

IN THE SUPREME COURT OF THE STATE OF NEVADA

ASPEN SPECIALTY INSURANCE
COMPANY,

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; and THE HONORABLE
GLORIA STURMAN, DISTRICT JUDGE,
DEPT. 26,

Respondents,

ST. PAUL FIRE & MARINE
INSURANCE COMPANY; NATIONAL
UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA; and ROOF DECK
ENTERTAINMENT, LLC d/b/a
MARQUEE NIGHTCLUB

Real Parties in Interest.

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District Court Case No. A-17-758902-C

**APPENDIX OF EXHIBITS TO
PETITION UNDER NRAP 21 FOR
WRIT OF MANDAMUS OR, IN THE
ALTERNATIVE,
PETITION FOR WRIT OF
PROHIBITION**

Volume VI of XIX

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DOC NO.	DOCUMENT	VOL.	BATES NO.
1	[04/25/2018] St. Paul Fire & Marine Insurance Company's First Amended Complaint [filed under seal]	I	AA00001-AA00027
2	[08/29/2019] St. Paul Fire & Marine Insurance Company's Motion for Partial Summary Judgment Against Aspen Specialty Insurance Company	I	AA00028-AA00051
3	[08/29/2019] Exhibits and Declaration of Marc J. Derewetzky in Support of St. Paul Fire & Marine Insurance Company's Motion for Partial Summary Judgment Against Aspen Specialty Insurance Company	I, II	AA00052-AA00208
4	[08/29/2019] Request for Judicial Notice in Support of St. Paul Fire & Marine Insurance Company's Motion for Partial Summary Judgment Against Aspen Specialty Insurance Company	II	AA00209-AA00285
5	[09/13/2019] Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Motion for Summary Judgment	II, III	AA00286-AA00312
6	[09/13/2019] Declaration of Nicholas B. Salerno in Support of Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Motion for Summary Judgment	III	AA00313-AA00315
7	[09/13/2019] Declaration of Bill Bonbrest in Support of Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Motion for Summary Judgment	III	AA00316-AA00318
8	[09/13/2019] Request for Judicial Notice in Support of Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Motion for Summary Judgment	III	AA00319-AA00322
9	[09/13/2019] Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Appendix of Exhibits in Support of Motion for Summary Judgment	III	AA00323-AA00411
10	[09/13/2019] National Union Fire Insurance Company of Pittsburgh PA's Motion for Summary Judgment	III	AA00412-AA00439

11	[09/13/2019] Declaration of Nicholas B. Salerno in Support of National Union Fire Insurance Company of Pittsburgh, PA's Motion for Summary Judgment	III	AA00440-AA00442
12	[09/13/2019] Declaration of Richard C. Perkins in Support of National Union Fire Insurance Company of Pittsburgh, PA's Motion for Summary Judgment	III, IV	AA00443-AA00507
13	[09/13/2019] National Union Fire Insurance Company of Pittsburgh PA's Appendix of Exhibits in Support of Motion for Summary Judgment	IV, V, VI, VII	AA00508-AA00937
14	[09/13/2019] Request for Judicial Notice in Support of National Union Fire Insurance Company of Pittsburgh PA's Motion for Summary Judgment	VII	AA00938-AA00941
15	[09/19/2019] Aspen Specialty Insurance Company's Opposition to St. Paul Fire & Marine Insurance Company's Motion for Partial Summary Judgment and Countermotion for Summary Judgment	VII, VIII	AA00942-AA01153
16	[09/27/2019] St. Paul Fire & Marine Insurance Company's Opposition to Motion for Summary Judgment filed by Roof Deck Entertainment, LLC d/b/a Marquee Nightclub and Countermotion Re: Duty to Indemnify	VIII	AA01154-AA01173
17	[09/27/2019] Declaration of William Reeves in Support of St. Paul Fire & Marine Insurance Company's Opposition to Roof Deck Entertainment, LLC d/b/a Marquee Nightclub's Motion for Summary Judgment	VIII	AA01174-AA01176
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20	[09/27/2019] Declaration of Marc J. Derewetzky in Support of St. Paul Fire & Marine Insurance Company's Opposition to AIG's Motion for Summary Judgment	IX	AA01222-AA01228

21	[09/27/2019] St. Paul Fire & Marine Insurance Company's Response to National Union Fire Insurance Company of Pittsburgh PA's Statement of Undisputed Facts in Support of Motion for Summary Judgment	IX	AA01229-AA01234
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26	[10/07/2019] Aspen Specialty Insurance Company's Reply in Support of Its Countermotion for Summary Judgment	XI	AA01578-AA01592
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28	[10/10/2019] National Union Fire Insurance Company of Pittsburgh PA's Reply in Support of Its Motion for Summary Judgment	XI	AA01617-AA01633
29	[10/10/2019] National Union Fire Insurance Company of Pittsburgh PA's Objections to Facts Not Supported by Admissible Evidence Filed in Support of St. Paul's Opposition to Motion for Summary Judgment and Request for Discovery Per NRCp 56(d)	XI, XII	AA01634-AA01656

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34	[05/14/2019] Findings of Fact, Conclusions of Law and Order Granting National Union Fire Insurance Company of Pittsburg PA's Motion for Summary Judgment	XII	AA01752-AA01770
35	[05/14/2020] Order Denying St. Paul Fire & Marine Insurance Company's Motion for Partial Summary Judgment and Order Granting in Part Aspen Specialty Insurance Company's Counter-Motion for Summary Judgment	XII	AA01771-AA01779
36	[06/11/2020] Aspen Specialty Insurance Company's Renewed Motion for Summary Judgment	XIII	AA01780-AA01808
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42	Aspen Specialty Insurance Company Policy of Insurance issued to The Restaurant Group et al, Policy Number CRA8XYD11	XVI	AA02208-AA02325
43	St. Paul Fire and Marine Insurance Company Policy of Insurance issued to Premier Hotel Insurance Group (P2), Policy Number QK 06503290	XVII	AA02326-AA02387
44	National Union Fire Insurance Company of Pittsburgh, PA Policy of Insurance issued to The Restaurant Group et al, Policy Number BE 25414413	XVIII	AA02388-AA02448
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2. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened:
 - a. absorption, ingestion or inhalation of any other solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and **Waste**, in any form by any person; or
 - b. existence of any such other irritant or contaminant in any form;and that is part of any **Claim** or **Suit** that also alleges any **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** described in paragraph V.D.1. of this exclusion, above.
3. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that any **Insured** or others:
 - a. test for, monitor, clean up, remove, contain, treat, detoxify or neutralize asbestos in any form; or
 - b. respond to, or assess, in any way the effects of asbestos in any form.

Because asbestos, and any other such irritants or contaminants, are **Pollutants**, this exclusion applies in addition to any of the following exclusions that apply:

- a. the pollution exclusion in this policy; or
- b. any other pollution-related exclusion made part of this policy.

E. Employment-Related Practices

Bodily Injury or Personal 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, failure to promote or advance, harassment, humiliation or discrimination applied to or directed at that person; or
2. the spouse, child, parent, brother or sister of that person as a consequence of such **Bodily Injury** or **Personal Injury** to that person described in paragraph V.E.1., of this exclusion, above.

This exclusion applies to any obligation to share damages with or repay someone else who must pay damages because of the **Bodily Injury** or **Personal Injury**.

F. Property Damage to Certain Property

Property Damage to:

1. property you own, rent or occupy;
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 any **Insured**;

5. that particular part of real property on which you or any contractors or sub-contractors working directly or indirectly on your behalf are performing operations if the **Property Damage** arises out of those operations;
6. that particular part of any property that must be restored, repaired or replaced because **Your Work** was incorrectly performed on it;
7. **Your Product** arising out of **Your Product** or any part of it; or
8. **Your Work** arising out of **Your Work** or any part of it and included in the **Products-Completed Operations Hazard**, unless the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

Paragraph V.F.2. of this exclusion, above, does not apply if the premises are **Your Work** and were never occupied, rented or held for rental by you.

Paragraph V.F.6. of this exclusion, above, does not apply to **Property Damage** included in the **Products-Completed Operations Hazard**.

G. Property 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 fulfill the terms of a contract or agreement.

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.

H. Product Recall

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.

I. Expected or Intended Bodily Injury or Property Damage

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.

J. Known Violation of Rights

Personal Injury or **Advertising Injury** caused by or committed at the direction of the **Insured**, or by an offense committed at the direction of the **Insured**, with knowledge that the rights of another would be violated and that **Personal Injury** or **Advertising Injury** would result.

K. Material Published with Knowledge of Falsity

Personal Injury or Advertising Injury arising out of oral, written, or electronic publication of material, if done by or at the direction of the **Insured** with knowledge of its falsity.

L. Material Published Prior to Policy Period

Personal Injury or Advertising Injury arising out of any:

1. oral, written, or electronic publication of material whose first publication;
2. unauthorized use in your **Advertisement** of another's **Advertising Idea** if that unauthorized use first; or
3. infringement in your **Advertisement** of another's copyright, trade dress or **Slogan** if that infringement first;

took place before the beginning of the **Policy Period**.

M. Criminal Acts

Personal Injury or Advertising Injury arising out the willful violation of a penal statute or ordinance committed by, at the direction of, any **Insured**.

N. Advertising, Broadcasting, Publishing, Telecasting, Media and Internet Businesses

Personal Injury or Advertising Injury 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 exclusions does not apply to **Personal Injury** caused by any of the following offenses:

1. false arrest, detention or imprisonment;
2. malicious prosecution;
3. 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.

For the purpose of this exclusion, the placing of advertising, borders or frames for an **Insured** or others, or links for or to others, on or in an **Insured's** website is not by itself considered the business of advertising, broadcasting, publishing or telecasting.

O. Breach of Contract

Personal Injury or Advertising Injury arising out of breach of contract, other than misappropriation of **Advertising Ideas** under an implied contract.

P. Quality or Performance of Goods - Failure to Conforms to Statements

Advertising Injury arising out of the failure of goods, products or services to conform with advertised quality or performance.

Q. Wrong Description of Prices

Advertising Injury arising out of the wrong description of the price of goods, products or services.

R. Intellectual Property

Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the actual or alleged infringement or violation of any of the following rights or laws:

1. copyright;
2. patent;
3. trade name;
4. trade secret;
5. trademark; or
6. other intellectual property rights or laws.

This exclusion does not apply to **Bodily Injury** or **Property Damage** that:

1. results from **Your Products** or **Your Work**; or
2. is included in the **Products-Completed Operations Hazard**.

This exclusion also does not apply to **Advertising Injury** that results from:

1. the unauthorized use in your **Advertisement** of another's **Advertising Idea**; or
2. infringement in your **Advertisement** of another's copyright, trade dress or trademarked **Slogan**.

S. Pollution

1. **Bodily Injury, Property Damage or Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** anywhere in the world;
2. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that we, the **Insured** or any other person or organization test for, monitor, clean-up, remove, contain, treat, detoxify, respond to, neutralize or assess the effects of **Pollutants**; or
3. Any loss, cost or expense arising out of any **Claim** or **Suit** by or for any governmental authority or any other person or organization for damages arising out of the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or responding to or assessing in any way, **Pollutants**.

This exclusion does not apply to **Bodily Injury** or **Property Damage**:

- a. arising out of heat, smoke or fumes from a **Hostile Fire**;
- b. arising out of the upset, overturn or collision of an **Auto**; or
- c. included in the **Products-Completed Operations Hazard**;

if insurance for such **Bodily Injury** or **Property Damage** is provided by any **Scheduled Underlying Insurance** or any **Scheduled Retained Limit**. However, the insurance provided by this policy for such **Bodily Injury** or **Property Damage** will not be broader than the insurance provided by such **Scheduled Underlying Insurance** or **Scheduled Retained Limit**.

T. Nuclear Material

Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of:

1. the actual, alleged or threatened exposure of any person or property to; or
2. the Hazardous Properties of;

any Nuclear Material.

As used in this exclusion:

1. hazardous properties includes radioactive, toxic or explosive properties;
2. nuclear material means source material, special nuclear material or by-product material;
3. source material, special nuclear material and by-product material have the meanings given them in the Atomic Energy Act of 1954 or any law amendatory thereof.

Because Nuclear Material is a Pollutant, this exclusion applies in addition to any of the following exclusions that apply:

1. the pollution exclusion in this policy; or
2. any other pollution-related exclusion made part of this policy.

VI. Additional Exclusions

This insurance does not apply to the following, unless insurance for such liability is provided by any Scheduled Underlying Insurance or any Scheduled Retained Limit and then it will be no broader than the insurance provided by such Scheduled Underlying Insurance or Scheduled Retained Limit:

A. Fellow Employee

Liability of any Employee with respect to Bodily Injury or Personal Injury to:

1. another Employee of the same employer; or
2. the spouse or any child, parent, brother or sister of that other Employee as a consequence of such Bodily Injury or Personal Injury to that other Employee described in paragraph VI.A.1. of this exclusion.

B. Watercraft

Bodily Injury or Property Damage arising out of the ownership, maintenance, use, operation, Loading or Unloading, or entrustment to others of any watercraft owned, operated or rented by, or loaned to, any Insured. This exclusion does not apply to watercraft while ashore on premises owned or rented by any Insured.

C. Aircraft

Bodily Injury or Property Damage arising out of the ownership, maintenance, use, operation, Loading or Unloading or entrustment to others of any aircraft owned, rented or chartered by, or loaned to, any Insured or on an Insured's behalf, with or without crew.

VII. Conditions

A. Appeals

We have the right but not the duty to appeal an award or judgment, including damages covered by this policy, in excess of the applicable **Retained Limit**. If we elect to appeal we will pay, in addition to any applicable limits of insurance of this policy, all costs, interest and expenses incidental to such appeal. However, the result of an appeal will not change the limits of coverage that apply under this policy.

B. Audit

We may audit the **Insured's** books and records at any time during the term of the **Policy Period** or within three years after expiration or termination of this policy.

C. Bankruptcy or Insolvency

1. The **Insured's** bankruptcy, insolvency or inability to pay, or the bankruptcy, insolvency or inability to pay of any issuer of **Scheduled Underlying Insurance** will not relieve us of our obligations under this policy.
2. In the event of any such bankruptcy, insolvency or inability to pay:
 - a. this insurance will neither replace or reduce the insurance provided by **Scheduled Underlying Insurance** nor replace or reduce any **Scheduled Retained Limit**; and
 - b. this insurance will apply only to amounts in excess of the applicable limits of such **Scheduled Underlying Insurance** and **Scheduled Retained Limits**.

D. Cancellation

1. You may cancel this policy. You must mail or deliver to us advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. If we cancel because of non-payment of premium, we must mail or deliver to you not less than 10 days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you not less than 60 days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the **Declarations** shall be sufficient to prove such notice.
3. The **Policy Period** will end on the day and time stated in the cancellation notice.
4. If we cancel, final premium shall be calculated pro rata based on the time this policy was in force.
5. If you cancel, final premium will be more than pro rata. It will be based on the time this policy was in force and increased by our short rate cancellation table and procedure.
6. Premium adjustment may be made at the time of cancellation or as soon as practicable thereafter, but the cancellation will be effective even if we have not made or offered any premium refund due you. Our check, or our representative's check, mailed or delivered to you at your mailing address shown in Item 1 of the **Declarations**, shall be sufficient tender of any such refund due you.
7. The first **Named Insured** in Item 1 of the **Declarations** shall act on behalf of all other **Insureds** with respect to the giving or receiving of notice of cancellation and the receipt of any premium refund that may become payable under this policy.

8. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with that law.

E. Changes

Notice to any agent or knowledge possessed by any agent or any other person will not effect a waiver of, or a change in, any part of this policy. This policy can only be changed by a written endorsement that becomes a part of this policy and that is signed by one of our authorized representatives.

F. Duties in the Event of an Occurrence, Claim or Suit

1. You must see to it that we are notified as soon as practicable of an **Occurrence** which may result in a **Claim** or **Suit** seeking damages covered by this policy. To the extent possible, notice should include:
 - a. how, when and where the **Occurrence** took place;
 - b. the names and addresses of any injured persons and witnesses; and
 - c. the nature and location of any **Bodily Injury**, **Property Damage**, **Personal Injury** or **Advertising Injury** arising out of the **Occurrence**.
2. 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 as soon as practicable. You and any other involved **Insured** also must:
 - a. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **Claim** or **Suit**;
 - b. authorize us to obtain necessary records and other information;
 - c. cooperate with us in the investigation, settlement or defense of any **Claim** or **Suit** we investigate, settle or defend; and
 - d. 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 apply.
3. No **Insured** will, except at that **Insured's** own expense, voluntarily make a payment, assume any obligation, make any admission, or incur any expense, other than for first aid for **Bodily Injury** covered by this policy, without our consent.

G. First Named Insured

The person or organization first named in Item 1 of the Declarations is primarily responsible for the payment of all premiums, the giving and receiving of notice of cancellation and the receiving of any return premiums that become payable under this policy.

H. 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 your reports on the conditions that we find. We may also recommend changes. However, we will not undertake to perform the duty of 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 or represent that your premises or operations comply with any law, regulation, code or standard.

I. Knowledge of Occurrence or Claim

Knowledge of an Occurrence, Claim or Suit by your agent, servant or Employee shall not in itself constitute knowledge by you, unless a Named Insured:

1. shall have received notice of such Occurrence, Claim or Suit from said agent, servant or Employee; or
2. otherwise has knowledge of such Occurrence, Claim or Suit.

J. Legal Action Against Us

No person or organization has a right under this policy to sue us, join us as a party, or otherwise bring us into a Suit seeking damages from, or to determine the liability of, any Insured unless:

1. you have, and any other involved Insured has, complied with all the terms of this policy; and
2. the amount you owe has been determined with our consent or by actual trial and final judgment.

K. Maintenance of Scheduled Underlying Insurance

1. During the Policy Period, you agree:
 - a. to keep Scheduled Underlying Insurance in full force and effect;
 - b. that the terms, including definitions, conditions and exclusions, of Scheduled Underlying Insurance shall not materially change;
 - c. that the total applicable limits of Scheduled Underlying Insurance shall not decrease, except for any reduction or exhaustion of aggregate limits by payment of Claims or Suits for Bodily Injury, Property Damage, Personal Injury or Advertising Injury covered by this policy; and
 - d. that any renewals or replacements of Scheduled Underlying Insurance shall provide equivalent coverage to and afford limits of insurance equal to or greater than the policy being renewed or replaced.
2. If you fail to comply with these requirements, we will be liable only to the same extent that we would have, had you fully complied with these requirements.
3. If you are unable to recover from an issuer of any Scheduled Underlying Insurance because that issuer is unable to pay or you fail to comply with any term or condition of any Scheduled Underlying Insurance, we will only pay those sums covered by this insurance which are in excess of the applicable limit of Scheduled Underlying Insurance shown in the Schedule of Underlying Insurance.

L. Other Insurance

If Other Insurance applies to damages that are also covered by this policy, this policy will apply excess of, and shall not contribute with, that Other Insurance, whether it is primary, excess, contingent or on any other basis. However, this provision will not apply if the Other Insurance is specifically written to be excess of this policy.

M. Premium

The premium for this policy is the amount stated in Item 5 of the Declarations. It is a flat premium unless specified as subject to an audit adjustment.

N. 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 designated in Item 1 of the Declarations, this insurance applies:

1. as if each Named Insured were the only Named Insured; and
2. separately to each Insured against whom the Claim is made or the Suit is brought.

O. Titles

The titles of the various sections or paragraphs in this policy and endorsements, if any, attached to this policy are intended solely for convenience or reference and are not to be deemed in any way to affect the provisions to which they relate.

P. Transfer of Rights of Recovery to Us

1. If any Insured has rights to recover from any other person or organization all or part of any payment we have made under this policy, those rights are transferred to us. The Insured must do nothing after loss to impair those rights and must help us enforce them.
2. Any such recovery shall be applied as follows:
 - a. first, 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 for the actual excess amount paid under this policy;
 - b. then, we will be reimbursed up to the amount we have paid; and
 - c. last, any Insured or issuer of Scheduled Underlying Insurance is entitled to claim the remainder, up to the amount that Insured or issuer of Scheduled Underlying Insurance has paid.
3. Expenses incurred in the exercise of such rights of recovery shall be apportioned among such persons or organizations, including the Insured, in the same ratio as their respective recoveries are finally shared.

Q. 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. However, notice of cancellation sent to the first Named Insured designated in Item 1 of the Declarations and mailed to the address shown in this policy will be sufficient notice to effect cancellation of this policy.

R. Unintentional Failure to Disclose Hazards

Your failure to disclose all hazards existing as the inception date of the policy shall not prejudice you with respect to the coverage afforded by this policy, provided that any such failure or omission is not intentional.

S. When Damages Are Payable

We will not make any payment under this policy unless and until the Insured or any other insurer is obligated to pay the Retained Limit.

When the amount of loss has been determined, we will promptly pay on behalf of the Insured the amount of loss covered by this policy.

You shall promptly reimburse us for any amount within the Self-Insured Retention paid by us on behalf of an Insured.

In Witness Whereof we have caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by one of our duly authorized representatives where required by law.

Amendment of Cancellation Notice

Paragraph 2 of Section VII. Conditions, D. Cancellation is replaced by the following:

We may cancel this policy. If we cancel because of non-payment of premium, we must mail or deliver to you not less than 10 days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you not less than 90 days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Declarations shall be sufficient to prove such notice.

All other terms of your policy remain the same.

Claims-Made Coverage And Extended Reporting Period Endorsement

- A. With respect to the coverage provided by this policy that applies in excess of the **Scheduled Underlying Insurance** listed directly below, which provides coverage on a claims-made basis, this policy also provides coverage on a claims-made basis:

Scheduled Underlying Insurance Description: **EMPLOYEE BENEFITS LIABILITY**
Scheduled Underlying Insurance Carrier: **PER SCHEDULE ON INDIVIDUAL ACCOUNT CERTIFICATE**
Scheduled Underlying Insurance Policy #: **PER SCHEDULE ON INDIVIDUAL ACCOUNT CERTIFICATE**
Scheduled Underlying Insurance Limits: **\$1,000,000/\$1,000,000**
Scheduled Underlying Insurance Retroactive Date:

Scheduled Underlying Insurance Description:
Scheduled Underlying Insurance Carrier:
Scheduled Underlying Insurance Policy #:
Scheduled Underlying Insurance Limits:
Scheduled Underlying Insurance Retroactive Date:

Scheduled Underlying Insurance Description:
Scheduled Underlying Insurance Carrier:
Scheduled Underlying Insurance Policy #:
Scheduled Underlying Insurance Limits:
Scheduled Underlying Insurance Retroactive Date:

- B. Each of the following applies to such coverage provided by this policy on a claims-made basis:

1. The **Bodily Injury** or **Property Damage** must have occurred, the **Personal Injury** or **Advertising Injury** must have been caused by an **Occurrence** committed, or the negligent act, error, or omission must have been committed, on or after the **Retroactive Date** of this policy;
2. The **Bodily Injury** or **Property Damage** must have occurred, the **Personal Injury** or **Advertising Injury** must have been caused by an **Occurrence** committed, or the negligent act, error or omission must have been committed, on or before the earlier of the expiration date shown in Item 2 of the **Declarations** or the termination date of this policy;
3. The **Claim** or **Suit** for any **Bodily Injury**, **Property Damage**, **Personal Injury**, **Advertising Injury**, or negligent act, error, or omission must have been first made or brought during the **Policy Period** or within 60 days thereafter, or within any **Extended Reporting Period** provided under this policy. A **Claim** or **Suit** is deemed first made or brought when notice of such **Claim** or **Suit** is first received by any **Insured** or by us, whichever is earlier.
4. No insurance is provided by this policy for any **Claim** or **Suit**, or any notification being treated as a **Claim** or **Suit**, which is made or brought before the inception date shown in Item 2 of the **Declarations** and for which any **Insured** has given notice to any person or organization providing **Other Insurance**.

- C. The following is added to section VII. **Conditions F. Duties in the Event of an Occurrence, Claim or Suit** but only with respect to this endorsement:

4. Notice of an **Occurrence** as described in F.1. above is not notice of a **Claim** or **Suit**. However, if:
- a. we are notified during the **Policy Period**, as specified above, of an **Occurrence**; and
 - b. a **Claim** or **Suit** is made or brought within 36 months from the date we are notified of that **Occurrence**;

then this policy will apply as if notice of that Claim or Suit has been made during the Policy Period.

D. The following is added to section VII. Conditions:

Extended Reporting Period

1. If the Insured cancels or does not renew this policy, or if we either cancel or non-renew this policy for any reason other than non-payment of premium, the Insured may elect to purchase the Extended Reporting Period.
2. The Extended Reporting Period will apply only if:
 - a. The Insured requests it in writing within 60 days after the end of the Policy Period;
 - b. The Insured has paid all premiums due for this policy at the time the Insured makes such request; and
 - c. The Insured pays the additional premium for such Extended Reporting Period as charged by us. The additional premium will not exceed 200%
3. Once the Extended Reporting Period is effective, neither we nor you may cancel the Extended Reporting Period, and we shall not refund any part of the premium paid for the Extended Reporting Period for any reason.
4. Any Claim or Suit first made or brought during the Extended Reporting Period will be deemed to have been made or brought on the last day of the Policy Period. The Extended Reporting Period will not extend the Policy Period or reinstate or increase the Limits of Liability of this policy.
5. Any insurance provided by this policy for Claims or Suits made or brought during the Extended Reporting Period is excess over any Other Insurance providing coverage for such Claims or Suits made or brought after the Extended Reporting Period begins.

E. With respect to this endorsement only, the following are added to section IV. Definitions:

Extended Reporting Period means a period of 5 years or the length of the add'l Extended Reporting Period in your Scheduled Underlying Insurance, whichever is less, starting with the expiration date of this policy, during which Claims or Suits may be first made or brought.

Retroactive Date means . If no retroactive date is shown, then the retroactive date of this policy is the same as the retroactive date shown on the applicable Scheduled Underlying Insurance listed in part A. of this endorsement.

All other terms of your policy remain the same.

Anti-Stacking Endorsement

For the purpose of this endorsement only, the following is added to section **III. Limits of Insurance**:

Regardless of the Limits specified in the Declarations of this policy, if any **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** covered by this policy is also covered by any other Named Insured Certificate issued on the Premier Hotel Insurance Group policy QK06503290 and QK06503289, then the maximum that we will pay for all such **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** will be the highest applicable Each Occurrence Limit under any one of those certificates.

This endorsement does not apply to certificate holders that have no contractual relationship or common ownership between them.

All other terms of your policy remain the same.

Pollution Exclusion Exception For Certain Equipment Including Pollutants From Swimming Pools And Garages

The following is added to the second paragraph of section V. Exclusions S. Pollution 3.

- d. arising out of the discharge, dispersal, seepage, migration, release or escape of pollutants from:
 - 1. chlorine equipment, refrigeration equipment, ventilation equipment, air conditioning equipment; or
 - 2. release of a substance from a swimming pool or a garage.

All other terms of your policy remain the same.

Employee Benefits Liability Endorsement

1. The following is added to section I. Coverage A:

We will also pay on behalf of the Insured all sums in excess of the Retained Limit that the Insured becomes legally obligated to pay as damages by reason of liability imposed by law because of any negligent act, error or omission committed in the Administration of your Employee Benefits Program. However, the insurance provided by this endorsement will not be broader than the insurance provided by the applicable Scheduled Underlying Insurance or the applicable Scheduled Retained Limit for such damages.

2. The following are added to section IV. Definitions:

Administration means any of the following administrative functions:

1. Providing information to Employees, including dependents and beneficiaries, with respect to eligibility for or scope of an Employee Benefit Program;
2. Handling records in connection with an Employee Benefit Program; or
3. Effecting or terminating any Employee's participation in a plan included in the Employee Benefit Program.

Employee Benefit Program means any of the following plans:

1. 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 insurance or plans and such plans are generally available to those Employees who satisfy the plan's eligibility requirements;
2. 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 plans and such plans are generally available to all Employees who are eligible under the plan;
3. Unemployment insurance, social security benefits, workers compensation and disability benefits;
4. Vacation plans; or
5. Any other plan designated in the Schedule of Designated Plans below or added by endorsement to this policy.

Schedule of Designated Plans

All other terms of your policy remain the same.

Lead Exclusion

This Insurance does not apply to:

1. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened:
 - a. absorption, ingestion or inhalation of lead in any form by any person; or
 - b. existence of lead in any form.
2. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened:
 - a. absorption, ingestion or inhalation of any other solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and Waste, in any form by any person; or
 - b. existence of any such other irritant or contaminant in any form;and that are part of any **Claim or Suit** that also alleges any **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** described in paragraph 1. of this exclusion, above.
3. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that any **Insured** or others:
 - a. test for, monitor, clean up, remove, contain, treat, detoxify or neutralize lead in any form;
 - b. respond to, or assess, in any way the effects of lead in any form.

Because lead, and any other such irritant or contaminant, are **Pollutants**, this exclusion applies in addition to any of the following exclusions that apply:

- a. the pollution exclusion in this policy; or
- b. any other pollution-related exclusion made part of this policy.

All other terms of your policy remain the same.

Mold or Other Fungi or Bacteria Exclusion

This insurance does not apply to:

1. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened:

- a. absorption, ingestion or inhalation of **Mold or other fungi or Bacteria** in any form by any person; or
- b. existence of **Mold or other fungi or Bacteria** in any form;

Paragraph 1 of this exclusion does not apply to:

- a. **Bodily Injury or Property Damage** arising out of **Mold or other fungi or Bacteria** which are in, on or part of any good or product that is intended to be consumed as food, beverage or medicine;
- b. **Bodily Injury** arising out of **bacteria** which are directly transmitted solely by or from another person to the person sustaining the **Bodily Injury**, or
- c. **Bodily Injury** arising out of a bacterial infection which develops in connection with physical harm to the person sustaining the **Bodily Injury**, if such physical harm is not excluded by this paragraph of this exclusion, or by any other part of this exclusion, and a **Claim or Suit** is made or brought against the **Insured** because of such physical harm;

2. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the actual, alleged or threatened:

1. absorption, ingestion or inhalation of any other solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and **Waste**, in any form by any person; or
2. existence of any such other irritant or contaminant in any form;

and that is part of any **Claim or Suit** that also alleges any **Bodily Injury, Property Damage, Personal Injury, or Advertising Injury** described in paragraph 1. of this exclusion, above; or

3. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that any **Insured** or others:

- a. test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Mold or other fungi or Bacteria** in any form; or
- b. respond to, or assess in any way, the effects of **Mold or other fungi or Bacteria** in any form.

Because **Mold or other fungi or Bacteria** can be **Pollutants**, and such other irritants or contaminants are **Pollutants**, this exclusion applies in addition to any of the following exclusions that apply:

- a. the pollution exclusion in this policy; or
- b. any other pollution-related exclusion made part of this policy.

For purposes of this endorsement only, the following words or phrases have or include special meaning:

1. **Molds or other fungi** means:
 - a. any type or form of mold or mildew;
 - b. any other type or form of fungus; or
 - c. any mycotoxin, spore, scent or byproduct that is produced or released by such mold, mildew or other fungus.

2. **Bacteria** means:

- a. any type or form of bacterium; or
- b. any mycotoxin, spore, scent or byproduct that is produced or released by such bacterium.

All other terms of your policy remain the same.

Pesticide, Herbicide or Fertilizer Applications Endorsement

The following is added to Section V. Exclusions, F. **Property Damage to Certain Property**:

Paragraph V.F.5. of this exclusion, above, does not apply to **Property Damage** to real estate property arising out of **Your Work** in the application of any pesticide, herbicide or fertilizer.

All other terms of your policy remain the same.

Waiver of Rights of Recovery Endorsement

The following is added to section VII. Conditions, P. Transfer of Rights of Recovery to Us:

If, prior to an Occurrence, covered by this policy, you have agreed in a written contract, to waive your rights to recovery of payment for damages for **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** caused by that Occurrence, then we agree to waive our right of recovery for such payment.

All other terms of your policy remain the same.

SCHEDULED RETAINED LIMITS

Type of Coverage

Certified Acts of Terrorism

Limits Of Liability

\$1,000,000

Name of Insured

PREMIER HOTEL INSURANCE GROUP (P2)

Policy Number QK06503290

Effective Date 03/01/11

Processing Date 05/03/11 13:52 001

SU091 Ed. 3-03

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T000039

Scheduled Underlying Insurance

Comprehensive General Liability <hr/> Carrier PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Number PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Period SEE ACCOUNT CERTIFICATE <hr/> Coverage is: <input type="checkbox"/> claims-made <input checked="" type="checkbox"/> not claims-made	Limits Of Liability <hr/> General Aggregate. \$2,000,000 <hr/> Products/Completed Operations Aggregate. \$1,000,000 <hr/> Personal and Advertising Injury. \$1,000,000 <hr/> Each Occurrence. \$1,000,000
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Automobile Liability <hr/> Carrier PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Number PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Period SEE ACCOUNT CERTIFICATE <hr/>	Limits Of Liability <hr/> Bodily Injury And Property Damage Combined. Each Accident \$1,000,000 CSL <hr/> Bodily Injury. Each Person Each Accident \$ \$ <hr/> Property Damage. Each Accident \$
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Employers Liability <hr/> Carrier PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Number PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT. <hr/> Policy Period SEE ACCOUNT CERTIFICATE <hr/>	Limits Of Liability <hr/> Bodily Injury By Accident Each Accident \$500,000* <hr/> Bodily Injury Disease Policy Limit Each Employee \$500,000* \$500,000*
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*UNLIMITED IN THE STATE OF NEW YORK

ABOVE LIMITS OF LIABILITY ARE MINIMUM LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY REQUIRE HIGHER UNDERLYING LIMITS OR COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL ACCOUNT CERTIFICATE)

Name of Insured	Policy Number QK06503290	Effective Date 03/01/11
PREMIER HOTEL INSURANCE GROUP (P2)		Processing Date 05/03/11 13:52 001

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Scheduled Underlying Insurance

Comprehensive General Liability		Limits Of Liability	
Carrier		General Aggregate.	\$
Policy Number		Products/Completed Operations Aggregate.	\$
Policy Period		Personal and Advertising Injury.	\$
Coverage is:	<input type="checkbox"/> claims-made	Each Occurrence.	\$
	<input type="checkbox"/> not claims-made		

Automobile Liability	Limits Of Liability	
Carrier	Bodily Injury And Property Damage Combined. Each Accident	
	\$	
Policy Number	Bodily Injury. Each Person	Each Accident
	\$	\$
Policy Period	Property Damage. Each Accident	
	\$	

Employers Liability	Limits Of Liability	
Carrier	Bodily Injury By Accident Each Accident	
Policy Number	\$	
	Bodily Injury By Disease Policy Limit	Each Employee
Policy Period	\$	\$

Scheduled Underlying Insurance - Continued

Type Of Coverage: FOREIGN LIABILITY Carrier <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Number <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Period <u>SEE ACCOUNT CERTIFICATE</u>	Limits Of Liability <hr/> \$1,000,000 EACH OCCURRENCE \$1,000,000 AGGREGATE ABOVE LIMITS OF LIABILITY ARE MINIMUM LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY REQUIRE HIGHER UNDERLYING LIMITS OR COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL ACCOUNT CERTIFICATE)
Coverage is: <input type="checkbox"/> claims-made <input checked="" type="checkbox"/> not claims-made	

Type Of Coverage: LIQUOR LIABILITY Carrier <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Number <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Period <u>SEE ACCOUNT CERTIFICATE</u>	Limits Of Liability <hr/> \$1,000,000 EACH COMMON CAUSE \$1,000,000 AGGREGATE ABOVE LIMITS OF LIABILITY ARE MINIMUM LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY REQUIRE HIGHER UNDERLYING LIMITS OR COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL ACCOUNT CERTIFICATE)
Coverage is: <input type="checkbox"/> claims-made <input checked="" type="checkbox"/> not claims-made	

Type Of Coverage: GARAGEKEEPERS LEGAL LIABILITY Carrier <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Number <u>PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.</u> Policy Period <u>SEE ACCOUNT CERTIFICATE</u>	Limits Of Liability <hr/> \$1,000,000 EACH OCCURRENCE ABOVE LIMITS OF LIABILITY ARE MINIMUM LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY REQUIRE HIGHER UNDERLYING LIMITS OR COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL ACCOUNT CERTIFICATE)
Coverage is: <input type="checkbox"/> claims-made <input checked="" type="checkbox"/> not claims-made	

Name of Insured	Policy Number QK06503290	Effective Date 03/01/11
PREMIER HOTEL INSURANCE GROUP (P2)		Processing Date 05/03/11 13:52 001

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Scheduled Underlying Insurance - Continued

Type Of Coverage:	Limits Of Liability
MARINE OPERATORS LEGAL LIABILITY	
Carrier	\$5,000,000 OCCURRENCE
PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.	\$5,000,000 AGGREGATE
Policy Number	
PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.	ABOVE LIMITS OF LIABILITY ARE MINIMUM
Policy Period SEE ACCOUNT CERTIFICATE	LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY
	REQUIRE HIGHER UNDERLYING LIMITS OR
	COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL
	ACCOUNT CERTIFICATE)
Coverage is:	<input type="checkbox"/> claims-made
	<input checked="" type="checkbox"/> not claims-made

Type Of Coverage:	Limits Of Liability
PROTECTION & INDEMNITY LIABILITY	
Carrier	\$5,000,000
PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.	\$5,000,000
Policy Number	
PER SCHEDULE ON INDIVIDUAL ACCOUNT CERT.	ABOVE LIMITS OF LIABILITY ARE MINIMUM
Policy Period SEE ACCOUNT CERTIFICATE	LIMITS ONLY. INDIVIDUAL CERTIFICATE MAY
	REQUIRE HIGHER UNDERLYING LIMITS OR
	COVERAGE MAY NOT APPLY. (SEE INDIVIDUAL
	ACCOUNT CERTIFICATE)
Coverage is:	<input type="checkbox"/> claims-made
	<input checked="" type="checkbox"/> not claims-made

Type Of Coverage:	Limits Of Liability
Carrier	
Policy Number	
Policy Period	
Coverage is:	<input type="checkbox"/> claims-made
	<input type="checkbox"/> not claims-made

Silica Exclusion

This insurance does not apply to:

1. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of any actual, alleged or threatened:
 - a. absorption, ingestion or inhalation of silica in any form by any person; or
 - b. existence of silica in any form.
2. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of any actual, alleged or threatened:
 - a. absorption, ingestion, or inhalation of any other solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and Waste, in any form by any person; or
 - b. existence of any such other irritant or contaminant in any form;and that are part of any **Claim or Suit** that also alleges any **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** described in paragraph 1 of this exclusion above.
3. Any loss, cost or expense arising out of any request, demand, order or statutory or regulatory requirement that any **Insured** or others:
 - a. test for, monitor, clean up, remove, contain, treat, detoxify or neutralize silica in any form; or
 - b. respond to, or assess, in any way the effects of silica in any form.

Because silica, and any other such irritants or contaminants, are **Pollutants**, this exclusion applies in addition to any of the following exclusions that apply:

- a. the pollution exclusion in this policy; or
- b. any other pollution-related exclusion made part of this policy.

All other terms of your policy remain the same.

Washington Amendatory Endorsement

This endorsement changes your policy to comply with, or otherwise respond to, Washington law. Therefore, each change made by this endorsement applies only to the extent:

1. required by Washington statutory or regulatory law; or
2. specifically described in the part of this endorsement which makes that change.

As a result, if the address shown for you in Item 1 of the Declarations of your policy is outside Washington, each change that is made to comply with Washington statutory or regulatory law applies only if, and to the extent:

1. your policy provides coverage for damages that result from your operations in, or which affect, Washington; and
2. that law applies to that coverage.

1. Section VII. Conditions D. Cancellation 2. is replaced by the following:

2. We may cancel this policy. If we cancel because of non-payment of premium, we must mail or deliver to you and your agent or broker not less than 10 days advance written notice stating when the cancellation is to take effect. If we cancel for any other reason, we must mail or deliver to you and your agent or broker not less than 60 days advance written notice stating when the cancellation is to take effect. The cancellation notice will state the specific reason for cancellation.

2. The following condition is added to Section VII. Conditions D. Cancellation:

We may decide not to renew or continue this policy. If so, we will mail or deliver a notice of nonrenewal to you and your agent or broker at least 60 days before policy expiration unless you have obtained replacement insurance or you fail to pay any premium when due after we have offered to renew this policy at least 20 days before the expiration date. The notice will state the reason for cancellation. Mailing that notice to you at your mailing address shown in Item 1 of the Declarations shall be sufficient to prove such notice.

All other terms of your policy remain the same.

Unsolicited Communication Exclusion Endorsement

1. The following is added to section V. Exclusions:

Unsolicited Communication

This insurance does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury:

1. arising out of the actual or alleged violation of any law or regulation that restricts or prohibits the transmitting of **Unsolicited Communication**; or
 2. alleged in a Claim or Suit that also alleges a violation of any law or regulation that restricts or prohibits the transmitting of **Unsolicited Communication**.
2. The following is added to section IV. Definitions:

Unsolicited Communication means any communication, in any form, that:

1. is received by any person or organization; and
2. such person or organization did not ask to receive.

All other terms of your policy remain the same.

Application of Limits of Insurance

1. The following replaces Section III. Limits Of Insurance B. of this policy:

B. The General Aggregate Limit, applicable separately to each individual Certificate issued to member of The Premier Hotel Insurance Group , is the most we will pay for all damages covered under Insuring Agreement I. Coverage except for:

1. damages included in the Products-Completed Operations Hazard, applicable separately for each individual Certificate issued to member of The Premier Hotel Insurance Group ; and
2. damages that would have been covered under any Automobile Liability type of coverage included in the Scheduled Underlying Insurance or Scheduled Retained Limits to which no aggregate limit applies.

For damages because of Bodily Injury or Property Damage, if any one Scheduled Underlying Insurance or any one Scheduled Retained Limit contains aggregate limits in the same policy that apply separately to each Location or Project, other than an aggregate limit applying to the Products-Completed Operations Hazard, then the General Aggregate Limit stated in the Declarations will apply in the same manner as such aggregate limits of that Scheduled Underlying Insurance or Scheduled Retained Limit.

However, with respect to The Premier Hotel Insurance Group and to each separate Certificate issued to members of The Premier Hotel Insurance Group , we will not pay more than \$100,000,000 for the combined total of all damages covered under Insuring Agreement I. Coverage because of Bodily Injury and Property Damage that arises out of any Location or Project. For the purposes of determining the applicable General Aggregate Limit, each Location or Project that includes premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, or waterway, or by a right-of-way of a railroad, will be considered a single Location or Project.

2. The following is added to section III. Limits of Insurance:

With respect to each separately numbered Certificate issued to members of The Premier Hotel Insurance Group , endorsed to this policy, and evidenced by monthly bordereaux to us, the General Aggregate Limit will apply jointly to all Named Insureds shown on such Certificate.

3. The following is added to Section IV. Definitions of this policy:

Location means any premises, site or location that you rent or lease from others, or own.

Project means any area away from any premises, site, or location that you rent or lease from others, or own, and at which you are performing operations pursuant to a contract or agreement.

4. The following is added to section IV. Definitions R. Policy Period:

For purposes of the beginning and ending date of coverage under this insurance for each Named Insured, Policy Period shall mean the period of time from the inception date shown on the applicable Certificate to the earlier of the expiration date shown on such Certificate or the termination date of this policy.

All other terms of your policy remain the same.

**Auto Liability Limits of Insurance Endorsement -
Exception for Damages Not Subject to Underlying Aggregate Limit
Applies Only to Auto Liability**

The following replaces the first paragraph of Section III. Limits Of Insurance B. of this policy:

- B. The General Aggregate Limit is the most we will pay for all damages covered under Insuring Agreement I. Coverage except for:
1. damages included in the Products-Completed Operations Hazard; and
 2. damages that would have been covered under any Automobile Liability type of coverage included in the Scheduled Underlying Insurance or Scheduled Retained Limits to which no aggregate limit applies.

All other terms of your policy remain the same.

Auto Liability Limitation

The following is added to section V. Exclusions:

Auto

This insurance does not apply to **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the ownership, maintenance, operation, use, **Loading or Unloading** or entrustment to others of any **Auto**.

However, if insurance for such **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** is provided by any **Scheduled Underlying Insurance** or any **Scheduled Retained Limit**, then:

1. this exclusion shall not apply; and
2. the insurance provided by this policy will not be broader than the insurance provided by that **Scheduled Underlying Insurance** or that **Scheduled Retained Limit**.

All other terms of your policy remain the same.

Garagekeepers Legal Liability

This insurance does not apply to **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of:

Garagekeepers Legal Liability.

However, if insurance for such **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** is provided by any **Scheduled Underlying Insurance** or any **Scheduled Retained Limit**, then:

1. this exclusion does not apply;
2. section **V. F. Property Damage To Certain Property** does not apply; and
3. the insurance provided by this policy will not provide broader coverage than the insurance provided by that **Scheduled Underlying Insurance** or that **Scheduled Retained Limit**.

All other terms of your policy remain the same.

Pollution Exclusion Except Building Heating Or Air Conditioning Equipment Or Water Heating Equipment

1. The following is added to Section V. Exclusions S. Pollution of this policy:

This exclusion also does not apply to **Bodily Injury** arising out of **Building Heating or Air Conditioning Equipment or Water Heating Equipment Fumes, Smoke, Soot, or Vapors** if insurance for such **Bodily Injury** is provided by any **Scheduled Underlying Insurance** or any **Scheduled Retained Limit**. However, the insurance provided by this policy for such **Bodily Injury** will not be broader than the insurance provided by such **Scheduled Underlying Insurance** or **Scheduled Retained Limit**.

2. The following is added to Section IV. Definitions of this policy:

Building Heating or Air Conditioning Equipment or Water Heating Equipment Fumes, Smoke, Soot, or Vapors means only the fumes, smoke, soot, or vapors that:

1. result from equipment used to:
 - a. heat, cool or dehumidify, a building; or
 - b. heat water for personal use by persons within a building;
2. are within that building.

All other terms of your policy remain the same.

Knowledge Of Occurrence Or Claim

1. The following replaces section VII. Conditions I. Knowledge of Occurrence or Claim

Knowledge of Occurrence or Claim

Knowledge of an Occurrence, Claim or Suit by your agent, servant or Employee shall not in itself constitute knowledge by you, unless an Executive Officer or anyone working in the capacity as Partner

1. shall have received notice of such Occurrence, Claim or Suit from said agent, servant or Employee; or
2. otherwise has knowledge of such Occurrence, Claim or Suit.

All other terms of your policy remain the same.

Crisis Management Service Expenses Endorsement

1. The following is added to section I. Coverage:

Crisis Management Service Expenses

We will reimburse you, or pay on your behalf, **Crisis Management Service Expenses** arising out of a **Crisis Management Event** that first commences during the **Policy Period**. The most we will pay for all **Crisis Management Service Expenses** for all **Crisis Management Events** that first commence during the **Policy Period** is the **Crisis Management Service Expenses Limit**. The **Crisis Management Service Expenses Limit** is 1% of the General aggregate limit stated in Item 3.B. of the Declarations. A **Crisis Management Event** will be deemed to first commence at the time when any **Executive Officer** first becomes aware of an **Occurrence** that leads to a **Crisis Management Event** and will end when we determine that the crisis no longer exists, or when the **Crisis Management Service Expenses Limit** has been exhausted, whichever occurs first.

A **Retained Limit** does not apply to **Crisis Management Service Expenses**.

Any payment of **Crisis Management Service Expenses** that we make under this endorsement shall not be determinative of our obligations under this policy with respect to, nor create any duty to defend against or indemnify any **Insured** for, any **Claim** or **Suit**.

2. The following is added to section III. **Limits of Insurance**:

The most we will pay for **Crisis Management Service Expenses** arising out of all **Crisis Management Events** is the **Crisis Management Service Expenses** limit as stated in paragraph 1. above. Payment of any such **Crisis Management Service Expenses** is in addition to, and shall not reduce, any aggregate limits under this policy.

3. The following is added to section IV. **Definitions**:

Crisis Management Event means an **Occurrence** that an **Executive Officer** of the **Named Insured** reasonably determines has resulted, or may result, in:

1. damages covered by this policy that are in excess of the total applicable limits of the **Scheduled Underlying Insurance** or **Scheduled Retained Limit**; and
2. significant adverse regional or national media coverage.

Crisis Management Service Expenses means the reasonable and necessary expenses you incur in:

1. retaining a public relations consultant or firm, or a crisis management consultant or firm; or
 2. planning or executing your public relations campaign;
- to mitigate the negative publicity generated from a **Crisis Management Event**.

Executive Officer means the:

1. Chief Executive Officer;
 2. Chief Operating Officer;
 3. Chief Financial Officer;
 4. President;
 5. General Counsel;
 6. general partner (if the **Named Insured** is a partnership); or
 7. sole proprietor (if the **Named Insured** is a sole proprietorship);
- of the **Named Insured**, or any person acting in the same capacity as any individual listed above.

4. The following is added to section V. Exclusions:

Newly Acquired, Controlled or Formed Entities

Crisis Management Service Expenses arising out of a **Crisis Management Event** that occurred prior to the date you acquired, controlled or formed any other entity, even though an **Executive Officer** only first becomes aware of an **Occurrence** that leads to such **Crisis Management Event** after such date.

5. The following is added to section VII. Conditions F. Duties in the Event of an Occurrence, Claim or Suit:

You must also see to it that we are notified by telephone within 24 hours of a **Crisis Management Event** that may result in **Crisis Management Service Expenses**.

You must also provide written notice as soon as practicable. To the extent possible, notice should include:

- a. how, when and where the **Crisis Management Event** took place;
- b. the names and addresses of any injured persons and witnesses;
- c. the nature and location of any **Bodily Injury, Property Damage, Personal Injury or Advertising Injury** arising out of the **Crisis Management Event**; and
- d. the reason it is likely to involve damages covered by this policy in excess of the **Retained Limit** and involve regional or national media coverage.

You must submit all incurred expenses within 180 days after we have notified you of our determination that the **Crisis Management Event** no longer exists. Expenses submitted after 180 days of such notice are not reimbursable.

All other terms of your policy remain the same.

Failure To Notify Insurer Of Occurrence

The following is added to section VII. Conditions F. 2:

Your failure to notify us of an Occurrence that may result in a Claim or Suit seeking damages covered by this Policy because you inadvertently notified another insurer of such Occurrence will not invalidate this Policy, but only if you notify us immediately after you become aware of such inadvertent error.

All other terms of your policy remain the same.

POLICY CHANGE ENDORSEMENT

This endorsement summarizes the changes to your policy. All other terms of your policy not affected by these changes remain the same.

How Your Policy Is Changed

EFFECTIVE 11/01/2011 THE FOLLOWING FORMS ARE ADDED TO YOUR POLICY BUT ONLY WITH RESPECT TO THE NAMED INSURED AND CERTIFICATE LISTED:

SUP001 DESIGNATED PREMISES LIMITATION AS RESPECTS:
NEVADA PROPERTY 1 LLC DBA THE COSMOPOLITAN OF LAS VEGAS
CERTIFICATE #2149-A

SUP009 DESIGNATED OPERATIONS EXCLUSION AS RESPECTS:
NEVADA PROPERTY 1 LLC DBA THE COSMOPOLITAN OF LAS VEGAS
CERTIFICATE #2149-B

SUP007 PROFESSIONAL SERVICES EXCLUSION AS RESPECTS:
NEVADA PROPERTY 1 LLC DBA THE COSMOPOLITAN OF LAS VEGAS
CERTIFICATE #2149-C

SU301 LIMITED ABUSE OR MOLESTATION COVERAGE ENDORSEMENT AS RESPECTS:
NEVADA PROPERTY 1 LLC DBA THE COSMOPOLITAN OF LAS VEGAS
CERTIFICATE #2149-D

Premium Change Which Is Due Now

Additional premium N/A

Returned premium N/A

If issued after the date your policy begins, these spaces must be completed and our representative must sign below.

Policy issued to:
PREMIER HOTEL INSURANCE GROUP (P2)

Authorized Representative

Endorsement takes effect: 11/01/11
Policy number: QK06503290
Processing date: 11/22/11 14:10 090

40704 Ed. 5-84

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Endorsement

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T000056

Designated Premises Limitation

This endorsement changes your Specialty Commercial Umbrella Liability Policy, but only as respects to:

Nevada Property I LLC dba The Cosmopolitan of Las Vegas
Certificate #2149-A
Effective Date of Cert Holder 11/01/2011
Effective Date of Endorsement 11/01/2011
Pol #QK06503290

This insurance only applies to Bodily Injury, Property Damage, Personal Injury or Advertising Liability arising out of:

1. the ownership, maintenance, occupancy or use of the premises designated in the Schedule of Covered Premises, below, including any property located on such premises; or
2. any goods or products manufactured, distributed or serviced at or from such premises.

Schedule of Covered Premises

Description and Location of Premises:

	Added	Deleted
Cosmopolitan Hotel 3708 Las Vegas Blvd, Las Vegas NV 89109	11/01/2011	
Leased Office Space 4285 Polaris Ave, Las Vegas NV 89103	11/01/2011	
Leased Space - Recruitment Center 7180 Pollack Drive, Suites 100 and 140, Las Vegas NV 89119	11/01/2011	
Leased Office Space 3485 West Harmon Blvd, Las Vegas NV 89103	11/01/2011	
Leased Office - Training Space 650 White Drive, Suite 280, Las Vegas NV 89103	11/01/2011	
Leased Office Space - Corporate Office 5170 Badura Avenue, Las Vegas NV 89118	11/01/2011	
Leased Warehouse Space Units 100,110,120,130 6025 Procyon Street, Las Vegas NV 89118	11/01/2011	
Parking Lot - Used for Employee Parking 3200 West Tomkins Avenue, Las Vegas NV 89103	11/01/2011	

Description and Location of Premises (continued):

All other terms of your policy remain the same.

SUP001 Ed. 1-06
Page 2 of

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T000058

Designated Operations Exclusion

This endorsement changes your Specialty Commercial Umbrella Liability Policy, but only as respects to:

Nevada Property I LLC dba The Cosmopolitan of Las Vegas
Certificate #2149-B
Effective Date of Cert Holder 11/01/2011
Effective Date of Endorsement 11/01/2011
Pol #QK06503290

The following is added to section V. Exclusions:

Described Operations

This insurance does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the operations designated in the Schedule of Designated Operations below.

Schedule of Designated Operations

All Operations covered under OCIP/Wrap Up for the construction of the Cosmopolitan Hotel of Las Vegas and all property damage to "your work" arising out of it or any part of it including the Products/Completed Operations Hazard related to the original construction.

Professional Services Exclusion

This endorsement changes your Specialty Commercial Umbrella Liability Policy, but only as respects to:

Nevada Property I LLC dba The Cosmopolitan of Las Vegas
Certificate #2149-C

Effective Date of Cert Holder 11/01/2011

Effective Date of Endorsement 11/01/2011

Pol #QK06503290 with respect to Emergency Medical Technicians (EMT's)

This insurance does not apply to Bodily Injury, Property Damage, Personal Injury or Advertising Injury arising out of the rendering of, or failure to render, any professional service by or on behalf of the Insured.

All other terms of your policy remain the same.

Limited Abuse Or Molestation Coverage Endorsement

Nevada Property I LLC dba The Cosmopolitan of Las Vegas

Certificate #2149-D

Effective Date of Cert Holder 11/01/2011, Effective Date of Endorsement 11/01/2011

Pol #QK06503290

1. The following is added to section V. Exclusions:

This insurance does not apply to **Bodily Injury, Property Damage, Personal Injury, or Advertising Injury** arising out of any **Abuse or Molestation**.

However if insurance for such **Bodily Injury** or **Personal Injury** is provided by any **Scheduled Underlying Insurance** or any **Scheduled Retained Limit**, then:

1. this exclusion does not apply; and
2. the insurance provided by this policy will not provide broader coverage than the insurance provided by that **Scheduled Underlying Insurance** or that **Scheduled Retained Limit**.

2. The following is added to section IV. Definitions J. Insured:

However, none of the following is an **Insured** under paragraph IV. J. for **Bodily Injury** or **Personal Injury** arising out of any **Abuse or Molestation**:

1. any **Perpetrator**;
2. any person or organization that has been added to your policy as an additional insured, or any employee, leased worker, agent, representative or volunteer worker of such person or organization; or
3. any of your independent contractors, or any employee, leased worker, agent, representative or volunteer worker of such independent contractor.

Subject to section II. Defense of this agreement, paragraph 2.1 above does not apply to any **Perpetrator** once a final, non-appealable adjudication in the **Suit** establishes that such **Perpetrator** did not commit the **Abuse or Molestation**.

Also, paragraph 2.2. above does not apply to any person or organization:

1. to whom you have agreed in a written contract requiring insurance to include such person or organization as an additional insured; or
2. that has been added to your policy as an additional insured because such person or organization owns property that you manage, but only to the extent such **Abuse or Molestation** is committed on such property.

Such person or organization is an **Insured**, but only to the extent that the **Bodily Injury** or **Personal Injury** is caused by **Abuse or Molestation** arising out of your business. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization. The insurance provided to such additional insureds shall be limited to the limits of liability required by that written contract requiring insurance. This endorsement shall not increase the limits of insurance described in section III. Limits of Insurance.

3. The following is added to section IV. Definitions O. Occurrence:

As respects **Bodily Injury** or **Personal Injury** arising out of any **Abuse or Molestation**, all single, multiple, continuous, sporadic or related acts of **Abuse or Molestation**, committed by one **Perpetrator** or two or more **Perpetrators** acting together, will be deemed to be one **Occurrence**, regardless of the number of:

1. **Insureds**;
2. **Claims** made or **Suits** brought; or

3. persons or organizations making Claims or bringing Suits.

Such Occurrence will be deemed to have been committed on the date the first such Abuse or Molestation is committed, regardless of when such acts or contacts are actually committed.

4. The following are added to section IV. Definitions:

Abuse or Molestation means any illegal or offensive physical act or contact committed by any Perpetrator against any person who is:

1. under 18 years of age;
2. legally incompetent; or
3. in the care, custody or control of any Insured and is physically or mentally incapable of consenting to such physical act or contact.

Perpetrator means any of the following persons who actually or allegedly commit any illegal or offensive physical act or contact:

1. you or your spouse, if you are an individual;
2. your partners or members, or their spouses, if you are a partnership or joint venture;
3. your managers or members, if you are a limited liability company;
4. your executive officers or directors, if you are an organization other than a partnership, joint venture or limited liability company;
5. your Employees or volunteer workers; or
6. any other person acting together with any of the persons described in paragraphs 1. through 5. above.

5. The following is added to section II. Defense A.:

We have no duty to defend, investigate or settle any Claim or Suit on behalf of any Perpetrator. However, we will reimburse you or such Perpetrator for the amount of such person's reasonable and necessary defense costs:

1. once a final, non-appealable adjudication in the Suit establishes that such Perpetrator did not commit the Abuse or Molestation;
2. when the Retained Limit has been exhausted by payment of judgment or settlements that would be covered by this policy; and
3. only to the extent that such defense costs are also covered by the applicable Scheduled Underlying Insurance or Scheduled Retained Limit.

All other terms of your policy remain the same.

EXHIBIT 4

EXHIBIT 4

ASPEN SPECIALTY INSURANCE COMPANY
POLICY NUMBER: CRA8XYD11
RENEWAL OF: NEW



COMMON POLICY DECLARATIONS

ASPEN SPECIALTY INSURANCE COMPANY c/o Aspen Specialty Insurance Management, Inc. 590 Madison Avenue, 7th Floor New York, NY 10022	AMWINS INSURANCE BROKERAGE OF CA 601 S. FIGUEROA STREET LOS ANGELES, CA 90017
NAMED INSURED: THE RESTAURANT GROUP ETAL	
MAILING ADDRESS: 888 7TH AVENUE, 34TH FLOOR NEW YORK, NY 10106	
POLICY PERIOD: FROM 10/06/2011 TO 10/06/2012 AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.	

BUSINESS DESCRIPTION	
----------------------	--

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. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.	
COMMERCIAL GENERAL LIABILITY COVERAGE PART	PREMIUM \$ [REDACTED]
COMMERCIAL PROPERTY COVERAGE PART	\$ [REDACTED]
LIQUOR LIABILITY COVERAGE PART	\$ [REDACTED]
TERRORISM PREMIUM	\$ [REDACTED]
TOTAL ADVANCE PREMIUM DUE AND PAYABLE AT INCEPTION	\$ [REDACTED]
Minimum retained audit prem: \$100%	Minimum retained premium: \$ [REDACTED]
FORMS APPLICABLE TO ALL COVERAGE PARTS: AS PER SCHEDULE OF APPLICABLE FORMS	

NEW YORK: The insurer(s) named herein is (are) not licensed by the state of New York, not subject to its supervision, and in the event of the insolvency of the insurer(s), not protected by the New York State Security Funds. The policy may not be subject to all the regulations of the insurance department pertaining to policy forms.

Surplus Lines Broker Name: AMWINS INSURANCE BROKERAGE OF CA
Surplus Lines Broker Address: 601 S. FIGUEROA STREET
LOS ANGELES, CA 90017
Surplus Lines Broker License No.: EX-1053628-R

Jaime E. DeCantillon
Authorized Representative

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ASPL074 DEC 0511

ASPEN000032

ASPEN SPECIALTY INSURANCE COMPANY**POLICY NUMBER:**CRA8XYD11**RENEWAL OF:** NEW**ASPEN****COMMERCIAL GENERAL LIABILITY DECLARATIONS**

ASPEN SPECIALTY INSURANCE COMPANY c/o Aspen Specialty Insurance Management, Inc. 590 Madison Avenue, 7th Floor New York, NY 10022	AMWINS INSURANCE BROKERAGE OF CA 601 S. FIGUEROA STREET LOS ANGELES, CA 90017
NAMED INSURED: THE RESTAURANT GROUP ETAL MAILING ADDRESS: 888 7TH AVENUE, 34TH FLOOR NEW YORK, NY 10106 POLICY PERIOD: FROM 10/06/2011 TO 10/06/2012 AT 12:01 A.M. TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.	

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.

LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	\$ 1,000,000	
DAMAGE TO PREMISES		
RENTED TO YOU LIMIT	\$ 100,000	Any one premises
MEDICAL EXPENSE LIMIT	\$ N/A	Any one person
PERSONAL & ADVERTISING INJURY LIMIT	\$ 1,000,000	Any one person or organization
GENERAL AGGREGATE LIMIT		\$ 2,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT		\$ 2,000,000

DESCRIPTION OF BUSINESS	
FORM OF BUSINESS:	
<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> PARTNERSHIP
<input type="checkbox"/> LIMITED LIABILITY COMPANY	<input checked="" type="checkbox"/> ORGANIZATION, INCLUDING A CORPORATION (BUT NOT INCLUDING A PARTNERSHIP, JOINT VENTURE OR LIMITED LIABILITY COMPANY)
<input type="checkbox"/> OTHER	<input type="checkbox"/> JOINT VENTURE
	<input type="checkbox"/> TRUST

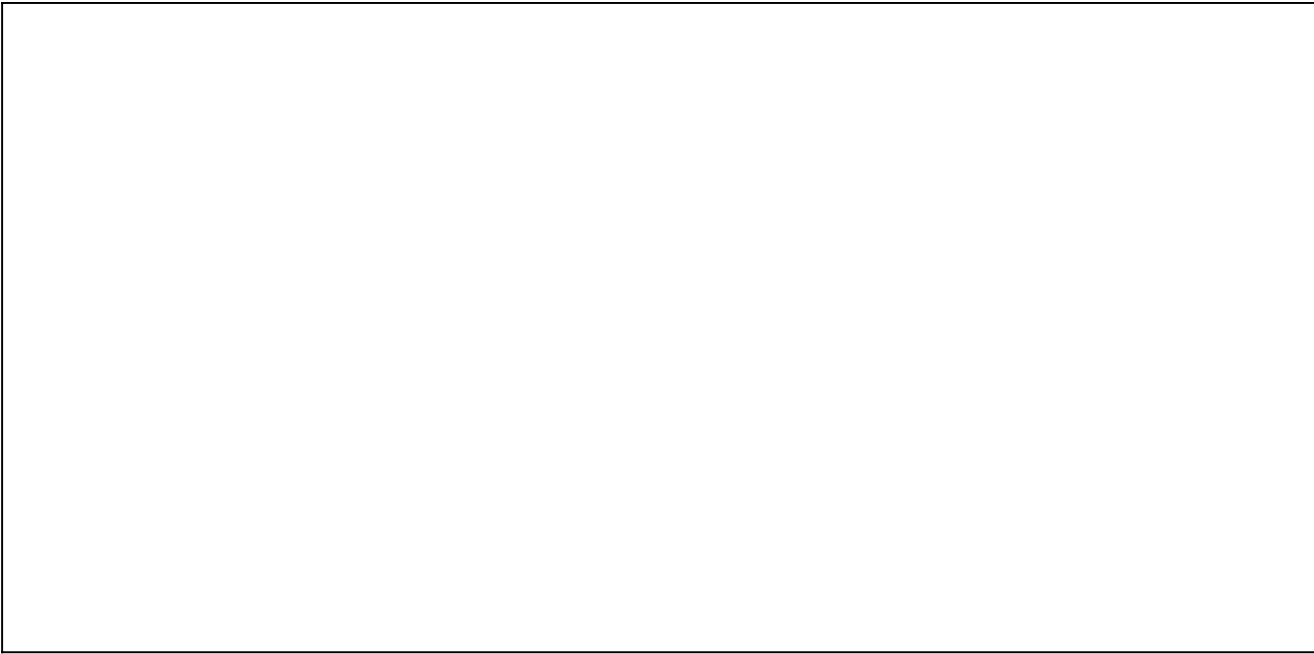
BUSINESS DESCRIPTION:	
ALL PREMISES YOU OWN, RENT OR OCCUPY	
LOCATION NUMBER	
	SEE FORM #CG2144

CLASSIFICATION AND PREMIUM							
LOCATION NUMBER	CLASSIFICATION	BASE	EXPOSURE	RATE/1000		ADVANCE PREMIUM	
				Prem/ Ops	Prod Comp Ops	Prem/ Ops	Prod Comp Ops
	COMPOSITE RATE ALL OPERATIONS	GROSS SALES	\$175,000,000	\$3.00	INCL.	\$ [REDACTED]	INCL.
ADVANCE PREMIUM DUE AND PAYABLE AT INCEPTION (SUBJECT TO AUDIT) \$ [REDACTED] MINIMUM RETAINED AUDIT PREMIUM \$ [REDACTED] MINIMUM RETAINED PREMIUM \$ [REDACTED]							
AUDIT PERIOD (IF APPLICABLE)		<input checked="" type="checkbox"/> ANNUALLY	<input type="checkbox"/> SEMI- ANNUALLY	<input type="checkbox"/> QUARTERLY		<input type="checkbox"/> MONTHLY	

ENDORSEMENTS
ENDORSEMENTS ATTACHED TO THIS POLICY: <u>SEE SCHEDULE OF APPLICABLE FORMS</u>

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

Jaime E. DeCantillon
Authorized Representative



**COMMERCIAL GENERAL LIABILITY**

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.

ALL PREMISES YOU OWN, RENT OR OCCUPY	
LOCATION NUMBER	ADDRESS OF ALL PREMISES YOU OWN, RENT OR OCCUPY
	SEE FORM # CG2144

NEW YORK: The insurer(s) named herein is (are) not licensed by the state of New York, not subject to its supervision, and in the event of the insolvency of the insurer(s), not protected by the New York State Security Funds. The policy may not be subject to all the regulations of the insurance department pertaining to policy forms.

Surplus Lines Broker Name: AMWINS INSURANCE BROKERAGE OF CA
Surplus Lines Broker Address: 601 S. FIGUEROA STREET
LOS ANGELES, CA 90017
Surplus Lines Broker License No.: EX-1053628-R
Surplus Lines State Taxes were filed: New York

CLASSIFICATION AND PREMIUM				
CLASSIFICATION	CODE NO.	PREMIUM BASE	RATE	ADVANCE PREMIUM
COMPOSITE RATE ALL OPERATIONS	FLAT	\$ FLAT	\$ FLAT	\$ INCL.
ADVANCE PREMIUM DUE AND PAYABLE AT INCEPTION (SUBJECT TO AUDIT) \$ ████ MINIMUM RETAINED AUDIT PREMIUM \$ ████ MINIMUM RETAINED PREMIUM \$ ████ (IF POLICY PERIOD IS MORE THAN ONE YEAR AND PREMIUM IS PAID IN ANNUAL INSTALLMENTS)				
AUDIT PERIOD (IF APPLICABLE)	<input type="checkbox"/> ANNUALLY	<input type="checkbox"/> SEMI-ANNUALLY	<input type="checkbox"/> QUARTERLY	<input type="checkbox"/> MONTHLY

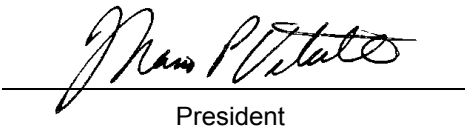
ENDORSEMENTS
ENDORSEMENTS ATTACHED TO THIS POLICY:
SEE SCHEDULE OF APPLICABLE FORMS

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.


Authorized Representative

IN WITNESS WHEREOF, the Insurer has caused this Policy to be signed by its President and Secretary and countersigned where required by law on the Declarations page by it's duly Authorized representative.


Secretary


President

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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

BOILER AND MACHINERY COVERAGE PART
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

SCHEDULE OF APPLICABLE FORMS

COMMERCIAL GENERAL LIABILITY

NAMED INSURED: THE RESTAURANT GROUP ETAL

POLICY NUMBER: CRA8XYD11

FORMS AND ENDORSEMENTS MADE PART OF THIS POLICY AT TIME OF ISSUE:

FORM NUMBER AND TITLE:

ASPL074 DEC 0511	Common Policy Declarations
ASPL075 DEC 0511	Commercial General Liability Declarations
ASPL007 DEC 0511	Liquor Liability Declarations
ASPL020 0511	Signature Page
IL 00 17 11 98	Common Policy Conditions
IL 00 03 07 02	Calculation of Premium
ASPL006 0104	Schedule of Applicable Forms
CG 00 01 12 07	Commercial General Liability Coverage Form Occurrence
CG 00 33 12 04	Liquor Liability Coverage Form
ASPL001 0104	Asbestos Exclusion Endorsement
ASPL003 0104	Total Lead Exclusion
ASPL004 0104	Additional Named Insured
ASPL007 0104	Silica Exclusion Endorsement
ASPL019 0404	Contractual Liability - Amendments
ASPL035 0504	Hired Auto and Non-Owned Auto Liability
ASPL044 0504	Amendment - Common Policy Conditions
ASPL050 0604	Electromagnetic Fields {EMF's} Exclusion
ASPL057 1004	Garagekeepers Coverage
ASPL071 0305	Bodily Injury Property Damage Personal and Advertising Injury Liability Deductible Per Occurrence
ASPL098 0406	Discrimination Exclusion
ASPL133 0807	Amendment - Cross Suits
ASPL001 0204	Common Policy Conditions Amendment Minimum Retained Premium
ASPL002 0110	General Service of Suit Endorsement
ASPL002 0304	Liquor Liability Minimum Retained Audit Premium
CG 00 62 12 02	War Liability Exclusion
CG 00 68 05 09	Recording and Distribution of Material or Information in Violation of Law Exclusion
CG 04 35 02 02	Employee Benefits Liability Coverage
CG 20 11 01 96	Additional Insured - Managers Or Lessors Of Premises
CG 20 18 11 85	Additional Insured - Mortgagee Assignee Or Receiver
CG 20 28 07 04	Additional Insured - Lessor Of Leased Equipment
CG 21 16 07 98	Exclusion - Designated Professional Services
CG 21 35 10 01	Exclusion - Coverage C - Medical Payments
CG 21 44 07 98	Limitation Of Coverage To Designated Premises Or Project
CG 21 47 07 98	Employment - Related Practices Exclusion
CG 21 54 01 96	Exclusion - Designated Operations Covered By A Consolidated Wrap-Up Insurance Program
CG 21 65 12 04	Total Pollution Exclusion With A Building Heating Equipment Exception And A Hostile Fire Exception
CG 21 67 04 02	Fungi Or Bacteria Exclusion
CG 21 75 12 02	Exclusion Of Certified Acts Of Terrorism And Other Acts Of Terrorism
CG 22 43 07 98	Exclusion - Engineers Architects or Surveyors Professional Liability
CG 24 07 01 96	Products/Completed Operations Hazard Redefined
CG 25 04 03 97	Designated Locations General Aggregate Limit
IL 00 21 07 02	Nuclear Energy Liability Exclusion Endorsement
IL 12 01 11 85	Policy Changes
IL 12 01 11 85/2	Policy Changes
ASPL139 0811	Policyholder's Guide to Reporting a Casualty Claim

ASPL006 01 04

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ASPEN000041

COMMERCIAL GENERAL LIABILITY 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 those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in 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 or medical expenses under Coverage C.

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" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section 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.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section 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.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section 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.

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

2.Exclusions

This insurance does not apply to:

a. 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 attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

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 only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

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. 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 Para-

graph (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".

f. Pollution

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

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or

- (ii) Any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to

the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

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

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

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

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of

such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" 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, "auto" 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 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or

(b) the operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

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

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunt activity.

i. 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.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises 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.

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

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

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

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

k. Damage To Your Product

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

l. 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.

m. 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.

n. 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.

o. Personal And Advertising Injury

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

p. Electronic Data

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

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

q. Distribution Of Material In Violation Of Statutes

"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; or

- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in 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** or medical expenses under Coverage **C**.

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" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

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

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at

the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

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

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade 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.

j. Insureds In Media And Internet Type Businesses

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

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

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

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

k. Electronic Chatrooms Or Bulletin Boards

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

l. Unauthorized Use Of Another's Name Or Product

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

m. Pollution

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

n. Pollution-Related

Any loss, cost or expense arising out of any:

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

o. War

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

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

p. Distribution Of Material In Violation Of Statutes

"Personal and advertising injury" 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; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
- (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

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:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 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. 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. 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 con-

duct 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.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "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" while 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 Paragraphs **(1)(a)** or **(b)** above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

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

you, any of your "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 "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- 3. Any organization you newly acquire or 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:**
- a. 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;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

SECTION 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; or
 - c. Persons or organizations making claims or bringing "suits".
- 2. The General Aggregate Limit is the most we will pay for the sum of:**
- a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.
- 3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage"**

included in the "products-completed operations hazard".

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 damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage Cbecause of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

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

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

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

- (1) Immediately record the specifics of the claim or "suit" and the date received; and

- (2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

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

3. Legal Action Against Us

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

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

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

4. Other Insurance

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

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

- (1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other

basis:

- (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

(2) 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

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

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

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

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

5. Premium Audit

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

6. Representations

By accepting this policy, you agree:

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

7. Separation Of Insureds

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

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

9. When We Do Not Renew

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

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

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 in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

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

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by 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 other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
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 any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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

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. "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 per-

son 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;
- (2)** The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3)** Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

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

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

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

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

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

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who 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.

21. "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.

22. "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.

LIQUOR LIABILITY 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 – LIQUOR LIABILITY COVERAGE

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "injury" to which this insurance applies if liability for such "injury" is imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "injury" to which this insurance does not apply. We may, at our discretion, investigate any "injury" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages 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.

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 to "injury" only if:
- (1) The "injury" occurs during the policy period in the "coverage territory"; and

- (2) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "injury" or claim, knew that the "injury" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "injury" occurred, then any continuation, change or resumption of such "injury" during or after the policy period will be deemed to have been known prior to the policy period.

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

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

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

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Injury" 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. Workers' Compensation And Similar Laws

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

c. 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:

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

d. Liquor License Not In Effect

"Injury" arising out of any alcoholic beverage sold, served or furnished while any required license is not in effect.

e. Your Product

"Injury" arising out of "your product". This exclusion does not apply to "injury" for which the insured or the insured's indemnitees 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.

f. Other Insurance

Any "injury" with respect to which other insurance is afforded, or would be afforded but for the exhaustion of the limits of insurance.

This exclusion does not apply if the other insurance responds to liability for "injury" imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage.

g. War

"Injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

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

SUPPLEMENTARY PAYMENTS

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

1. All expenses we incur.
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
3. 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.
4. All costs taxed against the insured in the "suit".
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
7. Expenses incurred by the insured for first aid administered to others at the time of an event to which this insurance applies.

These payments will not reduce the limits of insurance.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

- a.** 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" is an insured for:

(1) "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), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(1)(a)** above; or
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above.

(2) "Property damage" to property:

- (a)** Owned or occupied by, or
- (b)** Rented or loaned to that "employee", any of your other "employees", by any of your partners or members (if you are a partnership or joint venture), or by any of your members (if you are a limited liability company).

- b.** 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.

- c.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

- 3.** Any organization you newly acquire or form, other than a partnership, 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:

- a.** 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; and
- b.** Coverage does not apply to "injury" that occurred before you acquired or formed the organization.

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

SECTION III – LIMITS OF INSURANCE

- 1.** The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a.** Insureds;
- b.** Claims made or "suits" brought; or
- c.** Persons or organizations making claims or bringing "suits".

- 2.** The Aggregate Limit is the most we will pay for all "injury" as the result of the selling, serving or furnishing of alcoholic beverages.

- 3.** Subject to the Aggregate Limit, the Each Common Cause Limit is the most we will pay for all "injury" sustained by one or more persons or organizations as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – LIQUOR LIABILITY CONDITIONS

1. Bankruptcy

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

2. Duties In The Event Of Injury, Claim Or Suit

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

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

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" to which this insurance may also apply.

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

3. Legal Action Against Us

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

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

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

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary. Our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.** below.

b. Method Of Sharing

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

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

5. Premium Audit

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

6. Representations

By accepting this policy, you agree:

- a.** The statements in the Declarations are accurate and complete;

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

7. Separation Of Insureds

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

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

9. When We Do Not Renew

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

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

SECTION V – DEFINITIONS

1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
2. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the "injury" occurs in the course of travel or transportation between any places included in **a.** above; or
 - c. All other parts of the world if the "injury" arises out of:
 - (1) Goods or products made or sold by you in the territory described in **a.** above; or
 - (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in **a.** above or in a settlement we agree to.

3. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
4. "Executive Officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
5. "Injury" means all damages, including damages because of "bodily injury" and "property damage", and including damages for care, loss of services or loss of support.
6. "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".
7. "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.
8. "Suit" means a civil proceeding in which damages because of "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.
9. "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.
10. "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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASBESTOS EXCLUSION ENDORSEMENT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

1. The following Exclusion is added to SECTION I – COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. – EXCLUSIONS and SECTION I – COVERAGES, COVERAGE B. – PERSONAL AND ADVERTISING INJURY LIABILITY, 2. – EXCLUSIONS:
 1. Any liability for “bodily injury”, “property damage”, “personal injury”, “advertising injury”, occupational disease, disability, shock, mental anguish or mental injury, at any time arising out of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
 2. Any obligation of the “insured” to indemnify any party because of damages arising out of “bodily injury”, “property damage”, “personal injury”, “advertising injury”, occupational disease, disability, shock, mental anguish or mental injury, at any time as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust; or
 3. Any obligation to defend any “suit” or claim against the “insured” alleging bodily injury, “property damage”, “personal injury”, “advertising injury”, occupational disease, disability, shock, mental anguish or mental injury, resulting from or contributed to, by the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to asbestos, asbestos products, asbestos fibers or asbestos dust.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL LEAD EXCLUSION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following Exclusion is added to 2., Exclusions of the GENERAL LIABILITY COVERAGE FORM:

This Policy Does Not Apply To:

1. "Bodily Injury", "Property Damage", "Personal Injury", or "Advertising Injury" arising out of, resulting from, caused by or contributed to by the presence, ingestion, inhalation, or absorption of or exposure to lead, lead compounds, or lead contained in any materials;
2. Any cost or expense to abate, mitigate, remove, or dispose of lead, lead compounds or materials containing lead;
3. Any supervision, instruction, recommendations, warnings or advice given or which should have been given in connection with parts 1. or 2. above; or
4. Any obligation to share damages with or repay anyone else who must pay damages in connection with parts 1., 2., or 3. above.

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ASPEN000062

POLICY NUMBER: CRA8XYD11

INSURED NAME: THE RESTAURANT GROUP ETAL

ADDITIONAL NAMED INSURED ENDORSEMENT

THE NAMED INSURED IS HEREBY AMENDED TO INCLUDE THE FOLLOWING:

- 1) Madison Entertainment Associates, LLC.
- 2) Asia Las Vegas, LLC.
- 3) Buddha Entertainment, LLC.
- 4) Buddha Beach, LLC.
- 5) Stripview Entertainment, LLC.
- 6) Roof Deck Entertainment, LLC.
- 7) 5 Chinese Brothers, LLC.
- 8) Tao Licensing, LLC.
- 9) RMNJ, LLC.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

SILICA EXCLUSION ENDORSEMENT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following Exclusion is added to SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. - EXCLUSIONS and SECTION I - COVERAGES, COVERAGE B. - PERSONAL AND ADVERTISING INJURY LIABILITY, 2. - EXCLUSIONS:

1. Any liability for "bodily injury", "property damage", "personal injury", "advertising injury", occupational disease, disability, shock, mental anguish or mental injury, at any time arising out of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to silica, silicate, any silica material or any by-product, residue or compound containing silica or silicate; or
2. Any obligation of the "insured" to indemnify any party because of damages arising out of "bodily injury", "property damage", "personal injury", "advertising injury", occupational disease, disability, shock, mental anguish or mental injury, at any time as a result of the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to silica or silicate, any silica material or any by-product, residue or compound containing silica or silicate; or
3. Any obligation to defend any "suit" or claim against the "insured" alleging bodily injury, "property damage", "personal injury", "advertising injury", occupational disease, disability, shock, mental anguish or mental injury, resulting from or contributed to, by the manufacture of, mining of, use of, sale of, installation of, removal of, distribution of, or exposure to silica, silicate, any silica material or any by-product, residue or compound containing silica or silicate.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTUAL LIABILITY – AMENDMENTS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to any claim for damages resulting:

1. from the sole negligence of the indemnitee; or
2. from the ownership, maintenance or use of any aircraft;

arising out of any liability assumed under any “insured contract.”

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

HIRED AUTO AND NON-OWNED AUTO LIABILITY

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Coverage	Limits of Insurance	Additional Premium
Hired Auto Liability	\$ 1,000,000	\$ INCL.
Non-Owned Auto Liability	\$ 1,000,000	\$ INCL.

- A.** Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in this Schedule.

1. HIRED AUTO LIABILITY

The insurance provided under the Commercial General Liability Form, **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, applies to "bodily injury" or "property damage" arising out of the maintenance or use of a "hired auto" by you or your "employees" in the course of your business.

2. NON-OWNED AUTO LIABILITY

The insurance provided under the Commercial General Liability Form, **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person other than you.

- B.** For insurance provided by this endorsement only:

- 1.** The exclusions, under the Commercial General Liability Form, **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, 2. Exclusions, e. and j. are deleted and replaced by the following:

e. "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:

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

This exclusion does not apply to:

- (1) Liability assumed by the insured under an "insured contract"; or
- (2) "Bodily injury" arising out of and in the course of domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers compensation law.

j. "Property damage" to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or
- (2) Property in the care, custody or control of the insured,

2. **SECTION II – WHO IS AN INSURED** in the Commercial General Liability Form, is replaced by the following:

Each of the following is an insured under this endorsement to the extent set forth below:

- a. You
- b. Any other person using a "hired auto" with your permission
- c. For a "non-owned auto", any partner or "executive officer" of yours, but only while such "non-owned auto" is being used in your business; and
- d. Any other person or organization, but only for their liability because of acts or omissions of an insured under a., b. or c. above

None of the following is an insured:

- (1) Any person engaged in the business of his or her employer for "bodily injury" to any co-"employee" of such person injured in the course of employment, or to the spouse, child, parent, brother or sister of that co-"employee" as a consequence of such "bodily injury", or for any obligation to share damages with or repay someone else who must pay damages because of the injury.
- (2) Any partner or "executive officer" for any "auto" owned by such partner or officer or a member of his or her household;
- (3) Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;
- (4) The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee;
- (5) Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

C. The following additional definitions apply:

1. "Auto Business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".
2. "Hired Auto" means any "auto" you lease, hire or borrow. This does not include any "auto" you lease, hire or borrow from any of your "employees" or members of their households, or from any partner or "executive officer" of yours.
3. "Non-Owned Auto" means any "auto" you do not own, lease, hire or borrow which is used in connection with your business. However, if you are a partnership, a "non-owned auto" does not include any "auto" owned by any partner.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS AMENDMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

AMENDMENT – COMMON POLICY CONDITIONS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The Common Policy Conditions (IL 00 17 11/98) are amended by the addition of the following:

G. Other Insurance with This Company

If this policy contains two or more Coverage Parts providing coverage for the same “occurrence,” “accident,” “cause of loss,” “loss” or offense, the maximum limit of insurance under all Coverage Parts shall not exceed the highest limit of insurance under any one Coverage Part.

If this policy and any other policy issued to you by us apply to the same “occurrence,” “accident,” “cause of loss,” “injury,” “loss” or offence, the maximum limit of insurance under all of the policies shall not exceed the highest limit of insurance under any one policy. This condition does not apply to any policy issued by us which specifically provides that the policy is to apply as excess insurance over this policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ELECTROMAGNETIC FIELDS (EMF'S) EXCLUSION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following Exclusion is added to SECTION I – COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. – EXCLUSIONS:

Any liability for bodily injury or property damage, or any other loss, cost (including defense costs) or expense arising out of exposure to an electromagnetic field in any form, including but not limited to liability for the installation, operations, repair, sale or manufacture or distribution of any kind of equipment or products producing or in any way involving the effects of an electromagnetic field.

2. The following Definition is added to SECTION V – DEFINITIONS:

“Electromagnetic Field” means electric and magnetic fields generated by varying electrical current through any medium including but not limited to wires whether or not intended for the purpose of conducting electricity.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

GARAGEKEEPERS COVERAGE

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: Named Insured: THE RESTAURANT GROUP ETAL	Countersigned By: (Authorized Representative)
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SCHEDULE

Location No.	Coverages	Limits of Insurance for Each Location	
<input type="checkbox"/>	Comprehensive	\$	PER LOCATION FOR ALL CUSTOMER'S AUTO MINUS A
	SIR \$25,000	\$	DEDUCTIBLE FOR EACH "CUSTOMER'S AUTO FOR LOSS" CAUSED BY THEFT OR MISCHIEF OR VANDALISM
ONE	SUBJECT TO \$		DEDUCTIBLE FOR ALL SUCH "LOSS" IN ANY ONE EVENT
<input checked="" type="checkbox"/>	Comprehensive	\$100,000	MINUS \$25,000
			DEDUCTIBLE FOR EACH "CUSTOMER'S AUTO" FOR "LOSS" CAUSED BY THEFT OR MISCHIEF VANDALISM; OR
	Specified Causes	\$	MINUS \$
	Of Loss	\$	MINUS \$
			DEDUCTIBLE FOR ALL PERILS SUBJECT TO MAXIMUM DEDUCTIBLE FOR ALL SUCH "LOSS" IN ANY ONE
	Collision	\$	MINUS \$
			DEDUCTIBLE FOR EACH "CUSTOMER'S AUTO"
<input type="checkbox"/>	Comprehensive	\$	MINUS \$
			DEDUCTIBLE FOR EACH "CUSTOMER'S AUTO" FOR "LOSS" CAUSED BY THEFT OR MISCHIEF VANDALISM; OR
	Specified Causes	\$	MINUS \$
	Of Loss	\$	MINUS \$
			DEDUCTIBLE FOR ALL PERILS SUBJECT TO MAXIMUM DEDUCTIBLE FOR ALL SUCH "LOSS" IN ANY ONE
	Collision	\$	MINUS \$
			DEDUCTIBLE FOR EACH "CUSTOMER'S AUTO"

LOCATIONS WHERE YOU CONDUCT "GARAGE OPERATIONS"

Location No.	Address State Your Main Business Location as Location No. 1
<input type="checkbox"/>	All locations where insured provides Valet Parking Services. Limit is subject to a policy aggregate limit of \$100,000
<input type="checkbox"/>	
<input type="checkbox"/>	

Premium For All Locations	
Comprehensive	\$
Specified Causes of Loss	\$
Collision	\$

DIRECT COVERAGE OPTIONS

Indicate below with "X" which, if any, Direct Coverage Option is selected.

☒ **EXCESS INSURANCE**

If this box is checked, Garage keepers Coverage remains applicable on a legal liability basis. However, coverage also applies without regard to your or any other "insured's" legal liability for "loss" to a "customer's auto" on an excess basis over any other collectible insurance regardless of whether the other insurance covers your or any other "insured's" interest or the Interest of the "customer's auto's" owners.

☐ **PRIMARY INSURANCE**

If this box is checked, Garage keepers Coverage is changed to apply without regard to your or any other "insured's" legal liability for "loss" to a "customer's auto" and is primary insurance.

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

A. This endorsement provides only those coverages:

- Where the Limit of Insurance and a premium are shown for that coverage in the Schedule:
and
- For the location shown in the Schedule.

B. Coverage

- We will pay all sums the "insured" legally must pay as damages for "loss" to a "customer's auto" or "customer's auto" equipment left in the "insured's" care while the "insured" is attending, servicing, repairing, parking or storing it in your "garage operations" under:

a. Comprehensive Coverage

From any cause except:

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

b. **Specified Causes Of Loss Coverage**

Cause by:

- (1) Fire, lightning or explosion;
- (2) Theft; or
- (3) Mischief or vandalism.

c. **Collision Coverage**

Caused by:

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

2. We will have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for "loss" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

3. **Who Is An Insured**

The following are "insureds" for "loss" to "customer's autos".

- a. You.
- b. Your partner (if you are a partnership), or members (if you are a limited liability company), "employees", directors or shareholders while acting within the scope of their duties as such.

4. **Coverage Extensions**

The following applies as Supplementary Payments. In addition to the Limit of Insurance, we will pay for the "Insured":

- a. All expenses we incur.
- b. The costs of bonds to release attachments in any "suit" against an "insured" we defend, but only for bond amounts within our Limit of Insurance.
- c. All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- d. All costs taxed against the "insured" in any "suit" against an "insured" we defend.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against an "insured" we defend; but our duty to pay interest ends when we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

C. Exclusions

1. This insurance does not apply to any of the following:

a. **Contractual Obligations**

Liability resulting from any agreement by which the "Insured" accepts responsibility for "loss".

b. **Theft**

"Loss due to theft or conversion caused in any way by you, "employees" or by your shareholders.

c. **Defective Parts**

Defective parts or materials.

d. **Faulty Work**

Faulty "work you performed".

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

- a. Tape decks or other sound reproducing equipment unless permanently installed in a "customer's auto".
- b. Tapes, records or other sound reproducing devices designed for use with sound reproducing equipment.
- c. Sound receiving equipment designed for use as a citizen's band radio, two-way mobile radio or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the "customer's auto" manufacturer for the installation of a radio.
- d. Any device designed or used to detect speed measurement equipment such as a radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.

D. Limit Of Insurance And Deductible

1. Regardless of the number of "customer's auto", "insureds", premiums paid, claims made or "suits" brought, the most we will pay for each "loss" at each location is the Garage keepers Coverage Limit of Insurance shown in the Schedule for that location minus the applicable deductible for "loss" caused by collision, theft or mischief or vandalism.
2. The maximum deductible stated in the Schedule for Garage keepers Coverage Comprehensive or Specified Causes of Loss Coverage is the most that will be deducted for all "loss" in any one event caused by theft or mischief or vandalism.
3. Sometimes to settle a claim or "suit", we may pay all or any part of the deductible. If this happens you must reimburse us for the deductible or that portion of the deductible that we paid.

E. Additional Definitions

As used in this endorsement:

1. "Customer's auto" means a customer's land motor vehicle or trailer or semi trailer. This definition also includes any customer's auto while left with you for service, repair, storage or safekeeping. Customers include your employees, and members of their households who pay for services performed.
2. "Loss" means direct and accidental loss or damage and includes any resulting loss of use.

3. "Garage operations" means the ownership, maintenance or use of locations for the purpose or a business of selling, servicing, repairing, parking or storing "customer's autos" and that portion of the roads or other accesses that adjoin these locations. "Garage operations" also includes all operations necessary or incidental to the performance of garage operations.
4. "Work you performed" includes:
 - a. Work that someone performed on your behalf; and
 - b. The providing of or failure to provide warnings or instructions.

All other definitions, terms and conditions of this policy remain unchanged.

This endorsement is a part of your policy and takes effect on the effective date of your policy, unless otherwise stated.

Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY LIABILITY
DEDUCTIBLE ENDORSEMENT**

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Coverage	Amount and Basis of Deductible
Bodily Injury Liability	\$25,000 per occurrence INCLUDING LOSS ADJUSTMENT EXPENSE
Property Damage Liability	\$25,000 per occurrence INCLUDING LOSS ADJUSTMENT EXPENSE
Personal Advertising Injury Liability (Personal Injury and Advertising Injury)	\$25,000 per occurrence INCLUDING LOSS ADJUSTMENT EXPENSE

APPLICATION OF ENDORSEMENT

Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury," property damage," "personal advertising injury," ("personal injury" and "advertising injury") however caused:

1. Our obligation under the Bodily Injury Liability, Property Damage Liability, Personal and Advertising Injury Liability (Personal Injury and Advertising Injury) Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages, and the Limits of Insurance applicable to Each Occurrence or offense for such coverages will be reduced by the amount of such deductible. Aggregate Limits for such coverages shall not be reduced by the application of such deductible amount.
2. The deductible amounts apply to damages and all legal and loss adjustment expenses.
3. The deductible amounts stated in the Schedule above apply, respectively:
 - a. Under the Bodily Injury Liability Coverage to all damages because of the "bodily injury" sustained by one person;
 - b. Under Property Damage Liability Coverage to all damages because of the "property damage" sustained by one person, any organization or association; or
 - c. Under Personal and Advertising Injury Liability (Personal Injury and Advertising Injury) Coverages to all damages sustained by one person as a result of one "occurrence" or offense.
4. The terms of this insurance, including those with respect to our right and duty to defend any "suits" seeking those damages and your duties in the event of an "occurrence," offense, claim or "suit", apply irrespective of the application of the deductible amount.
5. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - DISCRIMINATION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following Exclusion is added to SECTION I – COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. – EXCLUSIONS and SECTION I – COVERAGES, COVERAGE B. – PERSONAL AND ADVERTISING INJURY LIABILITY, 2. – EXCLUSIONS:

This policy does not apply to:

Discrimination

Bodily injury, personal injury, or advertising injury liability that arises from discrimination based upon, but not limited to, race, creed, color, sex, age, disability, national origin, handicap, illness, religion or sexual preference.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT - CROSS SUITS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

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

This policy does not afford coverage to claims for damages arising out of bodily injury, personal and advertising injury, or property damage as defined, initiated, alleged or caused to be brought about by a Named Insured covered by this policy against any other Named Insured covered by this policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMON POLICY CONDITIONS AMENDMENT MINIMUM RETAINED PREMIUM

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMON POLICY CONDITIONS

Condition A – CANCELLATION, paragraph 5, is deleted and replaced by the following:

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, earned premium will be computed according to the customary short rate table and procedure, subject to a Minimum Retained Premium of \$[REDACTED]. The cancellation will be effective even if we have not made or offered a refund.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL SERVICE OF SUIT ENDORSEMENT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

ALL COVERAGE PARTS IN THIS POLICY

Pursuant to any statute of any state or district of the United States of America which makes provision therefore, the insurer hereby designates the Commissioner, Superintendent or Director of Insurance or other officer specified for that purpose in the statute, and his or her successors in office, and duly authorized deputies in the state where this policy is issued, as the insurer's true and lawful attorney for service of legal process in action, suit or proceeding brought in the state where this policy is issued by or on behalf of an insured or beneficiary against the insurer arising out of the insurance issued under this policy.

The Company's registered forwarding address for purposes of receiving service from the Commissioner, Superintendent or Director of Insurance or other officer in each state shall be: Aspen Specialty Insurance Management, Inc., c/o General Counsel, 175 Capital Blvd., Rocky Hill, CT 06067; (860) 760-7758; Questions can be directed to: Compliance@aspenspecialty.com. In addition, please note state-specific instructions as follows:

In Arizona, service must be made on the Commissioner of Insurance, but a copy of any service of legal process should also be delivered or forwarded (for informational purposes only) to: Mr. John Rohwer, John Rohwer & Company, P.O. Box 2229, Phoenix, AZ 85002 or Gail Flock c/o CT Corporation System, 2394 East Camelback Road, Phoenix, AZ 85016.

In California, any service of legal process may also be delivered or forwarded to: Jere Keprios c/o CT Corporation, 818 West Seventh Street, Los Angeles, CA 90017.

In Colorado, any service of legal process may also be delivered or forwarded to: Christen Vinnola c/o The Corporation Company, 1675 Broadway, Suite 1200, Denver, CO 80202.

In Georgia, service must be made on the Commissioner of Insurance, but a copy of such service should also be delivered or forwarded (for informational purposes only) to: Dale W. Morris c/c CT Corporation System, 1201 Peachtree Street, NE, Atlanta, GA 30361.

In Hawaii, any service of legal process may also be delivered or forwarded to: Ronald V. Grant c/o CT Corporation Company, Inc. 900 Fort Street Mall, Suite 1800 Honolulu, HI 96813.

In Louisiana, any service of legal process may also be delivered or forwarded to: Lisa Uttech c/o CT Corporation Regional System, 5615 Corporate Blvd Suite 400B, Baton Rouge, LA 70808.

In Maine, service must be made on the Commissioner of Insurance, but a copy of such filing should also be delivered or forwarded (for informational purposes only) to: Peter B. Webster c/o CT Corporation System, 81 West Main Street, Yarmouth, ME 04096.

In Michigan, service of legal process may only be made on the Insurance Commissioner, but a copy of such filing should also be sent (for reference only) to: General Counsel, Aspen Insurance U.K. Limited c/o Aspen Specialty Insurance Management, Inc., 175 Capital Blvd., Rocky Hill, CT 06067.

In North Carolina, service of legal process may only be made on the Insurance Commissioner, but a copy of any service of legal process should also be delivered or forwarded (for reference only) to: Ron M. Strickland c/o CT Corporation System 150 Fayetteville Street Box 1011, Raleigh, NC 27601.

In Tennessee, any service of legal process may only be made on the Insurance Commissioner, but a copy of such filing should also be delivered or forwarded (for reference only) to: Mark Williams c/o CT Corporation System 800 S. Gay Street, Suite 2021, Knoxville, TN 37929.

In Texas, any service of legal process may only be made on the Insurance Commissioner, but a copy of such filing should also be delivered or forwarded (for reference only) to: Shirley Dillon c/o CT Corporation System, 350 North St. Paul Street, Dallas, TX 75201.

In Wyoming, any service of legal process should be made on the Insurance Commissioner, but a copy of such filing should also be delivered or forwarded (for reference only) to: Tammy Bellefeuille c/o CT Corporation System 1720 Carey Avenue, Cheyenne, WY 82001.

The foregoing designation of attorney for service of legal process upon the Company shall not constitute a waiver of the Company's rights to remove, remand, dismiss or transfer any suit or proceeding from any court, or to commence any suit or other proceeding in any court of competent jurisdiction.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIQUOR LIABILITY COVERAGE FORM CONDITIONS AMENDMENT
MINIMUM RETAINED AUDIT PREMIUM**

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

LIQUOR LIABILITY COVERAGE FORM

SECTION IV, LIQUOR LIABILITY CONDITIONS, Paragraph 5, **Premium Audit**, subparagraph b, is deleted and replaced by the following:

- b.** Premium shown in this Coverage Part as Advance Premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period. Audit premiums are due and payable upon notice to the First Named Insured. Premium Audit adjustments will be made to determine additional premiums only. You agree that there will be no downward adjustment of the Minimum Retained Audit Premium resulting from the Premium Audit provision of this policy.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR LIABILITY EXCLUSION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** Exclusion **i.** under Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:
- 2. Exclusions**
- This insurance does not apply to:
- i. War**
- "Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:
- (1) War, including undeclared or civil war; or
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- 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:
- WAR**
- "Personal and advertising injury", however caused, arising, directly or indirectly, out of:
- a. War, including undeclared or civil war; or
 - 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.
- C.** Exclusion **h.** under Paragraph 2., **Exclusions of Section I – Coverage C – Medical Payments** does not apply. Medical payments due to war are now subject to Exclusion **g.** of Paragraph 2., **Exclusions of Section I – Coverage C – Medical Payments** since "bodily injury" arising out of war is now excluded under Coverage **A.**

RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION IN VIOLATION OF LAW EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

2. Exclusions

This insurance does not apply to:

q. 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 Transaction 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.

B. Exclusion **p.** of Paragraph **2. Exclusions** of Section **I – Coverage B – Personal And Advertising Injury Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" 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 Transaction 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.

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 GENERAL LIABILITY COVERAGE PART

SCHEDULE

Coverage		Limit Of Insurance		Deductible		Premium
Employee Benefits Programs		\$1,000,000	each employee	\$25,000	each employee	\$ [REDACTED]
		\$1,000,000	aggregate			
Retroactive Date:	10/06/2011					

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

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

**COVERAGE – EMPLOYEE BENEFITS
LIABILITY**

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages 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 those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in Paragraph E. (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 to damages 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 G. 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 us, whichever comes first; or

- (2) When we make settlement in accordance with Paragraph 1.a. above.

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 2. of the Supplementary Payments provision do not apply.

C. For the purposes of the coverage provided by this endorsement, Paragraphs 2. and 4. of Section II – Who Is An Insured are replaced by the following:

2. Each of the following is also an insured:

- a. Each of your "employees" who is or was authorized to administer your "employee benefit program".
- b. 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.
- c. 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.

4. 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:

- a. 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.
- b. 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, Paragraph 3. of **Section II – Who Is An Insured** does not apply.

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

1. Limits Of Insurance

- a. The Limits of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) "Claims" made or "suits" brought;
 - (3) Persons or organizations making "claims" or bringing "suits";
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your "employee benefit program".
- b. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- c. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
 - (1) An act, error or omission; or
 - (2) 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.

2. Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Schedule as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in the Schedule applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- c. The terms of this insurance, including those with respect to:
 - (1) Our right and duty to defend any "suits" seeking those damages; and
 - (2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or "claim"apply irrespective of the application of the deductible amount.
- d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

F. For the purposes of the coverage provided by this endorsement, Conditions **2.** and **4.** of **Section IV – Conditions** are replaced by the following:

2. 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.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

(1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Schedule of this insurance and that applies to an act, error or omission on other than a claims-made basis, if:

(a) No Retroactive Date is shown in the Schedule of this insurance; or

(b) The other insurance has a policy period which continues after the Retroactive Date shown in the Schedule of this insurance.

(2) When this insurance is excess, we will have no duty 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of the total amount that all such other insurance would pay for the loss in absence of this insurance; and the total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Schedule of this endorsement.

c. Method Of Sharing

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

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

- G.** 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, replaces 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 **E.1.b.** 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 **E.1.c.**

- H.** 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.
- I. For the purposes of the coverage provided by this endorsement, Definitions 5. and 18. in the **Definitions** Section are replaced by the following:
 5. "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".
 18. "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.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

1. Designation of Premises (Part Leased to You): As required by written contract
signed by both parties prior to a loss
2. Name of Person or Organization (Additional Insured):

3. Additional Premium:

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

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED –
MORTGAGEE, ASSIGNEE, OR RECEIVER**

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: As required by written contract signed by
both parties prior to a loss

Designation of Premises:

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

1. WHO IS AN INSURED (Section II) is amended to include as an insured the person(s) or organization(s) shown in the Schedule but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you and shown in the Schedule.
2. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Name Of Additional Insured Person(s) Or Organization(s)
As required by written contract signed by both parties prior to a loss
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

B. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – DESIGNATED PROFESSIONAL SERVICES

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description Of Professional Services:
1. ALL PROFESSIONAL SERVICES
2.
3.

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

With respect to any professional services shown in the Schedule, 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" due to the rendering of or failure to render any professional service.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – COVERAGE C – MEDICAL PAYMENTS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description And Location Of Premises Or Classification:

ALL LOCATIONS

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

With respect to any premises or classification shown in the Schedule:

- 1.** Section **I** – Coverage **C** – Medical Payments does not apply and none of the references to it in the Coverage Part apply: and

- 2.** The following is added to Section **I** – Supplementary Payments:

- h.** Expenses incurred by the insured for first aid administered to others at the time of an accident for "bodily injury" to which this insurance applies.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Premises: 1) Lavo NY - 39 EAST 58TH STREET, NEW YORK, NY 10022

2) TAO Las Vegas - 3355 LAS VEGAS BLVD SOUTH, LAS VEGAS, NV 89109
(INSIDE THE VENETIAN RESORT HOTEL)

3) Lavo Las Vegas - 3325 LAS VEGAS BLVD SOUTH, LAS VEGAS, NV 89109
(LOCATED AT THE PALAZZO RESORT HOTEL)

4) Marquee Las Vegas - 3708 LAS VEGAS BLVD SOUTH, LAS VEGAS, NV 89109
(INSIDE THE COSMOPOLITAN OF LAS VEGAS)

Project:

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

This insurance applies only to "bodily injury", "property damage", "personal and advertising injury" and medical expenses arising out of:

1. The ownership, maintenance or use of the premises shown in the Schedule and operations necessary or incidental to those premises; or
2. The project shown in the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

This insurance does not apply to:

"Bodily injury" to:

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

This exclusion applies:

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

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

This insurance does not apply to:

"Personal and advertising injury" to:

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

This exclusion applies:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description and Location of Operation(s):

ALL PROJECTS AND LOCATIONS FOR WHICH A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM HAS BEEN PROVIDED

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

The following exclusion is added to paragraph 2., Exclusions of COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I – Coverages):

This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" at the location described in the Schedule of this endorsement, as a consolidated (wrap-up) insurance program has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not the consolidated (wrap-up) insurance program:

- (1) Provides coverage identical to that provided by this Coverage Part;
- (2) Has limits adequate to cover all claims; or
- (3) Remains in effect.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TOTAL POLLUTION EXCLUSION WITH A BUILDING HEATING, COOLING AND DEHUMIDIFYING
EQUIPMENT EXCEPTION AND A HOSTILE FIRE EXCEPTION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

This insurance does not apply to:

f. 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.

This exclusion does not apply to:

- (a) "Bodily injury" if sustained within a building which is or was at any time owned or occupied by, or rented or loaned to, any insured and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests; or
- (b) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:
- (i) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or
- (ii) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY 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 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 OTHER ACTS OF TERRORISM

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

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 an "other act of terrorism". 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. 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 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.
2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":
 - a. The act resulted in aggregate losses in excess of \$5 million; and

- b. 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 acting on behalf of any foreign person or foreign interest, 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 certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. 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. In the event of any incident of a "certified act of terrorism" or an "other act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ENGINEERS, ARCHITECTS OR SURVEYORS PROFESSIONAL LIABILITY

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY 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 rendering of or failure to render any professional services by you or any engineer, architect or surveyor who is either employed by you or performing work on your behalf in such capacity.

Professional services include:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

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

SCHEDULE

Description of Premises and Operations:

SEE FORM# CG2144

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

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

- 1.** On, from or in connection with the use of any premises described in the Schedule, or
- 2.** In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph **a.** of the definition of "Products-completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products-completed operations hazard":

- a.** Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED LOCATION(S) GENERAL AGGREGATE LIMIT

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Location(s):
SEE FORM# CG2144

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

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to operations at a single designated "location" shown in the Schedule above:
1. A separate Designated Location General Aggregate Limit applies to each designated "location", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Location General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Designated Location General Aggregate Limit for that designated "location". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Location General Aggregate Limit for any other designated "location" shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Location General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A** (SECTION I), and for all medical expenses caused by accidents under **COVERAGE C** (SECTION I), which cannot be attributed only to operations at a single designated "location" shown in the Schedule above:
1. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Location General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Location General Aggregate Limit.
- D.** For the purposes of this endorsement, the **Definitions** Section is amended by the addition of the following definition:
- "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
- E.** The provisions of Limits Of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.

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 AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. 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 Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. 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.

2. 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.

POLICY CHANGES

Policy Change
Number 001

POLICY NUMBER: CRA8XYD11	POLICY CHANGES EFFECTIVE: 10/06/2011	COMPANY: Aspen Specialty Insurance Company
NAMED INSURED: THE RESTAURANT GROUP ETAL		AUTHORIZED REPRESENTATIVE
COVERAGE PARTS AFFECTED: COMMERCIAL GENERAL LIABILITY COVERAGE PART		

CHANGES:

Stop Loss Aggregate Endorsement - \$250,000 for sales up to \$175M/\$400k
for sales excess of \$175M

TBD

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGES

Policy Change
Number 002

POLICY NUMBER:

CRA8XYD11

**POLICY CHANGES
EFFECTIVE:**

10/06/2011

COMPANY:

Aspen Specialty Insurance Company

NAMED INSURED:

THE RESTAURANT GROUP ETAL

AUTHORIZED REPRESENTATIVE

COVERAGE PARTS AFFECTED:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

CHANGES:

90 Day Notice of cancellation (except for non-payment of premium)

TBD

POLICYHOLDER'S GUIDE TO REPORTING A CASUALTY CLAIM

A. As soon as you are aware of an event that will give rise to a claim being made against you (3rd Party Liability Claims), please be sure to quickly report the matter to both your agent/broker and Aspen Specialty Insurance Management, Inc. Be sure to include your policy number and the name of the insured as it is stated on the policy.

B. New claims can be reported to ASPEN SPECIALTY INSURANCE COMPANY as follows:

- 1. By Mail:** ASPEN SPECIALTY INSURANCE COMPANY
c/o Aspen Specialty Insurance Management, Inc.
Claims Department
600 Atlantic Avenue, Suite 2100
Boston, MA 02210
Main Telephone No: 617-532-7300
- 2. By Fax:** 617-532-7342
- 3. By Dedicated Email:** 3rd Party Liability Claims: casualty.claims@aspenspecialty.com
Claim Status Requests: casualty.status@aspenspecialty.com

COMMERCIAL GENERAL LIABILITY 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 those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in 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 or medical expenses under Coverage C.

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" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section 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.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section 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.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section 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.

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

2.Exclusions

This insurance does not apply to:

a. 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 attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

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 only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

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. 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 Para-

graph (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".

f. Pollution

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

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or

- (ii) Any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to

the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of

such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" 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, "auto" 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 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (b) the operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunt-ing activity.

i. 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.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises 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.

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

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

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

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

k. Damage To Your Product

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

l. 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.

m. 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.

n. 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.

o. Personal And Advertising Injury

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

p. Electronic Data

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

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

q. Distribution Of Material In Violation Of Statutes

"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; or

- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in 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** or medical expenses under Coverage **C**.

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" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

- a. Knowing Violation Of Rights Of Another**

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

- b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at

the direction of the insured with knowledge of its falsity.

- c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

- d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

- e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

- f. Breach Of Contract**

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

- g. Quality Or Performance Of Goods – Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

- h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

- i. Infringement Of Copyright, Patent, Trademark Or Trade Secret**

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade 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.

- j. Insureds In Media And Internet Type Businesses**

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

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

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

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

k. Electronic Chatrooms Or Bulletin Boards

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

l. Unauthorized Use Of Another's Name Or Product

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

m. Pollution

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

n. Pollution-Related

Any loss, cost or expense arising out of any:

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

o. War

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

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

p. Distribution Of Material In Violation Of Statutes

"Personal and advertising injury" 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; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
- (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

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:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 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. 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. 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 con-

duct 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.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "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" while 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 Paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose byyou, 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 "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or 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:
- a. 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;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

SECTION 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; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
- a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage"

included in the "products-completed operations hazard".

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 damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage Cbecause of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

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

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

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

- (1) Immediately record the specifics of the claim or "suit" and the date received; and

- (2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

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

3. Legal Action Against Us

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

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

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

4. Other Insurance

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

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

- (1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other

basis:

- (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

(2) 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

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

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

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

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

5. Premium Audit

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

6. Representations

By accepting this policy, you agree:

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

7. Separation Of Insureds

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

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

9. When We Do Not Renew

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

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

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 in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

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

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by 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 other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
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 any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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

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. "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 per-

son 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;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

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

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

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

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

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

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who 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.

21. "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.

22. "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.

COMMERCIAL GENERAL LIABILITY 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 those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in 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 or medical expenses under Coverage C.

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" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section 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.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section 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.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section 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.

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

2.Exclusions

This insurance does not apply to:

a. 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 attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

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 only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

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. 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 Para-

graph (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".

f. Pollution

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

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or

- (ii) Any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to

the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of

such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" 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, "auto" 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 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (b) the operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunt-ing activity.

i. 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.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises 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.

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

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

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

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

k. Damage To Your Product

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

l. 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.

m. 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.

n. 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.

o. Personal And Advertising Injury

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

p. Electronic Data

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

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

q. Distribution Of Material In Violation Of Statutes

"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; or

- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in 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** or medical expenses under Coverage **C**.

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" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

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

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at

the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

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

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade 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.

j. Insureds In Media And Internet Type Businesses

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

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

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

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

k. Electronic Chatrooms Or Bulletin Boards

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

l. Unauthorized Use Of Another's Name Or Product

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

m. Pollution

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

n. Pollution-Related

Any loss, cost or expense arising out of any:

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

o. War

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

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

p. Distribution Of Material In Violation Of Statutes

"Personal and advertising injury" 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; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
- (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

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:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 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. 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. 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 con-

duct 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.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "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" while 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 Paragraphs (1)(a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services.
 - (2) "Property damage" to property:
 - (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose byyou, 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 "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
 - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or 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:
- a. 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;
 - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

SECTION 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; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
- a. Medical expenses under Coverage **C**;
 - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage"

included in the "products-completed operations hazard".

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 damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage Cbecause of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

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

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

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

- (1) Immediately record the specifics of the claim or "suit" and the date received; and

- (2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

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

3. Legal Action Against Us

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

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

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

4. Other Insurance

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

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below.

b. Excess Insurance

- (1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other

basis:

- (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
- (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
- (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

(2) 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.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

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

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

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

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

5. Premium Audit

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

6. Representations

By accepting this policy, you agree:

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

7. Separation Of Insureds

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

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

9. When We Do Not Renew

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

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

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 in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

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

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

- 5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by 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 other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
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 any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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

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. "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 per-