

PUBLIC RISK SPECIAL EXCESS RETAINED LIMIT COVERAGE FORM DECLARATIONS

Policy No: [Insert policy number] **New/Renewal of:** [Insert policy number or "new"]

THIS POLICY MAY CONTAIN ADDITIONAL ENDORSEMENT(S) WHICH PROVIDE COVERAGE ON CLAIMS-MADE BASIS WHERE COVERAGE MAY BE LIMITED TO CLAIMS FIRST MADE AND REPORTED TO THE INSURER DURING THE POLICY PERIOD AS STATED IN ATTACHED ENDORSEMENT OR ANY APPLICABLE EXTENDED REPORTING PERIOD. PLEASE READ THE ENTIRE POLICY CAREFULLY.

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

Item 1. NAMED INSURED:

Address:

(Street, City, State):

PRODUCER NAME:

Address:

(Street, City, State):

Item 2. POLICY PERIOD:

FROM:

TO:

AT 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE **NAMED INSURED** SHOWN ABOVE.

Item 3. BUSINESS DESCRIPTION:

Item 4. LIMITS OF INSURANCE:

A. General Liability	Each Occurrence Limit	\$
	Each Employee Limit	\$
	General Aggregate Limit	\$
	Products-Completed Operations Hazard Aggregate Limit	\$
	Damage to Premises Rented to You Limit (any one premises)	\$
B. Law Enforcement Liability	Each Law Enforcement Wrongful Act Limit	\$
	Aggregate Limit	\$

C. Public Officials Liability	Each Public Officials Wrongful Act Limit	\$
	Aggregate Limit	\$
D. Employment Practices Liability	Each Employment Practices Wrongful Act Limit	\$
	Aggregate Limit	\$
E. Automobile Liability	Each Accident Limit	\$

Item 5. RETAINED LIMIT:

A. General Liability	Each Occurrence	\$
B. Law Enforcement Liability	Each Law Enforcement Wrongful Act	\$
C. Public Officials Liability	Each Public Officials Wrongful Act	\$
D. Employment Practices Liability	Each Employment Practices Wrongful Act	\$
E. Automobile Liability	Each Accident	\$

Item 6. PREMIUM

A. PREMIUM BEFORE TERRORISM	\$
B. TERRORISM PREMIUM	\$
C. TOTAL PREMIUM	\$

Item 7. ENDORSEMENTS APPLICABLE TO THIS POLICY ON THE ORIGINAL DATE OF ISSUE:

THESE DECLARATIONS TOGETHER WITH THE TERMS AND CONDITIONS, COVERAGE FORM AND ANY ENDORSEMENT(S), IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

IN WITNESS WHEREOF, we have caused this Policy to be executed and attested, but this Policy will not be valid unless countersigned by one of our duly authorized representatives, where required by law.

President

Secretary

AUTHORIZED REPRESENTATIVE

PUBLIC RISK SPECIAL EXCESS RETAINED LIMIT COVERAGE FORM

DEFENSE COSTS INCLUDED WITHIN THE RETENTION, OUTSIDE THE LIMITS OF INSURANCE

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

Throughout this Policy the words “you” and “your” refer to the Named Insured shown in the Declarations. The words “we”, “us” and “our” refer to the Company providing this insurance.

The word “Insured” means any person or organization qualifying as such under **SECTION III – WHO IS AN INSURED**.

Words and phrases that appear in bold print, other than headings, have special meaning. Refer to **SECTION V – DEFINITIONS**.

SECTION I - COVERAGES

1. Insuring Agreements

a. General Liability

We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** because of **bodily injury, property damage, personal injury, or advertising injury** caused by an **occurrence** or an **employee benefits wrongful act** to which this insurance applies and which takes place in the **coverage territory** during the **policy period**.

b. Law Enforcement Liability

We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** arising out of a **law enforcement wrongful act** committed in the course and scope of your **law enforcement activities** to which this insurance applies and which takes place in the **coverage territory** during the **policy period**.

c. Public Officials Liability

We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** arising out of a **public officials wrongful act** to which this insurance applies and which takes place in the **coverage territory** during the **policy period**.

d. Employment Practices Liability

We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** arising out of an **employment practices wrongful act** to which this insurance applies and which takes place in the **coverage territory** during the **policy period**.

e. Automobile Liability

We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** arising out of **bodily injury** or **property damage** to which this insurance applies, caused by an **accident** and resulting

from the ownership, maintenance or use of a **covered auto** or a covered **emergency unit**, and which takes place in the **coverage territory** during the **policy period**.

We will also pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for **loss** arising out of a **covered pollution cost or expense** to which this insurance applies, caused by an **accident** and resulting from the ownership, maintenance or use of a **covered auto** or covered **emergency unit**. However, we will only pay for the **covered pollution cost or expense** if there is either **bodily injury** or **property damage** to which this insurance applies that is caused by the same **accident**.

If any such Insured knew or had reason to know prior to the **policy period** that the **bodily injury, property damage, personal injury, advertising injury, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, or employment practices wrongful act** occurred, was committed or took place, in whole or in part, then any continuation, change or resumption of such **bodily injury, property damage, personal injury, advertising injury, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, or employment practices wrongful act** will be deemed to have been known prior to the **policy period**.

2. **Additional Insurance Coverage**

Solely with respect to any coverage provided for Law Enforcement Liability, Public Officials Liability, or Automobile Liability, the following additional coverages apply. The additional coverages are not included within or affected by the **retained limit**. Payment made pursuant to these extensions will not:

- a. Reduce or increase the **retained limit** shown in the Declarations for the applicable Insuring Agreement; or
- b. Reduce or increase the applicable Limits of Insurance provided under the applicable Insuring Agreement.

(1) Addition to Law Enforcement Liability:

- (a) **Animal Mortality**: We will reimburse you up to a maximum of \$10,000 for the actual cost and expense incurred to replace an animal trained for use in **law enforcement activities**, resulting from the accidental death or consequential destruction because of accidental injury to such animal while being used as part of a canine or equestrian patrol during the **policy period**.

(2) Addition to Public Officials Liability:

- (a) **Key Individual Replacement Expenses**: We will reimburse you up to a maximum of \$25,000 for the actual cost and expenses incurred to replace your Mayor, City Manager, Chief Executive Officer or Executive Director if the person holding that position suffers an injury during the **policy period** which results in loss of life during the **policy period**. **Key individual replacement expenses** must be incurred by the Named Insured and reported to us during the **policy period** or as soon as practicable thereafter.
- (b) **Emergency Travel Expenses**: We will reimburse you up to a maximum of \$5,000 for all **emergency travel expenses** incurred by your Mayor, City Manager, Director or Officer due to a **certified act of terrorism** that commences during the **policy period**. **Emergency travel expenses** must be incurred and reported to us during the **policy period** or as soon as practicable thereafter.

- (c) Identity Theft Expenses: We will reimburse up to \$5,000 to any present Mayor, City Manager, Director or Officer of the Named Insured for identity theft expenses that have been incurred during the **policy period** for an **identity theft event** that occurred during the **policy period**. Identity theft expenses must be incurred and reported to us during the **policy period** or as soon as practicable thereafter.

Identity theft expenses include:

- (i) Costs of notarizing documents required by any financial institution or similar creditors as testaments to fraud;
- (ii) Costs for certified mail to law enforcement agencies, financial institutions or similar creditors; or
- (iii) Loan application fees for reapplying for loans when the original application is rejected solely because of incorrect credit information.

(3) Addition to Automobile Liability:

- (a) Pollution Clean-Up and Removal: This insurance will cover in excess of the **retained limit** your necessary expenses to extract **pollutants** from land or water if the release, discharge or dispersal of the **pollutants** results resulted from a covered **loss** or **accident** to **covered autos**, covered **emergency units**, or any other equipment or property that is covered by this Policy, if such covered **loss** or **accident** occurs in the **coverage territory**, during the **policy period**. Your expenses will be paid in excess of the **retained limit** only if they are reported to us in writing within 180 days or the earlier of:
 - (i) The date of the covered direct physical **loss** or **accident**; or
 - (ii) The end of the **policy period**.
- (b) Fellow Employee: This insurance will cover in excess of the **retained limit** **bodily injury** to an **employee, volunteer**, or conscripted person arising out of the actions of another **employee, volunteer**, or conscripted person if such **bodily injury** arises out of and in the course of the fellow **employee's** employment or the fellow **employee's, volunteer's**, or conscripted person's performance of duties related to the conduct of your operations.
- (c) Out-of-State Coverage: While a **covered auto** or covered **emergency unit** is away from the state where it is licensed, this insurance will:
 - (i) Increase the Limit of Insurance for liability coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the **covered auto** or covered **emergency unit** is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property; or
 - (ii) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the **covered auto** or covered **emergency unit** is being used.

We will not pay anyone more than once for the same elements of **loss** or **accident** because of the Additional Insurance Coverage described in (i) and (ii) above.

When the applicable Limit of Insurance has been exhausted by payment for **loss**, we have no other obligation or liability to pay sums or perform acts or services unless explicitly provided for under Section I, Paragraphs 3. Defense and 4. Defense Costs.

3. Defense

The following terms and conditions apply to **claims** or **suits** to which this insurance applies as listed in General Liability, Law Enforcement Liability, Public Officials Liability, Employment Practices Liability, and Automobile Liability:

- a. The **retained limit** shall not be impaired by any **claim** or **suit** brought against an Insured to which this insurance does not apply.
- b. The Insured shall have the duty to investigate, defend or settle and to pay **loss** and **defense costs** for **claims** or **suits** within or equal to the **retained limit**.
- c. We have no duty to defend any **claim** or **suit** if any other insurer has a duty to defend that **claim** or **suit**.
- d. Subject to all of the terms and conditions of this Policy, our obligation to defend any **claim** or **suit** to which this insurance applies begins when your payment for judgments, settlements, or **defense costs** because of injury or damage equals your **retained limit**.
- e. We will not pay any **claim**, **suit**, or **defense costs** that the Insured offers or agrees to pay in excess of the **retained limit** unless the Insured obtains our prior written approval before offering or agreeing to pay any **claim**, **suit**, or **defense costs** in excess of the **retained limit**.
- f. We have the right but not the duty to associate in the defense of any **claim** or **suit** against the Insured for injury or damage which, in our sole opinion, may create an obligation for us under the terms and conditions of this Policy.
- g. We have the right but not the duty to investigate injury or damage or to assume control of the defense of any **claim** or **suit**, which in our sole opinion may create an obligation for us under the terms of this Policy. If we exercise our rights, the Limit of Insurance and the Insured's responsibility to pay the **retained limit** will remain unchanged.
- h. We have the right to conduct negotiations and enter into the settlement of any **claim** or **suit** as we deem appropriate if the **loss** sought in such **claim** or **suit** is in excess of the **retained limit** or which, in our opinion and based on the terms or conditions of this Policy, may create liability for us under this Policy.
- i. If we defend an Insured against a **claim** or **suit** and an indemnitee of the Insured is also named as a party to the **claim** or **suit**, we will defend that indemnitee if all the following conditions are met:
 - (1) The **claim** or **suit** against the indemnitee seeks **loss** for which the Insured has assumed the liability of the indemnitee in a contract or agreement that is an **insured contract**;
 - (2) This insurance applies to such liability assumed by the Insured;
 - (3) 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**;
 - (4) The indemnitee agrees in writing to:

- (a) Immediately send us copies of any demands, notices, summons or legal documents received in connection with the **claim** or **suit**;
 - (b) Cooperate with us in the investigation, settlement or defense of the **claim** or **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;
- (5) The indemnitee provides us with written authorization to:
- (a) Obtain records and other information related to the **claim** or **suit**; and
 - (b) Conduct and control the defense of the indemnitee in such **claim** or **suit**.

Our obligation to defend an Insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as **defense costs** ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements, or any condition set forth in Paragraphs i.(1). through i.(5). above are no longer met.

4. **Defense Costs**

The following terms and conditions apply to **claims** or **suits** to which this insurance applies under General Liability, Law Enforcement Liability, Public Officials Liability, Employment Practices Liability, and Automobile Liability:

- a. With respect to any **claim** or **suit** and for which we do not assume control of the settlement or defense:
 - (1) We will pay expenses we directly incur at our discretion; and
 - (2) We will not pay expenses:
 - (a) Incurred by any Insured;
 - (b) Included within the **retained limit**; or
 - (c) For which payment is available under any **other insurance**.
- b. We will pay, with respect to a **claim** or **suit** we investigate or settle, or a **suit** against an Insured we defend:
 - (1) All expenses we incur.
 - (2) The cost of bail bonds or bonds required to appeal judgments or release attachments, but only for bond amounts within the available Limit of Insurance. We do not have to furnish these bonds.
 - (3) Reasonable expenses incurred by the Insured at our request to assist us in the investigation or defense of such **claim** or **suit**, including actual loss of earnings up to \$500 per day because of time off from work.
 - (4) Court costs taxed against the Insured in the **suit**, except any attorney fees or litigation expenses or other **loss**, cost or expense in connection with any injunction or other equitable relief.
 - (5) Prejudgment interest awarded against the Insured on that part of a 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) Interest on the full amount of 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.

Defense costs we pay shall not reduce or exhaust the applicable Limit of Insurance provided by this Policy. However, when the applicable Limit of Insurance is exhausted by payment of **loss** because of injury or damage to which this insurance applies, our obligation to pay **defense costs** or to defend or continue to defend any **claim** or **suit** shall cease. We shall have the right to withdraw from the further defense of **claims** or **suits** by tendering control of such defense to the Insured.

SECTION II - EXCLUSIONS

Unless specifically stated otherwise, each of the following exclusions apply to all coverages provided under General Liability, Law Enforcement Liability, Public Officials Liability, Employment Practices Liability, and Automobile Liability.

This insurance does not apply to **loss, claims, or suits** alleging, based upon, arising out of, attributable to, directly or indirectly resulting from, in consequence of, or in any way involving:

1. Advertising Injury

- a. Caused by or at the direction of the Insured with the knowledge the act would violate the rights of another;
- b. Breach of contract, except an implied contract to use another's advertising idea in your **advertisement**;
- c. Failure of goods, products or services to conform with any statement of quality or performance or with the price stated in your **advertisement**; or
- d. 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.

2. Aircraft and Airports, Including Airport Boards

- a. Any liability arising out of the ownership, maintenance, licensure, permit, operation, use, **loading or unloading**, or entrustment to others of any aircraft, including manned or **unmanned aircraft**, owned or operated by or rented or loaned, with or without a crew, to any Insured. This exclusion applies even if the **claims or suits** against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured.
- b. Any liability arising out of the ownership, operation, maintenance, licensure, permit, or use of any airfields, runways, hangars, buildings or other properties used for aviation activities.

However, this exclusion does not apply to any coverage provided under General Liability if the **bodily injury or property damage** occurs in an area normally accessible to the public for the purposes of entering, leaving or using the **airport facilities**.

3. Asbestos Hazard

Any liability or obligation of the Insured which arises out of or would not have occurred in whole or in part, but for or related to the actual, alleged or threatened **asbestos hazard**.

4. **Biological Agent**

Any liability caused directly or indirectly, contributed to by, resulting from, arising out of, or in connection with the actual, alleged or threatened use or release of any nuclear weapon or device, or chemical or biological agent or contaminative, regardless of any other cause or event contributing concurrently or in any other sequence to the **loss**.

5. **Bodily Injury, Property Damage, Personal Injury or Advertising Injury**

- a. **Bodily injury** arising out of **personal injury** or **advertising injury**.
- b. With respect to coverage provided under Public Officials Liability and Employment Practices Liability, any **bodily injury, property damage, personal injury** or **advertising injury**.
- c. With respect to coverage provided under Automobile Liability, any **personal injury** or **advertising injury**.

6. **Claims Handling**

Any liability arising out of or related to the handling of **claims** or **suits** within your **retained limit** whether you investigate, defend or settle such **claims** or **suits** or elect a third party to investigate, defend or settle such **claims** or **suits**.

7. **Contractual Liability**

Any liability for which the Insured is obligated to pay **loss** by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for **loss**:

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

8. **Damage to Impaired Property or Property Not Physically Injured**

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

- a. A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
- b. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms and conditions.

This exclusion does not apply to **loss** of use of other tangible property resulting from sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

9. **Damage to Property**

Property damage to:

- a. Property owned by you;
- b. Property which has been sold, given away or abandoned by the Insured;

- c. Personal property in the care, custody or control of any Insured. However, this subsection does not apply to **property damage** occurring during **law enforcement activities** to personal property on a person at the time of arrest;
- d. That particular part of real property on which you or any of your contractors or subcontractors, working directly or indirectly on your behalf, are performing operations; or
- e. That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

A separate Limit of Insurance applies to Damage to Premises Rented to You as described in **Section IV – LIMITS OF INSURANCE**.

10. **Damage to Your Product**

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

11. **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.

12. **Dams**

Any liability caused by or arising out of the overtopping, accidental discharge, sudden rupture, bursting, over-topping, flooding, cracking, seepage, under-seepage, partial or complete structural failure of any **dam**.

13. **Designated Activities or Operations**

Any activities or operations of the following:

- a. Any agency, agencies, boards, commissions, units or their members whose liability is not the result of the oversight, control or direction of the Named Insured;
- b. Anyone in the business of selling, servicing, or repairing **autos** other than the Insured's **employees** performing maintenance or repair on **covered autos**;
- c. Gas utilities;
- d. Hospitals;
- e. Nursing homes;
- f. Port authorities;
- g. Public housing authorities;
- h. Schools; or
- i. **Service contractors**.

14. **Electromagnetic Radiation**

The actual or alleged exposure to **electromagnetic radiation**.

15. **Eminent Domain and Similar Property Law**

Any liability caused by, resulting from, or arising out of the taking, partial taking, temporary taking, deprivation, destruction, control of property, or resulting diminution of property value

by any means, method, or proceeding that involves or is in any way related to the principles of eminent domain, condemnation, inverse condemnation, adverse possession, right of prescription or dedication by adverse use.

This exclusion applies whether or not any **claim** is made directly against any insured or by virtue of any agreement entered into by or on behalf of any insured.

16. **Employee Benefits Liability**

With respect to coverages provided under Law Enforcement Liability, Public Officials Liability, Employment Practices Liability and Automobile Liability, any **employee benefits wrongful act**.

17. **Employee Compensation**

Any **claim**, award or settlement of back salary or wages or other **employee** compensation.

However, with respect to coverage under Employment Practices Liability, **loss** includes earned wages or compensation not paid by you for wrongful termination or **discrimination**.

18. **Employer's Liability, Injury to Volunteers**

Bodily injury, personal injury or advertising injury to:

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

This exclusion applies whether the Insured may be liable as an employer or in any other capacity or to any obligation to share **loss** or damages with or repay someone else who must pay **loss**.

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

19. **Employment Laws, Including Workers' Compensation**

Any premium, assessment, penalty, fine, benefit or other responsibilities, duties, obligations, rules or regulations imposed on any Insured under any such statutes or laws, amendments to such statutes or laws or similar provisions of any other federal, state, local or foreign statutory law or common law governing or relating to workers' compensation, unemployment insurance, Social Security, disability benefits or similar laws.

However, this exclusion does not apply to the extent that a **claim** or **suit** is for **retaliation**.

20. **Employment Practices Liability**

With respect to any coverage provided under General Liability, Law Enforcement Liability, Public Officials Liability, and Automobile Liability, any **loss**, injury, damage, **claim**, **suit**, or liability based upon, attributable to, arising out of, resulting from, in consequence of, or in any way involving, directly or indirectly, an **employment practices wrongful act**.

This exclusion applies:

- a. Whether the injury-causing event resulting in the **employment practices wrongful act** occurs before employment or after employment of that person or class of person;

- b. Whether the Insured may be liable as an employer or in any other capacity; and
- c. To any obligation to share **loss** with or repay someone else who must pay **loss**, injury or damages because of the injury.

21. ERISA

Any liability based upon or arising out of any activity for which the Insured is acting in a fiduciary capacity; or any violation of an Insured's fiduciary obligations under the Employee Retirement Income Security Act (ERISA) or the Consolidated Omnibus Budget Reconciliation Act (COBRA) as now constituted or hereafter amended; or any similar local, state or federal law, statute or regulation; or under any similar provisions or common law or any other law.

22. Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the Insured.

With respect to coverage provided under General Liability, this exclusion does not apply to:

- a. **Bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property; or
- b. **Bodily injury** and **property damage** resulting from an act by any Insured which is performed within their legal authority and arises out of their **emergency response operations** or emergency training operations.

With respect to coverage provided under Law Enforcement Liability, this exclusion does not apply to **bodily injury** caused by a **law enforcement wrongful act** in the course and scope of the performance of **law enforcement activities**.

23. Failure to Supply

Bodily injury or **property damage** arising out of the failure of any Insured to adequately supply gas, oil, water, electricity, steam or biofuel by any utility or municipal authority, whether owned or not by any Insured.

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

However, the exception above does not apply if the failure to provide such utility service is due to any of the following:

- a. Lack of regular maintenance or the improper care of mains, lines, grids, poles or any equipment;
- b. Inadequate power source if such inadequacy was known to the Insured prior to the **occurrence** and the Insured did not take steps to correct such inadequacy;
- c. Inadequate or improper training and/or skill level of responsible person(s) conducting the applicable utility operation(s); or
- d. Breach of an **insured contract**.

24. Fiduciary Obligations, Debt Financing, Financial Loss, Taxes

- a. Any Insured's activities as a fiduciary;
- b. Any debt offering or sale or debt financing, including but not limited to bonds, notes, debentures and guarantees of debt;

- c. The use, misuse, management, mismanagement, loss of or failure to return any monies relating to funds, grants and appropriations, including any breach of or failure to satisfy any such duty or obligation; or
- d. Any obligation to pay or the failure to pay taxes, the re-allocation of taxes, the re-calculation of taxes, tax refunds or the loss of tax benefits.

25. **Fraud, Dishonesty, or Criminal Act or Omission**

Any liability based upon, attributable to, arising out of, resulting from, in consequence of, or in any way directly or indirectly involving fraud, dishonesty or criminal act or omission committed by or at the direction of the Insured. This exclusion also applies to criminal fines or penalties assessed against any Insured.

The Insured shall be reimbursed for the reasonable **defense costs** in excess of the **retained limit** incurred in such **claim** or **suit** if the Insured is not found liable for such act, error, omission or violation.

26. **Fungi, Bacteria or Virus**

- a. Any **claim** or **suit** against the Insured for any **loss** 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**, bacteria, virus or other pathogens, including a colony or group of any of the foregoing, regardless of whether any other cause, event, material or product contributed concurrently with 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 any **fungi**, bacteria, virus or other pathogens, including a colony or group of any of the foregoing, by any insured or by any other person or entity.

27. **Governmental or Regulatory Authority**

Any **loss**, cost, fine, penalty, expense, **claim** or suit against any Insured arising out of a complaint or enforcement action from any federal, state or local government, regulatory agency or judicial entity, including any settlement with respect to the foregoing.

28. **Handling of Property**

With respect to coverage provided under Automobile Liability, any **bodily injury** or **property damage** resulting from the handling of property before it is moved from the place where it is accepted by the Insured for movement into or onto an **auto** owned, operated or leased by the Insured, or after it is moved from that **auto** to the place where it is finally delivered by the Insured.

29. **Health Care Facilities**

Any liability arising out of:

- a. A hospital or emergency room;
- b. A nursing or convalescent facility;
- c. An overnight medical facility;
- d. Any facility where surgical procedures are performed; or
- e. A pharmacy or other prescription drug or medical equipment dispensing facility.

Exceptions to the exclusion:

This exclusion does not apply to:

- a. A health department that is owned, operated, used, or maintained by the Insured. In no event will coverage apply to those facilities as described in a. through e. above; or
- b. Solely with respect to Law Enforcement Liability, an overnight medical facility as described in item c. above does not include a medical or health facility that is a part of an Insured's jail or correctional facility.

30. Health Care Practitioners

Bodily injury, property damage, personal injury, or advertising injury arising out of the rendering or failure to render medical services provided by:

- a. A physician, medical doctor, osteopath, chiropractor, resident, intern or extern;
- b. A psychiatrist;
- c. A pharmacist;
- d. A dentist, orthodontist or periodontist; or
- e. A nurse practitioner who prescribes medication.

Exceptions to the exclusion:

This exclusion does not apply to any employed:

- a. Coroner, Medical Examiner, or Forensic Pathologist, but only for their acts within the course and scope of their duties as such;
- b. Medical Director, but only for their **administrative acts** within the course and scope of their duties as a Medical Director for your Health Department; or
- c. **Licensed or Certified Health Care Practitioners** who are acting within the course and scope of their employment as such.

These exceptions to the exclusion only apply if the individual's license or certification is in good standing.

31. Insurance Related Activities

The failure to effect or maintain insurance, including the proper amount, form and provisions of such insurance or any plan or agreement relating to risk transfer or assumption.

32. Insured Against Insured

Claim or **suit** made or brought by, or on behalf of, any current or former Insured against any current or former Insured. However, this exclusion does not apply to a **claim** or **suit** against an Insured to the extent coverage is provided for an **employment practices wrongful act** under Employment Practices Liability.

33. Labor-Related Claims

Any liability arising out of, associated with, or involving any lockout, strike, picket line, hiring of replacement workers or similar actions in connection with labor disputes and labor negotiations.

34. Land Subsidence

Arising out of **land subsidence**, however called, for any reason whatsoever.

35. Law Enforcement Wrongful Act

With respect to coverage provided under General Liability, Public Officials Liability Employment Practices Liability and Automobile Liability, any liability or injury caused by, contributing to, resulting from, or arising out of any aspect of a **law enforcement wrongful act**.

This exclusion does not apply with respect to coverage provided under Employment Practices Liability for a **claim** or **suit** arising from an **employment practices wrongful act** committed by your law enforcement department.

This exclusion does not apply to any coverage provided under Automobile Liability for liability or injury which occurs in the course and scope of conducting **law enforcement activities**.

36. Lead Hazard

Any liability or obligation of the Insured which arises out of or would not have occurred, in whole or in part, but for or related to the actual, threatened, or alleged **lead hazard**.

37. Legal Services

Arising out of anyone providing legal services other than an attorney employed full time by the Named Insured while acting within the course and scope of their employment for the Named Insured.

38. Liquor Liability

Bodily injury or **property damage** for which any Insured may be held liable under liquor law, except host liquor law liability. This includes but is not limited to:

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

It is understood this exclusion applies even if the claims against any Insured allege negligence or other wrongdoing in:

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

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

However, this exclusion will not apply to liquor sales from facilities owned by the Insured where the predominant operation is other than the sale of liquor, including but not limited to golf course operations, Insured-sponsored events lasting five days or less, or any other operations within the Insured's operations when the primary operation is other than solely for the purpose of the sale of liquor.

39. Non-Monetary Damages

Relief or redress in any form other than monetary damages, or for any fees, including attorney fees, costs, or expenses that the Insured becomes legally obligated to pay as a result of any adverse judgment for declaratory, injunctive or other equitable relief.

However, we will afford defense to the Insured for a **claim** or **suit** seeking declaratory, injunctive, or other equitable relief in which covered monetary damages are also specifically pled, if not otherwise excluded.

40. Nuclear

- a. With respect to which any Insured under this Policy also has status as 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 have had status as an Insured under any such policy but for its termination upon exhaustion of its Limit of Insurance; or
- b. Arising out of, resulting from, or in any way related to the **nuclear hazardous properties** of **nuclear material** and with respect to which:
 - (1) Any person or organization is required to maintain financial protection pursuant to the United States of America Atomic Energy Act of 1954 or any law amendatory thereof; or
 - (2) 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.
- c. Arising out of, resulting from, or in any way related to the **nuclear hazardous properties** of **nuclear material**:
 - (1) If the **nuclear material**:
 - (a) Is at any **nuclear facility** owned or operated by or on behalf of any Insured;
 - (b) Has been discharged or dispersed therefrom or is contained in **nuclear spent fuel** or **nuclear waste** at any time transported, handled, stored, disposed of, processed, treated, or possessed or used by or on behalf of any Insured; or
 - (2) In any way related to the furnishing by any 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 (including its possession or territories) or Canada, this subparagraph c.(2) applies only to **nuclear property damage** to such **nuclear facility** and any property threat.

41. Personal Injury

Personal injury arising out of or caused by:

- a. An oral or written publication of material if done by or at the direction of an Insured with the knowledge of its falsity, or at the direction of the Insured with the knowledge that the act would violate the rights of another and would inflict **personal injury**;

- b. An oral or written publication of materials whose first publication took place before the inception of this Policy.

42. Pollution

The following exclusion applies to coverage provided under General Liability:

- a. **Bodily injury, property damage, personal injury**, or any other injury, damage, **loss**, cost, expense, liability, or legal obligation arising out of the actual, alleged, or threatened discharge, dispersal, seepage, migration, release, or escape of **pollutants**:

- (1) 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 Paragraph (1) does not apply to:

- (a) **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;

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

- (c) **Bodily injury** or **property damage** arising out of a discharge of **pollutants** as a result of one or more of the following perils: explosion, lightning, windstorm, vandalism or malicious mischief, collapse of a building or structure, flood, earthquake, riot, or civil commotion.

- (2) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any Insured or any person or organization for whom you may be legally responsible.

- (3) At or from any premises, site or location on which any Insured or any contractors or sub-contractors working directly or indirectly on the Insured's behalf are performing work related to the Insured's operations.

However, this Paragraph (3) does not apply to:

- (a) Liability arising out of the **products-completed operations hazard**; or

- (b) **Bodily injury** or **property damage** arising out of the discharge of chemicals used in any Insured's:

- (i) Sewage treatment operations, the escape or back-up of sewage or wastewater from any sewage treatment facility or fixed conduit or piping that you own, operate, lease, or control or for which you have the right of way, but only if **property damage** occurs away from land you own or lease;

- (ii) Water treatment operations, including potable water supplied to others;

- (iii) Treatment of swimming pools;

- (iv) Treatment of roads and other paved surfaces for weather conditions;

- (v) Application of herbicide and pesticide;

- (vi) Providing potable water to others; or

- (vii) **Emergency response operations**, including training exercises for **employees** and **volunteers** and water runoff from the cleaning of equipment used in an **emergency response operation**.

All liability arising from Paragraphs (1) or (3) above arising out of the same, interrelated, associated, repeated or continual discharge, dispersal, release or escape of **pollutants** shall be deemed one **occurrence**. The commencement of such discharge, dispersal, release or escape of **pollutants** shall be recorded and reported to the Risk Manager or designated Department Head within seventy-two (72) hours of the **occurrence**.

Regardless of whether any **claim** or **suit** against you has been made, you shall give written notice to us or any authorized brokers within forty (40) calendar days of the Risk Manager's or designated Department Head's recorded entry of such discharge, dispersal, release or escape of **pollutants** which may result in liability as described in Paragraphs (1) and (3).

The entirety of the coverage provided in Paragraphs (1) or (3) above applies only to sudden and accidental discharge that must meet the following additional criteria:

- (4) Commences abruptly during the **policy period**;
- (5) Is accidental, unintended and stopped as soon as possible;
- (6) Ends within seven (7) consecutive days of the date of its abrupt commencement; and
- (7) Becomes known to an Insured listed under Section III – Who Is An Insured, or to an **employee** authorized by you to give or receive notice of a **claim** or **suit**.

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

- (1) Request, demand, order, or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify, 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 **loss** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, or in any way responding to or assessing the effects of **pollutants**.

However, this paragraph does not apply to liability for **loss** 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.

The following exclusion is applicable to coverage provided under Law Enforcement Liability:

- a. **Bodily injury, property damage, personal injury or advertising injury** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release, escape, or potential presence in or introduction into the environment of any **pollutant**. Environment includes any air, land, structure (including the air within), watercourse or other body of water, including underground water; or
- b. Any **loss**, cost or expense arising out of any request, demand, order, statutory, regulatory requirement, or any other action authorized or required by law, and any costs, fees, expenses, penalties, judgments, fines, or sanctions arising out of or in any way connected to the **pollution hazard**.

However, this exclusion does not apply to **bodily injury** or **property damage** arising out of the use of mace, oleoresin capsicum, pepper gas or tear gas in the Insured's **law enforcement activities**.

The following exclusion applies to Public Officials Liability, Employment Practices Liability, and Automobile Liability:

Loss or damage which would not have occurred, in whole or in part, but for the **pollution hazard**.

43. Privacy and Network Risk

With respect to coverage provided under General Liability and Public Officials Liability, any **loss** or **defense costs** for any **claim** or **suit** made against any Insured based upon or arising out of, directly or indirectly:

- a. **Privacy wrongful acts**; or
- b. **Network security wrongful acts**.

This exclusion applies even if the **loss** is claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other **loss**, cost or expense incurred by the Insured or others arising out of that which is described in subparagraphs a. or b. above.

This exclusion does not apply to the extent to which coverage is provided in Section I – Coverages, Paragraph 2. Additional Insurance Coverage, Item b.(2)(c).

44. Procurement Process and Contracts

Any liability arising out of the procurement, bidding or awarding of contracts for:

- a. Goods or services;
- b. Construction projects or services; or
- c. Architectural or engineering services.

45. Professional Services

Any liability arising out of the rendering or failure to render **professional services**:

- a. By an engineer, architect or surveyor who is employed by you or who is performing work on your behalf in such capacity, including the preparation of, approval of or failure to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, drawings, designs and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the **claim** or **suit** against any Insured alleges negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured.

However, this exclusion does not apply to architectural, engineering or surveying **professional services** performed for you by your **employees** acting in the course and scope of their duties as such if the **professional services** are performed solely for the purpose of exercising the Insured's right of review or approval of maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications of other engineers or surveyors.

46. Public Officials Liability

With respect to coverages provided under General Liability, Law Enforcement Liability, Employment Practices Liability and Automobile Liability, any **public officials wrongful acts**.

47. Racing

The use of an **auto**, watercraft or **mobile equipment** in or while in practice or preparation for a prearranged racing, speed or demolition contest, or in any stunting activity.

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

Any **loss** or damage arising, directly or indirectly, out of any action or omission that violates or is alleged to violate:

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

49. Securities

Any liability arising out of:

- a. Any violation of any securities law or similar law or any regulation promulgated thereunder;
- b. The purchase, sale, offer of sale or solicitation of any security, debt, insurance policy, bank deposit, financial interest or instrument or any derivative investment;
- c. Any representations made at any time in relation to the price or value of any security, debt, insurance policy, bank deposit or financial interest or instrument; or
- d. Any depreciation or decline in price or value of any security, debt, insurance policy, bank deposit or financial interest or instrument.

50. Silica or Silica-Related Dust

- a. **Bodily injury** arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of or ingestion of **silica** or **silica-related dust**.
- b. **Property damage** arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of or presence of **silica** or **silica-related dust**.
- c. Any **loss**, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, disposing of, or in any way responding to or assessing the effects of **silica** or **silica-related dust** by any Insured or by any other person or entity.

51. Superfund Sites

Arising out of or in connection with any premises, location or site that is or has ever been designated a Superfund site.

However, this exclusion does not apply to:

- a. Your liability for **bodily injury** on those premises or elsewhere that are necessary or incidental to the ownership, maintenance or use of such premises; or
- b. Your liability for **property damage** to non-owned **autos** on those premises or elsewhere which are necessary or incidental to the ownership, maintenance or use of such premises.

52. Transit Authority

Arising out of or in connection with any transit authority, transit system or public transportation system owned, operated or regulated by any Insured.

This exclusion shall not apply to transit or public transportation systems operating over non-fixed routes, including but not limited to, Dial-a-Ride, senior citizen transportation or handicapped person transportation, or to contingent liability coverage where such non-fixed services are contracted to others.

53. Unaudited Financial Statements

Any **loss** or damage arising directly or indirectly out of any actual or alleged discrepancy or deviation from generally accepted accounting principles, or any error or false or misleading statement relating to the financial condition of the Insured or any operating unit of the Insured, with respect to any financial statement or disclosure document of the Insured.

54. Uninsured / Underinsured or No-Fault

Any **claim** or **suit** under any Uninsured Motorist, Underinsured Motorist, or No-Fault law, or any similar law, including any sums you may be legally entitled to recover as **loss** from the owner or operator of any uninsured or underinsured **auto** because of **bodily injury** or **property damage** to which this insurance applies, caused by an **accident** and resulting from the ownership, maintenance or use of a **covered auto** or a covered **emergency unit**.

This exclusion does not apply to the extent coverage is provided in Section I – Coverages, Paragraph 2. Additional Insurance Coverage, Item b.(3)(c)(ii).

55. Unjust Enrichment

Unjust enrichment or gaining profit, advantage or remuneration to which the Insured is not legally entitled.

56. Violation of Economic or Trade Sanctions

If coverage for a **claim** or **suit** under this Policy is in violation of any United States of America economic or trade sanctions, including but not limited to, sanctions administered and enforced by the United States Treasury Department's Office of Foreign Assets Control (OFAC), then coverage for that **claim** or **suit** shall be null and void.

57. Violation of Law, Ordinance or Regulation

The intentional violation of any federal, state or local statute, ordinance, rule or regulation, or the violation of any court order or judgment, including integration or desegregation, committed by or with the knowledge or consent of the Insured.

58. Wage and Hour and Other Compensation Practices

For any violation of the responsibilities, obligations or duties imposed by any federal, state or local statutory law or common law (including the Fair Labor Standards Act) or amendments to or regulations promulgated under any such law that governs wage, hour and payroll policies and practices, except the Federal Equal Pay Act or similar state law or local ordinance.

However, this exclusion does not apply to the extent that a **claim** or **suit** is for **retaliation**.

59. War

Loss or damage, however caused, arising directly or indirectly out of:

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

60. Watercraft

Bodily injury or **property damage** arising out of the ownership, maintenance, use or entrustment to others of any watercraft owned or operated by or rented or loaned to any Insured that is:

- a. Greater than 51 feet in length; or
- b. Being used to carry persons or property for a charge.

SECTION III - WHO IS AN INSURED

1. Each of the following is an Insured unless otherwise excluded:

- a. You.
- b. Limited Liability Company: If designated in the Declarations as a Limited Liability Company, your members are also Insureds but only with respect to the conduct of the limited liability company. Your managers are Insureds but only with respect to their duties as your managers. No person or organization is an Insured with respect to the conduct of any current or past limited liability company that is not listed as a Named Insured in the Declarations.
- c. Partnership or Joint Venture: If designated in the Declarations as a Partnership or Joint Venture, your members and partners are also Insureds but only with respect to the conduct of the partnership or joint venture. No person or organization is an Insured with respect to the conduct of any current or past partnership or joint venture that is not listed as a Named Insured in the Declarations.
- d. Agencies, Boards, Districts, Committees, Commissions or similar entities of the Named Insured: A governmental agency or authority, subdivision, department, municipal body, board or commission, or other similar unit that is operated by you and subject to your oversight, control or direction, and is operated with funds administered by you and allotted to such agency, authority, subdivision, department, municipal body, board or commission.

- e. Directors and Executive Officers: An individual while appointed as a Director or Executive Officer but only with respect to their duties as your officer or director and while acting within the course and scope of their authority.
 - f. Elected or Appointed Officials: An elected or appointed official of any board, commission or agency of yours, but only with respect to their duties and while acting within the course and scope of their authority as an elected or appointed official.
 - g. **Employees:** Your current and former **employees** while acting within the course and scope of their employment by you or while performing duties related to the conduct of your operations.
 - h. Legal Heirs, Representatives and Assigns: The estates, heirs, legal representative or assigns of a deceased person who was an Insured at the time of a covered **loss**, but only to the extent that such Insured would have otherwise been afforded coverage under this Policy.
 - i. **Licensed or Certified Health Care Practitioners:** Employed **licensed or certified health care practitioners** while acting within the course and scope of their employment.
 - j. Medical Professionals: Employed Coroners, Medical Examiners, Forensic Pathologists or Medical Directors but only while acting within the course and scope of their employment.
 - k. Newly Acquired Organizations: Any organization you newly acquire or form other than a partnership, joint venture, limited liability company or for-profit corporation, and over which you maintain ownership or majority interest will qualify as an Insured if there is no other similar insurance available to that organization. However:
 - (1) Coverage under this provision is afforded only until the 120th day after you acquire or form the organization or the end of the **policy period**, whichever is earlier.
 - (2) Coverage as provided by this Policy shall not apply to any liability arising from an **accident, occurrence, law enforcement wrongful act, employment practices wrongful act, public officials wrongful act, employee benefits wrongful act, loss**, cost, expense, or legal obligation occurring before you acquired or formed the organization.
 - (3) We reserve the right within the 120-day coverage period outlined above to endorse your Policy to exclude coverage for the new organization; however, we will provide a thirty (30)-day notice of such new organization being excluded.
 - l. Trustees: A trustee, but only for their duties as your trustee.
 - m. **Volunteers:** Your **volunteers** while acting within the course and scope of their activities for you at your direction.
2. Each of the following is an Additional Insured, subject to the terms, conditions and limitations described in this paragraph:
- a. Blanket Additional Insureds: Any person or organization to be an Additional Insured under an **insured contract** if agreed to by you prior to the **bodily injury, property damage, personal injury, or advertising injury**, but only with respect to liability arising out of your premises or operations. This insurance does not apply to **loss** arising out of any act, error or omission of the Additional Insured(s).

- b. Commandeered **Auto** or Equipment: The owner of commandeered **auto** or equipment, but only while such is in your temporary care, custody or control, and only while it is being used as part of an **emergency response operation** or law enforcement operation.
- c. Good Samaritan: **Employees** and authorized **volunteers** of your **emergency response operation** who are licensed nurses, emergency medical technicians, first responders or paramedics while acting as a Good Samaritan independent of activities on your behalf in the rendering of or failure to render **professional services** at the scene of an **accident** or medical emergency. In no event will such licensed professionals be an Insured when performing services on behalf of an **emergency response operation** that is not yours and for which they may be either **employees** or **volunteers**.
- d. Lessors of **Autos**: With respect to coverage provided under Automobile Liability, the lessor of an **auto** leased to an Insured; however, the lessor is an Additional Insured only for **bodily injury** or **property damage** resulting from **accidents** occurring while you or any other person is operating the leased vehicle with your permission.
- e. Lessors of Equipment, Including **Mobile Equipment**: With respect to coverage provided under General Liability or Law Enforcement Liability, the lessor of leased equipment, including **mobile equipment**, is an Additional Insured only with respect to **bodily injury**, **property damage** or **personal injury** caused by the maintenance, operation or use of equipment leased to you by such person or organization.
- f. Lessors of Premises: With respect to coverage provided under General Liability or Law Enforcement Liability, the lessor of premises leased to you is an Additional Insured only with respect to **bodily injury**, **property damage** or **personal injury** caused by your maintenance or use of that part of the premises leased to you by such person or organization. This insurance does not apply to any **occurrence** that takes place after you cease to be a tenant at that premises or to structural alterations, new construction or demolition operations performed by or on behalf of the lessor of the premises leased to you.
- g. **Mutual Assistance Agreements**: Any person or organization providing service to an Insured under a mutual assistance pact, joint powers agreement or similar arrangement, but only with respect to the conduct and scope of the **mutual assistance agreement** and only to the extent that they would otherwise be provided coverage under this Policy.
- h. Real Estate Managers: Persons (other than your **employees**) or organizations while acting as your real estate managers, but only for their duties as your real estate manager.
- i. State or Governmental Agency: With respect to coverage provided under General Liability or Law Enforcement Liability, any state or governmental agency or subdivision or political subdivision issuing a permit or authorization is an Additional Insured only with respect to operations performed by you or on your behalf for which the Additional Insured has issued a permit or authorization. This insurance does not apply to **bodily injury**, **property damage** or **personal injury** arising out of operations performed for the federal, state or local government or for **bodily injury** or **property damage** included within the **products-completed operations hazard**.

However, the insurance afforded to the Additional Insureds listed above applies only to the extent permitted by law and only if:

- (1) The insurance afforded to the Additional Insureds does not apply to **bodily injury, property damage or personal injury** arising out of the sole negligence of the Additional Insured for its own acts or omissions or those of its **employees** or anyone else acting on its behalf;
- (2) The insurance will not be broader than that which you are required by the contract or agreement to provide for such Additional Insured, nor will it provide broader coverage than the insurance provided under this Policy;
- (3) The insurance afforded to the Additional Insureds shall not increase the applicable Limits of Insurance shown in the Declarations; and
- (4) No person or organization is an Additional Insured for:
 - (a) An **occurrence** which takes place after the Insured ceases to be a tenant at the leased premises;
 - (b) An **occurrence** which takes place after the equipment lease expires; or
 - (c) An **accident** that takes place after the **auto** lease expires.

SECTION IV - LIMITS OF INSURANCE

1. Retained Limit

- a. We will pay on behalf of the Insured those sums in excess of the **retained limit** that the Insured becomes legally obligated to pay for any **occurrence, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, employment practices wrongful act, or accident** in accordance with all the terms and conditions of this Policy.
- b. The **retained limit** shown in the Declarations:
 - (1) Shall be reduced by your payment of **loss and defense costs** for each **occurrence, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, employment practices wrongful act, or accident**; and
 - (2) Applies separately to each and every **occurrence, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, employment practices wrongful act, or accident**.
- c. The **retained limit** shall not be eroded by any amounts for **loss, injury, damages, or defense costs** for any **occurrence, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, employment practices wrongful act, or accident** which takes place prior or subsequent to the **policy period**.
- d. If you insure or reinsure your **retained limit**, this Policy does not follow any of the terms and conditions of that insurance. Further, this Policy will not drop down below the **retained limit** stated in the Declarations.
- e. This Policy will not assume or satisfy any of your obligations under the **retained limit**.
- f. You agree that in the event of a judgment, settlement or **defense costs** in excess of the **retained limit**, all outstanding amounts within the **retained limit** will be due and payable to us upon demand. Such payment must be made before we have paid, tendered or deposited in court any part of said judgment, settlement or **defense**

costs. Failure by you to comply with this provision will not invalidate the Policy, but in the event of such failure, we will be liable only to the extent that we would have otherwise been liable had you complied with this provision.

2. Limits of Insurance

The Limits of Insurance shown in the Declarations and the provisions contained in this Section establish the most we will pay in excess of the **retained limit** regardless of the number of:

- a. Insureds;
- b. **Claims** made or **suits** brought;
- c. **Losses** or **accidents**; or
- d. Number of **covered autos** or covered **emergency units**; or
- e. Persons, organizations or governmental agencies making **claims** or bringing **suits**.

3. Occurrence Limit as Shown in the Declarations – Excess of Retained Limit

Subject to Paragraphs 2. above and 4. below, Limits of Insurance for **loss** apply to each Insuring Agreement as follows:

a. General Liability

- (1) The Each **Occurrence** Limit is the most we will pay in excess of the **retained limit** for the total of all **loss** because of **bodily injury, property damage** (including **bodily injury** and **property damage** included in the **products-completed operations hazard**), **personal injury** and **advertising injury** arising out of a single **occurrence**;
- (2) The Each **Employee** Limit is the most we will pay in excess of the **retained limit** for all **loss** sustained by any one **employee**, including **loss** sustained by such **employee's** dependents and beneficiaries, because of a single **employee benefits wrongful act** committed in the **administration** of your **employee benefits program**;
- (3) The Damage to Premises Rented to You Sublimit shown on the Declarations is the most we will pay in excess of the **retained limit** for all damages because of **property damage** to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one **occurrence** and caused by fire, lightning, explosion, smoke, water, leakage or discharge from an automatic fire protection or extinguishing system, or any combination thereof. Subject to the Damage to Premises Rented to You Sublimit shown on the Declarations, the most we will pay to refill or recharge an automatic fire protection or extinguishing system is \$2,500.

b. Law Enforcement Liability

The Each **Law Enforcement Wrongful Act** Limit is the most we will pay in excess of the **retained limit** for the total of all **loss** arising out of a single **law enforcement wrongful act**.

c. Public Officials Liability

The Each **Public Officials Wrongful Act** Limit is the most we will pay in excess of the **retained limit** for the total of all **loss** arising out of a single **public official's wrongful act**.

d. Employment Practices Liability

The Each **Employment Practices Wrongful Act** Limit is the most we will pay in excess of the **retained limit** for the total of all **loss** arising out of a single **employment practices wrongful act**.

e. Automobile Liability

The Each **Accident** Limit is the most we will pay in excess of the **retained limit** for the total of all **loss** arising out of **bodily injury, property damage and covered pollution cost or expense**, caused by an single **accident** and resulting from the ownership, maintenance or use of a **covered auto** or covered **emergency**.

4. **Aggregate Limits as Shown in the Declarations**

The Aggregate Limit is the most we will pay for all **losses** in excess of the **retained limit** for each coverage under the Insuring Agreement as follows:

a. General Liability

The Aggregate Limit of Insurance shown in the Declarations for General Liability is the most we will pay in excess of the **retained limit** for the total sum of all **losses** for **bodily injury, property damage, personal injury, advertising injury**, damage to premises rented to you and **losses** arising out of your **employee benefits wrongful acts**.

The **Products-Completed Operations** Aggregate Limit is the most we will pay in excess of the **retained limit** for the total sum of all **losses** because of **bodily injury and property damage** arising out of the **products-completed operations hazard**.

b. Law Enforcement Liability

The Aggregate Limit of Insurance shown in the Declarations for Law Enforcement Liability is the most we will pay in excess of the **retained limit** for the sum of all **losses** arising from your **law enforcement wrongful acts**.

c. Public Officials Liability

The Aggregate Limit of Insurance shown in the Declarations for Public Officials Liability is the most we will pay in excess of the **retained limit** for the sum of all **losses** arising out of your **public officials wrongful acts**.

d. Employment Practices Liability

The Aggregate Limit of Insurance shown in the Declarations for Employment Practices Liability, is the most we will pay in excess of the **retained limit** for the sum of all **losses** arising from your **employment practices wrongful acts**.

e. Automobile Liability

An Aggregate Limit does not apply to coverage provided under Automobile Liability.

Each applicable Insuring Agreement Aggregate Limit of Insurance will be reduced by **loss** as described above. Upon exhaustion of each Aggregate Limit of Insurance by such payments, our obligations under the applicable Insuring Agreement(s) will end.

5. Two or More Insuring Agreements

If multiple Insuring Agreements which are part of this Policy apply to the same related **claim** or **suit**, then only one Limit of Insurance and one **retained limit** shall apply to such **claim** or **suit**. We agree to make a good faith determination regarding which Insuring Agreement Limit of Liability and **retained limit** shall apply to the **claim** or **suit**. In making the determination, we will take into consideration the following factors:

- a. The central focus of the **claim** or **suit**;
- b. Those allegations which predominate in the **claim** or **suit**;
- c. Those allegations presenting the greatest covered exposure, taking into account the likelihood of success;
- d. Any factors that we in good faith deem relevant to the **claim** or **suit**.

In making the determination, we shall not consider the Limits of Insurance or the **retained limit** amounts or any erosion thereto of any Insuring Agreement.

6. Application of Limits of Insurance

The Limits of Insurance of this Policy apply separately to each consecutive annual period, starting with the beginning of the **policy period** listed in the Declarations. If the **policy period** is extended after issuance for an additional period of less than twelve (12) months, the **policy period** will be amended by endorsement, and an additional premium charge will be made. The extension will not reinstate or increase the Limits of Insurance provided under this Policy, nor will it change the scope of coverage provided hereunder.

In determining the Limits of Insurance that apply:

- a. Each and every **occurrence** arising out of any continuous, repeated or related **occurrence** shall be treated as a single **occurrence**, and the Limits of Insurance in effect at the first **occurrence** shall apply;
- b. Each and every **law enforcement wrongful act** arising out of continuous, repeated or related acts, errors or omissions committed in the course and scope of your **law enforcement activities** shall be treated as a single **law enforcement wrongful act**, and the Limits of Insurance in effect at the time of the first **law enforcement wrongful act** shall apply;
- c. Each and every **public officials wrongful act** arising out of continuous, repeated or related acts, errors or omissions shall be treated as a single **public officials wrongful act**, and the Limits of Insurance in effect at the time of the first **public officials wrongful act** shall apply;
- d. Each and every **employment practices wrongful act** arising out of continuous, repeated or related acts, errors or omissions shall be treated as a single **employment practices wrongful act**, and the Limits of Insurance in effect at the time of the first **employment practices wrongful act** shall apply; and
- e. Each and every **accident** arising out of any continuous, repeated and/or related **accident** shall be treated as a single **accident**, and the Limits of Insurance in effect at the first such **accident** shall apply.

SECTION V - DEFINITIONS

When used in this Policy, the following words shall have the following meanings:

1. **Accident** means continuous or repeated exposure to the same conditions resulting in **bodily injury** or **property damage**.
2. **Administration** means:
 - a. Providing information to **employees** or **volunteer** workers, including their dependents and beneficiaries, with respect to eligibility for or scope of **employee benefits programs**;
 - b. Handling records in connection with the **employee benefits program**; or
 - c. Effecting, continuing or terminating any **employee's** participation in any benefit included in the **employee benefits programs**.

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

3. **Administrative acts** means **administrative medicine**.
4. **Administrative medicine** means the practice of physicians who, as executive leaders, manage the integration of clinical medicine, strategic operations and other business activities. **Administrative medicine** does not include direct patient care.
5. **Advertisement** means an electronic, oral, written or other notice broadcast or published about goods, products or services, designed for the specific purpose of attracting the general public or a specific market segment to use such goods, products or services. **Advertisement** does not include any e-mail address, Internet domain name or other electronic address or metalanguage.
6. **Advertising injury** means injury, other than **bodily injury**, **property damage** or **personal injury**, sustained by a person or organization arising out of one or more of the following **offenses**:
 - a. Infringing upon another's copyright, trade dress or slogan in your **advertisement**.
 - b. 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.
 - c. The use of another's advertising idea in your **advertisement**.
7. **Airport facilities** means any portion of the airport building, including the airport terminal, which is owned and operated by the Insured. It also includes the vehicle parking lots and garages servicing the airport building, but only if such parking lots and garages are owned and / or operated by the Insured. **Airport facilities** do not include airfields, hangars, runways, any aviation area, or any building or area that is not owned or operated by the Insured.
8. **Asbestos hazard** means:
 - a. Any liability, **loss**, cost or expense based upon, resulting directly or indirectly from, arising in whole or in part out of, or in any way involving the mining, manufacture, distribution, sale, installation, removal, utilization, ingestion, inhalation or existence of or exposure to asbestos in any form, or any products or materials containing asbestos; or
 - 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 asbestos in any form, or

any products or materials containing asbestos, by any Insured or by any other person or organization.

9. **Auto** means:

- a. All land motor vehicles, trailers or semi-trailers, including any attached machinery or equipment, designed for use on public roads; or
- b. Any other land vehicle that is subject to a compulsory financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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

10. **Bodily injury** means physical injury to a person's body, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. **Bodily injury** includes mental anguish, mental injury, humiliation and shock if resulting directly from such physical injury. **Bodily injury** shall include care, **loss** of services and **loss** of consortium.

11. **Certified act of terrorism** means an act that is certified by the Secretary of the Treasury pursuant to the Federal Terrorism Risk Insurance Act.

12. **Claim** means a written demand received by any Insured for a **loss** alleging injury or damage to persons or property, including the institution of a **suit** for such **loss** against any Insured.

13. **Coverage territory** means worldwide if the Insured's responsibility to pay **loss** is determined in a **suit** brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.

14. **Covered auto** means:

- a. **Owned autos: Autos** you own and any trailers you do not own while attached to power units you own. This includes those **autos** you acquire ownership of after the Policy begins.
- b. **Hired autos: Autos** you lease, hire, rent or borrow. This does not include any **auto** you lease, hire, rent or borrow from any of your **employees**, partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
- c. **Non-owned autos: Autos** you do not own, lease, hire, rent or borrow that are used in conjunction with your operations. This includes **autos** owned by your **employees**, partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your operations.

15. **Covered pollution cost or expense** means any cost or expense arising out of:

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

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

- (1) That are or that are contained in any property that is:

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

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the **covered auto** or its parts if the **pollutants** escape, seep, migrate or are discharged, dispersed or released directly from an **auto** part designed by its manufacturer to hold, store, receive or dispose of such **pollutants**.

Paragraphs (2) and (3) above do not apply to **accidents** that occur away from premises owned by or rented to an Insured with respect to **pollutants** not in or upon a **covered auto** if:

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

16. **Dam** means any artificial barrier, including appurtenant works, which impounds or diverts water and which either:

- a. Is excess of twenty-five (25) feet in height, regardless of storage capacity; or
- b. Has an impounding capacity of fifteen (15) acre-feet or greater, regardless of structure height.

A structure not meeting the requirements stated in Paragraphs a. or b. above shall not be considered a **dam**.

17. **Defense costs** means reasonable and necessary legal costs and other expenses that can be directly allocated to a specific **claim** or **suit** incurred in the defense, investigation, or adjustment of **claims**, expenses for expert witnesses and expenses described in Section I, Paragraph 4. of this Policy.

Defense costs do not include the salaries or expenses of our **employees** or our administrative expenses.

Defense costs do not include the salaries and expenses of your **employees**, your administrative expenses or the fees paid to a claims servicing organization engaged by any Insured.

18. **Discrimination** means the unlawful treatment, including any violation of civil rights, with respect to a person's race, color, national origin, gender, marital status, age, sexual preference, physical or mental condition, or any other protected class or characteristic established by any federal, state or local statutes, ordinances, rules or regulations.

19. **Electromagnetic radiation** means but is not limited to magnetic energy, waves, field or forces generated, produced, distributed, transmitted or maintained by the charges, currents, frequencies, energy or forces of electricity that are generated, flowing or otherwise transmitted through or via the medium, methods and equipment designed to generate, produce, distribute, transport or transmit the electrical charges, currents, frequencies, energy or forces.
20. **Electronic data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data-processing devices or any other media which are used with electronically controlled equipment.
21. **Emergency response operation** means all operations conducted by your firefighting, emergency medical services or rescue squad units which are sanctioned by you.
22. **Emergency travel expenses** include the additional cost of travel, accommodating and rescue, including the cost of transporting personal baggage, of a Mayor, City Manager, Director or Officer of the Named Insured incurred as a direct result of the cancellation of that Insured Mayor, City Manager, Director or Officer's previously scheduled transport that necessitates re-scheduling within forty-eight (48) hours of the date and time that the **certified act of terrorism** was first initiated.
23. **Emergency unit** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads. However, **emergency unit** does not include **mobile equipment**, portable response equipment or any other **auto**.
24. **Employee** means any **leased worker** but does not include a **temporary worker**, a **volunteer** worker or a **service contractor**.
25. **Employee benefits program** means a program providing some or all of the following benefits to **employees** whether provided through a plan authorized by applicable law to allow **employees** to elect to pay for certain benefits with pretax dollars 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 and leave of absence programs including military, maternity, family and civil leave; tuition assistance plans; and transportation and health club subsidies; and
 - e. Any other similar benefits added thereto by endorsement.
26. **Employee benefits wrongful act** means any actual or alleged negligent act, error or omission in the **administration** of your **employee benefits program**.

All **claims** or **suits** for **loss** made by an **employee** because of an **employee benefits wrongful act** or a series of related **employee benefits wrongful acts**, including any **loss**

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 the Insured.

27. **Employment practices wrongful act** means one or more of the following actual or alleged employment-related **offenses**, including consequential emotional distress or mental anguish:
- a. Wrongful dismissal, discharge or termination of employment whether actual or constructive;
 - b. Harassment, including sexual harassment whether or not "quid pro quo," hostile work environment or otherwise;
 - c. **Discrimination** based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability or any basis prohibited by federal, state or local laws;
 - d. Breach of any manual of employment policies or procedures;
 - e. **Retaliation** in response to an **employee's**:
 - (1) Disclosure or threat of disclosure of any act by an Insured alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
 - (2) Actual or attempted exercise of any right that the **employee** has under law;
 - (3) Filing of any **claim** or **suit** under the Federal False Claims Act or any other federal, state, local or foreign whistleblower law;
 - (4) Misrepresentation, libel, slander, humiliation, defamation, invasion of privacy, infliction of emotional distress or mental anguish;
 - (5) Wrongful failure to employ or promote;
 - (6) wrongful deprivation of career opportunity;
 - (7) wrongful demotion, evaluation or discipline; or
 - (8) Breach of a contract to commence or to continue employment with an Insured.
28. **Fungi** means any type or form of fungus, including mold or mildew, other microorganisms and any mycotoxins, spores, scents or by-products produced by or released by **fungi**.
29. **Herbicides or pesticides** means insecticides, herbicides, pesticides, fungicides, nematocides, fertilizers or other chemicals or materials used in landscaping, lawn, garden, tree and shrub maintenance. This includes dispersal agents and other substances used during the application of **herbicides or pesticides** as a result of their interaction with other substances.
30. **Hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be.
31. **Identity theft event** means the misappropriation of **personally identifiable information** or any other confidential information which has resulted in the wrongful or fraudulent use of such **personally identifiable information**, including but not limited to fraudulently emulating the identity of an individual or corporation.
32. **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.

33. **Insured contract** means:

- a. A contract for a lease of premises; however, that portion of the contract for 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 the permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- 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 under which you assume the **tort liability** of another party to pay for **bodily injury** or **property damage**, to which this insurance applies, to a third person or organization.

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

- (1) 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;
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) 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 a. above and supervisory, inspection, architectural or engineering activities.

34. **Key individual replacement expenses** include:

- a. The costs of advertising the open position;
- b. Travel, lodging and meal expenses incurred in interviewing applicants for the open position; and
- c. Miscellaneous extra expenses incurred in finding, interviewing and negotiating with the applicants, including overtime pay, costs to verify the applicant's background, and references and legal expenses incurred to prepare employment contracts.

35. **Land subsidence** means the movement of land or earth including but not limited to sinking or settling of land, earth movement, earth expansion and / or contraction, earthquake, landslide, slipping, falling away, caving in, eroding, sinking, rising, shifting or tilting.

36. **Law enforcement activities** means:

- a. Any official activity, function or operation conducted by you or on your behalf in the course of your law enforcement operations;
 - b. The development, implementation and enforcement of all practices and procedures governing any aspect of your law enforcement operations;
 - c. The ownership, maintenance, operation or use of any premises by your law enforcement operations;
 - d. Any criminal prosecution activity by judicial officers and staff other than public defenders.
37. **Law enforcement wrongful act** means any actual or alleged act, error or omission, neglect or breach of duty, including violation of civil rights law, that results in **bodily injury, property damage** or **personal injury** that is committed by an Insured in the course and scope of conducting **law enforcement activities** for the Named Insured.
38. **Lead hazard** means any liability, **loss, claim, suit**, cost or expense based upon, arising out of, directly or indirectly connected or related to, or in any way involving the actual, alleged or threatened exposure to lead or:
- a. In any way involving the actual, alleged or threatened exposure to the ingestion, inhalation, absorption, contact, exposure, existence, handling, use, abatement, containment, existence, storage, transportation, presence, emanation, emission, transmission, release, dispersal, escape, treatment, removal or disposal of any lead;
 - b. Any request, demand, order or statutory or regulatory requirement that the 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 lead; or
 - c. A **claim** or **suit** by or on behalf of a governmental authority for **loss** or expense because of testing for, monitoring, cleaning up, removing, disposing, containing, treating, detoxifying, or neutralizing of, or in any way responding to or assessing the effects of lead.
39. **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 operations. **Leased worker** does not include a **temporary worker**, an **employee** or a **service contractor**.
40. **Licensed or certified health care practitioner** means an athletic trainer, audiologist, coroner, counselor, emergency medical technician, first aid attendant, hearing therapist, language therapist, licensed or registered nurse, nutritionist, dietician, paramedic, physical therapist, psychologist, social worker, speech pathologist or speech therapist.
41. **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, **auto** or watercraft;
 - b. While it is in or on an aircraft, **auto** or watercraft; or
 - c. While it is being moved from an aircraft, **auto** or watercraft to the place where it is finally delivered.
- 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, **auto** or watercraft.

42. **Loss or losses** means any monetary amount that an Insured is legally obligated to pay for a **claim** or **suit** filed against the Insured for **bodily injury, property damage, personal injury, advertising injury, employee benefits wrongful act, law enforcement wrongful act, public officials wrongful act, employment practices wrongful act** or an **accident** covered under this Policy, including but not limited to amounts for injuries, damages, judgments, settlements and awards.
- Loss or losses** does not mean fines, penalties or any matters which may be deemed uninsurable under the law.
- Loss or losses** in excess of the **retained limit** do not include **defense costs**.
43. **Malicious code** means unauthorized and either corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, worms, logic bombs, spyware or spider ware.
44. **Mobile equipment** means:
- a. A land motor vehicle designed for use principally off public roads; or
 - b. Any other land vehicle that is not subject to compulsory or financial responsibility laws of other motor vehicle insurance laws where it is licensed or principally garaged.
45. **Mutual assistance agreement** means a written agreement between agencies, organizations or jurisdictions that allows you to lend assistance across jurisdictional boundaries.
46. **Network** means computer hardware, software, firmware, and components thereof, including software and **electronic data** stored on or within the **network**, which are connected through two or more computers, including such **networks** accessible through the Internet, intranets, extranets or virtual private **networks**. **Network** shall not include the computer hardware, software, firmware, or components thereof, of any third-party provider of telephone, telecommunications, cable, Internet, or satellite services.
47. **Network security** means the use of hardware, software and firmware, including without limitation firewalls, filters, routers, intrusion detection software, antivirus software, automated password management applications and other authentication mechanisms, which are designed to control or restrict the access to a **network** or parts thereof. **Network security** shall also include the use of third-party service providers which provide or assist in the provisioning of such hardware, software and firmware.
48. **Network security wrongful act** means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty by any Insured or any party for whom an Insured is legally liable, which results in a breach of the **network security** resulting in:
- a. Unauthorized access to, use of or tampering with a **network**;
 - b. The inability of a third party to gain access to the Insured's services;
 - c. The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data**;
 - d. The denial, disruption, nonfunctioning or unavailability of Internet service, any intranet or private **network** or similar facility, or any website, search engine, portal or similar third-party application service;
 - e. An **identity theft event**;

- f. The transmission of **malicious code**; or
- g. The unauthorized release, disclosure or use of confidential and proprietary business information, including but not limited to patents, trade secrets, processing methods and customer lists.

49. **Nuclear facility** means any:

- a. **Nuclear reactor**;
- b. Equipment or device designed or used for:
 - (1) Separating the isotopes of plutonium or uranium;
 - (2) Processing or utilizing **nuclear spent fuel**; or
 - (3) Handling, processing or packaging **nuclear waste**;
- c. Equipment or device used for the processing, fabricating or alloying of **nuclear material** if at any time the total amount of such material is in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than:
 - (1) Twenty-five (25) grams of plutonium or uranium 233, or any combination thereof; or
 - (2) Structure, basin, excavation, premises or place prepared or used for the storage or disposal of **nuclear 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.

50. **Nuclear hazardous properties** include radioactive, toxic or explosive properties.

51. **Nuclear material** means by-product material, source material or special **nuclear material**. By-product material, source material and special **nuclear material** have the meanings given to them in the United States of America Atomic Energy Act of 1954 or in any law amendatory thereof.

52. **Nuclear property damage** includes all forms of radioactive contamination of property.

53. **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.

54. **Nuclear spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

55. **Nuclear waste** means any waste material:

- a. Containing **nuclear 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** described in the definition of **nuclear facility** above.

56. **Occurrence** means:

- a. With respect to **bodily injury** or **property damage** liability, an **accident**, including continuous or repeated exposure to substantially the same general harmful conditions.
- b. With respect to **personal injury** or **advertising injury**, a covered **offense**.

57. **Offense** means:

a. **Personal injury or advertising injury**;

All **personal injury** or **advertising injury** arising out of the repeated publication of the same material, regardless of the mode in which such material is communicated, shall be considered as arising solely out of one **offense**.

58. **Other insurance** means insurance or the funding of **losses** that is provided by or through another insurance company, risk retention group, group self-insurance or similar risk transfer approach, other than any funded by you and to which this insurance applies. It does not mean insurance that is purchased specifically to be in excess of the **retained limit** and the Limits of insurance afforded by this Policy.

59. **Personal injury** means, for the purposes of coverage provided under General Liability and Law Enforcement Liability, injury, including consequential **bodily injury**, arising out of one or more of the following **offenses**:

a. False arrest, false detention or false 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; or

d. False or improper service of process.

60. **Personally identifiable information** means:

a. Information from which an individual may be uniquely and reliably identified, including but not limited to an individual's name, address, telephone number, or e-mail address, in combination with their Social Security number, account relationships, account numbers, passwords, PIN numbers, credit card numbers or biometric information; or

b. Personal information as defined in any U.S. federal or state privacy protection law governing the control and use of an individual's personal and confidential information, including any regulations promulgated thereunder, or any similar or related laws or regulations of any foreign jurisdiction, including but not limited to:

(1) Nonpublic personal information as defined by Title V of the Gramm-Leach-Bliley Act of 1999 as amended and any regulations promulgated thereto;

(2) Protected health information as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH) as amended and any regulations promulgated thereto;

(3) Personal information as defined in the California Database Protection Act of 2003 and California A.B. 1950 as amended and any regulations promulgated thereto;

(4) Customer information held by a creditor or financial institution as defined by and protected under the FTC Red Flags Rule.

61. **Policy period** means the period beginning with the Effective Date shown in the Declarations and ending with the earlier of:

a. The date of cancellation of this Policy; or

- b. The expiration date shown in the Declarations.

62. Pollutants means:

- a. 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;
- b. Any other emission, odor, noise, oil, oil products, infectious or medical waste;
- c. Any substance exhibiting hazardous characteristics as defined by or identified on a list of hazardous substances issued by the United States Environmental Protection Agency or any state or local counterpart; or
- d. Any substance if such substance has or is alleged to have the effect of making the environment impure, harmful or dangerous.

63. Pollution hazard means:

- a. Any **claim**, damage, **loss**, cost, **suit** or expense of any kind arising out of the actual, alleged or threatened exposure to, generation, storage, transportation, emission, discharge, dispersal, seepage, removal, treatment or disposal, migration, release or escape of **pollutants**;
- b. Any **claim**, damage, **loss**, cost, **suit** or expense of any kind arising out of any regulation, order, direction, request, demand or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of **pollutants**; or
- c. Any **claim** or **suit** by or on behalf of a governmental authority for damage 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**.

64. Privacy wrongful acts means any actual or alleged act, error, misstatement, misleading statement, omission, neglect or breach of duty committed by any Insured or any party for whom an Insured is legally liable, which results in:

- a. The misappropriation or disclosure of, potential misappropriation or disclosure of, failure to keep secure or unauthorized use of **personally identifiable information**;
- b. A breach or violation of U.S. federal, state law or regulations associated with the security, confidentiality, control and use of **personally identifiable information** or any similar or related laws or regulations of any foreign jurisdiction;
- c. An **identity theft event**; or
- d. The unauthorized release, disclosure or use of confidential and proprietary business information, including but not limited to patents, trade secrets, processing methods and customer lists.

65. Products-completed operations hazard 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:

- a. Products that are still in your physical possession; or
- b. Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:
 - (1) When all the work called for in your contract has been completed.

- (2) When all the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- (4) Work that may need service, maintenance, correction, repair, or replacement but is otherwise complete will be treated as completed.

Products-completed operations hazard does not include **bodily injury** or **property damage** arising out of:

- a. The transportation of property unless the injury or damage arises on a vehicle not owned or operated by you; or
- b. The existence of tools, uninstalled equipment or abandoned or unused materials.

66. **Professional services** means any act or service performed in connection with an occupation or employment involving specialized training, knowledge, labor or skill and which requires special licensing by an agency, organization or entity authorized to issue such license.

67. **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.
- c. For the purposes of this insurance, **electronic data** is not tangible property.

68. **Public officials wrongful act** means an actual or alleged:

- a. Breach of duty by an Insured, neglect, error, misstatement, misleading statement or omission by an Insured; or
- b. Violation of civil rights protected under 42 USC 1981 et seq., or any similar federal, state, or local law by an Insured; or
- c. Violation of any state civil rights law;

that arises out of the discharge of duties for the Named Insured.

69. **Retained limit** means the amount stated in the Declarations. You shall retain this amount as self-insurance. The **retained limit** includes **defense costs**.

70. **Retaliation** means an adverse employment action taken against an **employee** in response to that **employee's** exercise of or availment to rights, privileges and protection under the law.

71. **Service contractor** means a person or organization that is under contract to provide specific services for the benefit of the Insured using workers:

- a. Who are **employees** of that person or organization; and
- b. Whose work and activities are generally under the control and direction of that person or organization.

72. **Silica** means silicon dioxide (occurring in crystalline, amorphous and impure forms), **silica** particles, **silica-related dust** or **silica** compounds.

73. **Silica-related dust** means a mixture or combination of **silica** and other dust particles.

74. **Suit** means a civil proceeding in which **loss** because of **bodily injury, property damage, personal injury, advertising injury, employee benefits wrongful acts, law enforcement wrongful acts, public officials wrongful acts, employment practices wrongful acts** or **accidents** to which this insurance applies are alleged. **Suit** includes:

- a. An arbitration proceeding in which such **loss** or **defense costs** 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 **loss** or **defense costs** are claimed and to which the Insured submits with our consent.

Suit does not mean an administrative or governmental hearing, proceeding or investigation of any kind.

75. **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.

76. **Tort liability** means a liability that would be imposed by law in the absence of any contract or agreement.

77. **Unmanned aircraft** means an aircraft that is not designed, manufactured or modified after manufacture to be controlled directly by a person from within or on the aircraft.

78. **Volunteer** means a person who is not your **employee**, who donates their 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.

79. **Your product:**

- a. Means any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - (4) Containers (other than **autos**), 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.

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

80. **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.

SECTION VI - CONDITIONS

1. Arbitration of Disputes Regarding Coverage

a. Mediation

If any dispute arises between the Insured and us involving this Policy or a **claim** or **suit**, it is hereby mutually agreed by the Insured and us that such dispute shall be referred to a qualified mediator in a good faith effort to negotiate a resolution of the dispute prior to the initiation of any arbitration or other proceedings. The party electing to mediate shall provide written notice to the other party setting forth its request to mediate and a brief statement regarding the issue to be mediated. The Insured shall provide Notice of Mediation to our representative as identified in the Declarations. The Named Insured is authorized and directed to accept the Notice of Mediation on behalf of any Insured.

b. Arbitration

As a condition precedent to any right of action hereunder, if a good faith effort to mediate pursuant to Paragraph a. above cannot resolve a dispute between the Insured and us involving this Policy or a **claim** or **suit** hereunder, it is hereby mutually agreed that such dispute shall be determined by final and binding arbitration before a single arbitrator. Such arbitration cannot be commenced until thirty (30) days after the conclusion of the mediation pursuant to Paragraph a. above. If the parties cannot mutually agree to select an arbitrator, the parties will refer the selection of the arbitrator to the American Arbitration Association.

2. Assignment

Assignment of interest under this Policy shall not bind us unless our consent is first endorsed hereon.

3. Authorization Clause

By acceptance of this Policy, the first Named Insured agrees to act on behalf of each Insured with respect to the giving and receiving of notice of each **claim** or **suit**, cancellation or nonrenewal, and the payment of premiums that may become due under this Policy; and each insured agrees that the Named Insured shall act on their behalf.

4. Bankruptcy

Bankruptcy, insolvency or inability to pay by the Insured will not relieve us of our obligations under this Policy.

Under no circumstances will such bankruptcy, insolvency or inability to pay in any way increase our liability or require us to drop down or in any way replace your **retained limit** or assume any obligation associated with your **retained limit**.

5. Cancellation or Non-Renewal

- a. The first Named Insured shown in the Declarations may cancel this Policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this Policy by mailing or delivering to the first Named Insured written notice of such cancellation in compliance with the applicable state regulations that apply to cancellation notices, but not less than:
 - (1) Ten (10) days before the effective date of cancellation, if we cancel for nonpayment of any premium when due; or
 - (2) Thirty (30) days before the effective date of cancellation, if we cancel for any other reason.
- c. If we decide to not renew this Policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the non-renewal in compliance with the applicable state regulations that apply to such non-renewal notice requirements, but not less than ninety (90) days before the expiration date of this policy.
- d. We will mail or deliver such cancellation or non-renewal notice to the Named Insured's last mailing address known to us.
- e. Notice of cancellation by us will state the effective date of the cancellation. The **policy period** will end on that date.
- f. If this Policy is cancelled, we will send the Named Insured any premium refund due. If we cancel, the refund will be pro-rata. If the Named Insured cancels, the refund will be less than pro-rata. The cancellation will be effective even if we have not made or offered a refund.
- g. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. Changes

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or change in any part of this Policy or stop us from asserting any right under the terms of this Policy. The terms can be amended or waived only by endorsement issued by us and made part of this Policy.

7. Claims Administrator

You must provide us with the name, address and contact information of any Claims Administrator used by you. We shall have the right, with thirty (30) days' notice to you, to conduct an audit of the Claims Administrator.

8. Conflicting Statutes

Terms of this Policy which conflict with the statutes of the state where this Policy is issued are amended to conform to the statutes of the state of the Insured's domicile.

9. Duties in the Event of an Occurrence, Law Enforcement Wrongful Act, Employment Practices Wrongful Act, Public Officials Wrongful Act, Accident, Employee Benefits Wrongful Act or Claim or Suit

- a. You must notify us as soon as practicable once you have knowledge of any **occurrence, law enforcement wrongful act, employment practices wrongful act, public officials wrongful act, accident, or employee benefits wrongful act** which may reasonably and subsequently give rise to a **claim or suit** being made

against an Insured that is likely to result in liability for us under this Policy. To the extent possible, notice should include:

- (1) How, when and where the **occurrence, law enforcement wrongful act, employment practices wrongful act, public officials wrongful act, accident, employee benefits wrongful act, claim or suit** took place;
 - (2) The names and addresses of any injured persons and witnesses;
 - (3) The date the **claim or suit** was received; and
 - (4) The nature and location of any injury or damage arising out of the **occurrence, law enforcement wrongful act, employment practices wrongful act, public officials wrongful act, accident, employee benefits wrongful act, claim or suit**.
- b. You must provide information in the manner specified above of any **occurrence, law enforcement wrongful act, employment practices wrongful act, public officials wrongful act, accident, employee benefits wrongful act, claim or suit** regardless of the coverage or liability, which:
- (1) Alleges sexual misconduct of any type;
 - (2) Involves terrorism or suspected terrorism;
 - (3) Is a class action **suit**;
 - (4) Names us as a defendant;
 - (5) Results in the establishment of a reserve which equals or exceeds 50% of the **retained limit**;
 - (6) Involves any of the following **bodily injury claims**:
 - (a) Amputation;
 - (b) Blindness;
 - (c) Brain damage;
 - (d) Burns, second or third degree burns over 30% of the body;
 - (e) Disability;
 - (f) Disfigurement;
 - (g) Fatalities;
 - (h) Hearing impairment;
 - (i) Loss of limb;
 - (j) Loss of work time of six months or greater;
 - (k) Paralysis; or
 - (l) Spinal cord injuries.
 - (7) In the event that the Insured reports an **occurrence** to the workers' compensation and / or employer's liability carrier of the Insured, and this **occurrence** later develops into a **claim** under General Liability, the failure to report such **occurrence** to us at the time of the **occurrence** is not a violation of this condition. However, you must give us notice as soon as practicable after

being made aware that the particular **claim** or **suit** is a General Liability **claim** or **suit**.

c. With respect to Automobile Liability, you must report your pollution clean-up and removal expenses to us in writing within 180 days or the earlier of:

- (1) The date of the covered direct physical loss or **accident**; or
- (2) The end of the **policy period**.

No Insured will, except at that Insured's own cost, voluntarily make a payment, assume an obligation or incur any expense in excess of the **retained limit** without our written consent.

10. Examination of Books and Records

We may examine your books and records as they relate to this Policy at any time during the **policy period** and up to three (3) years afterward.

11. Inspections and Surveys

We have the right but are not obligated to make inspections and surveys at any time. Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. Such inspections are not safety inspections. We do not undertake any duty to provide for the health or safety of any person, and we do not represent or warrant that conditions are safe and healthful or comply with laws, regulations, codes or standards.

12. Legal Action Against Us

No one may bring a legal action against us under this Policy unless all its terms have been fully complied with.

Other than provided to you or as expressly provided for by law, this Policy grants no rights whatsoever to any person or organization to sue us or join us as a party to any action against any Insured to determine the liability of the Insured, nor shall we be impleaded by any Insured or its legal representatives.

13. Other Insurance

If other valid and collectible insurance applies to a **claim** or **suit** covered by this Policy and is subject to Section IV – Limits of Insurance of this Policy, this Policy will apply excess of the **other insurance**, whether this insurance is primary, excess or contingent or issued on any other basis.

The insurance under this Policy is not subject to the terms, conditions or limitations of any **other insurance** Policy.

The Insured shall promptly, upon our request, provide us with copies of all such policies or documentation.

14. Premiums

- a. The Named Insured:
 - (1) Is responsible for payment of all premiums when due; and
 - (2) Will be the payee for any return premiums we pay.
- b. The Named Insured must keep records of the information we need for premium computation and must send us copies at such times as we may request.

15. Representations

By accepting this Policy, you agree that:

- a. The statements and representations made by the Insured in the application for this Policy are accurate and complete; and
- b. We have issued this Policy in reliance upon your statements and representations.

Coverage will continue to apply if you:

- (1) Unintentionally fail to disclose all hazards existing at the inception of this Policy;
or
- (2) Unintentionally make an error, omission, or improper description of premises, or other statement of information stated in this Policy.

You must notify us as soon as possible after discovery of any hazard or any other information that was not provided to us prior to the acceptance of this Policy.

This provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal under this Policy.

16. Separation of Insureds

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

17. Sovereign Immunity and Damage Caps

For any amount for which the Insured would not be liable under applicable governmental or sovereign immunity but for the existence of this Policy the issuance of this insurance shall not be deemed a waiver of any statutory immunities by or on behalf of any Insured, nor of any statutory limits on the monetary amount of liability applicable to any Insured were this Policy not in effect.

With respect to any **claim** or **suit**, we expressly reserve all rights to deny liability because of such immunity, and we assert the limitations as to the amount of liability as might be provided by law.

18. Transfer of Rights of Recovery Against Others to Us

If any Insured has rights to recover all or part of any payment we have made under this Policy, those rights are transferred to us. The Insured must do nothing after the **loss** to impair them. At our request, the Insured will bring **suit** or transfer those rights to us and help us enforce them. In the event of recovery, the proceeds will be divided in the following priority order, including those expenses incurred in pursuing such recovery:

- a. Any Insured or insurer who paid amounts in excess of the Limit of Insurance of this Policy;
- b. Our expenses and payments made under this Policy;
- c. You and any other insurer who paid an amount below our Limits of Insurance of this Policy.

19. When/If We Permit You to Select Defense Counsel

With respect to our right and duty to defend **claims** in excess of the **retained limit** under the terms of this Policy, we may, at our discretion and by mutual agreement or by court order, permit you to select defense counsel subject to the applicable Limits of Insurance of this coverage form. In such event, the following provisions apply:

- a. We retain the right, at our discretion, to settle, approve or disapprove the settlement of any **claim** or **suit** and to appeal any judgment, award or ruling at our expense.
- b. You and any other involved insured must comply with the Duties in the Event of an Occurrence, Law Enforcement Wrongful Act, Employment Practices Wrongful Act, Public Officials Wrongful Act, Accident, Employee Benefits Wrongful Act or Claim or Suit Condition of this Policy, as well as all other provisions of this Policy; and
- c. You must direct defense counsel of the Insured to furnish us with the information we request to evaluate those **claims** or **suits** for coverage under this Policy, and cooperate with any counsel we may select to monitor or associate in the defense of those **claims** or **suits**.
- d. If we defend you under a reservation of rights, both your and our counsel will be required to maintain records pertinent to your **defense costs**. These records will be used to determine the allocation of any **defense costs** for which you may be solely responsible, including defense of an allegation not covered by this insurance, and are subject to our inspection and audit at our request.
- e. Defense counsel must comply with our representative's defense counsel guidelines.