurance does not apply to:

- t. **Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

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

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

#### 2. Exclusions

This insurance does not apply to:

#### **Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

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

## **EXCLUSION – FAILURE TO SUPPLY**

This endorsement modifies insurance provided under the following:

### COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

This insurance does not apply to "bodily injury" or "property damage" arising out of the failure of any insured to adequately supply gas, oil, water, electricity, steam or biofuel.

This exclusion does not apply if the failure to supply results from the sudden and accidental injury to tangible property owned or used by any insured to procure, produce, process or transmit the gas, oil, water, electricity, steam or biofuel.

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

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

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

**SCHEDULE**

**Name Of Person Or Organization:**

**WHERE REQUIRED BY CONTRACT.**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

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

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



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

## PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT OF INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

### SCHEDULE

<b>Products-Completed Operations Aggregate Limit Of Insurance:</b>	\$ 4,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section III – Limits Of Insurance** is replaced by the following:

1. The Limits Of Insurance shown in the Declarations and the Schedule of this endorsement, and the following rules fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made, "suits" brought, or number of vehicles involved; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss" under:
  - a. Coverage **A**, except "ultimate net loss" because of "bodily injury" or "property damage":
    - (1) Arising out of the ownership, maintenance or use of a "covered auto"; or
    - (2) Included in the "products-completed operations hazard"; and
  - b. Coverage **B**.
3. The Products-Completed Operations Aggregate Limit shown in the Schedule of this endorsement is the most we will pay for the sum of all "ultimate net loss" under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under Coverage **A** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
5. Subject to Paragraph 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all "ultimate net loss" because of all "personal and advertising injury" sustained by any one person or organization.

The Aggregate Limits, as described in Paragraphs 2. and 3. above, 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.

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

## **NON-CONCURRENCY OF POLICY PERIODS – RETAINED LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

The following is added to **Section III – Limits Of Insurance**:

If there is "underlying insurance" with a policy period that is non-concurrent with the policy period of this Commercial Liability Umbrella Coverage Part, the "retained limit(s)" will only be reduced or exhausted by payments for:

- a. "Bodily injury" or "property damage" which occurs during the policy period of this Coverage Part; or
- b. "Personal and advertising injury" for offenses that are committed during the policy period of this Coverage Part.

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