

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**COMMERCIAL GENERAL LIABILITY
ADDITIONAL INSURED ENHANCEMENT FOR CONTRACTORS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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Item 1. Blanket Additional Insured Where Required By Written Agreement

Paragraph 2. of **Section II – Who Is An Insured** is amended to add the following:

Additional Insured By Written Agreement

The following are insureds under the Policy when you have agreed in a written agreement to provide them coverage as additional insureds under your policy:

- 1. Lessors of Leased Equipment:** The person(s) or organization(s) from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

This insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- 2. Managers or Lessors of Premises:** Any manager(s) or lessor(s) of premises leased to you in which the written lease agreement obligates you to procure additional insured coverage.

The coverage afforded to the additional insured is limited to liability in connection with the ownership, maintenance or use of the premises leased to you and caused, in whole or in part, by some negligent act(s) or omission(s) of you, your "employees", your agents or your subcontractors. There is no coverage for the additional insured for liability arising out of the sole negligence of the additional insured or those acting on behalf of the additional insured, except as provided below.

If the written agreement obligates you to procure additional insured coverage for the additional insured's sole negligence, then the coverage for the additional insured shall conform to the agreement, but only if the applicable law would allow you to indemnify the additional insured for liability arising out of the additional insured's sole negligence.

This insurance does not apply to:

- a. Any "occurrence" which takes place after you cease to be a tenant in that premises or to lease that land;
- b. Structural alterations, new construction or demolition operations performed by or on behalf of that manager or lessor; or
- c. Any premises for which coverage is excluded by endorsement.

3. Mortgagees, Assignees or Receivers: Any person(s) or organization(s) with respect to their liability as mortgagee, assignee or receiver and arising out of your ownership, maintenance or use of the premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or on behalf of such person(s) or organization(s).

4. Owners, Lessees or Contractors: Any person(s) or organization(s) to whom you are obligated to procure additional insured coverage, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your act(s) or omission(s) or the act(s) or omission(s) of your "employees", your agents, or your subcontractors, in the performance of your ongoing operations.

This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of "your work" included in the "products-completed operations hazard" unless you are required to provide such coverage for the additional insured by the written agreement, and then only for the period of time required by the written agreement and only for liability caused, in whole or in part, by your act(s) or omission(s) or the act(s) or omission(s) of your "employees", your agents, or your subcontractors.

There is no coverage for the additional insured for liability arising out of the sole negligence of the additional insured or those acting on behalf of the additional insured, except as provided below.

If the written agreement obligates you to procure additional insured coverage for the additional insured's sole negligence, then the coverage for the additional insured shall conform to the agreement, but only if the applicable law would allow you to indemnify the additional insured for liability arising out of the additional insured's sole negligence.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

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

5. Architects, Engineers or Surveyors: Any architect, engineer, or surveyor engaged by you but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your act(s) or omission(s) or the act(s) or omission(s) of those acting on your behalf:

- a. In connection with your premises; or
- b. In the performance of your ongoing operations.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

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

6. Any Person or Organization Other Than a Joint Venture: Any person(s) or organization(s) (other than a joint venture of which you are a member) for whom you are obligated to procure additional insured coverage, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your act(s) or omission(s) or the act(s) or omission(s) of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with premises owned by or rented to you.

This insurance does not apply to:

- a. Any person(s) or organization(s) more specifically covered in Paragraphs 1. through 5. above;
- b. Any construction, renovation, demolition or installation operations performed by or on behalf of you, or those operating on your behalf; or
- c. Any person(s) or organization(s) whose profession, business or occupation is that of an architect, surveyor or engineer with respect to liability arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving or failing to prepare or approve, maps, drawings, opinions, reports, surveys, field orders, change orders, designs and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

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", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional services by or on behalf of you, or those operating on your behalf.

The insurance afforded to any person(s) or organization(s) as an insured under this **Item 1.:**

- 1. Applies to the extent permitted by law;
- 2. Applies only to the scope of coverage and the minimum limits of insurance required by the written agreement, but in no event exceeds either the scope of coverage or the limits of insurance provided by this Policy;
- 3. Does not apply to any person(s) or organization(s) for any "bodily injury", "property damage" or "personal and advertising injury" if any other additional insured endorsement attached to this Policy applies to such person(s) or organization(s) with regard to the "bodily injury", "property damage" or "personal and advertising injury";
- 4. Applies only if the "bodily injury" or "property damage" occurs, or the offense giving rise to the "personal and advertising injury" is committed, subsequent to the execution of the written agreement; and
- 5. Applies only if the written agreement is in effect at the time the "bodily injury" or "property damage" occurs, or at the time the offense giving rise to the "personal and advertising injury" is committed.

Item 2. Blanket Additional Insured – Grantor Of Permits

Paragraph 2. of **Section II – Who Is An Insured** is amended to add the following:

Any state, municipality or political subdivision that has issued you a permit in connection with any operations performed by you or on your behalf, or in connection with premises you own, rent or control, and to which this insurance applies, but only to the extent that you are required to provide additional insured status to the state, municipality or political subdivision as a condition of receiving and maintaining the permit. Such state, municipality or political subdivision that has issued you a permit is an insured only with respect to their liability as grantor of such permit to you.

However, with respect to the state, municipality or political subdivision:

1. Coverage will be no broader than required; and
2. Limits of insurance will not exceed the minimum limits of insurance required as a condition for receiving or maintaining the permit;

but neither the scope of coverage nor the limits of insurance will exceed those provided by this Policy.

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state, municipality or political subdivision;
2. Any "bodily injury" or "property damage" included within the "products-completed operations hazard", except when required by written agreement initiated prior to loss; or
3. "Bodily injury", "property damage" or "personal and advertising injury", unless negligently caused, in whole or in part, by you or those acting on your behalf.

Item 3. Other Insurance Amendment

If you are obligated under a written agreement to provide liability insurance on a primary, excess, contingent, or any other basis for any person(s) or organization(s) that qualifies as an additional insured on this Policy, this Policy will apply solely on the basis required by such written agreement and Paragraph 4. **Other Insurance of Section IV – Commercial General Liability Conditions** will not apply. Where the applicable written agreement does not specify on what basis the liability insurance will apply, the provisions of Paragraph 4. **Other Insurance of Section IV – Commercial General Liability Conditions** will apply. However, this insurance is excess over any other insurance available to the additional insured for which it is also covered as an additional insured for the same "occurrence", claim or "suit".

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ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Any owner, lessee, or contractor for whom you have agreed in writing prior to a loss to provide liability insurance	Where Required
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

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

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added 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:

1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.

Policy Number: AS2-Z61-065923-012
Issued by: Liberty Mutual Fire Insurance Co.

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DESIGNATED INSURED - NONCONTRIBUTING

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIERS COVERAGE FORM
TRUCKERS COVERAGE FORM

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

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage form.

Schedule

Name of Person(s) or Organizations(s):

Any person or organization whom you agreed in writing as an additional insured, but only for the coverage and minimum limits of insurance required by the written agreement, and in no event to exceed either the scope of coverage or the limits of insurance provided in this policy.

Regarding Designated Contract or Project:

All

Each person or organization shown in the Schedule of this endorsement is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The following is added to the **Other Insurance Condition:**

If you have agreed in a written agreement that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the agreement was executed prior to the "bodily injury" or "property damage", then this insurance will be primary and we will not seek contribution from such insurance.

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 bold font have special meaning. If not defined in the section in which they first appear, refer to **SECTION VII – DEFINITIONS**.

In return for the payment of premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

INSURING AGREEMENTS

SECTION I – COVERAGES

1. We will pay on behalf of the insured those sums in excess of the **retained limit** that the insured becomes legally obligated to pay as damages because of **bodily injury, property damage** or **personal and advertising injury** to which this insurance applies. In addition, we will pay those sums in excess of the **retained limit** that the insured becomes legally obligated to pay as damages because of a negligent act, error or omission committed in the administration of the Named Insured's employee benefit program, to which this insurance applies.

The amount we will pay for damages is limited as described in **SECTION III – LIMITS OF INSURANCE**.

2. With respect to **bodily injury, property damage** or **personal and advertising injury**, this insurance applies only if:
 - a. The **bodily injury** or **property damage** occurs during the **policy period**, or the **personal and advertising injury** is caused by an offense arising out of your business but only if the offense was committed during the **policy period**;
 - b. The **bodily injury, property damage** or **personal and advertising injury** is caused by an **occurrence** that takes place anywhere; and
 - c. Prior to the **policy period**, no insured listed under Paragraph 3. of **SECTION II – WHO IS AN INSURED** or any **employee** who has been 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.
3. **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 3. of **SECTION II – WHO IS AN INSURED**, or any **employee** authorized by you to give or receive notice of an **occurrence** or claim:
 - a. Reports all, or any part of, such **bodily injury** or **property damage** to us or any other insurer;
 - b. Receives a written or oral demand or claim for damages because of such **bodily injury** or **property damage**; or
 - c. Becomes aware by any other means that **bodily injury** or **property damage** has occurred or has begun to occur.

If such a listed insured or authorized **employee** knew, prior to the **policy period**, that the **bodily injury**, or **property damage** had 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**.

4. **Bodily injury** or **property damage** which occurs during the **policy period** and which was not, prior to the **policy period**, known to have occurred or to have begun to occur by any insured listed under Paragraph 3. 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**.
5. If we are prevented by law or statute from directly paying damages covered by this policy on behalf of the insured, then we will, where permitted, indemnify the Named Insured for those sums paid in excess of the **retained limit**.

As used in Paragraphs 2.c., 3. and 4. above, an insured listed under Paragraph 3. of **SECTION II – WHO IS AN INSURED** does not include a stockholder who is not otherwise an insured.

SECTION II – WHO IS AN INSURED

1. The **first named insured** is an insured.
2. Any organization that is a subsidiary of the **first named insured** and over which you maintain ownership or majority interest as of the effective date of this policy, provided such organization was made known to us by the effective date of this policy and is included as an insured in **underlying insurance**. Coverage under this policy will be no broader than that provided by **underlying insurance**.
3. If you are designated in the Declarations as:
 - a. An individual, you and your **spouse** are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their **spouses** are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture, or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
4. Each of the following is also an insured:
 - a. Your **volunteer workers** but only while performing duties related to the conduct of your business, 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:

(1) Bodily injury or personal and advertising injury:

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a **co-employee** 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;

- (b) To the **spouse**, child, parent, brother or sister of that co-**employee** or **volunteer worker** as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (1)(b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

However, Paragraphs (1)(a), (1)(b) and (1)(c) do not apply to the extent **underlying insurance** provides coverage for such person(s). Coverage under this policy will be no broader than that provided by **underlying insurance**.

Insurance provided by this policy for **bodily injury** to a co-**employee** or **volunteer worker** will not apply if the injured co-**employee's** or **volunteer worker's** sole remedy for such injury is provided under a workers' compensation law or any similar law.

(2) Property damage to property:

- (a) Owned, occupied, used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your **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).

- b. Any person (other than your **employee**) or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative, if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
- e. Any person or organization included as an additional insured in **underlying insurance**. Coverage under this policy will be no broader than that provided by **underlying insurance**.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, this insurance will be no broader than that which you are required by the contract or agreement to provide for such additional insured.

The Limits of Insurance applicable to the additional insured are included within, and are not in addition to, the Limits of Insurance shown in the Declarations.

- f. Any person while using with your permission a **covered auto** and any person or organization legally responsible for its use, but only if that person is an insured with respect to liability arising out of the ownership, maintenance, use or entrustment to others of **covered autos**.
5. 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 an insured under this policy if there is no other similar insurance available to that organization and that organization qualifies as an insured in **underlying insurance**. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the **policy period**, whichever is earlier. However, such coverage will be provided for no longer than that provided by **underlying insurance**; and
- b. Coverage does not apply to any liability that occurred or offense committed before you acquired or formed the organization.

Except as provided in Paragraph 5. above, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or **suits** brought;
 - c. Persons or organizations making claims or bringing **suits**; or
 - d. Coverages provided under this policy.
2. The General Aggregate Limit is the most we will pay for the sum of all damages covered under this policy, except:
 - a. Damage included in the **products-completed operations hazard**; and
 - b. Damage covered by **underlying insurance** to which no aggregate limit applies.

The General Aggregate Limit applies separately and in the same manner as the aggregate limits in the **underlying insurance**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of all damages because of **bodily injury** and **property damage** included in the **products-completed operations hazard**.
4. Subject to Paragraphs 2. and 3. above, if either applies, the Each Occurrence Limit is the most we will pay for the sum of all damages covered under this policy arising out of any one **occurrence**.
5. If the applicable limits of insurance of **underlying insurance** or **other insurance** providing coverage to the insured are reduced or exhausted by payments of damages, subject to the terms and conditions of this policy, we will:
 - a. In the event of reduction, pay in excess of the reduced applicable limits of **underlying insurance** or **other insurance**; or
 - b. In the event of exhaustion, continue in force as **underlying insurance**, but for no broader coverage than is available under this policy.

The **retained limit** will not be reduced or exhausted by defense costs, loss adjustment expenses, supplementary payments or similar amounts that reduce or exhaust the policy limits of **underlying insurance** or **other insurance**.

6. If any **underlying insurance** has a limit of insurance greater than the amount shown in the Schedule of Underlying Insurance this policy will apply in excess of the greater amount.

7. The Limits of Insurance of this policy 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**, 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 of this policy.
8. If coverage provided to an additional insured is required by a contract or agreement, we will pay on behalf of the additional insured the lesser of:
 - a. The amount of insurance required by the contract or agreement less any amounts payable by any **underlying insurance** or otherwise retained; or
 - b. The available applicable Limits of Insurance of this policy.

SECTION IV – DEFENSE AND SUPPLEMENTARY PAYMENTS

1. We will have the right and duty to defend any **suit** seeking damages covered by this insurance, by counsel of our choice, when:
 - a. The total applicable limits of **underlying insurance** and **other insurance** have been exhausted by payment of damages covered by this policy; or
 - b. The damages sought because of **bodily injury, property damage, personal and advertising injury** or any damage arising from any actual or alleged negligent act, error or omission in the administration of the Named Insured's employee benefit program to which this insurance applies would not be covered by **underlying insurance** or **other insurance**.

However, we have no duty to defend any **suit** if any other insurer has a duty to defend.

2. If we have a duty to defend but are prevented by law or statute from performing that duty, you agree to take up such defense and investigation. We will reimburse you for our share of the reasonable costs paid for such investigation or defense.
3. We have the right, but not the duty, at our expense, to participate in the defense of any **suit** and the investigation of any claim to which this insurance may apply. However, if we exercise this right, we will not contribute to the expenses of the insured or **underlying insurer**.
4. We will pay the following supplementary payments, with respect to any claim we investigate or settle, or any **suit** against the insured we defend:
 - a. All expenses we incur.
 - b. The premium for bonds to release attachments, but only for bond amounts within the applicable Limits of Insurance of this policy. We do not have to furnish these bonds.
 - c. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or **suit** including actual loss of earnings because of time off from work, but not including the salaries of the insured's **employees**, and in no event more than \$500 a day.
 - d. All court costs taxed against the insured in the **suit**.
 - e. Prejudgment interest awarded against the insured on that part of the judgment we pay. However, if we make a settlement offer within the applicable Limits of Insurance of this policy that is acceptable to the claimant, or make an offer to pay the applicable Limits of Insurance of this policy, we will not pay any prejudgment interest accruing after we make such offer.
 - f. Post-judgment interest awarded against the insured on that part of the judgment we pay that accrues after the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limits of Insurance of this policy.

These payments will not reduce the Limits of Insurance of this policy.

5. Our duty to defend any claim or **suit** and make any supplementary payments ends once we have exhausted the applicable Limits of Insurance of this policy by payment of judgment or settlements.

SECTION V – EXCLUSIONS

This insurance does not apply to:

1. Aircraft

Any liability arising out of the ownership, maintenance, use or entrustment to others of any aircraft 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.

However, this exclusion does not apply to the extent **underlying insurance** provides such coverage. Coverage under this policy will be no broader than that provided by **underlying insurance**.

2. Asbestos

Any liability arising or allegedly arising out of asbestos either alone or in combination with other substances or factors.

3. Auto Coverages

- a. **Bodily injury or property damage** arising out of the ownership, maintenance, use or entrustment to others of any **auto**. Use includes operation and **loading or unloading**. However, this exclusion does not apply to the extent **underlying insurance** provides such coverage. Coverage under this policy will be no broader than that provided by **underlying insurance**.

- b. Any loss, cost or expense payable under or resulting from a first party physical damage coverage, no-fault law, personal injury protection or auto medical payments coverage, or uninsured or underinsured motorist law.

4. Contractual Liability

Any obligation of the insured by reason of the assumption of liability in a contract or agreement, including an **insured contract**.

This exclusion does not apply to:

- a. Liability for damages that the insured would have in the absence of the contract or agreement;
- b. **Bodily injury or property damage** 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 **insured contract**; or
- c. The extent **underlying insurance** provides coverage for **personal and advertising injury** assumed in an **insured contract**. Coverage under this policy will be no broader than that provided by **underlying insurance**.

Solely for the purposes of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of such liability, provided:

- (1) The liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and

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

5. 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:

- a. A defect, deficiency, inadequacy, or dangerous condition in **your product** or **your work**; or
- b. 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.

6. Damage to Property

Property damage to:

- a. Property you own, rent or occupy including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- b. Premises you sell, give away or abandon, if the **property damage** arises out of any part of those premises;
- c. Property loaned to you;
- d. Personal property in the care, custody or control of the insured;
- e. 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
- f. That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

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

Paragraphs **c.**, **d.**, **e.** and **f.** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **c.** and **d.** of this exclusion do not apply to liability assumed under a written Trailer Interchange agreement.

Paragraph **f.** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

7. Damage to Your Product

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

8. 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.

9. 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 or regulation.

10. Electronic Data

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

11. Employee Benefits Liability

Any actual or alleged act, error or omission in the administration of the Named Insured's employee benefit program. However, this exclusion does not apply to the extent **underlying insurance** provides such coverage. Coverage under this policy will be no broader than that provided by **underlying insurance**, subject to the following:

- a. If the applicable **underlying insurance** applies such coverage on a claims-made basis:
 - (1) This insurance applies only if:
 - (a) The negligent act, error or omission committed in the administration of the Named Insured's employee benefit program occurs on or after the retroactive date, if any, provided by the **underlying insurance** and prior to the end of the **policy period**; and
 - (b) The claim or suit for such negligent act, error or omission is first made in writing against any insured during:
 - (i) The **policy period**; or
 - (ii) An extended reporting period as provided by **underlying insurance**, subject to Paragraph (2) below.
 - (2) Any extended reporting period provided by this policy will not reinstate or increase the Limits of Insurance applicable to any claim to which this insurance applies, extend the **policy period** or change the scope of coverage provided by this policy.
- b. If the applicable **underlying insurance** does not apply such coverage on a claim-made basis, this insurance applies only if the negligent act, error or omission committed in the administration of the Named Insured's employee benefit program occurs during the **policy period**.

12. Employer's Liability

Bodily injury to:

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

This exclusion applies 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.

However, this exclusion does not apply:

- a. To liability assumed by the insured under an **insured contract**; or

- b. If the **bodily injury** is covered by **underlying insurance**. Coverage under this policy will be no broader than that provided by **underlying insurance**.

13. Employment-Related Practices

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

This exclusion applies:

- a. Whether the injury-causing event described in Paragraph **a.** above occurs before employment, during employment or after employment of a person;
- b. Whether the insured may be liable as an employer or in any other capacity; and
- c. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

14. 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** or **property damage** resulting from the use of reasonable force to protect persons or property.

15. Fungi or Bacteria

Any liability arising out of or related in any way to **fungi** or bacteria, the exposure to **fungi** or bacteria, or any claims arising from **fungi** or bacteria. This includes but is not limited to:

- a. Injury or 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 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; or
- 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 on, or are contained in, a good or product intended for human or animal consumption.

16. Liquor Liability

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

- a. Causing or contributing to the intoxication of any person;

- b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- c. 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 the supervision, hiring, employment, training or monitoring of others by that insured or 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 **a.**, **b.** or **c.** above.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. However, this exclusion does not apply to the extent **underlying insurance** provides such coverage. Coverage under this policy will be no broader than that provided by **underlying insurance**.

We will follow **underlying insurance** with respect to whether or not 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 considered the business of selling, serving or furnishing alcoholic beverages.

17. Nuclear Energy

- a. Any liability:
 - (1) With respect to which an insured under this policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limits of insurance; 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. Any liability resulting from the **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 injury or 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 Paragraph **(3)** applies only to **property damage** to such **nuclear facility** and any property thereat.

As used in this exclusion:

- a. **Hazardous properties** include radioactive, toxic or explosive properties.
- b. **Nuclear material** means **source material**, **special nuclear material** or **by-product material**.
- c. **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.
- d. **Spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

- e. **Waste** means any **waste** material:
- (1) 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
 - (2) 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**.
- f. **Nuclear facility** means:
- (1) Any **nuclear reactor**;
 - (2) Any equipment or device designed or used for:
 - (a) Separating the isotopes of uranium or plutonium;
 - (b) Processing or utilizing **spent fuel**; or
 - (c) Handling, processing or packaging **waste**;
 - (3) Any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235; or
 - (4) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**;
- and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.
- g. **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.
- h. **Property damage** includes all forms of radioactive contamination of property.

18. Personal and Advertising Injury

- a. Caused by an offense committed by or on behalf of the insured with knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**;
- b. Arising out of the oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- c. Arising out of the oral, written or electronic publication, in any manner, of material whose content, in the same or substantially the same form, was published before the beginning of the **policy period**;
- d. Arising out of a criminal act committed by or at the direction of the insured;
- e. Arising out of a breach of contract, except an implied contract to use another's advertising idea in your **advertisement**;
- f. Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your **advertisement**;
- g. Arising out of the wrong description of the price of goods, products or services stated in your **advertisement**;

- h. Arising out of infringement of, or any other violation relating to copyright, patent, trademark, trade secret or other intellectual property right.

However, this Paragraph h. does not apply to:

- (1) Infringement of copyright, trade dress or slogan, committed in your **advertisement**; or
- (2) The unauthorized use in your **advertisement** of another's idea for an **advertisement**;

- i. Committed by an insured whose business is:

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

However, this Paragraph i. does not apply to Paragraphs **18.a.**, **18.b.** and **18.c.** under **SECTION VII – DEFINITIONS**. For purposes of this Paragraph i., 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;

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

19. Pollution

- a. Any liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**, anywhere at any time, whether included in a product or otherwise.

However, this exclusion does not apply to the extent **underlying insurance** provides coverage for liability described in Paragraphs (1) through (6) below. Coverage under this policy will be no broader than that provided by **underlying insurance**.

- (1) **Bodily injury** if sustained within a building which is or was at any time owned or occupied by, or rented or loaned to, any insured and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (2) **Bodily injury** or **property damage** arising out of heat, smoke or fumes from a **hostile fire**;
- (3) **Bodily injury** or **property damage** arising out of the escape of fuels, lubricants or other operating fluids that are needed to perform normal electrical, hydraulic or mechanical functions necessary for the operation of **mobile equipment** or its parts if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the **bodily injury** or **property damage** arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured contractor or subcontractor;
- (4) **Bodily injury** or **property damage** sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor;

(5) **Bodily injury** or **property damage** arising out of the escape of fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of a **covered auto** or its parts, if:

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

(b) The **bodily injury** or **property damage** does not arise out of the operation of any equipment shown in Paragraphs **f.(2)** and **f.(3)** of the definition of **mobile equipment**; or

(6) **Bodily injury** or **property damage** caused by or resulting from **occurrences** that take place away from premises owned by or rented to an insured with respect to **pollutants** not in or upon a **covered auto** if:

(a) The **pollutants** or any property in which the **pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of a **covered auto**; and

(b) The discharge, dispersal, seepage, migration, release or escape of the **pollutants** is caused directly by such upset, overturn or damage.

b. Any loss, cost or expense arising out of any:

(1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **pollutants**; or

(2) Claim or suit by or on behalf of a government authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of **pollutants**.

This exclusion applies regardless of whether such discharge, dispersal, seepage, migration, release or escape occurs inside or outside a building or whether such **pollutant** has any function in your business, operations, premises, site or location.

20. 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:

a. **Your Product**;

b. **Your Work**; or

c. **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.

21. Recording and Distribution of Material or Information in Violation of Law

Any liability arising 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 Transaction 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.

22. War

Any liability, however caused, arising 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.

23. Watercraft

Any liability arising out of the ownership, maintenance, use or entrustment to others of any 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.

However, this exclusion does not apply to the extent **underlying insurance** provides such coverage. Coverage under this policy will be no broader than that provided by **underlying insurance**.

24. Workers' Compensation and Similar Laws

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

SECTION VI – CONDITIONS

1. Appeals

If the insured or the **underlying insurers** elect not to appeal a judgment, we may elect to do so. If we appeal, we will be liable for all court costs, expenses incurred and interest incidental to the appeal, which will be in addition to the Limits of Insurance of this policy. However, our liability for such a judgment or settlement will not exceed the Limits of Insurance of this policy.

2. Audit and Premium

- a. You agree to pay the premium when due.
- b. The Premium shown as Advance Premium on the Declarations is a flat charge unless a rate is shown.
- c. If a rate is shown in the Declarations, the Advance Premium shown in the Declarations is an estimated 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**. If the earned premium is greater than Advance Premium, you will promptly pay us the difference. If the earned premium is less than the Advance Premium, we will return the difference to the **first named insured**, subject to the Minimum Retained Premium, if any, shown in the Declarations, for each twelve months of the **policy period**.
- d. The **first named insured** should keep records of the information we need for premium computation and make available to us or send us this information whenever we request.
- e. We may examine your books and records as they relate to this policy at any time during the **policy period** and for up to three years after the expiration or termination of this policy.

- f. We may, at our option, make an additional premium charge for any organization that you acquire or form during the **policy period**.

3. Bankruptcy or Insolvency

Your or any **underlying insurer's** bankruptcy, insolvency or inability to pay shall neither relieve nor increase our obligations under this policy.

However, under no circumstances will such bankruptcy, insolvency or inability to pay require us to drop down, replace or assume any obligation of **underlying insurance**. This insurance will apply as if the **underlying insurance** were in full effect.

4. Cancellation and Nonrenewal

- a. The **first named insured** may cancel this policy by mailing or delivering advance written notice to us stating when cancellation is to take effect.
- b. We may cancel this policy by mailing or delivering to the **first named insured** written notice of cancellation at least:

(1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

(2) 30 days before the effective date of cancellation if we cancel for any other reason.

We will mail or deliver our notice to the **first named insured's** last mailing address known to us.

- c. The **policy period** will end on the day and hour stated in the cancellation notice.
- d. If we cancel, final premium will be calculated pro rata based on the time the policy was actually in effect.
- e. If the **first named insured** cancels, the premium refund may be less than pro rata and will be subject to the Minimum Retained Premium, if any, shown in the Declarations.
- f. Premium adjustment will be made at the time of cancellation or as soon as practicable thereafter, but cancellation will be effective even if we have not made or offered any refund of unearned premium. Our check or our representative's check, mailed or delivered, shall be sufficient tender of any refund due.
- g. If we decide not to renew this policy, we will mail or deliver our written notice of nonrenewal to the **first named insured's** last mailing address known to us not less than 30 days before the policy expiration date.
- h. If notice is mailed, proof of mailing will be sufficient proof of notice.

5. Changes

This policy may be amended only by a written endorsement to this policy issued by us.

6. Duties in the Event of Occurrence, Claim or Suit

- a. You must promptly notify us of any **occurrence** which may result in a claim or **suit** seeking damages under this policy. To the extent possible, notice should include:
 - (1) How, when and where the **occurrence** 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**.

Notice of an **occurrence** is not notice of a claim.

- b. If a claim is made or **suit** is brought against any insured that is reasonably likely to involve the coverage provided by this policy, you must notify us in writing promptly.
- c. You and any other involved insured also must:
 - (1) Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the claim or **suit**;
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation, settlement, or defense of any claim or **suit** we investigate, settle or defend; and
 - (4) Upon our request, assist us 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, make any admission, or incur any expense, other than for first aid, without our consent.

As used in this Paragraph 6. promptly means as soon as practicable after knowledge of the **occurrence** has been reported to an **executive officer** of the insured, or to the **employee** designated by the insured to give us notice.

7. Inspection

We have the right but are not obligated to inspect your premises and operations at any time. Our inspections are not safety inspections. They relate only to the insurability of your premises and operations and the premiums to be charged. We may give you reports on the conditions that we find. We may also recommend changes. However, we do not undertake to perform the duty of you or any person or organization to provide for the health or safety of your **employees** or the public. We do not warrant the health and safety conditions of your premises or operations, nor do we represent or certify that your premises or operations comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization, which makes insurance inspections, surveys, reports or recommendations for us.

8. Legal Action Against Us

No person or organization has the right under this policy:

- 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 under this policy 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 policy or that are in excess of the applicable Limits of Insurance of this policy. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

9. Maintenance of Underlying Insurance

During the **policy period** you must ensure that:

- a. All **underlying insurance** remains in effect;
- b. The terms, definitions, conditions, and exclusions of all **underlying insurance** do not materially change;
- c. Any renewals or replacements of any **underlying insurance** will not be more restrictive in coverage and will afford limits of insurance equal to or greater than the policy being renewed or replaced;

- d. The total applicable limits of all **underlying insurance** do not decrease, except for any reduction or exhaustion of aggregate limits by payment of judgments or settlements; and
- e. You 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.

Failure to comply with these requirements will not invalidate this insurance. However, in the event of such failure, we will only be liable to the same extent that we would have been, had you fully complied with these requirements.

10. Named Insureds

- a. The **first named insured** is authorized to act and agrees to act on behalf of all persons or organizations insured under this policy with respect to all matters pertaining to the insurance afforded by the policy.
- b. Each Named Insured is jointly and severally liable for:
 - (1) All premiums due under this policy; and
 - (2) Any other financial obligations of any Named Insured to us arising out of any agreements contained in this policy.

11. Other Insurance

This insurance is excess over, and will not share or contribute with any **other insurance** whether primary, excess, contingent or on any other basis.

However, this insurance will not seek contribution from any **other insurance** available to an additional insured provided that:

- a. The additional insured is a Named Insured on such **other insurance**;
- b. You have agreed in a written contract or agreement with the additional insured that this insurance would not seek contribution from any **other insurance** available;
- c. **Underlying insurance** includes the person or organization as an additional insured; and
- d. **Underlying insurance** provides coverage to the person or organization on a primary and noncontributory basis.

12. Representations

By accepting this policy, you agree:

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

13. Separation of Insureds

Except with respect to the Limits of Insurance of this policy and any rights or duties specifically assigned 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.

14. Terms Conformed to Statute

The terms of this policy which are in conflict with the statutes, laws, ordinances or regulations of the state or jurisdiction where this policy is issued are amended to conform to such statutes, laws, ordinances or regulations.

15. Trade or Economic Sanctions

This insurance applies except to the extent coverage is in violation of any trade or economic sanction, embargo or similar regulation imposed by the United States of America.

16. Transfer of Rights of Recovery Against Others to Us

- a. If any insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured will do all that is necessary to secure such rights and must help us enforce them. The insured will do nothing after loss to prejudice such rights.

We have the right to recover our payments from anyone liable for injury or damage covered by this policy. We waive any right of recovery we may have against a person or organization, if you waive any right of recovery against such a person or organization in a written contract, but only if such contract was executed prior to injury or damage.

- b. Any recoveries shall be applied as follows:

- (1) Any person or organization, including the insured, that has paid an amount in excess of the applicable Limits of Insurance of this policy will be reimbursed first;
- (2) We then will be reimbursed up to the amount we have paid; and
- (3) Lastly, any person or organization, including the insured, that has paid an amount over which this policy is excess is entitled to claim the remainder.

Expenses incurred by us in the exercise of the rights of recovery shall be apportioned among the persons or organizations, including the insured, in the ratio of their respective recoveries as finally settled.

17. Transfer of Your Rights and Duties

Your rights and duties under this policy may not be transferred without our written consent.

If you die or are legally declared bankrupt, 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. However, in such event, notice of cancellation of this policy sent to the **first named insured** and mailed to the last mailing address known to us will be sufficient notice to effect cancellation of this policy.

18. Unintentional Failure to Disclose

There will be no coverage under this policy for hazards you fail to disclose at the inception of the **policy period**, except that unintentional failure of the Named Insured to disclose all hazards existing at the inception of this policy shall not be a basis for denial of any coverage afforded by this policy. However, you must report the hazard to us as soon as practical after discovering the failure to disclose.

19. When Loss is Payable

Coverage under this policy will not apply unless and until the insured or the **underlying insurer** has paid or is obligated to pay the full amount of the **retained limit**. However, when an agreed settlement or final judgment has been determined, we will promptly pay on behalf of the insured those sums falling within the terms of this policy.

You will promptly reimburse us for any amount within the Self-Insured Retention paid by us on your behalf.

SECTION VII – 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 websites, only that part of a website 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 semi-trailer 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 physical injury, sickness or disease, including death of a person. **Bodily injury** also means mental injury, mental anguish, humiliation, or shock if resulting from physical injury, sickness, or disease to that person.
4. **Covered auto** means only an **auto** for which coverage is provided by **underlying insurance**.
5. **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.
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, by-laws or any other similar governing document.
8. **First named insured** means the person or organization shown as the Named Insured in the Declarations or, if more than one name appears, the Named Insured listed first in the Declarations.
9. **Fungi** means any type or form of fungus including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by **fungi**.
10. **Hostile fire** means a fire that becomes uncontrollable or breaks out from where it was intended to be.
11. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:
 - a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;if such property can be restored to use by:
 - a. The repair, replacement, adjustment, or removal of **your product** or **your work**; or

- b. Your fulfilling the terms of the contract or agreement.

12. Insured contract means:

- a. A contract for 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**; or
- 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, provided the **bodily injury** or **property damage** is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraphs **f.** and **g.** above 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;
- (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 the person or organization is authorized to serve by public authority;
- (4) That indemnifies an architect, engineer, or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (5) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (4) above and supervisory, inspection, architectural or engineering activities.

- 13. Leased worker** means a person leased to you by a labor leasing firm, under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.

14. 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**.

15. 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; and
- 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 such vehicles are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered **autos**.

16. Occurrence means, with respect to:

- a. **Bodily injury or property damage**, an accident, including continuous or repeated exposure to substantially the same general harmful conditions. All such exposure to substantially the same general harmful conditions will be deemed to arise out of one **occurrence**;
- b. **Personal and advertising injury**, an offense or series of related offenses. All damages that arise from the same act, publication or general conditions are considered to arise out of the same **occurrence**, regardless of the frequency or repetition thereof, the number or kind of media used or the number of claimants;
- c. Employee Benefits Liability, an act, error or omission or a series of related acts, errors or omissions negligently committed in the administration of the Named Insured's employee benefit program.

17. Other insurance means any valid and collectible policies of insurance providing coverage for damages covered in whole or in part by this policy.

Other insurance does not include **underlying insurance**, any amount shown in the Declarations as a Self-Insured Retention or any insurance specifically written as excess over this policy.

18. Personal and advertising injury means injury arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. 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**.

Bodily injury that arises out of **personal and advertising injury** will be considered **personal and advertising injury**.

19. Policy period means the period of time from the effective date of this policy shown in **Item 2.** of the Declarations to the earlier of the expiration, termination or cancellation date of this policy.

20. 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.

21. 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. **Your work** will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.

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

22. Property damage means:

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

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

23. Retained limit means as to each **occurrence** the greater of:

- a. The total applicable limits of the **underlying insurance** plus any **other insurance** available to the insured; or
- b. The Self-Insured Retention shown in the Declarations as a result of any one **occurrence** not covered by **underlying insurance** nor any **other insurance**. The Self-Insured Retention does not apply to **occurrences** that would have been covered by **underlying insurance** but for the exhaustion of applicable limits.

24. Spouse means any husband, wife or partner in a marriage or civil union or any person qualifying as a domestic partner under any federal, state or local laws or under the Named Insured's employee benefit program.

25. Suit means a civil proceeding in which damages because of any liability to which this insurance applies are alleged.

Suit includes:

- a. An arbitration proceeding in which such damages are claimed and can be awarded 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 can be awarded and to which the insured submits with our consent.

26. 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.

27. Underlying insurance means the policy or policies of insurance or self-insurance listed in the Declarations under the Schedule of Underlying Insurance.

28. Underlying insurer means any insurer who provides **underlying insurance**.

29. 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 who is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

30. 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.

31. 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.