COUNCIL
OF
CONTRACTING AGENCIES
AND
NEW YORK STATE PROCUREMENT COUNCIL

~~PROCEDURE MANUAL~~GUIDELINES
FOR
INSURANCE REQUIREMENTS
IN CONTRACTS~~AGREEMENTS~~

Adopted by the Council of Contracting Agencies on December 14, 2010

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Updated ~~May 1, 2013~~

~~PROCEDURE MANUAL~~

~~FOR INSURANCE REQUIREMENTS~~

~~IN AGREEMENTS~~

The Council of Contracting Agencies is comprised of the following agencies and public authorities:

NYS Office of General Services

NYS Department of Environmental Conservation

NYS Department of Transportation

NYS Division of Budget

Dormitory Authority – State of New York

Hudson River Park Trust

NYS Insurance Fund

NYS Office of Parks, Recreation and Historic Preservation

NYS Thruway Authority

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If you have questions about these guidelines~~is manual~~ or suggestions on how to improve these guidelines~~manual~~, please contact the Council of Contracting Agencies' Insurance Subcommittee ~~us~~ at ~~[~~CCA.Insurance.Manual@OGS.NY.gov~~]~~. If you require assistance with determining the appropriate insurance types and/or limits for ~~a~~your contract~~/agreement~~, please contact your Agency's/Authority's Insurance Analyst~~risk manager or Legal Department representative~~.

TABLE OF CONTENTS

I. FOREWORD i

II. MISSION STATEMENT i

III. INTRODUCTION ii

A. Distribution

B. Purpose

IV. CHAPTERS

Chapter 1 – How to Use These Guidelinesis Manual ..... 1 - 3

Chapter 2 – Insurance Coverages – Descriptions and Applications ..... 4 - 20

Chapter 3 – Model Insurance Language ..... 21 - 33

Chapter 4 – Recommended Policy Limits ..... 34 - 38

Chapter 5 – Contract Administration ..... 39 - 40

Chapter 6 – Glossary of Insurance Terms ..... 41 - 51

V. EXHIBITS

A. Certificate of Insurance Forms –

1. Exhibit A.1. – Sample ACORD Certificate of Liability Insurance (ACORD 25 (2014/01))
2. Exhibit A.2. – Sample ACORD Certificate of Property Insurance (ACORD 27 (2009/12))
3. Exhibit A.3 – Sample ACORD Certificate of Commercial Property Insurance (ACORD 28 (2014/01))
4. Exhibit A.4 - Sample Construction Certificate of Liability Insurance Addendum (ACORD 855 NY (2014/05))
2.5. List of Acceptable Workers' Compensation and Disability Benefits Forms
3.6. Exhibit A.53-A.75. – NYS Workers' Compensation Forms
4.7. Exhibit A.86-A.97. – Disability Forms
5.8. Exhibit A.108. – CE- 200 Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Insurance Coverage
6. Exhibit A.9. Supplemental Insurance Certificate
7.9. Exhibit A.110. – ELANY Affidavit

B. Guidelines for Submitting Evidence of Insurance to "AGENCY"

1. Exhibit B.1. – Guidelines for Submitting Evidence of Insurance
2. Exhibit B.2. – Sample Letter

C. "AGENCY" Procedures for Tracking and Approval and "AGENCY" Insurance Approval Form

1. Exhibit C. 1. – Procedure for Tracking and Approving Certificates of Insurance
2. Exhibit C. 2. – Insurance Approval Form

D. "AGENCY" Insurance Analysts

E. Reference Materials

- New York State Workers' Compensation Board "Employer's Handbook":

  http://www.wcb.state.ny.usgov/content/main/Employers/EmployerHandbook.pdf

- "Prove it to Move it Program" – New York State Workers' Compensation Board Instruction Manual – State & Municipal Agency Requirements Under General Municipal Law §125 & WCL §57 & §220 for Workers' Compensation And Disability Benefits:

  http://www.wcb.state.ny.usgov/content/main/Employers/ProveItToMoveIt5-2010.pdf

- Insurance Services Office (ISO) Forms:

1. **CG 00 01 01 96** Commercial General Liability Coverage Form
2. **CG 20 10 11 85** Additional Insured – Owners, Lessees or Contractors – (Form B)
3. **CG 22 79 07 98** Exclusion – Contractors – Professional Liability
4. **CG 22 80 07 98** Limited Exclusion – Contractors Professional Liability
5. **CG 25 03 11 85** Amendment – Aggregate Limits of Insurance (Per Project)
6. **CA 99 48 03 06** Pollution Liability – Broadening Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage Forms
7. **CA 00 12 03 06** Truckers Coverage Form
8. **CG 00 14** Special Protective and Highway Liability Policy – New York Department of Transportation
9. **CG 00 09** Owners and Contractors Protective Liability Coverage Form – Coverage for Liability of Designated Contractor
10. **MCS 90** Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980

I. FOREWORD

The Council ~~of Contracting Agencies~~ was created within the New York State Executive Department by Executive Order Number 125 on May 22, 1989 to ensure the systematic collection and timely exchange of information relevant to agency determinations of the responsibility and reliability of bidders, contractors[1] and proposed subcontractors. On June 24, 2004, the Council of Contracting Agencies established the Insurance Subcommittee for the purposes of establishing general insurance standards and practices among participating Council ~~Agency~~ members.

II. MISSION STATEMENT

The Council ~~has~~ prepared these guidelines~~is manual~~ to serve as a reference tool. It is designed to advise personnel who prepare or negotiate contracts, leases, permits and other agreements, or who are responsible for administering those agreements~~contracts, leases, permits, etc.~~, including ~~the~~ individuals responsible for reviewing insurance documentation~~of Certificates of Insurance~~. These guidelines ~~manual~~ offer informations ~~guidelines~~ on how to structure contract insurance provisions, and how to monitor Contractor compliance with those requirements.

The goal of these guidelines~~is manual~~ is to provide a standard for consistent insurance-related language and requirements for use in ~~Agency~~ contract documents. While the standards referenced in these guidelines ~~manual~~ have been developed via a collaborative effort involving ~~all of the~~ participating ~~agencies~~ Council members and insurance industry representatives, and the Council believes these standards ~~to~~ best meet the needs of the State~~Agencies operating in~~ given the current contract and insurance industry environments, the Council also recognizes that ~~each agency~~ governmental entities have~~face~~ their~~s its~~ own unique operations and contracting needs. Therefore, it is understood that each Agency[2] may find a need to deviate from the standards presented here as it deems necessary.

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[1] The term "Contractor" as used in these guidelines~~is manual~~ shall refer to any third party entering into a contract with the Agency. As such, the term may encompass ~~construction~~ Ccontractors, consultants, ~~vendors~~, licensees, grantees, permitees, lessees, tenants and/or others as applicable to the Agency's operations.

[2] The term "Agency," as used in these guidelines~~is Manual~~, shall refer to the officer, board, department, commission, authority, fund, or public benefit corporation executing the contract~~Agreement~~.

III. INTRODUCTION

Distribution

This set of instructions should be distributed to Agency personnel who:

1) Draft and/or negotiate capital, operating, and revenue contracts;

2) Draft and negotiate real estate agreements including leases and licenses;

3) Draft and review permits, and/or

4) Are responsible for administering any of the above, including reviews of evidence of insurance provided by Contractors.

Purpose

An Agency requires most suppliers of goods and services, licensees, permittees, Ceontractors and tenants to maintain insurance covering the Agency against claims or judgments. The Agency requires proof that these requirements have been met, usually through the submission of ~~in the form of~~ a Certificate of Insurance and applicable amendatory endorsements.

Most ~~The standard~~ contracts~~agreements~~ contain a description of the required insurance and an indemnification clause. The indemnification clause automatically takes effect when the contract~~agreement~~ is signed, but evidence that the required insurance is in place must be requested and provided in an acceptable format.

Thi~~ese guidelines manual~~ provides guidelines for including insurance requirements in contracts~~agreements~~ and ~~how to~~ monitoring compliance with those requirements. These guidelines do~~is manual does~~ not address hold harmless/indemnification provisions, which should be drafted and/or reviewed by the Agency's legal counsel.

CHAPTER 1 - HOW TO USE THESE GUIDELINES~~IS MANUAL~~

This chapter describes (1) the steps that are necessary to develop or draft insurance clauses in Agency contracts, leases, permits, and other agreements where a Contractor is required to provide insurance, (2) the resources available in these guidelines~~is manual~~ to assist in that process, (3) how to communicate insurance requirements to the Contractor, and (4) how to follow-up once insurance documentation has been received.

STEP 1. SELECT APPROPRIATE INSURANCE REQUIREMENTS

Insurance requirements must be specified as part of the initial procurement documents (Invitation for Bids, Request for Proposals or Letting Proposal) in order to put all prospective Contractors on notice as to the types of insurance and required limits applicable to the prospective contract. This may be done by providing insurance specifications or by referencing a draft contract that sets forth the insurance requirements to be applied to the contract. As recommended by these guidelines~~is Manual~~, insurance specifications will vary according to the scope of services and the value of the contract, so the Agency should be prepared with specifications that ~~will be included in~~are applicable to the ~~types of contracts for the~~ goods and services that are being procured.

Chapter 2 provides a description of those types of insurance coverage that are most frequently required in Agency contracts, and explains when each line of coverage should be required.

[**Note:** The guidelines in Chapter 2 list most situations that require insurance language, but do not fit all situations. If a project involves an unusual activity or risk that is not included in this list, or if the guidelines do not appear to cover a given situation, the ~~a~~Agency's Insurance Analyst should be consulted[3]].

STEP 2. SELECT APPROPRIATE INSURANCE LANGUAGE

After the insurance requirements have been determined, it is necessary to describe those requirements in the contract/solicitation language. Sample contract/solicitation language is provided in Chapter 3, which is divided into three sections.

- The "Insuring Requirements" language serves as an introduction to the insurance specifications and should be used in every contract/solicitation. This language outlines when insurance is required and what type of insurance carrier that will be accepted by the Agency.

- The "General Conditions" language details those requirements that will be applied to all insurance policies provided by the Contractor. It should also be included in every contract/solicitation ~~or agreement~~.

- The third section, "Specific Coverages and Limits" provides model contract insurance language for each line of coverage that may be required, based on the activities and risks

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[3] The term "Insurance Analyst," as used in these guidelines~~is manual,~~ shall refer to the position(s) in the ~~organization~~ Agency that is responsible for reviewing, evaluating, and recommending for (dis)approval insurance documentation~~those certificates~~ submitted by outside ~~vendor~~Contractors, ~~contractors,~~ etc. for compliance with the contract documents. The "Insurance Analyst" may also be responsible for recommending alternative insurance language and/or requirements for use in contract documents based on the Agency's procedures and needs.

anticipated. Certain lines of coverage, including Workers' Compensation, Disability, and General Liability should be required in every Contract because of the nature of the coverage. Other lines may be stricken from the Contract if they do not apply to the activities and/or risks anticipated by the scope of the contract~~work~~. Similarly, the Agency may need to add to the list of required insurance policies if the lines described in these guidelines~~is Manual~~ do not adequately address the risks posed by the scope of the contract~~work~~.

The Agency must determine which lines of coverage apply to the Contract at hand and modify the language as required. Any changes to or deviations from the model language offered in Chapter 3 should be reviewed with the Agency's Insurance Analyst.

STEP 3. ADD APPROPRIATE INSURANCE LIMITS TO CONTRACT LANGUAGE

Contracts must specify the amount of each line of insurance coverage that the Contractor is to provide. Those amounts should be based on the potential exposure to claims stemming from the goods, work or operations that are the subject of the ~~C~~contract ~~or Agreement~~.

Chapter 4 includes three (3) matrices indicating minimum policy limits, as recommended by the Council of Contracting Agencies' Insurance Subcommittee. Matrix A addresses Capital Construction operations and those forms of insurance coverage that are most frequently required to address the exposures inherent in construction. Where applicable, ~~the m~~Matrix A calls for policy limits to be applied on a per-project or per-contract basis, and the recommended limit may vary based on the value of that project or contract, as indicated on ~~the m~~Matrix A or in the footnote's thereto. Matrix B addresses Building Services and those forms of insurance coverage that are most frequently required to address the exposures inherent in that work. Matrix C addresses Procurement/Services/ Commodities contracts ~~and agreements~~. The matrices list the types of contracts most frequently used by ~~the~~ Agencies,~~y~~ as well as the forms of insurance that are most frequently required~~, including discretionary purchasing.~~. As explained above, the recommended limit may vary based on the value of the contract and/or project at hand, but consideration should be given to including insurance requirements in all transactions, including those which fall under an Agency's discretionary purchasing guidelines.

The recommended limits and forms of insurance coverage listed in the matrices contemplate only those exposures that are considered most common for the subject operations; ***the limits and lines of insurance coverage shown in the matrices are not intended to apply to all contracts or anticipated operations***. The Agency must take into consideration the potential exposure created by the goods, work or operations that are the subject of the contract ~~or agreement~~. The forms of insurance coverage required, as well as the limits required for each line of coverage, should be adjusted commensurately.

STEP 4. PROVIDE THE "CONTRACTOR" WITH GUIDELINES FOR SUBMITTING EVIDENCE OF INSURANCE

If it has not already been communicated as part of the procurement process, once a Contractor has been selected to perform work pursuant to a contract~~n agreement~~ where insurance is required, the Contractor should be provided with the guidelines for submitting evidence of insurance to the Agency. At a minimum, those guidelines should include a sample Certificate of Insurance form, information on any applicable amendatory endorsements, ~~along with~~ a copy of the Workers' Compensation/NYS Disability Form List~~, and the Supplemental Insurance Certificate~~. The

ACORD 25 is the insurance industry standard ~~for~~ Certificate of Liability Insurance forms. In addition, Agencies may require submission of an ACORD 27 (Certificate of Property Insurance), ACORD 28 (Certificate of Commercial Property Insurance), ACORD 855 (Construction Certificate of Liability Insurance). An ACORD is not acceptable proof of New York State workers' compensation and disability benefits coverage for New York State governmental entities. Proof of those coverages must be documented on forms specified by the Chair of the New York State Workers' Compensation Board (see Exhibit A).

~~When accompanied by a Supplemental Insurance Certificate, the CCA Insurance Subcommittee believes the ACORD 25 form, or an equivalent, is sufficient to meet the needs of the Council's participating Agencies, except as regards Workers' Compensation and Disability benefits, which must be documented on forms specified by the Chair of the New York State Workers' Compensation Board (see Exhibit A).~~

[**Note**: Based on its specific needs and procedures, each Agency should develop its own requirements for securing evidence of insurance from ~~the~~ Contractors and subcontractors, and communicate those requirements ~~to the Contractor~~ in writing. These requirements may include, for example, original documents submitted by an insurance carrier or agent on behalf of the Contractor. Sample guidelines together with a sample letter to ~~the~~ Contractors and subcontractors are provided in Exhibit B].

STEP 5. REVIEW INSURANCE DOCUMENTATION FOR COMPLIANCE

The Agency must review and approve all Certificates of Insurance and other forms of insurance documentation submitted by Contractors and subcontractors prior to the start of work. Requests for approval must be sent to the appropriate Insurance Analyst via an Insurance Approval Form (see Exhibit C), or an equivalent form. Copies of the relevant insurance requirements and indemnification language, as well as some documentation identifying the contract~~agreement~~ (such as the cover sheet or first page of the contract~~agreement~~), should accompany the request.

The Insurance Analyst will review the Certificate(s) and other documentation. If the documentation is not satisfactory, the Insurance Analyst will promptly notify the Contractor and/or the contract/ project manager, as per the Agency's procedure, with an explanation as to why the insurance has not been approved. If the documentation meets approval, the Insurance Analyst signs the Insurance Approval form and returns it to the appropriate party, as per the Agency's procedures.

STEP 6. FOLLOW-UP ON EXPIRING INSURANCE

If any policies will expire during the term of the contract~~agreement~~, the Insurance Analyst will diary the forms for 30 days before the expiration of the insurance. At that time, if proof of renewal or replacement of coverage has not been received, the Insurance Analyst will send a letter to the Contractor stating that the Agency requires receipt of a new Certificate of Insurance before the existing coverage expires.

[**Note**: Each individual Agency should revise the above processes as necessary to meet its specific needs and internal policies/operations].

CHAPTER 2 - INSURANCE COVERAGES – DESCRIPTIONS AND APPLICATIONS

This chapter describes each line of insurance coverage and outlines the basic considerations in compiling insurance language. It is intended to provide guidance to those personnel at the Agency who are responsible for drafting ~~standardized~~ language for use in contracts~~agreements~~. The guidelines in this chapter were used ~~by the Agency~~ to develop the model contract insurance language set forth in Chapter 3 and the recommended policy limits set forth in Chapter 4.

The topics in this chapter are as follows:

1. General Requirements for all Insurance Policies
    a. General Provisions
    b. Certificate of Insurance Requirements
    c. Deductible & Limits Requirements
    d. Occurrence vs. Claims Made Policies
2. Specific Requirements for Commercial General Liability Policies
3. Requirements for Workers' Compensation and Disability Policies
4. Requirements for Automobile Liability Policies
5. Requirements for Railroad Protective Liability Policies
6. Requirements for Environmental Liability Policies
7. Requirements for Builders' Risk Policies
8. Requirements for Owners & Contractors Protective Policies
9. Requirements for Professional Liability Policies

~~10.~~ Requirements for Data Breach and Privacy/Cyber Liability including T~~t~~echnology Errors and Omissions ~~Liability Policies~~

~~9.~~

11. Requirements for Crime Policies
12. Requirements for Marine Protection & Indemnity Policies
13. Requirements for Garage Liability Policies
14. Requirements for Umbrella and Excess Liability Policies

~~14.~~15. Requirements for ~~Umbrella and Excess~~Construction Manager's Professional Liability Policies

Anyone drafting ~~standardized~~ language ~~at the Agency~~ should contact their Aagency's Insurance Analyst for assistance with the insurance requirements.

1. GENERAL REQUIREMENTS FOR ALL INSURANCE POLICIES

General Provisions

All contracts, agreements, leases, licenses, and permits should include language that will provide for the following (See also Chapter 3 - Model Insurance Language):

- Policies must be written by companies with an A.M. Best Company rating of "A-" or better or otherwise be acceptable to the Agency.

- Non-admitted carriers[4] will only be accepted when coverage cannot be secured from an admitted carrier, as evidenced by appropriate ELANY documentation (see Certificate of Insurance Requirements).

- ~~Policies must be endorsed in a form acceptable to the Agency to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice to the Agency.~~ Unless otherwise agreed to by the Agency, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days' prior, written notice except for non-payment, in which case notice shall be provided as required by law.

- Policies must state or be endorsed to provide that the coverage afforded under the policies shall apply on a primary and not on an excess or contributing basis with any policies, which may be available to the Agency. Any other insurance maintained by the Agency shall be excess of and shall not contribute with the Contractor's or ~~S~~subcontractor's insurance regardless of the "other insurance clause" contained in the Agency's own policy of insurance, if applicable. A copy of the endorsement reflecting this requirement may be requested by the Agency.

- Policies must state that at least thirty (30) days prior to the expiration of the policies, evidence of renewal or replacement policies of insurance, with terms and limits no less favorable as the expiring policies, shall be delivered to the Agency. [5]

- Policies must be endorsed to provide that there shall be no right of subrogation against the Agency. To the extent that any of the Contractor's policies of insurance prohibit such a waiver of subrogation, the Contractor shall secure the necessary permission to make this waiver.

- Certificates of insurance must be supplied as evidence of such aforementioned policies (except for Railroad Protective, where a policy is required); however, if requested by the Agency, the Contractor shall deliver to the Agency a copy of such policies, certified by the insurance carrier as being true and complete.

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[4] Non-admitted carriers are insurance carriers who have not been authorized to conduct business in the State of New York by reason of the fact that they are not subject to supervision by the State of New York. That said, it is not illegal to procure a policy from these insurance carriers, as their insurance policy forms and rates must still meet the minimum standards of the New York Insurance laws and regulations.

[5] The requisite notice can be provided through the policy itself or through an endorsement to the policy, such as ISO Form CG 02 24 10 93.

- The Contractor shall furnish evidence of acceptable policies to the ~~Insurance Analyst~~Agency before any work is started.

- If, at any time during the period of the contract ~~Agreement~~, insurance as required is not in effect, or proof thereof is not provided to the Agency, the Agency shall have the options to: (i) direct the Contractor to suspend work with no additional cost or extension of time due on account thereof; or (ii) treat such failure as an Event of Default.

- At any time the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the contract, the Contractor shall immediately cease w~~W~~ork under the contract ~~on the Project~~. The Contractor shall not resume w~~W~~ork ~~on the Project~~ under the contract until authorized to do so by the Agency. Any delay or time lost as a result of the Contractor not having insurance required by the contract shall not give rise to a delay claim or any other claim against the Agency ~~or the Client~~.

- Should the Contractor fail to provide or maintain any insurance required by this contract, the Agency may, after providing written notice to the Contractor, require the Surety, if applicable, to secure appropriate coverage and/or purchase insurance complying with the ~~C~~contract and charge back such purchase to the Contractor.[6]

- The ~~-~~Contractor shall procure any additional insurance policies necessary to obtain required permits or otherwise comply with applicable laws, ordinances, regulations, or as required by the Agency to secure the interest of the Agency regarding the performance of the w~~W~~ork.

- In the event of multi-awards to one Contractor, a blanket Certificate of Insurance is acceptable, as long as each contract number is referenced.

- Should the Contractor engage a ~~S~~subcontractor, the Contractor shall endeavor to impose the insurance requirements of this document on the ~~S~~subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the ~~S~~subcontractor. Proof thereof shall be supplied to the Agency.

Certificate of Insurance Requirements

- Must be provided on an ACORD ~~25 Certificate of Insurance~~form, or an equivalent form~~, and may be accompanied by the Supplemental Insurance Certificate (for original and renewal policies)~~. The ACORD 25 is the Certificate of Liability Insurance form. In addition, the ACORD~~eord~~ 855 NY is the Construction Certificate of Liability Addendum which is used to supplement the ACORD 25 with more information about the underlying policy's coverage. The ACORD 27 and 28 provide evidence of property insurance.

- An ACORD Certificate is not acceptable ~~valid~~ proof of ~~-~~Workers' Compensation and Disability Benefits insurance for New York State governmental entities. Proof of Disability and Workers' Compensation ~~certificates~~ insurance must be provided on the forms required by the New York State Workers' Compensation Board. (See Exhibit A)

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[6] This provision is most applicable to construction contracts. Agencies should check with their Insurance Analyst regarding its applicability to a particular contract.

- If coverage is provided by a non-admitted carrier, an Excess Line Association of New York (ELANY) Affidavit must accompany the certificate.

- Only original documents[7] (certificates of insurance, ~~Supplemental Insurance Certificates,~~ and other attachments) will be accepted.

- The named insured listed on the certificate must match the name of the entity entering into the contract. This pertains to all lines of coverage and all forms of the contracting entity, including Joint Ventures. It is not sufficient to accept insurance, including evidence of Workers' Compensation, in the name of the individual parties to the Joint Venture.

- Must be signed by an authorized representative of the insurance carrier or producer. [**Note**: ~~I~~insurance ~~A~~agents are generally authorized representatives of the insurance carrier. Insurance brokers may or may not be authorized representatives. Brokers should be requested to provide a letter of authorization from the insurance carrier. Further, only insurance agents and insurance carriers licensed in New York State are able to issue ~~certificates~~ the proof of coverage required for Workers' Compensation and Disability benefits. Insurance brokers are not authorized to issue these documents~~certificates for these insurance benefits~~.].

- Must disclose any deductible, self-insured retention, aggregate limit or any exclusions to the policy that materially changes the coverage.

- Must indicate the Additional Insureds or Named Insureds, as required.

- Must reference the ~~C~~contract ~~or Agreement~~ by number on the face of the certificate ~~and make reference to the Supplemental Insurance Certificate attached to the certificate~~.

Deductible & SIR Limits Requirements

- Certificates must indicate ~~the applicable deductible/self insured retention on each policy. For Construction contracts- General Liability, Environmental, Builder's Risk~~ deductibles or self-insured retentions above $100,000.00, which are subject to approval from the Agency. Additional surety/security may be required in certain circumstances.

- Self-insurance or high deductible programs disclosed by the Contractor require further investigation to assure that the Agency does not assume the risk that the self-insurance program fails or is unable to respond to claims as intended. The Insurance Analyst responsible for confirming compliance should direct the Contractor to provide additional information about the self-insurance plan. Plans administered by an insurance company that pays the claims and collects from the Contractor are usually acceptable. Plans

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[7] Each agency must determine on its own what form(s) of Certificates are acceptable, and communicate that determination to the Contractor. The ACORD 25 is the insurance industry standard. Agencies may also require submission of the ACORD 27, 28 and/or 855 depending on a particular set of insurance requirements ~~and, when accompanied by the Supplemental Insurance Certificate, is considered acceptable by the Council of Contracting Agencies~~. In addition, the New York State Workers' Compensation Board establishes separate requirements for proof of Workers' Compensation and Disability Insurance. (see Exhibit A)

administered by the Contractor may be unacceptable in the absence of extra security in the form of an insurance trust, a bond and/or a letter of credit. Self-insurance plans may require additional monitoring above and beyond traditional insurance programs/policies.

- The Contractor shall be responsible for all claim expenses and loss payments within the deductible or self-insured retention.

Occurrence vs. Claims Made Policies

- Generally, all policies must be written on an occurrence basis. However, under certain circumstances the Agency may elect to accept policies written on a claims-made basis.

  [**Note:** There are important differences between "claims-made" and "occurrence" policies. Claims-made policies will only pay claims that occur and are filed during the period covered by the policy. Occurrence policies will pay claims that occur during the period covered by the policy....it does not matter when the claim is filed].

  If a policy is written on a claims-made basis, the policyholder can purchase "Tail" or "Discovery" coverage to respond to incidents that have not been reported during the policy term. Tail coverage is not needed for occurrence policies because incidents are covered no matter how much later they are reported.

  Generally, professional liability policies are written on a claims-made basis, while general liability policies are occurrence based. Claims-made policies are substantially cheaper than occurrence policies, and insurance companies sell both kinds of policies based on their client's needs.

  It is strongly recommended to require policies to be written on an occurrence basis wherever possible.]

- For both occurrence based and claims made policies, coverage shall remain in force throughout the performance of the services and for three (3) years after completion of the contract.

- For policies which are claims-made, the Contractor must purchase, at its sole expense, Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed. Written proof of this extended reporting period must be provided to the Agency prior to expiration or cancellation. (This is also known as "tTail eCoverage.")

2. COMMERCIAL GENERAL LIABILITY

DESCRIPTION

The Commercial General Liability (CGL) policy expresses the insurance company's duty to pay on behalf of an insured all sums, which an insured shall become legally obligated to pay as damages because of bodily injury or property damage to which the insurance applies caused by an occurrence. The policy definition of an occurrence is an accident, including continuous or repeated exposure to substantially the same general harmful conditions. The term accident

is not defined in the policy. However, the intent is to provide coverage for any adverse condition that continues over a long period and eventually results in bodily injury or property damage, as well as an event that happens suddenly and results in immediate bodily injury or property damage. It also expresses the insurer's right and duty to defend any suit against the insured seeking damages on account of bodily injury or property damage, even if any of the allegations of the suit are groundless, false or fraudulent. The coverage form limits all loss payments to two aggregate limits, one for products and completed operations and one for all other loss.

Standard ISO[8] Coverages:

- Contractual liability coverage provides protection for liability assumed by defined contract ~~or agreement~~.
- Personal injury liability coverage provides protection against injuries of a non-physical nature, such as false arrest, detention or imprisonment, slander and libel.
- Broad form property damage adds additional protection to Ceontractors for liability arising out of damage they may cause to property in a ~~Ceontractor's~~their care, custody or control or on which contracted operations are being performed.
- Products Liability provides coverage for a product, which is sold, handled or distributed by a supplier. "Completed Operations provides coverage for the liability incurred by a Ceontractor for property damage or bodily injury that may occur once contracted operations have ceased or been abandoned. Even though the operations are deemed to be "completed" by the Ceontractor, the loss or injury is deemed to be as a result of those operations."
- Premises and operations - legal liability can arise out of the ownership and maintenance of the premises where the firm does business or where the firm performs their work.
- Independent Contractors Liability (a//k/a subcontractor) provides coverage for the contingent liability hazard, which arises whenever a Ceontractor hires a subcontractor or independent to perform work on his behalf.
- "XCU" provides coverage for an occurrence falling within any of the three hazards defined in the policy, explosion, collapse and the underground hazards.

[8] ISO is the Insurance Services Office, an organization created for the purpose of developing standard insurance forms, collecting statistical data, and promulgating rates for the insurance industry.

Coverage Extensions:

- Liquor liability for the sale of liquor protects the insured against liability imposed by reason of manufacturing, distributing, selling, serving or giving alcoholic beverages to the public if the insured is in that business or is a landlord of such a business.

- Contractual Liability may be endorsed or extended to include coverage, normally excluded, for construction or demolition operations performed within 50 feet of railroad tracks.

REQUIREMENTS FOR COMMERCIAL GENERAL LIABILITY POLICIES

All Contractors, doing business pursuant to a contract with the Agency are required to submit proof of Commercial General Liability insurance. The Contractor shall maintain Commercial General Liability (CGL), with no less than the following limits and coverages:

- Each Occurrence Limit – as specified in Column -C of the matrices (see Chapter 4)
- General Aggregate: - as specified in Column -D of the matrices (see Chapter 4)
- Products/Completed Operations Aggregate: - Must be equivalent to the general aggregate
- Personal /Advertising Injury Liability: $1,000,000
- Damage to Rented Premises: ——————(Standard is $50,000)
- Medical Expense: ——————(Standard is $5,000)
- Certificate must indicate that aggregate limits apply on a per project basis [**Note**: this requirement may not be applicable for some professional services].
- Contractual Liability Coverage always required
- Independent Contractors Coverage always required.
- ISO Form CG 00 01 01 96 or equivalent, approved by the Agency, always required[9].
- Additional insured endorsement CG 20 10 11 85 or equivalent.

  [**Note**: ISO form CG 20 10 11 85 has been replaced with subsequent and revised versions of the CG 20 10 form over the last several years and, as a result, many insurance carriers no longer use this specific form. However, these subsequent revisions exclude certain facets of coverage that are important to the Agency (specifically coverage during the products and completed operations phase), and the scope of the coverage afforded by the CG 20 10 11 85 continues to be the standard for compliance with contract requirements. Insurance carriers can provide the same scope of coverage specified in the CG 20 10 11 85 form by attaching their own company endorsements, or combinations of other ISO forms, as applicable. The Agency should evaluate the content of the endorsement and the coverage it affords, without regard to specific endorsement numbers, to determine the adequacy of the coverage provided].

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[9] Attention should be paid to the use of Artisan insurance policies. These forms may not provide coverage that is equivalent to ISO form CG 00 01.

- Deletion of XCU exclusion.
- For work involving construction, coverage for bodily injury and/or property damage from construction means and methods (CG 22 79 07 98 or CG 22 80 07 98 or an equivalent).
- Products — Completed Operations always required.

  [**Note**: Products - Completed Operations coverage must be provided for a minimum of three years after the completion of the work. Products/ Completed Operations aggregate must be at least equal to the general aggregate. The Agency should require an endorsement to extend completed operations coverage for three years beyond completion when a project involves a jJoint vVenture].
- Deletion of Railroad 50-foot exclusion:

  [**Note:** If the activity involves construction or demolition within 50 feet of stations, yards, tracks, or other railroad property, the exclusion of coverage for work done within 50 feet of railroad property must be deleted].
- Insurance policies are required to provide primary and non-contributory coverage for the Agency to cover claims that arise out of the permitted work/operations. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) so as to limit coverage against claims that arise out of the work, or that remove or modify the "insured contract" exception to the employers liability exclusion, or that do not cover the additional insured for claims involving injury to employees of the named insured or subcontractors, are not acceptable.

3. WORKERS' COMPENSATION AND DISABILITY

DESCRIPTION

There are threethree separate coverages in the Wworkers' Ceompensation policy:

- Part One: Refers to Wwoorkers' Ceompensation insurance. Under this section, the insurer agrees to pay all Wworkers' Ceompensation benefits and other benefits that the employer must legally provide to covered employees who have a job-related injury or an occupational disease. There are no policy limits for part one. The insurer instead pays all benefits required by the Wworkers' Ceompensation law of any state listed in the policy declarations.

  Under certain conditions, the employer can be held responsible for payments made by the insurer that exceed regular Wworkers' Ceompensation benefits. The employer is responsible for any payments in excess of the benefits regularly provided by the Wworkers' Ceompensation Llaw because of serious and willful misconduct; knowingly employing an employee in violation of the law; failing to comply with a health or safety regulation; or discharging, coercing, or discriminating against any employee in violation of the Wworkers' Ceompensation Llaw. The employer must reimburse the insurer for any payments that exceed regular Wworkers' Ceompensation benefits.

- Part Two: Employer's Liability Insurance - Part two refers to employer's liability insurance that covers employers against lawsuits by employees who are injured in the

course of employment. This part is similar to other liability insurance policies where negligence must be established before the insurer is legally obligated to pay.

- Part Three: Other States Insurance – Part three of the Wworkers' Ceompensation and employers' liability policy provides other-states insurance. It should be noted that "other-states" insurance is no longer valid coverage for an entity securing a contract, permit, license with/from a government agency in New York State as a result of changes -to SectionRule 57 of the New York State Workers' Compensation Law, implemented as part of the 2007 Workers' Compensation Reform Act. "Full" New York State coverage, affording full NYS benefits, is required. "Full" Workers' eCompensation coverage (Part One) applies only to those states listed on Item 3A on the policy's Information Page

~~Part Three: Other States Insurance – Part three of the workers' compensation and employers' liability policy provides other-states insurance. Workers' compensation coverage (Part One) applies only to those states listed on the declaration page.~~

REQUIREMENT FOR WORKERS' COMPENSATION AND DISABILITY POLICIES

ALL Contractors doing business pursuant to a contract with the Agencies are required to submit proof of Workers' Compensation (WC) coverage and Disability Benefits, including self-employed individuals and others who may otherwise be exempt under the Worker's Compensation law. This requirement protects the Agency from potential fiscal responsibility for injuries to uninsured workers. **Any waiver of this requirement must be approved by Agency and ~~will~~should only be granted in unique or unusual circumstances (e.g. if all work is done outside of New York State). Evidence of coverage must be provided on the forms specified by the ~~Commissioner~~Agency Chair of the New York State Workers' Compensation Board.**

If the Ceontractor meets the requirements, a CE-200 exemption form may be submitted by the Ceontractor.

For work performed on or near navigable water, see item 12~~1~~. Requirement for Marine Protection & Indemnity, Hull & Machinery, Jones Act and United States Longshoreman & Harbor Workers Act Coverage.

4. BUSINESS AUTOMOBILE LIABILITY

DESCRIPTION

The business auto coverage form provides coverage for liability arising out of the ownership, maintenance, or use of automobiles, personal injury protection, and uninsured/underinsured motorists, and includes optional provisions for insuring physical damage to autos owned, leased, or hired by the named insured. Other auto coverages, such as auto medical payments, can be added by endorsement.

Auto physical damage coverage responds to first party property loss exposures, principally the possibility that the occurrence of a particular peril will result in damage that decreases the value of the named insured's autos. In addition to covering damage to the named insured's vehicles, physical damage also responds to cover additional expenses to rent temporary substitute autos while the owned autos are out of service.

Four physical damage coverages are available under the business auto form:

- Collisions: Covers loss to a covered auto and its equipment resulting from collision or overturn;
- Comprehensive: Covers loss to a covered auto and its equipment resulting from any cause other than collision or overturn, except those losses that are specifically excluded;
- Specified causes of loss: Covers loss to a covered auto and its equipment resulting from several named perils and
- Towing and labor: Covers towing and at-site labor costs incurred when a covered auto of the private passenger type is disabled.

Under business auto liability coverage, the insurer agrees to pay all sums that the insured becomes legally obligated to pay as damages and pollution costs covered by the policy. The insurer also agrees to defend the insured against suits seeking such damages or costs. These defense costs are payable in addition to the accident limit. Business auto coverage is not subject to an aggregate limit.

Motor Carrier Coverage Form

When remediation work also includes transportation to an authorized dumpsite, the MCS 90 endorsement from the motor carrier policy is required to provide coverage for the transportation of hazardous waste materials. This insurance is available for any motor carrier, defined as any person or organization providing transportation by auto in the furtherance of a commercial enterprise. The motor carrier form provides liability and physical damage insurance. The MCS 90 endorsement affords coverage for all trucks of 10,000 pounds or more gross weight used to transport hazardous material. The endorsement complies with the provisions of the Motor Carrier Act of 1980.

REQUIREMENT FOR BUSINESS AUTOMOBILE LIABILITY POLICIES

Automobile Liability insurance is required anytime the activity might involve a vehicle entering Agency property or if a vehicle is used as part of the service or work provided.

If the contract~~Agreement~~ involves removing hazardous waste in connection with the service or work provided~~from the Project site~~, or the service or work~~Project~~ involves environmental exposures, pollution liability coverage equivalent to that provided under the ISO Broadened Pollution Liability Coverage for Covered Autos endorsement –(CA 9948) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached.

5. RAILROAD PROTECTIVE LIABILITY

DESCRIPTION

A railroad owner typically requires Railroad Protective Liability (RPL) insurance from any Ceontractor working on, over, under, or adjacent to the railroad owner's property. This type of coverage provides insurance protecting the railroad owner against liability arising out of the work performed by the Contractor. It serves essentially the same purpose as ~~o~~Owners and

Ceontractors' pProtective lLiability insurance but is designed specifically for insuring railroads. The coverage is usually purchased by the Contractor (or the party for whom the Ceontractor is working), and the railroad owner is the named insured.

The RPL coverage form contains two coverage agreements as follows:

- Coverage A applies to bodily injury and property damage liability and
- Coverage B applies to physical damage to property owned by or leased or entrusted to the railroad.

In both of the above cases, the injury or damage must arise out of acts or omissions at the job site that are related to the work being performed by the Ceontractor. The coverage applies only to injury or damage that occurs during the policy period.

A unique feature of the RPL policy is that it provides Federal Employers Liability Act (FELA) coverage. FELA provides any employee of an interstate railroad with a right of action against his or her employer for occupational injuries resulting in any part from the employer's negligence. Thus, an RPL policy will cover FELA suits made by employees of the insured railroad, assuming that the employees' injuries meet all of the other criteria for RPL coverage.

REQUIREMENT FOR RAILROAD PROTECTIVE POLICIES

Railroad Protective is required whenever work is being done within 50 feet of the tracks or if a Railroad employee is assigned to the work. In that case, the following items must be included in the contractagreement:

- Policy must be on an ISO-RIMA or equivalent form approved by the Railroad and must meet any other requirements as specified by the Railroad and or the Agency.

- The policy must name the Railroad as the Named Insured. No Additional Insureds will be listed on the policy (see requirements for the deletion of the 50' Railroad Exclusion on the General Liability policy).

- Evidence of Railroad Protective Liability Insurance, must be provided in the form of the Original Policy or a detailed Binder pending issuance of the Original Policy.

- Definition of "physical damage to property" must be amended to mean direct and accidental loss of or damage to *"all property of any Named Insured and all property in any Named Insured's care, custody or control."*

6. ENVIRONMENTAL LIABILITY

DESCRIPTION

The Environmental Liability Insurance Policy is intended to benefit business owners who are susceptible to economic loss caused by pollution that actually or allegedly originated from the property they own or operate, such as exposures related to pollutants contaminating the environment. This includes but is not limited to chemical, manufacturing, smoke, fumes, acids, lead, asbestos, waste materials and leaking underground storage tanks of petroleum

products and chemicals. The pollution liability form covers sudden and accidental, as well as gradual discharges.

Today, environmental insurance can now be purchased on an occurrence basis, whereas, in the past these policies were written on a claims made and reported form, with and without retroactive dates.

The coverages available include:

- Bodily injury and property damage;
- Environmental cleanup costs;
- Legal defense expense and
- By special endorsement, professional liability.

Environmental Insurance for Environmental Remediation Operations

Contractor's Pollution Liability (CPL) coverage is available for Contractors working on environmentally sensitive projects. Currently insurers are willing to provide the coverage on an incidental basis but are reluctant to insure non-environmental Contractors who are bidding on remediation work. CPL insurance is available for Contractors performing the following remediation work:

- Environmental remediation;
- Underground storage tank installation/removal;
- Emergency response Ceontractors;
- Industrial cleaning Ceontractors;
- Mobile treatment Ceontractors;
- Biological remediation Ceontractors;
- Asbestos Abatement;
- Lead Paint Abatement and
- Professional liability via endorsement.

REQUIREMENT FOR ENVIRONMENTAL LIABILITY POLICIES

Environmental Liability insurance is required anytime any part of the activity involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which include but are not limited to petroleum, petroleum products, hazardous materials or substances including asbestos, lead, fungus and those as defined by applicable State and Federal Laws and Regulations. This requirement applies to mold as well, if excluded in the Commercial General Liability policy.

7. BUILDERS' RISK/INSTALLATION FLOATER

DESCRIPTION

Builders' Risk

Builders' Risk Insurance covers physical damage to buildings in the course of construction including foundations, additions, attachments and permanent fixtures that constitute a part of the building. This insurance must be written on a completed value form. Coverage also applies to temporary structures, materials, equipment and supplies pertaining to the construction so long as the property is on the premises or within 100 feet of the premises. The amount of the insurance must be the anticipated full value of the completed building including permanent fixtures, machinery and equipment. Builders' Risk coverage ceases when the building is accepted by the owner or put to its intended use.

Installation Floater

An Installation Floater is designed to cover a Contractor's and/or Agency's interest in certain equipment, materials and supplies that are destined to become part of a structure. For example, coverage is expected to cover a Ceontractor installing a new elevator or an air conditioning system in an existing building. This floater covers physical damage to the property while it is in storage and between the time it is in transit to the construction site and the time the property is either accepted by the owner or put to its intended use.

REQUIREMENT FOR BUILDERS' RISK/INSTALLATION FLOATER POLICIES

Builder's Risk/Installation Floater insurance, a form of property insurance, is required for projects involving construction, whenever specified in the Agency's documents. Coverage can be provided by the Contractor, or the Agency.

When required, the Contractor shall provide a Builders' Risk/Installation Floater Insurance policy covering all risks in completed value form. Such policy shall cover the total value of the work performed in accordance with the contract, as well as the value of any equipment, supplies and/or materials for the project that may be in storage (on or off the Site) or in transit and that are intended to be installed in the project.

Alternatively, when the Agency will provide the coverage, contracts should include provisions for those arrangements (see Chapter 4).

8. OWNERS AND CONTRACTORS PROTECTIVE

DESCRIPTION

This policy is designed to protect either the owner or a Ceontractor for liability exposures that result from the negligent acts of an independent Ceontractor or subcontractor, respectively, hired to perform work on the insured's behalf. While the subcontractor or independent Ceontractor purchases the policy, the protection afforded under the policy directly benefits the owner or eContractor for whom the work is being done. This coverage is limited to a specific project and location.

REQUIREMENT FOR OWNERS AND CONTRACTORS PROTECTIVE POLICIES

Owners and Contractors Protective coverage, a form of liability insurance, is required whenever specified by the Agency as per the Agency's policies/procedures and standards. The Contractor shall obtain a separate Owners/Contractors Protective Liability (OCP) Policy written on a project basis for the benefit of the Agency, its officers, agents, and employees,

and the People of the State of New York. The policy shall be specific to the Contractor's work, including any work performed by subcontractors.

9. PROFESSIONAL LIABILITY

DESCRIPTION

Professional liability can be defined as liability for the failure to use the degree of skill expected of a person in a particular field. Professional liability insurance is commonly required from architects and engineers, but it should also be required for lawyersegal, accountantsing, insurance brokers, financial advisorsy and other professional service firms. Commercial general liability policies normally add an exclusion eliminating coverage for professional liability. Thus, the insured purchases a separate professional liability insurance policy. These policies may also be referred to as "Errors & Omissions Liability" policies, as the two terms are often used interchangeably.

There are circumstances when a professional fails to perform contractual obligations as promised and the other party suffers harm as a result. The injured party is entitled to be restored to the position that he or she would have occupied had the contract been performed as promised. Damages for breach of contract are available under a professional liability policy.

In addition to professional liability insurance for the professionals set forth above~~architects and engineers~~, there are other types of professional liability insurance responding to liability exposures that many businesses face. The main types of these insurances are employee benefits liability insurance and fiduciary liability insurance.

REQUIREMENT FOR PROFESSIONAL LIABILITY POLICIES

Professional Liability coverage is required whenever any part of the contracted activity requires the services of a professional consultant. Professional liability insurance provides coverage for financial losses stemming from the errors and/or omissions of the contracted professional in the course of their work. As such, professional liability coverage is typically required of architects and engineers, but may be required of consultants in other professions depending upon the nature of the work and the potential exposure to loss for the Agency. c~~C~~ontract requirements typically specify that the professional shall provide coverage beyond the term of the contract because of the nature of the Professional Liability policy, which is most often written on a claims-made basis.

10. ~~TECHNOLOGY ERRORS AND OMISSIONS LIABILITY~~DATA BREACH AND PRIVACY/CYBER LIABILITY INCLUDING TECHNOLGY ERRORS AND OMMISION

DESCRIPTION

~~This policy is designed to provide Professional liability coverage for damages that arise from "Wrongful acts" for computer-related services. Policy will pay on behalf of the Insured, subject to limits of liability and deductible, amounts you are legally required to pay as damages.~~Data Breach and Privacy/Cyber Liability policies are intended to cover **the users** of technology services and products. The policies may cover liability for security breaches,

defamation, and copyright and trademark infringement, as well as losses stemming from computer viruses, identity theft, business interruption, and hacking. In light of the wide scope of cyber risks, it can be difficult to address the range of risks in a single policy. Although some insurers offer cyber liability coverage via an endorsement to other types of existing policies, the combination of coverage's may not be a good match and the insured may not receive the scope of coverage for cyber risks that its really needs.

The type of coverage that should be ~~to~~ required depends on the nature of the operations of the Agency~~contracting party~~ and the level of security the Agency~~contracting party has~~ decided to set as its goal. Any organization with~~hich~~ access to Personally Identifiable Information ("PII") has an exposure to Cyber Liability Claims.

Organizations in the ~~I~~information ~~T~~technology industry have the additional need for professional liability coverage, commonly referred to as Technology Errors and Omissions coverage. Technology Errors and Omissions~~&O~~ covers **the providers** of technology services and products. Typical covered services include computer hardware/software consulting, system integration, website design, online services and content including commerce, etc.

Examples of coverage include:

- Network security coverage, which generally covers liability arising out of security threats of networks, including, for example, transmission of malicious code and Distributed Denial of Service (DDos) attacks;
- Media liability coverage, which generally covers liability arising out, for example, infringement of copyright and other intellectual property rights and misappropriation of ideas or media content;
- Information asset coverage, which generally covers an insured for the cost of recreating, restoring or repairing the insured's own data or computer systems;
- Network interruption coverage, which generally covers an insured for its lost revenue due to network interruption or disruptions resulting from DDoS attacks~~h~~, malicious code or security threats to networks; and
- Extortion coverage, which generally covers an insured for the costs of responding to extortion threats to prevent a threatened cyber-attack.

~~**REQUIREMENT FOR TECHNOLOGY ERRORS AND OMISSIONS LIABILITY POLICIES**~~

~~Technology Errors and Omissions Liability coverage is required when computer-related services are being provided. Computer-related service means any computer or electronic information technology service in connection with: consulting, data processing, programming, or system integration; software development, installation, distribution, or maintenance; systems analysis or design; training, staffing, or other support services; any electronic equipment or computer hardware or software developed, manufactured,~~

~~distributed, licensed, marketed, or sold to others by or for you; or any other network, communications and website analysis.~~

~~Contract requirements typically specify that the professional shall provide coverage beyond the term of the Ccontract because of the nature of the Professional Liability policy, which is most often written on a claims-made basis.~~

11. CRIME INSURANCE

DESCRIPTION

This policy is designed to provide several types of crime coverage, such as: employee dishonesty coverage; forgery or alteration coverage; computer fraud coverage; funds transfer fraud coverage; kidnap, ransom, or extortion coverage; money and securities coverage; and money orders and counterfeit money coverage. The coverage benefits the organization who purchases the policy (first-party coverage).

REQUIREMENT FOR CRIME POLICIES

Crime Insurance is required any time the contracted activity will involve the physical or electronic handling, transport or receipt of financial records, monies or payments as a representative or agent of the "Agency."

Limits of coverage should be equal to or greater than the maximum amount of cash and/or securities on hand at any one point in time.

12 MARINE PROTECTION & INDEMNITY, HULL & MACHINERY, JONES ACT, AND UNITED STATES LONGSHOREMAN & HARBOR WORKERS' ACT COVERAGE

DESCRIPTION

For those exposures which are water based, a Marine Protection and Indemnity policy covers liability for bodily injury and property damage, similar to the coverage afforded by a Commercial General Liability policy for operations on the land.

Hull and Machinery coverage protects the vessel's hull and any equipment or machinery onboard the vessel. This policy also provides coverage for any damage sustained by colliding with another vessel.

Standard Workers' Compensation insurance policies exclude coverage for employees working on or near navigable waters. The federal Jones Act and the United States Longshoreman and Harbor Workers' Act are intended to fill that gap by requiring insurance coverage specifically for employees working in that environment. The policies apply to captains, crews, and other workers while they are performing work on or near the water, including work involving loading/unloading, construction, repairs, and work on docks.

REQUIREMENT FOR MARINE PROTECTION & INDEMNITY, HULL AND MACHINERY, JONES ACT AND UNITED STATES LONGSHOREMAN & HARBOR WORKERS' ACT POLICIES

Work conducted on or in connection with navigable water presents special insurance issues and therefore requires specific insurance policies. Anytime the contracted activity involves work on navigable water, or the work is connected to water related activities, Marine Protection & Indemnity and Hull and Machinery coverage is required. Marine Protection & Indemnity insurance provides liability insurance coverage for injuries and/or property damage resulting from the work. Hull & Machinery coverage provides property insurance for the watercraft or equipment used in the work. Hull & Machinery coverage is primarily for the benefit of the Ceontractor.

In addition, an endorsement to the Workers' Compensation policy or the Protection & Indemnity policy providing coverage for all of the Contractor's employees under the Jones Act and the US Longshoreman & Harbor Workers' Act will also be required.

13. GARAGE LIABILITY

DESCRIPTION

This policy covers automobile dealers, garages, repair shops, parking lot operators, and service stations for claims of bodily injury and property damage arising out of their business operations. It is similar in nature to a Commercial General Liability policy, but is written specifically for these operations. Any damage to customers' vehicles is excluded from a standard Commercial General Liability policy; and therefore must be secured under a Garage Keeper's Liability policy.

REQUIREMENT FOR GARAGE LIABILITY POLICIES

Garage Liability, including garage keepers' coverage, is required anytime:

- a third party is towing, repairing or garaging an Agency's vehicle,
- a third party is leasing an "AGENCY" owned parking facility, or
- the Contractor is involved in the garaging business, such as gas stations, repair shops and vehicle storage facilities.

14. EXCESS AND UMBRELLA LIABILITY

DESCRIPTION

An excess liability policy is designed to provide excess limits of coverage above the limits of the underlying or primary liability coverage. An excess policy offers no broader protection than that provided by the underlying coverage and in some instances may be more restrictive. For example, many excess policies do not provide defense coverage.

An umbrella liability policy is a type of excess policy that not only provides additional limits (as excess policies do) but that may also offer coverage not available in the underlying coverages. Most umbrella liability policies also provide defense coverage.

The excess or umbrella policy is generally used to supplement the limits on the Commercial General Liability and Business Automobile policies, to meet the required coverage limits.

It is important to require the excess or umbrella policy to be written on a "following form" basis. This ensures the policy follows the underlying policies for most provisions and there should be no gaps in coverage.

REQUIREMENTS FOR EXCESS AND UMBRELLA LIABILITY POLICIES

When the limits of the Commercial General Liability, Auto, and/or Employers Liability policies procured by the Contractor are insufficient to meet the limits specified in the contract, the Contractor shall procure additional limits via Commercial Umbrella and/or Excess Liability policies. The limits of these policies, in combination with those of the primary policies, may be used to satisfy the requirements of the contract.

15. CONSTRUCTION MANAGER'S PROFESSIONAL LIABILITY

DESCRIPTION

Many of the services provided by Construction Managers, including scheduling, contract negotiation and preparation, estimating, and construction supervision, are considered professional services because they require a degree of knowledge, experience, and/or specialization that others outside of the field do not possess. As a result, many General Liability policies now exclude coverage for losses arising from these activities. Construction Managers' Professional Liability policies provide coverage for financial losses resulting from these activities.

REQUIREMENTS FOR CONSTRUCTION MANAGER'S PROFESSIONAL LIABILITY POLICIES

Construction Manager's Professional Liability will be required whenever the contracted work includes project management services above and beyond general construction and/or supervision. Such services include scheduling, contract negotiation and preparation, serving as the Owner's representative, etc., and similar services.

CHAPTER 3 – MODEL INSURANCE LANGUAGE

I. INSTRUCTIONS FOR USING MODEL CONTRACT SPECIFICATIONS

This chapter contains model contract language that may be incorporated into Agency contracts and other agreements. The terms have been divided into the basic insurance requirements, general conditions that are applicable to all contracts, and information that is relative to specific forms of insurance coverage. Insurance specifications must usually be formulated before the initial procurement (e.g., invitation for bids, or request for proposals) so that prospective Ceontractors and/or ~~vendor~~Contractors can build the insurance costs into their bids or proposals.

In specifying insurance that is applicable to any type of contracts or specific contracts, the following decisions need to be made by the Agency:

1. **What types of insurance should be required from the Contractor?** These guidelines~~is manual~~ provides a list of those types of insurance coverages that are most frequently required in Agency contracts or other agreements. It is necessary to strike any that do not apply and/or to add to the list when the coverage described herein is not sufficient to cover the activities or risks anticipated. In those cases, consult with the Agency's Insurance Analyst.

2. **What limits of insurance should be required for the various types of insurance that are being required?** These guidelines~~is manual~~ recommends the application of limits based upon the expected contract value for the different types of insurance listed (see Chapter 4). Higher or lower limits may be substituted to fit Agency preference, or because of particular concerns over a contract's activities or anticipated risks.

3. **Is it appropriate to delete or change the language of the basic insurance requirement or conditions applicable to the contract or contracts?** Specific language to be included in contracts is recommended by these guidelines~~is manual~~. Specific agency or contract considerations may result in the modification or deletion of some of the language in the insuring requirement or the general conditions.

Does the contract contain other appropriate language relevant to risk management? These guidelines~~is manual~~ seeks to provide guidance about appropriate insurance requirements. It is absolutely essential however, that contracts for construction, commodities, services, technology, leases, permits and other agreements also include appropriate indemnification and/or hold harmless clauses. Legal counsel should be consulted for the appropriate contract language relative to those requirements.

Insuring Requirement

This first section is the basic insurance requirement. This language should be used in every contract~~agreement~~. However, there may be situations where deviations of the language are necessary. Contact the Agency's Insurance Analyst to discuss deviations.

General Conditions

This second section contains language that pertains to all insurance coverage the Ceontractor is required to provide. This language should be used in every contract~~agreement~~. However, there may be situations where deviations of the language are necessary. Contact the Agency's Insurance Analyst to discuss deviations.

Specific Coverages and Limits

This third section contains language for each specific type of coverage required. Consideration should be given as to whether each and every type of insurance that may be included is actually required for the contract being procured. The language provided contains provisions that have been developed by the Council's Insurance Subcommittee in consultation with insurance industry representatives. The Subcommittee believes that these standards best meet the overall contracting needs of the member Agencies. However the Subcommittee also recognizes that each ~~a~~Agency faces its own unique operations and contracting needs.

The language required may be slightly different depending on the type of contract~~agreement~~ being drafted (i.e. contract, license, agreement, entry permit, etc.) and the needs of your Agency. -The individual preparing the contract should read the language carefully and, where applicable, select the language that is appropriate for the ~~agreement~~ contract (i.e. Ceontractor). The amount of the limits should be incorporated in the contract~~agreement~~ based on the requirements from Chapter 4.

[Note: Whenever language is in parenthesis, bold and italic (like this sentence), selection of language and/or limits is required.]

II. MODEL INSURANCE REQUIREMENTS

Insuring Requirement

Prior to the start of work the ***Contractor*** shall procure, at its sole cost and expense, and shall maintain in force at all times ***[during this cContract until Final Completion/during the term of this contractAgreement],*** policies of insurance as herein below set forth, written by companies licensed or authorized by the New York State ~~Insurance~~ Department of Financial Services to issue insurance in the State of New York with an A.M. Best Company rating of "A-" or better or as acceptable to the [***Agency].*** The Agency may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the Agency to accept insurance placed with a non-authorized carrier under any circumstances.

The ***[Contractor]*** shall deliver to the ***[Agency]*** evidence of such policies in a form acceptable to the Agency. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this contract~~agreement~~ must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the ***[Contractor]*** are specified in Paragraph B *Insurance Requirements* below.

2. Policy Forms. Except as may be otherwise specifically provided herein or agreed to in writing by the ***Agency***, policies must be written on an **occurrence** basis. Under certain circumstances, the Agency may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the cContract. If the policy is cancelled or not renewed during that time, the Contractor must purchase, at its sole expense, Discovery Clause coverage sufficient to cover the 3-year period after completion of the cContract. Written proof of this extended reporting period must be provided to the Agency prior to the policy's expiration or cancellation.

3. Certificates of Insurance/Notices. ***[Contractor]*** shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the ***[Agency]***, before commencing any work under this contract. Certificates shall reference the ~~C~~contract ~~N~~number. Certificates shall be mailed to the:

[Name of Agency Contract Administrator, Title
Name of Agency
Office Location
Address
City, State Zip]

Unless otherwise agreed upon, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) ~~days~~

days' prior, written notice except for non-payment, in which case notice shall be provided as required by law to the ***[Agency]***, Attention - , ***[Agency name & address],***. In addition, if required by the Agency, the ***[Contractor]*** shall deliver to the Agency within forty-five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete.

Certificates of Insurance shall:

a. Be in the form approved by the Agency;~~,~~

b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the contract;~~,~~

d. Specify the Additional Insureds and Named Insureds as required herein;~~,~~

e. Refer to this c~~C~~ontract by number~~, the Supplemental Certificate,~~ and any other attachments on the face of the certificate;~~,~~

f. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit;~~,~~ and

g. Be signed by an authorized representative of the insurance carrier or producer.

Only original documents (Certificates of Insurance~~, Supplemental Insurance Certificates,~~ and other attachments) will be accepted.[10]

4. Primary Coverage. The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the [Agency] for any claim arising from the Contractor's Work under this contract, or as a result of the Contractor's activities. Insurance policies that remove or restrict blanket contractual liability located in the "insured contract" definition (as stated in Section V, Number 9, Item f in the ISO CGL policy) so as to limit coverage against claims that arise out of the work, or that remove or modify the "insured contract" exception to the employers liability exclusion, or that do not cover the additional insured for claims involving injury to employees of the named insured or subcontractors, are not acceptable.

~~***Primary Coverage.*** All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the Agency for any claim arising from the ***[Contractor]*** 's Work under this contract, or as a result of the ***[Contractor]***'s activities. Any other insurance maintained by the Agency shall be excess of and shall not contribute with the ***[Contractor]***'s insurance regardless of the "other insurance" clause contained in the Agency's own policy of insurance.~~

5. Policy Renewal/Expiration. At least two weeks prior to the expiration of any policy required by this contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Agency than the expiring policies shall be delivered to the Agency in the manner required for service of notice in Paragraph A.3. *Certificates of Insurance/Notices* above. If, at any time during the term of this contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the contract or

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[10] Each agency must determine on its own if electronic forms, faxes, or copies will be accepted and under what circumstances. The instructions above should be edited to accurately reflect the Agency's policy. That said, the Insurance Subcommittee recommends that agencies accept electronic forms as original documents when the document can be directly traced back to the insurance carrier, agent, or broker via e-mail distribution or similar means.

proof thereof is not provided to the Agency, the ***[Contractor]*** shall immediately cease wWork under the contracton the Project. The ***[Contractor]*** shall not resume wWork under the contracton the Project until authorized to do so by the Agency. Any delay, time lost, or additional cost incurred as a result of the ***[Contractor]*** not having insurance required by the contract or not providing proof of the same in a form acceptable to the Agency, shall not give rise to a delay claim or any other claim against the Agency. Should the ***[Contractor]*** fail to provide or maintain any insurance required by this contract, or proof thereof is not provided to the Agency, the Agency may withhold further contract payments, treat such failure as a breach or default of the contract, and/or, after providing written notice to the ***[Contractor],*** require the Surety "if any" to secure appropriate coverage and/or purchase insurance complying with the Ccontract and charge back such purchase to the ***[Contractor].***

6. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductibles or /self insured retentions above $100,000.00, which are subject to approval from the Agency. on each policy. For Construction contracts – General, Environmental, and/or Builders' Risk deductibles or self-insured retentions above $100,000 are subject to approval from the AgencyAdditional surety/security may be required in certain circumstances. The ***[Contractor]*** shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. Subcontractors. Should the ***[Contractor]*** engage a [Subcontractor], the ***[Contractor]*** shall endeavor to impose the insurance requirements of this document on the [Subcontractor], as applicable. Required insurance limits should be determined commensurate with the work of the [Subcontractor]. Proof thereof shall be supplied to the Agency.

Specific Coverages Table of Contents

The specific coverages are listed in the following order:

1. Commercial General Liability
2. Workers' Compensation
3. Disability Benefits
4. Business Automobile Liability
5. Railroad Protective Liability
6. Environmental Liability
7. Builder's Risk
8. Owners and Contractor's Protective
9. Professional Liability
10. Data Breach and Privacy/Cyber Liability including Technology Errors and OmmisionOmissions

9. Technology Errors and Omissions

11. Crime
12. Marine Protection & Indemnity
13. Garage Liability

~~10. Crime~~

~~11. Marine Protection & Indemnity~~

~~12. Garage Liability~~

14. Umbrella and Excess Liability

15. Construction Manager's Professional Liability

B. Specific Coverages and Limits

The types of insurance and minimum policy limits shall be as follows:

1. Commercial General Liability

Commercial General Liability Insurance, (CGL) covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this contract, using form CG 00 01 12 07 or a policy providing equivalent coverage. The limits under such policy shall not be less than the following:

- Each Occurrence limit - as specified in Column C of the matrices (See Chapter 4)
- General Aggregate – as specified in Column D of the matrices (See Chapter 4)
- Products/Completed Operations - should equal the "General Aggregate" limit
- Personal Advertising Injury – $1,000,000
- Damage to Rented Premises - $50,000
- Medical Expense – $5,000

Coverage shall include, but not be limited to, the following:

- premises liability;~~,~~
- independent ~~C~~contractors/subcontractors;~~,~~
- blanket contractual liability, including tort liability of another assumed in a contract;~~,~~
- defense and/or indemnification obligations, including obligations assumed under this contract;~~,~~
- cross liability for additional insured's;~~,~~
- products/completed operations for a term of no less than 3 years, commencing upon acceptance of the work, as required by the contract;~~,~~
- explosion, collapse, and underground hazards,
- ~~C~~contractor means and methods;~~,~~ and
- liability resulting from Section 240 or Section 241 of the New York State Labor Law.[11]

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[11] This coverage is applicable for contracts involving the erection, demolition, repairing, altering, painting, cleaning or pointing of a building or structure.

The following ISO forms must be endorsed to the policy:

~~a. CG 00 01 01 96 or an equivalent Commercial General Liability Coverage Form~~

~~b.~~a. CG 20 10 11 85, or, an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B)

~~c.~~b. CG 25 03 11 85 or, an equivalent - Designated Construction Project(s) general aggregate limit (only required for construction contracts).

Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

Policies shall name (***XXXXXX)*** as Additional Insureds[12], and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term.

The CGL policy, and any umbrella/excess policies used to meet the "-Each Occurrence" limits specified above, must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such polic(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Agency. Any other insurance maintained by the Agency shall be excess of and shall not contribute with the Contractor's or Subcontractor's insurance, regardless of the "Other Insurance" clause contained in either party's policy (ies) of insurance, if applicable.

When the w~~W~~ork involves construction or demolition within 50 feet of rail stations, yards, tracks, or other railroad property, the exclusion for work done within 50 feet of railroad property (the "Railroad" exclusion) must be deleted. Also see requirements for Railroad Protective Liability insurance.

2. Workers' Compensation

For work to be performed in New York State, the Contractor shall provide and maintain full New York State (NYS listed in item 3a of the policy's Information Page) coverage during the life of this contract~~Agreement~~ for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

If the contract~~Agreement~~ involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act and/or Jones Acts policy as applicable must be provided. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman~~ommissioner~~ of the New York State Workers' Compensation Board:

(1) C-105.2 (September 2007, or most current version) – Certificate of Workers' Compensation Insurance

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[12] Consideration should be given to who should be named as additional insureds, as the appropriate parties to be named will differ depending on the contract. For example, sometimes naming only The People of the State of New York, its officers and employees will not be sufficient and specific Agencies will also need to be named.

(2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund

(3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance.

(4) CE-200 – Attestation of Exemption – When Ceontractor meets the requirements.

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier.

3. Disability Benefits

For work to be performed in New York State, the Contractor shall provide and maintain coverage during the life of this contract~~Agreement~~ for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman~~ommissioner~~ of the Workers' Compensation Board:

(1) DB-120.1(May 2006 or most current version) – Certificate of Insurance Coverage under the New York State Disability Benefits Law;~~.~~

(2) DB-155 – Certificate of Disability Self Insurance; or~~.~~

~~(3) CE-200 – Certificate of Attestation of Exemption. [**Note:** This form will only be accepted as evidence of an exemption from providing Disability Benefits insurance as required by Law. The Agency will not accept this as an exemption from providing Workers' Compensation Insurance].~~

~~(4)~~(3)

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier

4. ~~Business~~ Commercial Automobile Liability

Commercial Auto Liability insurance covering liability arising out of the use of any motor vehicle in connection with the ~~work~~contract, including owned, leased, hired and non-owned vehicles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates. Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least one million dollars[13] and shall name ***(XXXXXX)*** as additional insured[14]. The limits may be provided through a combination of primary and umbrella/excess liability policies. If the contract involves the removal of hazardous waste ~~from the project site~~ or otherwise transporting hazardous materials, pollution liability coverage for covered autos shall be provided by form CA 99 48 03 06 or CA 00 12 03 06 and the Motor Carrier Act Endorsement (MCS90) shall be attached.

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[13] There is no discretion to go below $1 million dollars with this coverage because of the Federal Motor Carrier Safety Regulations.

[14] Consideration should be given to who should be named as additional insureds, as the appropriate parties to be named will differ depending on the contract. For example, sometimes naming only The People of the State of New York, its officers and employees will not be sufficient and specific Agencies will also need to be named.

5. Railroad Protective Liability

In the event that any work under the contract is to be performed on or within 50 ft. of railroad property or a railroad right-of-way, the Contractor shall provide and maintain a Railroad Protective Liability (RRP) Policy in the amounts required by the respective railroad.

The policy must name the Railroad as the Named Insured. No Additional Insureds can be listed on the policy (see requirements for the deletion of the 50' Railroad Exclusion on the Commercial General Liability policy), and the definition of "physical damage to property" must be amended to mean direct and accidental loss of or damage to "all property of any Named Insured and all property in any Named Insured's care, custody or control.";

Evidence of Railroad Protective Liability Insurance must be provided on the Certificate of Insurance, and a detailed Binder pending issuance of the policy, or on an ISO-RIMA or equivalent form approved by the Railroad, and meet any other requirements as specified by the Railroad and or the Agency.

6. Environmental Liability

If the ~~work~~ contract involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any pollutants, which includes but are not limited to, petroleum, petroleum product, hazardous materials or substances including asbestos, lead, fungus and those as defined by applicable state and federal laws and regulations, the Contractor shall procure, or otherwise obtain through an approved subcontractor, and maintain in full force and effect throughout the term of the contract, and for two years after completion hereof, pollution legal liability insurance with limits of not less than ***(as specified by the applicable matrix)***, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against the Agency arising from the Contractor's work. The State of New York and the Agency shall be named as additional insureds and coverage shall be primary.

This requirement applies to mold as well, if excluded in the Commercial General Liability policy.

If automobiles are to be used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48 03 06 or CA 00 12 03 06) as well as proof of MCS 90.

7. Builder's Risk

[The following language is to be used when the Ceontractor is required to provide Builders' Risk insurance]

Builders Risk- Contractor

The Contractor shall provide a Builders' Risk Insurance policy covering all risks in completed value form. Such policy shall cover the total value of the ~~w~~Work performed in accordance with this c~~C~~ontract, as well as the value of any equipment, supplies and/or material to be installed in

the pProject that may be in storage (on or off the Site) or in transit. The policy shall cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance or regulation, and property of the State held in their care, custody and/or control. Such policy shall name as insureds the State, the Contractor, and the ***[AGENCY]***. The Builders' Risk policy shall contain endorsements that provide for the following:

- The State and the Contractor shall be named as loss payees for the wWork in order of precedence, as their interest may appear; and
- In the event the loss occurs at an occupied facility, the policy shall permit occupancy without the consent of the iInsurance Ccompany; and
- In the event that the insurance policy has been issued by a mutual insurance company, the following language shall be included: the "(agency) is not liable for any premium or assessment under this policy of insurance. The First Named Insured is solely liable therefore."

[The following contract language is to be used when the Owner or Agency will provide Builders' Risk coverage]

Builders' Risk – Owner/Agency

The Agency shall, except as otherwise specified, at all times during the period of construction and until physical completion and acceptance, procure and maintain, at the cost and expense of the Owner, "All Risk" Builders' Risk Insurance. The Contractors and Subcontractors will be covered for their wWork. Losses up to and including ***($ XXX)*** shall be borne by the Contractor. Reimbursement of loss, if any, is to be made payable to the Owner. The Agency shall, at the Owner's sole discretion, have power to adjust and to settle with the insurer any loss or claim under said insurance. Coverage shall include sub-limits for property in transit and for property in storage on and off the job site.

Contractor's Equipment

The Contractor shall secure, pay for, and maintain Property Insurance necessary for protection against the loss of owned, borrowed or rented capital equipment and tools, including any tools owned by employees, and any tools or equipment, staging towers, and forms owned, borrowed or rented by the Contractor. The requirement to secure and maintain such insurance is solely for the benefit of the Contractor. Failure of the Contractor to secure such insurance or to maintain adequate levels of coverage shall not render the Additional Insureds or their agents and employees responsible for any losses; and the Additional Insureds, their agents and employees shall have no such Liability.

8. Owners and Contractors Protective

The Contractor shall obtain a separate Owners/Contractors Protective Liability (OCP) Policy as follows:

- For work related to street, road, highway, and/or bridge work – Form CG 00 14, Special Protective and Highway Liability Policy – New York Department of Transportation
- For projects not related to street, road, highway, and/or bridge work – Form CG 00 09, Owners and Contractors Protective Liability Coverage form – Coverage for Operations of the Designated Contractor

The policy shall be written on a project basis for the benefit of the Agency, its officers, agents, and employees, and the People of the State of New York, with respect to all operations under this contract~~Agreement~~ by the Contractor or its subcontractors, including in such coverage any omissions and supervisory acts of the Agency, its officers, agents, and employees.

The Agency shall be the ~~n~~Named ~~i~~Insured in the OCP Policy, which shall be promptly furnished to the Agency. OCP policy limits shall be no less than: ***(as specified in the applicable matrix)***.

9. Professional Liability

The Contractor and any subcontractor~~Professional and any professional sub-consultant~~ retained by the Contractor~~Professional~~ to work on the c~~C~~ontract shall procure and maintain during and for a period of three (3) years after completion of this c~~C~~ontract, Professional Liability Insurance in the amount of ***(refer to the applicable matrix)*** issued to and covering damage for liability imposed on the Contractor~~Professional~~ by this c~~C~~ontract or law arising out of any negligent act, error, or omission in the rending of or failure to render professional services required by this c~~C~~ontract~~-~~. The professional liability insurance may be issued on a claims-made policy form, in which case the Contractor ~~Professional~~ shall purchase, at its sole expense, ~~with~~ extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.

If applicable, the Contractor~~Professional~~ shall provide coverage for~~of~~ its~~the Professional~~'s negligent act, error or omission in rendering or failing to render professional services required by this c~~C~~ontract arising out of specifications, installation, modification, abatement, replacement or approval of products, materials or processes containing pollutants, and the failure to advise of or detect the existence or the proportions of pollutants.

10. Data Breach/Cyber Liability Iincluding Technology Errors and ~~Ommision~~Omissions

~~Technology Errors and Omissions~~

~~Contracting party~~The Contractor shall carry and maintain applicable coverage as specified in Column G of the Procurement/Services/Commodities Matrix (see Chapter 4)~~at the per claim limits described below:~~

~~Annual Revenue~~	~~Required Limit Per Claim~~
~~Up to $50,000,000~~	~~$1,000,000~~
~~$50,000,001 to $100,000,000~~	~~$2,000,000~~
~~Above $100,000,000~~	~~$5,000,000~~

If the ~~"Contracting Party"~~Contractor provides technology services or products, the Contractor must also provide ~~the above must also include~~ Technology Errors & Omissions Coverage. As this insurance is most often written on a claims made basis the Contractor shall purchase, at

its sole expense, ~~with~~ extended Discovery Clause coverage of up to three (3) years after the work is completed if coverage is cancelled or not renewed.~~-~~[15]

~~It is important to remember for this line of coverage that no two policies are identical and terminology can be confusing. Due to this and the potential risks including security, privacy, media/content, regulatory actions; consultaion with your respective Insurance Analyst and Legal counsel is recommended.~~

~~The Contractorprofessional shall procure and maintain Technology Errors and Omissions insurance for damages arising from computer-related services including the following: consulting, data processing, programming, system integration, software development, installation, distribution or maintenance, systems analysis or design, training, staffing or other support services, any electronic equipment, computer hardware or software developed, manufactured, distributed, licensed, marketed or sold. Technology Errors and Omissions insurance is most often written on a claims-made basisto be issued on a claims-made policy form, in which case the ContractorProfessional shall purchase at its sole expense, with extended Discovery Clause coverage of up to three (3) years after work is completed if coverage is cancelled or not renewed.~~

~~Technology Errors & Omissions Insurance: $XXXX limit2,000,000 per Occurrence~~

101. Crime

CRIME INSURANCE, on "loss sustained form" in an amount not less than ***[$ XXX],*** including coverage for:

- Employee Theft;
- Forgery or Alteration;
- Inside the Premises - Theft of Money and Securities;
- Inside the Premises- Robbery or Safe Burglary of Other Property;
- Outside the Premises;
- Computer Fraud; and
- Money Orders and Counterfeit Paper Currency.

[15] It is important to remember for this line of coverage that no two policies are identical and terminology can be confusing. Due to this fact and the potential risks including security, privacy, media/content, regulatory actions; consultation with your respective Insurance Analyst and Legal counsel is recommended.

Policy must allow for reporting of circumstances or incidents that might give rise to future claims. The policy must include an extended reporting period of no less than three years with respect to events which occurred but were not reported during the term of the policy.

The "AGENCY", including its affiliates and subsidiaries, must be included as "Loss Payees" as respects this specific amount as their interests may appear.

Any warranties required by the insurer must be disclosed and complied with. Said insurance shall extend coverage to include the principals.

112. Marine Protection & Indemnity

Anytime the activity involves work on navigable water or the work is connected to water related activities, Marine Protection & Indemnity and Hull and Machinery coverage is required. Hull and Machinery coverage shall be provided for the total value of the watercraft or equipment. The Contractor shall obtain Protective and Indemnity Liability insurance for all marine operations under the contract~~Agreement~~, with a minimum ($ XXXX) limit. Policies shall name (***XXXXXX)*** as Additional Insureds.[16] ~~. The Agency shall be endorsed as an Additional Insured.~~

123. Garage Liability

Garage Liability, including garage-keepers' coverage, is required anytime:

- a third party is towing, repairing or garaging an Agency vehicle,
- a third party is leasing an AGENCY owned parking facility, or
- the Contractor is involved in the garaging business, such as gas stations, repair shops, vehicle storage facilities, and parking lots.

The policy shall include coverage for all garage operations of the Contractor, including premises and operations; products and completed operations, and garage-keepers liability coverage with minimum limits of:

- Garage liability insurance : $1,000,000 for garage operations
- Garage-keepers liability: $100,000 per vehicle in custody, $500,000 aggregate on a direct primary basis.

Policies shall name (***XXXXXX)*** as Additional Insureds.[17] ~~The Agency shall be endorsed as an Additional Insured~~.

134. Umbrella and Excess Liability

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[16] Consideration should be given to who should be named as additional insureds, as the appropriate parties to be named will differ depending on the contract. For example, sometimes naming only The People of the State of New York, its officers and employees will not be sufficient and specific Agencies will also need to be named.

[17] Consideration should be given to who should be named as additional insureds, as the appropriate parties to be named will differ depending on the contract. For example, sometimes naming only The People of the State of New York, its officers and employees will not be sufficient and specific Agencies will also need to be named.

When the limits of the CGL, Auto, and/or Employers' Liability policies procured are insufficient to meet the limits specified, the Contractor shall procure and maintain Commercial Umbrella and/or Excess Liability policies with limits in excess of the primary; provided, however, that the total amount of insurance coverage is at least equal to the requirements set forth above. Such policies shall follow the same form as the primary. Any insurance maintained by the Agency or any additional insured shall be considered excess of and shall not contribute with any other insurance procured and maintained by the Contractor including primary, umbrella and excess liability regardless of the other insurance clause contained in either parties policy.

15. CONSTRUCTION MANAGER'S PROFESSIONAL LIABILITY

Construction Manager's Professional Liability will be required whenever the contracted work includes project management services above and beyond general construction and/or supervision. Such services include scheduling, contract negotiation and preparation, serving as the Owner's representative, etc., and similar services.

CHAPTER 4 - RECOMMENDED POLICY LIMITS

This chapter provides three (3) matrices listing the various types of activities / contracts that the Agencies would typically be involved with and details the amounts of insurance that would typically be required in those instances.

Each matrix is divided into columns providing information on some or all of the following items:

- Category (Activities/Contract Type);
- Workers' Compensation and NYS Disability Benefits Insurance;
- Commercial General Liability insurance requirements, with 2 sub-columns;
- Owners & Contractors' Protective Liability, with 2 sub-columns;
- Builders' Risk;
- Business Auto Liability;
- Professional Liability;
- Railroad Protective;
- Environmental (Pollution);
- Marine (Protection and Indemnity);
- Technology Errors and Omissions;
- Crime Insurance; and
- Garage Liability and Garage-Keepers Liability.

To determine the insurance requirements for a particular contract, refer to Chapter 2 for a description of each line of coverage and a discussion of those circumstances under which each form of insurance should be required. Chapter 3 offers model contract language for insurance specifications.

The matrices that follow specify recommended limits for various activities and lines of insurance coverage. To find the recommended limits, locate the activity that is the basis of the subject contract in the Category column. The activities are listed alphabetically and are divided into three major categories:

- Capital Construction;
- Building Services;
- Procurement/Professional Services/Commodities/Discretionary Purchases.

Within each major category, the various activities are listed alphabetically.

Once the applicable matrix and activities have been selected, the recommended insurance limits should be inserted.

Please note that specific projects/contracts may require increased limits or additional lines of coverage based on the nature and/or hazards of the work involved. **The limits and lines of insurance coverage shown in the matrices are not intended to apply to all contracts or anticipated operations.** The Agency should adjust the lines of insurance required, and the limits

specified for each line of coverage, as needed to make those requirements commensurate with the exposure created by the work or the operations.

The Agency's Insurance Analyst should be consulted if there are any particular questions or concerns.

New York State

Insurance Matrix C - Recommended Policy Limits [1]

PROCUREMENT / SERVICES / COMMODITIES

	A	B	C	D	E	F	G	H	I
Category	Workers' Compensation	NYS Disability Benefits	Commercial General Liability [2] in combination with Excess (Umbrella) Liability		Business Automobile Liability	Professional Liability	Technology Errors and Omissions	Crime	Garage Liability/Garage Keepers Liability
			Each Occurrence	General Aggregate	Combined Single Limit				
Other	Coverage shall be required in every contract, with limits as specified by law								
IT			$1,000,000	$2,000,000		$1,000,000	$1,000,000	$50,000	
Outsource:									
Web Design			TBD	TBD		TBD	$1,000,000		
Hunting/Fishing Licenses					TBD				
Campground Reservations									
Personal Service			$1,000,000	$2,000,000	$1,000,000	$1,000,000		$50,000	
Purchasing					TBD	TBD			Garage liability insurance: $1,000,000 for garage operations. Garage-keepers liability: $10,000 per vehicle in custody, $500,000 aggregate on a direct primary basis.
Airplane			Aircraft Liability						

NOTES:

1. The recommended limits and forms of insurance coverage listed in this matrix contemplate those exposures that are considered most common for the subject operations. The limits and lines of insurance coverage are not necessarily intended to apply to all contracts or intended operations. The Agency must take into consideration the potential exposure created by the work or operations that are the subject of the contract, and then adjust the form of insurance coverage and the corresponding limits commensurately. Consideration should be given to including insurance requirements in all transactions, even those which fall under discretionary purchasing.

2. **Commercial General Liability and Excess (Umbrella) Liability**:

   a. Each Occurrence limits should be provided such that the sum of the Commercial General Liability Per Occurrence and the Excess/Umbrella limits is equal to or greater than the total listed in column C.

   b. General Aggregate limits should be provided such that the sum of the General Aggregate and Excess/Umbrella limits is equal to or greater than the total listed in column D .

   c. Products/Completed Operations limits should be provided such that the sum of the Products/Completed Operations Aggregate and the Excess/Umbrella Liability limits is equal to or greater than the General Aggregate limit listed in column D.

   d. Personal & Advertising Injury limits of $1,000,000 (see Chapter 3 of this manual) can be achieved by a combination of CGL and Excess (Umbrella) limits.

New York State

Insurance Matrix A - Recommended Policy Limits [1]

CAPITAL CONSTRUCTION

	A	B	C	D	E	F	G	H	I	J	J	K
Category	Workers' Compensation	NYS Disability Benefits	Commercial General Liability [2] in combination with Excess (Umbrella) Liability		Owners & Contractors Protective Liability [3]		Builders' Risk [4]	Business Automobile Liability	Professional Liability [5]	Railroad Protective	Environmental Liability [6]	Marine [7] (Protection & Indemnity)
			Each Occurrence	General Aggregate	Each Occurrence	General Aggregate		Combined Single Limit				
Design	Coverage shall be required in every contract, with limits as specified by law		$2,000,000	$2,000,000	Does Not Apply		Does Not Apply	$1,000,000	< $25M = $2,000,000 >$25M = $5,000,000	Limits to be determined by the Railroad	$2,000,000	
Architectural												$2,000,000
Engineering												TBD
Construction					$1,000,000	$2,000,000	Total Value of Contract		Does Not Apply			
Contract Value												
< $10M			$2,000,000	$2,000,000							$2,000,000	$2,000,000
> $10M - $50M			$5,000,000	$5,000,000							$5,000,000	$5,000,000
> $50M			$10,000,000	$10,000,000							$10,000,000	$10,000,000
Construction Management							Does Not Apply		< $25M = $2,000,000 >$25M = $5,000,000			
Contract Value												
< $10M			$5,000,000	$5,000,000							$5,000,000	$5,000,000
> $10M - $50M			$10,000,000	$10,000,000							$10,000,000	$10,000,000
> $50M			$25,000,000	$25,000,000							$25,000,000	$25,000,000

NOTES:

1. The recommended limits and forms of insurance coverage listed in this matrix contemplate those exposures that are considered most common for the subject operations. The limits and lines of insurance coverage are not necessarily intended to apply to all contracts or intended operations. The Agency must take into consideration the potential exposure created by the work or operations that are the subject of the contract, and then adjust the form of insurance coverage and the corresponding limits commensurately. Consideration should be given to including insurance requirements in all transactions, even those which fall under discretionary purchasing.

2. **Commercial General Liability and Excess (Umbrella) Liability**:

   a. Each Occurrence limits should be provided such that the sum of the Commercial General Liability (CGL) Per Occurrence and the Excess/Umbrella limits is equal to or greater than the total listed in column C. CGL insurance limits for Construction contracts are to be based on the total value of the contract, using the ranges shown in the Category column.

   b. General Aggregate limits should be provided such that the sum of the General Aggregate and Excess/Umbrella limits is equal to or greater than the total listed in column D. CGL insurance limits for Construction contracts are to be based on the total value of the contract, using the ranges shown in the Category column; the limits apply on a per project/per job basis.

   c. Products/Completed Operations limits should be provided such that the sum of the Products/Completed Operations Aggregate and the Excess/Umbrella Liability limits is equal to or greater than the General Aggregate limit listed in column D.

   d. Personal & Advertising Injury limits of $1,000,000 (see Chapter 3 of this manual) can be achieved by a combination of CGL and Excess (Umbrella) limits.

3. **Owners & Contractors' Protective** - This insurance type ***is not applicable*** to Architectural or Engineering contracts.

4. **Builders' Risk** - This form of insurance applies ***only to*** Construction contracts that involve buildings or structures being constructed, erected or fabricated (i.e., vertical construction). The insurance does not apply to road (i.e., horizontal) construction, but may apply to related structures like bridges, toll booths, etc. Limits should be determined based on the total value of the contract.

5. **Professional Liability** - Limits are to be based on the total value of the completed project. Requirements ***do not*** apply to Construction contracts.

6. **Environmental Liability** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work. When environmental coverage is included in a CGL policy, minimum required limits should be increased to the sum of the two required limits.

7. **Marine (Protection & Indemnity)** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work.

New York State

Insurance Matrix B - Recommended Policy Limits [1]

BUILDING SERVICES

	A	B	C	D	E	F	G	H	I	J	K
Category	Workers' Compensation	NYS Disability Benefits	Commercial General Liability [2] in combination with Excess (Umbrella) Liability		Owners & Contractors Protective Liability [3]		Business Automobile Liability	Professional Liability [4]	Railroad Protective	Environmental Liability [5]	Marine [6] (Protection & Indemnity)
			Each Occurrence	General Aggregate	Each Occurrence	General Aggregate	Combined Single Limit				
Demolition	Coverage shall be required in every contract, with limits as specified by law						$1,000,000		Limits to be determined by the Railroad		
< $10M			$2,000,000	$2,000,000	$1,000,000	$2,000,000		< $25M = $2,000,000		$2,000,000	$2,000,000
> $10M - $50M			$5,000,000	$5,000,000				>$25M = $5,000,000		$5,000,000	$5,000,000
> $50M			$10,000,000	$10,000,000						$10,000,000	$10,000,000
Building Services					Does Not Apply						
Testing Work, Air, Surveys, Materials								$2,000,000			
Building Maintenance											
Leased Space			<$10M = $2,000,000	<$10M = $2,000,000						<$10M = $2,000,000	<$10M = $2,000,000
Hazardous Waste Removal											
Rubbish/Garbage Removal			$10M to $50M = $5,000,000	$10M to $50M = $5,000,000				Does Not Apply		$10M to $50M = $5,000,000	$10M to $50M = $5,000,000
Landscaping/Lawn Care											
Snow Removal											
Tree Removal			>$50M = $10,000,007	>$50M = $10,000,007						>$50M = $10,000,007	>$50M = $10,000,007
Vehicle Service/Maintenance											
Extermination											
Moving											

NOTES:

1. The recommended limits and forms of insurance coverage listed in this matrix contemplate those exposures that are considered most common for the subject operations. The limits and lines of insurance coverage are not necessarily intended to apply to all contracts or intended operations. The Agency must take into consideration the potential exposure created by the work or operations that are the subject of the contract, and then adjust the form of insurance coverage and the corresponding limits commensurately. Consideration should be given to including insurance requirements in all transactions, even those which fall under discretionary purchasing.

2. **Commercial General Liability and Excess (Umbrella) Liability**:

   a. Each Occurrence limits should be provided such that the sum of the Commercial General Liability (CGL) Per Occurrence and the Excess/Umbrella limits is equal to or greater than the total listed in column C. Contract insurance limits for Demolition and/or Building Services contracts are to be based on the total value of the contract, using the ranges shown in the Category column.

   b. General Aggregate limits should be provided such that the sum of the General Aggregate and Excess/Umbrella limits is equal to or greater than the total listed in column D . Contract insurance limits for Demolition and/or Building Services contracts are to be based on the total value of the contract, using the ranges shown in the Category column; the limits apply on a per project/per job basis.

   c. Products/Completed Operations limits should be provided such that the sum of the Products/Completed Operations Aggregate and the Excess/Umbrella Liability limits is equal to or greater than the General Aggregate limit listed in column B. Contract insurance limits for Demolition and/or Building Services contracts are to be based on the total value of the contract.

   d. Personal & Advertising Injury limits of $1,000,000 (see Chapter 3 of this manual) can be achieved by a combination of CGL and Excess (Umbrella) limits.

3. **Owners & Contractors' Protective** - Requirements do not apply to Building Services contracts.

4. **Professional Liability** - Limits for a demolition project, where applicable, are to be based on the total value of the completed project.

5. **Environmental Liability** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work. When environmental coverage is included in a CGL policy, minimum required limits should be increased to the sum of the two required limits.

6. **Marine (Protection & Indemnity)** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work.

CHAPTER 5 – CONTRACT ADMINISTRATION

This chapter provides a general overview of the insurance compliance function as it relates to the contract process. In addition, guidance is provided on the review process utilized for acceptance/approval of insurance documentation/certificates.

[**Note**: Each individual Agency should revise the following process as necessary to meet its specific needs and internal policies/operations].

I. What needs to be done after the contract has been signed and before work has begun:

Upon notification of contract signing, the Insurance Analyst or the contract manager will create an insurance file for all insurance-related correspondence for the contract. This file will include a list of all insurance required by the contract and a list of all parties to be identified as Additional Insureds ~~on the General Liability coverage~~. All insurance required for the project/contract must be submitted to the Insurance Analyst or the contract manager for review and approval prior to start of work. If the documentation submitted is not approved, the Insurance Analyst or the contract manager will contact the Contractor indicating the reasons for non-approval. The contract manager ~~will assist~~or the Insurance Analyst will~~in~~ follow~~ing~~ up with the Contractor to obtain proper evidence of insurance. Once proper evidence of insurance is received, the Insurance Analyst or the contract manager will notify the ~~e~~Contractor that work may begin~~/project manager~~.

II. During the Ceontract:

1. Insurance review

   During the contract period, the Insurance Analyst or the contract manager will be responsible for collection, review and maintenance of all insurance-related documentation and files. Specifically, the Insurance Analyst or the contract manager will review each insurance certificate submitted for approval to ensure compliance with all Agency insurance requirements. The~~n~~ use of an insurance checklist is recommended (see Exhibit C).

2. Monitor renewal/expiration dates

   If any policies will expire during the term of the contract, the Insurance Analyst or the contract manager will diary the forms for 30 days before the expiration of the insurance. At that time, if proof of renewal or replacement of coverage has not been received, the Insurance Analyst or the contract manager will send a letter to the Contractor stating that the Agency requires receipt of a new Certificate of Insurance before the existing coverage expires.

3. Cancellation Notices

   Upon notification of insurance cancellation, the Insurance Analyst or the contract manager will contact the Contractor stating that the Agency requires receipt of a new Certificate of Insurance immediately or by the insurance cancellation date, whichever is later. ~~The Insurance Analyst will also notify the contract/project manager of cancellation or impending cancellation.~~

4. Claims/Incidents that may lead to a claim.

Upon notification of a claim or of incidents leading to potential claims, the Insurance Analyst or the contract manager will contact the Agency Legal Department for further direction and notification to the Attorney General, as appropriate. In some Agencies, the Insurance Analyst or the contract manager may be responsible for notifying the Insurance carrier of situations causing potential claims.

III. At the conclusion of the contract:

The Insurance Analyst or the contract manager will ensure that all required insurance documentation is on file through the Acceptance/Completion date of the contract. Once a contract has been completed, the Insurance aAnalyst or the contract manager will retain all insurance documentation on file for a period after the contract end date that is sufficient to allow for adequate legal response to any subsequent claims and in compliance with all applicable records retention requirements.

CHAPTER 6 - GLOSSARY OF INSURANCE TERMS

This Glossary of Insurance Terms is intended as a reference for those Agency personnel who have reason to work with insurance industry personnel and/or documents as part of their work for the Agency. The terms described in the glossary are not limited to those used in other parts of these guidelinesis manual, but are a compilation of terms frequently encountered in discussions of insurance coverage and documentation.

ACCIDENT: An unexpected incident resulting in personal injury or property damage.

ACTUAL CASH VALUE: Usually the cost of replacing or restoring property to its condition immediately preceding a loss, less depreciation.

ADDITIONAL INSURED: A person or organization not automatically included as an insured under an insurance policy, but for whom insured status is arranged usually by endorsement. A named insured's impetus for providing additional insured status to others may be a desire to protect the other party because of a close relationship with that party (e.g., employees or members of an insured club) or to comply with a contractual agreement requiring the named insured to do so (e.g., customers or owners of property leased by the named insured). For purposes of Workers' Compensation and Disability benefits, an additional insured is a separate business entity, added to a policy that shares common majority ownership with the primary insured.

AGGREGATE LIMIT: A limit in an insurance policy indicating the most that the insurer will pay for all covered losses sustained during a specified period of time (usually a year), regardless of the number of claims. Aggregate limits are generally included in liability policies.

ADJUSTERS: Usually those who represent the insurer in settling claims with insureds or with third-party claimants (sometimes a representative of the insured).

ADVERTISING INJURY: A general liability coverage, combined in standard commercial general liability policies with personal injury coverage, that insures the following offenses in connection with the insured's advertising of its goods or services: libel, slander, invasion of privacy, copyright infringement, and misappropriation of advertising ideas.

ALL RISK COVERAGE: Property insurance covering losses arising from any fortuitous cause except those that are specifically excluded. This is in contrast to named perils coverage, which applies only to loss arising out of causes that are listed as covered. Most recent insurance changes use the term "Special Form" in place of "All Risk Coverage."

BINDER: A legal agreement issued either by an agent or a company to provide temporary insurance until a policy can be written. It should clearly designate the company in which the risk is bound as well as the amount, the perils insured against, and the type of insurance.

BOND: A three-party contract in which one party, the surety, guarantees the performance or honesty of a second party, the principal (obligor), to the third party (obligee) to whom the performance or debt is owed.

BROAD FORM CONTRACTUAL LIABILITY INSURANCE: Contractual liability insurance that covers liability transferred in a wide variety of business contracts. This type of coverage is provided on a blanket basis by the broad form comprehensive general liability endorsement used with the 1973 ISO CGL form and within the standard provisions of the 1986 ISO and subsequent CGL forms.

BROAD FORM PROPERTY DAMAGE (BFPD): The liability exposure represented by the risk of loss to property in a Ceontractor's care, custody, or control (CCC) or on which contracted operations are being performed. Because of the scope of exclusions applicable to these two risks of loss in the 1973 ISO CGL form, an endorsement was necessary to provide coverage for the BFPD hazard. (See Broad form general liability endorsement.) Coverage for the same exposure is provided automatically in 1986 edition and subsequent CGL forms by means of exceptions to the CCC and property damage exclusion.

BUILDERS' RISK INSURANCE: A property insurance policy that is designed to cover property in the course of construction. There is no single standard builders risk form; most builders risk policies are written on inland marine (rather than commercial property) forms. Coverage is usually written on an all risk basis, and typically applies not only to property at the construction site, but also to property at off-site storage locations and in transit. Builders risk insurance can be written on either a completed value or a reporting form basis; in either case, the estimated completed value of the project is used as the limit of insurance

CAPTIVE: Captive insurance companies are insurance companies established with the specific objective of financing risks emanating from their parent group or groups, but they sometimes also insure risks of the group's customers as well. Using a captive insurer is a risk management technique by which a business forms its own insurance company subsidiary to finance its retained losses in a formal structure. Captives cannot be created by NYS governmental entities, unless specifically authorized under State law.

CERTIFICATE OF INSURANCE: A statement that a specified insured and risk are covered to a specified extent, but ordinarily without responsibility on the part of the insurer to notify the certificate holder of termination of the insurance.

CLAIM: A demand by an individual or corporation to recover, under a policy of insurance, for loss, which may come within that policy.

CLAIMS-MADE POLICY:

From Wikipedia, the free encyclopedia:

A policy which covers all claims reported to an insurer within the policy period irrespective of when they occurred.

CROSS LIABILITY COVERAGE: Coverage in connection with the suit brought against an insured by another party that has insured status under the same policy. Cross-liability coverage is provided as an intrinsic feature of the standard commercial general liability policy, by means of the

"separation of insureds" condition. Some umbrella and professional liability policies contain insured-versus-insured exclusions that eliminate cross-liability coverage.

~~CYBER AND PRIVACY INSURANCE: A form of insurance that covers consumers of technology services for various liability and property losses that result form a organizations' engagement in a variety of electronic activities which may included Internet sales or the collection of customer data. Cyber insurance covers a variety of both first and third party losses.~~
DATA BREACH AND PRIVACY INSURANCE: A form of insurance also referred to has **CYBER INSURANCE** that covers consumers of technology services for various liability and property losses that result from an organizations' engagement in a variety of electronic activities which may include Internet sales or the collection of customer data. This form of insurance covers a variety of both first and third party losses with varying insuring agreements available based on need. Coverage is a separate form from a standard general liability policy with no current standardized ISO form available.

DEDUCTIBLE: A portion of covered loss that is not paid by the insurer. Most property insurance policies contain a per-occurrence deductible provision that stipulates that the deductible amount specified in the policy declarations will be subtracted from each covered loss in determining the amount of the insured's loss recovery. In property insurance, the deductible is usually subtracted from the amount of the loss, whereas in liability insurance, the deductible is usually subtracted from the policy limit. See Self- insured retention (SIR).

DISABILITY BENEFITS: A form of insurance purchased by an employer which provides statutory benefits in the state law to an employee due to an off-the-job-related injury or disease.

DISTRIBUTED DENIAL OF SERVICE (DDOS): An attempt to make a machine or network resource unavailable to its intended users.

ENDORSEMENT: A form bearing the language necessary to record a change in an insurance policy.

ERRORS AND OMISSIONS (E & O) INSURANCE: Errors and omissions insurance is business liability insurance for professionals such as insurance agents, real estate agents and brokers, architects, third party administrators and other business professionals. An error or omission, a mistake, which causes financial harm to another, can occur on almost any transaction in any profession. _This type of insurance helps to protect a professional, an individual or a company, from bearing the full cost of defense for lawsuits relating to an error or omission in providing covered Professional Services. This is a separate coverage from a standard general liability or property insurance policy.

EXCESS/UMBRELLA INSURANCE: A policy or bond covering the insured against certain hazards, and applying only to loss or damage in excess of a stated amount.

EXCESS LIABILITY "FOLLOW FORM" POLICY:

From Wikipedia, the free encyclopedia:

Excess insurance that literally honors all of the terms and conditions of the policy it supplements. In the event of a conflict, it is the underlying policy provisions that take precedence. Excess liability policies that contain exceptions to certain terms and conditions of the underlying policy are not true follow form.

EXPERIENCE RATING: A method used to determine a premium that is developed by comparing the actual loss experience of the insured to the loss experience that is normally expected by others in the insured's rating class or industry classification. This method is usually used for Wworkers' Ceompensation and unemployment policies.

EXTRA EXPENSE COVERAGE (ADDITIONAL EXPENSE COVERAGE): Insurance designed to protect a business in the event of unforeseen emergency requiring additional expenses allowing them to continue operations. Typically, this property insurance will carry a time element that pays for expenses in excess of normal operating expenses that an organization incurs to continue operations while its property is being repaired or replaced after having been damaged by a covered cause of loss. Extra expense coverage may be purchased in addition to or instead of business income coverage, depending on the needs of the organization.

GARAGE KEEPERS LEGAL LIABILITY: Extends the garage keeper's liability policy to provide coverage for damage to customers' automobiles regardless of the legal liability of the insured.

GARAGE LIABILITY INSURANCE: Insurance covering the legal liability of automobile dealers, garages, repair shops, and service stations for claims of bodily injury and property damage arising out of business operations. Damage to customers' vehicle is excluded from this coverage; however, garage keepers' coverage can be written as a part of the garage policy to cover that exposure.

INDEMNIFICATION: Language inserted in contracts to protect the Agency in the event of a loss. The actual insurance provided by the Ceontractor is the mechanism by which the Ceontractor would pay for its obligation to indemnify the Agency for a loss arising out of work performed in connection with the contract (or project).

INDEMNIFY: To make compensation to an entity, person, or insured for incurred injury, loss, or damage.

INSURANCE: A contractual relationship, which exists when one party (the insurer), for a consideration (the premium), agrees to reimburse another party (the insured) for loss to a specified subject (the risk) caused by designated contingencies (hazards or perils).

INSURED: The person(s) protected under an insurance contract.

JOINT AND SEVERAL LIABILITY: A form of liability used in civil cases that allows an injured person to sue and recover from any one or more of several defendants found liable for damages. The injured person may collect the entire judgment from any one of the defendants, regardless of that defendant's degree of negligence; or varying amounts from any or all defendants

until the judgment is paid in full. An individual defendant may be liable for up to the whole amount of the judgment should all other defendants lack wherewithal to pay.

JOINT VENTURE: A contractual business undertaking in which two or more parties combine their labor or property for a single undertaking and share profits and losses equally, or as otherwise agreed upon in contract. Joint ventures are not normally covered by a general liability policy, unless specifically named.

LLOYD'S OF LONDON: A marketplace for large and/or unusual insurance exposures. This association of independent underwriters is a place where brokers representing insurance applicants are able to contract with underwriters offering coverage. Lloyds does not directly underwrite policies, but acts a regulator under which its members offer insurance policies.

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT (LHWCA):

From Wikipedia, the free encyclopedia:

The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. § 901–950, commonly referred to as the "Longshore Act" or "LHWCA" is the statutory workers' compensation scheme, first enacted in 1927, that covers certain maritime workers, including most dock workers and maritime workers not otherwise covered by the Jones Act. In addition, Congress has extended the LHWCA to cover non-appropriated fund employees (i.e. AAFES employees), Outer Continental Shelf workers, and U.S. government Ceontractors working in foreign countries. LHWCA coverage can be obtained under a standard workers' compensation policy with the purchase of an endorsement.

MCS-90 ENDORSEMENT: An endorsement that must be attached to the auto liability policy of certain regulated motor carriers to assure that federally mandated coverage (e.g., required liability limits, environmental restitution coverage) is in place. The endorsement does not actually provide insurance except on a reimbursement basis. For example, if the insured motor carrier is insured under a standard Insurance Services Office Inc. (ISO), truckers or motor carrier policy without the broadened pollution liability coverage endorsement (CA 99 48) attached, the motor carrier could have to reimburse the insurer in case the insurer has to pay a pollution liability loss.

NAMED INSURED: The person, firm, or organization that enjoys the benefits of being insured under the policy.

OCCURRENCE: An accident, including continuous or repeated exposure to the same general harmful conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

OCCURRENCE POLICY:

From Wikipedia, the free encyclopedia:

A policy under which all claims occurring during the period of the policy, irrespective of when the underlying policies incepted, are covered. Any claims occurring after the policy's expiration date are not covered.

As opposed to claims-made policy. Insurance coverage is provided for losses occurring in the defined period. This is the usual basis of coverage for most policies.

OWNER CONTROLLED INSURANCE PROGRAM (Wrap-Up Insurance Program/ OCIP): An Owner-Controlled Insurance Program is an arrangement whereby the owner of a construction project purchases the coverage for one or more lines of insurance for all of the parties involved in the project (except Ceontractors specifically excluded). It produces savings by consolidating the Wworkers' C-eompensation, Ggeneral Lliability finsurance and Bbuilder's Rrisk policies and implementing a comprehensive safety program for all the Ceontractors and subcontractors in a construction program. Occasionally, other coverages such as professional liability and environmental impairment (except the MCS9O transportation of hazardous waste endorsement), are added to the program, as well.

As a general rule, for construction projects to qualify for a wrap-up, projects must meet three criteria: (1) contract value $100 million, (2) minimum construction/labor percentage, and (3) contiguous or related work-type (rolling wrap-up).

Advantages of a Wrap-Up

- Cost savings - the estimated cost savings to the owner of a well-managed "wrap-up" insurance program are usually between 1.5% - 2% of contract costs.
- Superior safety and loss control for workers and the general public because additional Safety Management is brought in to the construction project.
- Potential for insurers to offer broader coverage and higher limits than would otherwise be available.
- Improved claims handling because one Insurance Administrator handles all claims, thus reducing confusion of cross claims and access to records.

[**Note**: State contracting agencies should be familiar with NYS laws limiting the procurement opportunities specific to OCIP programs, before binding such a policy].

PERSONAL AND ADVERTISING INJURY: (1) A standard coverage (Coverage B) of the 1986 and later commercial general liability forms. (2) A defined term in the standard CGL since 1998, it combines elements of the earlier separate categories of "personal injury" and "advertising injury." See also Advertising injury; Personal injury.

PERSONAL INJURY: Under general liability coverage, a category of insurable offenses that produce harm other than bodily injury. As covered by the 1986 commercial general liability (CGL) policy, personal injury includes: false arrest, detention, or imprisonment; malicious prosecution; wrongful eviction; slander; libel; and invasion of privacy. Also addressed in the homeowners policy. Under umbrella liability insurance, a broad category of insurable offenses that includes both bodily injury and the offenses defined as "personal injury" in CGL policies.

PRODUCT LIABILITY: Liability arising out of manufactured goods after they leave the premises.

PRODUCTS/COMPLETED OPERATIONS: One of the hazards ordinarily insured by a general liability policy. It comprises liability arising out of the insured's products or business operations conducted away from the insured's premises once those operations have been completed. It typically relates to claims arising out of a contract.

PROFESSIONAL LIABILITY INSURANCE: A form of liability insurance that insures against loss due to failure, through error or unintentional omission, such as architect and engineers design error(s) in their work. These policies provide indemnification for third-party liability claims due to negligence in the performance of professional services. Coverage for faulty construction work associated with projects is normally excluded under the policies. Professionals include doctors, lawyers, engineers, media professionals, insurance agents, and others. (This term is used interchangeably with Errors & Omissions Liability.)

PUBLIC ADJUSTER: Is a professional claims adjuster hired by the policy holder to represent and advocate for the policy holder in a first party insurance claim. Public adjusters negotiate settlement of claims with the insurer's claims representative and are compensated with a percentage of the settlement they are able to secure for their clients. Their compensation will vary based on the size and complexity of the claim.

RAILROAD PROTECTIVE LIABILITY POLICY: Insurance coverage protecting a railroad from liability exposures due to the work of contractors or subcontractors on or near the railroad right-of-way. This insurance coverage is generally required by the railroad and lists the Railroad as the Named Insured.

RECIPROCAL:

From Wikipedia, the free encyclopedia:

A reciprocal inter-insurance exchange, is an insurance company referred to in United States state legislation as either a reciprocal insurance exchange, a reciprocal inter-insurance exchange, or perhaps most properly a reciprocal inter-insurance exchange and is managed by an attorney in fact (AIF). Sometimes they are referred to simply as "reciprocals".

A reciprocal inter-insurance exchange is unincorporated: each member of the exchange is individually and severally liable to indemnify all the other members. As to the unincorporated personal liability of each member of a reciprocal inter-insurance exchange, there is an important distinction when compared to a partnership: members of a reciprocal inter-insurance exchange are not jointly liable, as are partners of a law firm.

Reciprocals are sometimes confused with an incorporated mutual insurance company. Reciprocals have been compared to limited liability company (LLC) and limited partnerships (LP). Both the reciprocal and the LLC are made up of members. Members of a reciprocal are also sometimes referred to as subscribers. Members enter into a direct partnership with most of the features associated with a mutual agency. As is also true in the case of the LLC, there is no incorporated limited liability entity owned by shareholders. Share ownership and limited liability evidenced by stock certificates are not issued to each owner. However, legislation has been enacted that limits

liability of members to only the assets held by the reciprocal. Therefore, for liability purposes, membership in a reciprocal is similar to ownership of shares of a corporation.

Members of a reciprocal may be either a natural person, an LLC or LP, a partnership, or a corporation. In some states, municipalities form reciprocals to cross-indemnify towns, cities, villages, and counties.

The AIF is a stakeholder and a trustee who holds the deposits made by each member. All property entrusted to the AIF in a reciprocal remains, at all times, the property of the subscribers. In that regard, the AIF is a classic trustee, and the members are the beneficiaries of the trust.

RISK MANAGEMENT: The practice of identifying, analyzing, and taking steps to reduce or eliminate exposures to loss faced by an organization. Although risk management has historically pertained to property and casualty loss exposures, it has recently been expanded to include management of financial risk exposures.

SELF INSURANCE:

From Wikipedia, the free encyclopedia:

Self–insurance is a risk management method in which a calculated amount of money is set aside to compensate for the potential future loss.

If self–insurance is approached as a serious risk management technique, money is set aside using actuarial and insurance information and the law of large numbers so that the amount set aside (similar to an insurance premium) is enough to cover the future uncertain loss.

Self–insurance is possible for any insurable risk, meaning a risk that is predictable and measurable enough in the aggregate to be able to estimate the amount that needs to be set aside to pay for future uncertain losses. For a risk to be insurable, it must represent a future, uncertain event over which the insured has no control. Other characteristics which assist in making a risk self-insurable include the ability to price or rate the risk. If the insurable event is one in a large number of similar risks, the aggregate risk can be estimated according to the law of large numbers and the probability of that event occurring in the future can be quantified. Normally, catastrophic risks are not self-insured as they are highly unpredictable and high in loss-value. Catastrophic risks are normally underwritten by the re-insurance or wholesale insurance market. Any risk where the potential loss is so large that no one could afford to pay the market premium required to provide cover would not be commercially insurable. An example is that earthquakes cannot be fully insured against because an earthquake can cause more damage than any insurer or the combined insurance market is willing to risk in total assets. However, captives and self-insurance program[me]s are often designed to provide for a part of a risk that would be catastrophic to the business concerned, or catastrophic risks that are often commercially uninsurable, such as tobacco litigation liability risks.

Full or exclusive self–insurance is rare, as a combination of self–insurance and commercial insurance usually provides the best cover for the self-insured. Usually the predictable losses of the risk are retained and self-insured, forming a first or "working" layer of cover, and a stop-loss or stop-gap policy is purchased from the commercial insurance market. The commercial insurance market then pays for losses above the specified self-insurance limit per loss, thereby stopping the

cost of losses to the self-insured above the retained values. Effectively the losses paid for by the insured before the stop-loss policy pays becomes the deductible layer. Depending on the level at which risks are stopped, commercial insurance cover should become less and less expensive the further away the commercial insurer moves from the working layer of paying claims each year.

SELF-INSURANCE POOL OR TRUST: A legal entity formed as a collective by a group of unrelated insureds (members) for the purpose of pooling and retaining their own risks, as well as sharing the costs associated with administration of the self-insurance program.

SELF-INSURED RETENTION (SIR): A dollar amount specified in an insurance policy (usually a liability insurance policy) that must be paid by the insured before the insurance policy will respond to a loss. SIRs typically apply to both the amount of the loss and related costs, e.g., defense costs, but some apply only to amounts payable in damages, e.g., settlements, awards, and judgments. An SIR differs from a true deductible in at least two important ways. Most importantly, a liability policy's limit stacks on top of an SIR while the amount of a liability insurance deductible is subtracted from the policy's limit. As contrasted with its responsibility under a deductible, the insurer is not obligated to pay the SIR amount and then seek reimbursement from the insured; the insured pays the SIR directly to the claimant. While these are the theoretical differences between SIRs and deductibles, the actual policy provisions should be reviewed to ascertain the actual operation of specific provisions.

SUBROGATION:

From Wikipedia, the free encyclopedia:

Subrogation in its most common usage refers to circumstances in which an insurance company tries to recoup expenses for a claim it paid out when another party should have been responsible for paying at least a portion of that claim.

More specifically, subrogation is the legal technique under common law by which one party, commonly an insurer (I-X) of another party (X), steps into X's shoes, so as to have the benefit of X's rights and remedies against a third party such as a defendant (D). Subrogation is similar in effect to assignment, but unlike assignment, subrogation can occur without any agreement between I-X and X to transfer X's rights. Subrogation most commonly arises in relation to policies of insurance, but the legal technique is of more general application. Using the designations above, I-X (the party seeking to enforce the rights of another) is called the subrogee. X (the party whose rights the subrogee is enforcing) is called the subrogor.

In each case, because I-X pays money to X which otherwise D would have had to pay, the law permits I-X to enforce X's rights against D to recover some or all of what I-X has paid out. A very simple (and common) example of subrogation would be as follows:

1. D drives a car negligently and damages X's car as a result.
2. X, the insured party, has Collision insurance, and claims (i.e., asks for payment) under his policy against I-X, his insurer.
3. I-X pays in full to have X's car repaired.

4. I-X then sues D for negligence to recoup some or all of the sums paid out to X.
5. I-X receives the full amount of any amounts recovered in the action against D up to the amount to which I-X indemnified X. X retains none of the proceeds of the action against D except to the extent that they exceed the amount that I-X paid to X.

If X were paid in full by I-X and still had a claim in full against D, then X could recover "twice" for the same loss. The basis of the law of subrogation is that when I-X agrees to indemnify X against a certain loss, then X "shall be fully indemnified, but never more than fully indemnified… if ever a proposition was brought forward which is at variance with it, that is to say, which will prevent [X] from obtaining a full indemnity, or which will give to [X] more than a full indemnity, that proposition must certainly be wrong."
I-X will normally (but not always) have to bring the claim in the name of X. Accordingly, in situations where subrogation rights are likely to arise within the scope of a contract (i.e. in an indemnity insurance policy) it is quite common for the contract to provide that X, as subrogor, will provide all necessary cooperation to I-X in bringing the claim.

Subrogation rights can also come into play when X brings the action against D. To the extent that X's recovery against D reflects damages incurred by X that were already covered by I-X, I-X will have a lien on the proceeds of the action. In the collision example above, it would be typical for X to sue D, asserting as one element of damage the cost of repairing X's car. I-X's lien would extend to whatever D paid X that was allocable to that claim, but not to what was allocable to X's other claims against D, such as lost wages or pain and suffering.

Subrogation is an equitable remedy and is subject to all the usual limitations that apply to equitable remedies.

Although the basic concept is relatively straightforward, subrogation is considered to be a highly technical area of the law.

SUBROGATION WAIVER: An agreement by which one party agrees to relinquish their subrogation rights against the other in the event of a loss.

SURETY BOND:

From Wikipedia, the free encyclopedia:

A surety bond is a promise to pay one party (the obligee) a certain amount if a second party (the principal) fails to meet some obligation, such as fulfilling the terms of a contract. The surety bond protects the obligee against losses resulting from the principal's failure to meet the obligation.

TAIL COVERAGE: Provides coverage for insurance claims made following the expiration of the policy. This optional coverage is generally available under most claims-made policies.

TECHNOLOGY ERRORS & OMISSIONS LIABILITY:

A form of professional liability insurance that provides indemnification for third-party liability claims due to negligence in the performance of computer-related technology services. This form

of insurance contains a number of the same insuring agreements as data breach and privacy insurance policies. Coverage is a separate form from a standard general liability policy with no current standardized ISO form available. There is no single standard technology errors and omissions form.

UMBRELLA LIABILITY POLICY:

From Wikipedia, the free encyclopedia:

Umbrella insurance refers to a liability insurance policy that protects the assets and future income of the policyholder above and beyond the standard limits on their primary policies. It is distinguished from excess insurance in that excess coverage goes into effect only when all underlying policies are totally exhausted, while umbrella is able to "drop down" to fill coverage gaps in underlying policies. Therefore, an umbrella policy can become the primary policy "on the risk" in certain situations. The term "umbrella" refers to how the policy shields the insured's assets more broadly than primary coverage.

Typically, an umbrella policy is pure liability coverage over and above the coverage afforded by the regular policy, and is sold in increments of one million dollars. The term "umbrella" is used because it covers liability claims from all policies underneath it, such as auto insurance and homeowner's insurance policies. For example, if the insured carries an auto insurance policy with liability limits of $500,000 and a homeowner's insurance policy with a limit of $300,000, then with a million dollar umbrella, the insured's limits become in effect, $1,500,000 on an auto liability claim and $1,300,000 on a homeowners liability claim.

Umbrella insurance provides broad insurance beyond traditional home and auto. It provides additional liability coverage above the limits of homeowner's, auto, and boat insurance policies. It can also provide coverage for claims that may be excluded by the primary policies.

UNDERGROUND PROPERTY DAMAGE: Property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus used with them beneath the surface of the ground or water caused by either a person who is not the owner or by natural phenomena.

WORKERS' COMPENSATION: A form of insurance purchased by an employer which provides no-fault statutory benefits prescribed in state law to an employee (or the employee's family) due to a job-related injury (including death) resulting from an accident or occupational disease.

PART V
Exhibits A – D

A. Certificate of Insurance Forms

B. Letter to Contractor/Guidelines for Submitting Evidence of Insurance to Agencies

C. Agency Procedures for Tracking and Approval and Agency Insurance Approval Form

D. Agency Insurance Analyst

PART V-EXHIBIT A

CERTIFICATE OF INSURANCE FORMS

Placeholder for Acord 25-Exhibit A.1

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:
Producer Name Producer Address	PHONE (A/C, No, Ext): FAX (A/C, No):
	E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	Carrier A	12345
INSURER B :	Carrier B	12345
INSURER C :	Carrier C	12345
INSURER D :		
INSURER E :		
INSURER F :		

INSURED
Contractor Name
Contractor Address

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
				Policy Number	01/01/2014	01/01/2015	MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS ☐ SCHEDULED AUTOS			Policy Number	01/01/2014	01/01/2015	BODILY INJURY (Per accident)	$
	HIRED AUTOS ☐ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
C	UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$ 1,000,000
	EXCESS LIAB ☐ CLAIMS-MADE			Policy Number	01/01/2014	01/01/2015	AGGREGATE	$ 1,000,000
	DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A						E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

NYS OGS Contract Number & Project Location

The People of the State of New York, its Officers, Agents, and Employees are named as additional insureds.

30-Day Notice of Cancellation

CERTIFICATE HOLDER

New York State Office of General Services
Design & Construction Group
Division of Contract Administration
35th Floor, Corning Tower, GNARESP
Albany, NY 12242

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Placeholder for Acord 27-Exhibit A.2

ACORD®

EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
DATE

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY	PHONE (A/C, No, Ext): PHONE NUMBER
FULL NAME OF THE PRODUCER/AGENCY THE MAILING ADDRESS OF THE PRODUCER/AGENT CITY, STATE, ZIP CODE	
FAX (A/C, No): FAX NUMBER	E-MAIL ADDRESS: EMAIL-PRODUCER/AGENT
CODE: INSURER ASSIGNED CODE	SUB CODE: INDIVIDUAL ID CODE
AGENCY CUSTOMER ID #: CUSTOMER ID ASSIGNED BY AGENCY OR BROKERAGE	

COMPANY
THE INSURER'S FULL LEGAL COMPANY NAME FULL ADDRESS OF THE INSURER'S MAILING ADDRESS CITY, STATE, ZIP CODE

INSURED	LOAN NUMBER	POLICY NUMBER
THE NAMED INSURED NAMED INSURED'S MAILING ADDRESS CITY, STATE, ZIP CODE	ANY LOAN NUMBER ASSIGNED	POLICY NUMBER
	EFFECTIVE DATE: EFFECTIVE DATE / EXPIRATION DATE: EXPIRATION DATE	☐ CONTINUED UNTIL TERMINATED IF CHECKED
	THIS REPLACES PRIOR EVIDENCE DATED: DATE PRIOR COV.	

PROPERTY INFORMATION

LOCATION/DESCRIPTION

ADDRESS OF THE PROPERTY
DESCRIPTION OF THE PROPERTY

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

COVERAGE / PERILS / FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
DESCRIPTION OF THE COVERAGES PROVIDED, CAUSE OF LOSS (PERILS) AND ANY FORMS ATTACHED	$ OF INSURANCE	DEDUCTIBLE

REMARKS (Including Special Conditions)

ANY ADDITIONAL COMMENTS OR SPECIAL CONDITIONS THAT MAY EXIST UPON THE POLICY. ACORD 101, ADDITIONAL REMARKS SCHEDULE, MAY BE ATTACHED IF MORE SPACE IS REQUIRED.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS	☐ MORTGAGEE ☐ LOSS PAYEE ☐ ADDITIONAL INSURED CHECK THE APPLICABLE BOX
THE ADDITIONAL INTEREST'S FULL NAME ADDITIONAL INTEREST 'S MAILING ADDRESS CITY, STATE, ZIP CODE	LOAN #: THE LOAN NUMBER THAT MAY BE ASSIGNED TO THE INSURED
	AUTHORIZED REPRESENTATIVE: SIGNATURE OF THE PRODUCER, AGENT OR BROKER OF THE COMPANY

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Placeholder for Acord 28-Exhibit A.3

EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY): DATE

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS	PHONE (A/C, No, Ext): PHONE NUMBER	COMPANY NAME AND ADDRESS	NAIC NO: NAIC ID CODE
FULL NAME OF THE PRODUCER/AGENCY THE MAILING ADDRESS OF THE PRODUCER/AGENT CITY, STATE, ZIP CODE		THE INSURER'S FULL LEGAL COMPANY NAME FULL ADDRESS OF THE INSURER'S MAILING ADDRESS CITY, STATE, ZIP CODE	
FAX (A/C, No): FAX NUMBER	E-MAIL ADDRESS: EMAIL-PRODUCER/AGENT	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE: INSURER ASSIGNED CODE	SUB CODE: INDIVIDUAL ID CODE	POLICY TYPE	
AGENCY CUSTOMER ID #: CUSTOMER CODE ASSIGNED BY AGENCY OR BROKERAE		THE TYPE OF POLICY ISSUED TO THE INSURED	
NAMED INSURED AND ADDRESS		LOAN NUMBER	POLICY NUMBER
THE NAMED INSURED INSURED'S MAILING ADDRESS CITY, STATE, ZIP CODE		ANY LOAN NUMBER ASSIGNED	POLICY NUMBER
		EFFECTIVE DATE: EFFECTIVE DATE	EXPIRATION DATE: EXPIRATION DATE ☐ CONTINUED UNTIL TERMINATED IF CHECKED
ADDITIONAL NAMED INSURED(S)		THIS REPLACES PRIOR EVIDENCE DATED: PRIOR DATE	

PROPERTY INFORMATION (Use REMARKS on page 2, if more space is required) ☐ **BUILDING OR** ☐ **BUSINESS PERSONAL PROPERTY**

LOCATION / DESCRIPTION		
PHYSICAL LOC ADDRESS SECOND ADDRESS CITY, STATE, ZIP CODE	THE DESCRIPTION OF THE LOCATION USED TO DIFFERENTIATE LOCATIONS	

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION PERILS INSURED ☐ BASIC ☐ BROAD ☐ SPECIAL ☐ CHECK APPLICABLE BOX

COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: $ LIMIT OF INSURANCE DED: DEDUCTIBLE

	YES	NO	N/A	
☐ BUSINESS INCOME ☐ RENTAL VALUE				If YES, LIMIT: ☐ Actual Loss Sustained; # of months:
BLANKET COVERAGE				If YES, indicate value(s) reported on property identified above: $
TERRORISM COVERAGE				Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?				
IS DOMESTIC TERRORISM EXCLUDED?				
LIMITED FUNGUS COVERAGE				If YES, LIMIT: DED:
FUNGUS EXCLUSION (If "YES", specify organization's form used)				
REPLACEMENT COST				
AGREED VALUE				
COINSURANCE				If YES, %
EQUIPMENT BREAKDOWN (If Applicable)				If YES, LIMIT: DED:
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg				If YES, LIMIT: DED:
- Demolition Costs				If YES, LIMIT: DED:
- Incr. Cost of Construction				If YES, LIMIT: DED:
EARTH MOVEMENT (If Applicable)				If YES, LIMIT: DED:
FLOOD (If Applicable)				If YES, LIMIT: DED:
WIND / HAIL INCL ☐ YES ☐ NO Subject to Different Provisions:				If YES, LIMIT: DED:
NAMED STORM INCL ☐ YES ☐ NO Subject to Different Provisions:				If YES, LIMIT: DED:
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS				

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

☐	MORTGAGEE	☐	CONTRACT OF SALE
☐	LENDERS LOSS PAYABLE	☐	CHECK THE APPLICABLE BOX

NAME AND ADDRESS	LENDER SERVICING AGENT NAME AND ADDRESS
THE ADDITIONAL INTEREST'S FULL NAME ADDITIONAL INTEREST 'S MAILING ADDRESS CITY, STATE, ZIP CODE	LENDER SERVICING AGENT LENDER SERVICING AGENT MAILING ADDRESS CITY, STATE, ZIP CODE
	AUTHORIZED REPRESENTATIVE SIGNATURE OF PRODUCER, AGENT OR BROKER OF THE COMPANY

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EVIDENCE OF COMMERCIAL PROPERTY INSURANCE REMARKS - Including Special Conditions (Use only if more space is required)

ANY GENERAL REMARKS

Placeholder for Acord 855-Exhibit A.4

AGENCY CUSTOMER ID: _____

NEW YORK CONSTRUCTION CERTIFICATE OF LIABILITY INSURANCE ADDENDUM

DATE (MM/DD/YYYY)

THIS ADDENDUM SUMMARIZES SOME OF THE POLICY PROVISIONS IN THE REFERENCED INSURANCE POLICIES AND IS ISSUED AS A MATTER OF INFORMATION ONLY; IT CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. ALL TERMS, EXCLUSIONS AND CONDITIONS IN THE ACTUAL POLICY SHOULD BE CONSULTED FOR A MORE DETAILED ANALYSIS OF COVERAGE, AS THIS ADDENDUM DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES.

AGENCY		NAMED INSURED(S)	
AMSURE - A division of ATCFSI			
POLICY NUMBER	EFFECTIVE DATE	CARRIER	NAIC CODE
123			

ADDENDUM INFORMATION **CERTIFICATE NUMBER:** **REVISION NUMBER:**

A. Insurer

- ☐ Admitted / authorized
- ☐ Excess line or free trade zone

B. General Liability (GL) policy form

- ☐ ISO / ISO modified
- ☐ Other

C. Specific operations excluded or restricted (GL policy)

- ☐ Location: _____
- ☐ Type of construction: _____
- ☐ Building height: _____
- ☐ Classifications [see attached declarations / endorsement]
- ☐ Designated work [see attached endorsement]

D. Additional insured endorsement (GL policy)

☐ CG 20 10 ☐ CG 20 26 ☐ CG 20 32 ☐ CG 20 33 ☐ CG 20 37 ☐ CG 20 38

☐ Other: #: _____ Title: _____

E. According to the terms of this GL policy, the additional insured has primary and noncontributory coverage

☐ Yes ☐ No and ☐ no other option is available with this insurer

F. Additional insured will receive advance notice if insurer cancels (GL policy)

☐ Yes ☐ No and ☐ no other option is available with this insurer

G. Blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f. in the ISO CGL policy) is removed or restricted

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

H. "Insured contract" exception to the employers liability exclusion is removed or modified (GL policy)

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

I. GL policy (including endorsements) does not cover the additional insured for claims involving injury to employees of the named insured or subcontractors (not workers' compensation)

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

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J. Earth movement, excavation or explosion / collapse / underground property damage is excluded or restricted (GL policy)

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

K. Insured vs. insured suits (cross liability in the ISO CGL policy) are excluded or restricted (other than named insured vs. named insured)

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

L. Property damage to work performed by subcontractors (exception to the "damage to your work" exclusion in the ISO CGL policy) is excluded or restricted

☐ Yes and ☐ no other option is available with this insurer ☐ No changes made

M. Excess / umbrella policy is primary and non-contributory for additional insureds

☐ Yes, by specific policy provision ☐ Yes, by endorsement ☐ No and ☐ no other option is available with this insurer

AUTHORIZED REPRESENTATIVE SIGNATURE DATE (MM/DD/YYYY)

ACORD 855 NY (2014/05) - New York Construction Certificate of Liability Insurance Addendum

ACORD 855 NY, New York Construction Certificate of Liability Insurance Addendum, may be used to supplement ACORD 25, Certificate of Liability Insurance, in the state of New York, to provide more information about the policy's coverage when required by the certificate holder. It is not intended to answer specific coverage questions, but merely to indicate areas of coverage where the solicitation of more details may be expedient (e.g., examination of the actual policy forms).

Form Page 1

Section Name	Field Name	Description
IDENTIFICATION SECTION	Agency Customer ID	Enter identifier: The customer's identification number assigned by the producer (e.g., agency or brokerage).
IDENTIFICATION SECTION	Date	Enter date: The date on which the form is completed. (MM/DD/YYYY)
IDENTIFICATION SECTION	Agency	Enter text: The full name of the producer / agency.
IDENTIFICATION SECTION	Policy Number	Enter identifier: The identifier assigned by the insurer to the policy, or submission, being referenced exactly as it appears on the policy, including prefix and suffix symbols. If required for self-insurance, the self-insured license or contract number.
IDENTIFICATION SECTION	Effective Date	Enter date: The effective date of the policy. The date that the terms and conditions of the policy commence. (MM/DD/YYYY)
IDENTIFICATION SECTION	Named Insured(s)	Enter text: The named insured(s) as it / they will appear on the policy declarations page.
IDENTIFICATION SECTION	Carrier	Enter text: The insurer's full legal company name(s) as found in the file copy of the policy. Use the actual name of the company within the group to which the policy has been issued. This is not the insurer's group name or trade name.
IDENTIFICATION SECTION	NAIC Code	Enter code: The identification code assigned to the insurer by the NAIC.
ADDENDUM INFORMATION	Certificate Number	Enter identifier: The producer assigned number for the certificate.
ADDENDUM INFORMATION	Revision Number	Enter number: The producer assigned revision number for the certificate.
ADDENDUM INFORMATION	A. Insurer - Admitted / Authorized (check box)	Check the box (if applicable): Indicates that this is a group of insurers that is admitted or authorized in the state of New York.

ADDENDUM INFORMATION	**Excess Line or Free Trade Zone (check box)**	Check the box (if applicable): Indicates that this a group of insurers (known as surplus lines in other states) that are not authorized in the state of New York, but are included on the stamping list of approved unauthorized insurers maintained by the Excess Line Association of New York. The coverage implications are that these insurers are exempt from filing their rate and forms with the Department of Financial Services. Significant variance in the language of forms and endorsements should be expected with these policies. In addition, policies written by unauthorized insurers are not afforded by the insolvency protection of the Property / Casualty Insurance Security Fund. Free Trade Zone refers to regulatory exemptions for "special risks" that may be written by authorized insurers having a special FTZ license. FTZ provisions allow these insurers an exemption from rate and form filing requirements so they may effectively compete with excess line insurers in the "special risks" market. They are authorized insurers, so the Property / Casualty Insurance Security Fund is applicable to policies written by them.
ADDENDUM INFORMATION	**B. General Liability (GL) Policy Form - ISO / ISO Modified (check box)**	Check the box (if applicable): Indicates that the Insurance Service Office, Inc develops standard insurance forms for use by its member insurers. The ISO CG 00 01 Commercial General Liability Coverage Form is often used to insure construction risks. With access to the list of forms on the declarations, the extent of coverage can be determined from these standard forms, which are generally available from policyholders and industry representatives. Another benefit in using standard forms is that the language has undergone years of judicial interpretation, which gives the determination of coverage more certainty. However, it is not uncommon for insurers to modify the basic ISO CGL form with language preferred by the insurer.
ADDENDUM INFORMATION	**Other (check box)**	Check the box (if applicable): Indicates that insurers have filed proprietary forms of their own, which makes comparisons with standard forms more difficult and language interpretation less certain.

ADDENDUM INFORMATION	**C. Specific Operations Excluded or Restricted (GL Policy) - Location (check box)**	Check the box (if applicable): Indicates that specific operations are excluded or restricted on the GL policy. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form does not limit its coverage to any specific location, three standard ISO endorsements exist that can be used to restrict coverage by location: CG 21 00 Exclusion - All Hazards In Connection With Designated Premises This endorsement allows the insurer to describe a location of premises where coverage is excluded. For example it may exclude all work conducted in New York City. CG 21 34 Exclusion - Designated Work This endorsement excludes the completed operations liability exposure for work shown in the schedule, which could be a project or designated work at a specific location. More likely, it would exclude work of a specific type and/or during a specific time period. Ongoing operations remain covered. CG 21 53 Exclusion - Designated Ongoing Operations This endorsement excludes the ongoing operations liability exposure of a specific type. The excluded operation also can be specific to a location. Completed operations remain covered. Nonstandard endorsements may restrict coverage to a specific location eliminating all others.
ADDENDUM INFORMATION	**Location**	Enter text: The specific description of the location being excluded if applicable or indicate if the location is for a project or designated work at a specific location.
ADDENDUM INFORMATION	**Type of Construction (check box)**	Check the box (if applicable): Indicates that the specific operations are excluded or restricted by type of construction on a GL policy. However, there is no standard endorsement for this purpose. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form does not limit its coverage to any specific type of construction, nonstandard endorsements may designate residential, single-family, apartment, condominium, townhome, track home, habitational or commercial construction as restricted or excluded.
ADDENDUM INFORMATION	**Type of Construction**	Enter text: The description of the building's occupancy. As used here, indicates the type of construction and indicates the location is occupied as either a residential, single family, apartment, condominium, townhouse, track home, habitational or commercial structure.
ADDENDUM INFORMATION	**Building Height (check box)**	Check the box (if applicable): Indicates that the specific operations are excluded or restricted by type of building height on a GL policy. However, there is no standard endorsement for this purpose. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form does not limit its coverage to any specific building height, nonstandard endorsements may designate the number of floors / stories that are either covered or excluded.
ADDENDUM INFORMATION	**Building Height**	Enter number: The number of stories or floors for this building not including any basement.
ADDENDUM INFORMATION	**Classifications (check box)**	Check the box (if applicable): Indicates that the specific operations are excluded or restricted by type of classifications on a GL policy. However, there is no standard endorsement for this purpose. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form does not limit its coverage to any specific risk classification, nonstandard endorsements may designate specific classifications as either covered or excluded.

ADDENDUM INFORMATION	**Designated Work (check box)**	Check the box (if applicable): Indicates that the specific operations are excluded or restricted by designated work on a GL policy. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form does not limit its coverage to any specific work designation, three standard ISO endorsements exist that can be used to restrict coverage by designated work: CG 21 34 Exclusion - Designated Work This endorsement excludes the completed operation liability exposure for designated work shown in the schedule. Ongoing operations remain covered. CG 21 53 Exclusion - Designated Ongoing Operations This endorsement excludes the ongoing operations liability exposure of a specific type. The excluded operation also can be specific to a location. Completed operations remain covered. CG 21 86 Exclusion - Exterior Insulation and Finish Systems This endorsement excludes the ongoing operations and products / completed operations liability exposures that arise from the presence of EIFS-clad exterior work or products. Nonstandard endorsements may designate specific work or operations as either covered or excluded.
ADDENDUM INFORMATION	**D. Additional Insured Endorsement (GL Policy) - CG 20 10 (check box)**	Check the box (if applicable): Indicates the CG 20 10 Additional Insured - Owners, Lessees Or Contractors - Scheduled Person Or Organization endorsement is requested. The current edition of the endorsement insures as an additional insured in the described person or organization or "ongoing operations" of the named insured performed for the additional insured. For example, a subcontractor's policy could name the general contractor as an additional insured.
ADDENDUM INFORMATION	**CG 20 26 (check box)**	Check the box (if applicable): Indicates the CG 20 26 Additional Insured - Designated Person Or Organization endorsement is requested. The current edition of this endorsement insures as an additional insured the described person or organization for the named insured's 1) performance of "ongoing operations" and 2) premises exposures. The covered "ongoing operations" do not necessarily have to be performed for the additional insured.
ADDENDUM INFORMATION	**CG 20 32 (check box)**	Check the box (if applicable): Indicates the CG 20 32 Additional Insured - Engineers, Architects Or Surveyors Not Engaged By The Named Insured endorsement is requested. The current edition of this endorsement insures as an additional insured the described engineer, architect or surveyor for the named insured's performance of "ongoing operations." This coverage applies when the named insured is obligated by contract to add the engineer, architect or surveyor on the policy, but has not actually engaged their work. The CG 20 07 would be used when the engineer, architect or surveyor is engaged by the named insured to do the work.
ADDENDUM INFORMATION	**CG 20 33 (check box)**	Check the box (if applicable): Indicates the CG 20 33 Additional Insured - Owners, Lessees Or Contractors - Automatic Status When Required In Construction Agreement With You endorsement is requested. The current edition of this endorsement insures as an additional insured for any person or organization for "ongoing operations" of the named insured performed for the additional insured. However, this automatic coverage requires a written agreement obligating the named insured to add the additional insured on the policy.

ADDENDUM INFORMATION	**CG 20 37 (check box)**	Check the box (if applicable): Indicates the CG 20 38 Additional Insured - Owners, Lessees Or Contractors - Completed Operations endorsement is requested. The current edition of this endorsement insures as an additional insured the described person or organization for "completed operations," resulting from work (described by location) the named insured performed for the additional insured. This endorsement can restore the "completed operations" coverage that previously was included in the 1985 edition of the CG 20 10 endorsement.
ADDENDUM INFORMATION	**CG 20 38 (check box)**	Check the box (if applicable): Indicates the CG 20 38 Additional Insured - Owners, Lessees Or Contractors - Automatic Status For Other Parties When Required In Written Construction Agreement endorsement is requested. The current edition of the endorsement insures as an additional insured any person or organization for "ongoing operations" of the named insured performed for the additional insured. Unlike the CG 20 33 endorsement, this endorsement also provides additional insured status to all parties the named insured agrees in writing to insure.
ADDENDUM INFORMATION	**Other (check box)**	Check the box (if applicable): Indicates an endorsement other than those listed has been selected.
ADDENDUM INFORMATION	**Endorsement Number**	Enter identifier: The number of the other Additional Insured endorsement.
ADDENDUM INFORMATION	**Endorsement Title**	Enter text: The full title name of the other Additional Insured endorsement.
ADDENDUM INFORMATION	**E. According to the terms of this GL policy, the additional insured has primary and noncontributory coverage - Yes (check box)**	Check the box (if applicable): Indicates the additional insured on the policy has primary and noncontributory coverage. The typical general liability policy (for example, the ISO CG 00 01 Commercial General Liability Coverage Form) provides primary coverage to insureds, except when the coverage is specifically stated as excess in the Other Insurance provision of the policy. However, this primary coverage will contribute (i.e., share) with any other coverage available to the insured on the same primary basis. For example, since the general contractor typically has primary general liability coverage as a named insured, that policy would share the loss with the policy providing the general contractor coverage as an additional insured. ISO provided a solution in 1996 to prevent contribution between the two policies by adding language to the Other Insurance provision that would make the general contractor's policy excess over the policy that insures the general contractor as an additional insured. Nevertheless since the subcontractor's producer is not privy to the policy terms on the general contractor's policy, it would be reckless of the producer to warrant that coverage would NOT be shared (i.e., noncontributory). Consequently, ISO provided an alternate solution with its optional Primary and Noncontributory - Other Insurance Condition endorsement (CG 20 01). Insurers may adopt this endorsement filing in New York effective April 1, 2013. The endorsement states that the (subcontractor's) insurer will not seek contribution from the policy of the additional insured (general contractor). However the endorsement requires that there be an underlying written contract or agreement stating that the (subcontractor's) coverage for the additional insured (general contractor) must be primary and noncontributory. When the endorsement is added to the policy, the certificate unequivocally can state that coverage is "primary and noncontributory." There have been non standard endorsements in use prior to ISO's introduction of the CG 20 01 endorsement so watch for these forms, observing the variance in language.

ADDENDUM INFORMATION	**No and (check box)**	Check the box (if applicable): According to the terms of the GL policy, indicates the additional insured on the policy does not have primary and noncontributory coverage.
ADDENDUM INFORMATION	**No other option available with this insurer (check box)**	Check the box (if applicable): According to the terms of the GL policy, indicates the additional insured on the policy does not have primary and noncontributory coverage and that no other option is available with this insurer.
ADDENDUM INFORMATION	**F. Additional insured will receive advance notice if insurer cancels (GL policy) - Yes (check box)**	Check the box (if applicable): Indicates the additional insured will receive advance notice if the insurer cancels the GL policy. There is no standard endorsement for this purpose. Some insurers will provide notice using nonstandard endorsements, but this is rare. Even if such endorsement is available, it may not provide notice resulting from nonpayment of premium or cancellation by the policyholder.
ADDENDUM INFORMATION	**No and (check box)**	Check the box (if applicable): Indicates the additional insured will not receive advance notice if the insurer cancels the GL policy.
ADDENDUM INFORMATION	**No other option available with this insurer (check box)**	Check the box (if applicable): Indicates that the additional insured will not receive advanced notice if the insured cancels the GL policy and no other option is available from this insurer.
ADDENDUM INFORMATION	**G. Blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f. in the ISO CGL policy) is removed or restricted - Yes (check box)**	Check the box (if applicable): Indicates the blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f. in the ISO CGL policy) is removed or restricted. Item f. of the "insured contract" definition in the ISO CG 00 01 Commercial General Liability Coverage Form is a good example of what is meant by blanket contractual liability. It reads as follows: That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement. This is an important policy provision that will, for example, insure a subcontractor's indemnification of a general contractor. ISO has a standard CG 21 39 Contractual Liability Limitation endorsement that can be used for the removal of Item f. in the "insured contract" definition. If removed, there will be no coverage to back up the indemnification agreement. While the ISO CG 24 26 Amendment Of Insured Contract Definition endorsement may routinely be attached to a policy in order to exclude coverage for the sole negligence of an indemnitee, it has no relevance in New York where General Obligations Law Section 5-322.1 makes such indemnification unenforceable.
ADDENDUM INFORMATION	**No other optional available with this insurer (check box)**	Check the box (if applicable): Indicates that the blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f. in the ISO CGL policy) is removed or restricted and no other option is available with this insurer.

ADDENDUM INFORMATION	**No changes made (check box)**	Check the box (if applicable): Indicates that no changes are made to the policy regarding blanket contractual liability located in the "insured contract" definition (Section V, Number 9, Item f.) in the ISO CG 00 01.
ADDENDUM INFORMATION	**H. "Insured contract" exception to the employers liability exclusion is removed or modified (GL policy) - Yes and (check box)**	Check the box (if applicable): Indicates the "insured contract" exception to the employer's liability exclusion is removed or modified (GL policy). While suits by injured employees against the named insured [employer] are excluded (WC is the exclusive remedy), the exception in the ISO CG 00 01 Commercial General Liability Coverage Form affords "insured contract" coverage when the injured employee, for example, sues the general contractor and the named insured [employer] has indemnified the general contractor for such suits. While there is no standard endorsement that removes or modifies this exception to the employer's liability exclusion, some insurers have made use of policy wording or nonstandard endorsements to eliminate this coverage.
ADDENDUM INFORMATION	**No other option is available with this insurer (check box)**	Check the box (if applicable): Indicates the "insured contract" exception to the employer's liability exclusion is removed or modified on the GL policy and no other option is available with this insurer.
ADDENDUM INFORMATION	**No changes made (check box)**	Check the box (if applicable): Indicates that no changes were made to the "insured contract" exception to the employer's liability exclusion on the ISO CG 00 01.
ADDENDUM INFORMATION	**I. GL policy (including endorsements) does not cover the additional insured for claims involving injury to employees of the named insured or subcontractors (not workers' compensation) - Yes and (check box)**	Check the box (if applicable): Indicates the GL policy (including endorsements) does not cover the additional insured for claims involving injury to employees of the named insured or subcontractors (not workers' compensation). The ISO CG 00 01 Commercial General Liability Coverage Form and ISO Additional Insured endorsements do not exclude suits by an injured employee against an insured who is not the employer. While there is no standard endorsement that eliminates coverage for an additional insured when suits are made by employees of the named insured, insurers have used policy wording or nonstandard endorsements for this purpose. For example, simply changing the wording of the employer's liability exclusion from "employees of the insured" to "employees of any insured" will preclude coverage for all insureds, whether the injured person is employed by that insured or not. When a general contractor is an additional insured, the modified exclusion prevents the subcontractor's policy from insuring the general contractor for injuries to employees of the subcontractor.
ADDENDUM INFORMATION	**No other option is available with this insurer (check box)**	Check the box (if applicable): Indicates that the GL policy (including endorsements) does not cover the additional insured for claims involving injury to employees of the named insured or subcontractors (not workers' compensation) and no other option is available with this insurer.
ADDENDUM INFORMATION	**No changes made (check box)**	Check the box (if applicable): Indicates that no changes were made to the GL policy (including endorsements) regarding additional insured coverage for claims involving injury to employees of the named insured or subcontractors.

Form Page 2

Section Name	Field Name	Description
IDENTIFICATION SECTION	Agency Customer ID	Enter identifier: The customer's identification number assigned by the producer (e.g., agency or brokerage).
ADDENDUM INFORMATION (continued)	J. Earth movement, excavation or explosion / collapse / underground property damage is excluded or restricted (GL policy) - Yes and (check box)	Check the box (if applicable): Indicates that earth movement, excavation or explosion / collapse / underground property damage is excluded or restricted on the GL policy. While the unendorsed ISO CG 00 01 Commercial General Liability Coverage Form has no restriction applicable to earth movement, excavation, explosion (blasting), collapse or underground property hazards, two standard ISO endorsements exist that can be used to modify this coverage: CG 21 42 Exclusion – Explosion, Collapse And Underground Property Damage Hazard (Specified Operations) This endorsement allows the insurer to exclude ongoing operations for specific hazards (i.e., "collapse hazard"; "explosion hazard"; and/or "underground property damage hazard") by location and/or operations designated on the endorsement. CG 21 43 Exclusion – Explosion, Collapse And Underground Property Damage Hazard (Specified Operations Excepted) This endorsement allows the insurer to exclude ongoing operations for all three specific hazards (i.e., "collapse hazard"; "explosion hazard"; and "underground property damage hazard"), except the specific hazard(s) included in operations and/or locations designated on the endorsement. Nonstandard endorsements may reference excluded hazards, such as, earth movement, subsidence or excavation.
ADDENDUM INFORMATION (continued)	No other option is available with this insurer (check box)	Check the box (if applicable): Indicates that earth movement, excavation or explosion / collapse / underground property damage is excluded or restricted on a GL policy and no other option is available with this insurer.
ADDENDUM INFORMATION (continued)	No changes made (check box)	Check the box (if applicable): Indicates that no changes have been made to the GL policy regarding earth movement, excavation or explosion / collapse or underground property damage

ADDENDUM INFORMATION (continued)	**K. Insured vs. Insured suits (cross liability in the ISO CGL policy) are excluded or restricted (other than named insured vs. named insured) - Yes and (check box)**	Check the box (if applicable): Indicates that insured vs. insured suits (cross liability in the ISO CGL policy) are excluded or restricted (other than named insured vs. named insured). General liability policies typically cover more than one person or entity, consisting of named insureds, automatically defined insureds and additional insureds. Cross liability refers to one insured's suit against another insured. Coverage for cross liability suits among insureds can be impacted by several provisions located in different parts of the policy. The ISO CG 00 01 Commercial General Liability Coverage Form includes the following condition that opens the coverage door to cross liability suits between insureds: 7. Separation Of Insureds Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the First Named Insured, this insurance applies: a. As if each Named Insured were the only Named Insured; and b. Separately to each insured against whom claim is made or "suit" is brought. Subject to other policy provisions, it is here we find the policy is applied so every insured enjoys the same coverage it would have had if a separate policy had been issued for that insured (except with respect to the limits). If there is no other restrictive wording, an additional insured would be covered for a suit by an employee of the named insured (who is a defined insured in the policy). While there is no standard endorsement to remove coverage for an additional insured sued by an employee of the named insured, some insurers have made use of nonstandard endorsements to restrict cross liability suits.
ADDENDUM INFORMATION (continued)	**No other option is available with this insurer (check box)**	Check the box (if applicable): Indicates that insured vs. insured suits (cross liability in the ISO CGL Policy) are excluded or restricted (other than named insured vs. named insured) and no other option is available with this insurer.
ADDENDUM INFORMATION (continued)	**No changes made (check box)**	Check the box (if applicable): Indicates that no changes have been made to the ISO CGL policy regarding insured vs. insured suits.

ADDENDUM INFORMATION (continued)	**L. Property damage to work performed by subcontractors (exception to the "damage to your work" exclusion in the ISO CGL policy) is excluded or restricted - Yes and (check box)**	Check the box (if applicable): Indicates that property damage to work performed by subcontractors (exception to the "damage to your work " exclusion in the ISO CGL policy) is excluded or restricted. The following exception to the Damage To Your Work exclusion appears in the ISO CG 00 01 Commercial General Liability Coverage Form: 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. Because of this exception, the exclusion for property damage arising from completed operations applies only to work performed by the named insured, and when such work results in the property damage. Two standard ISO endorsements exist that can be used to modify this coverage: CG 22 94 Exclusion – Damage To Work Performed By Subcontractors On Your Behalf This endorsement removes the exception to the Damage To Your Work exclusion, eliminating coverage for the entire work, whether performed by the named insured or not. CG 22 95 Exclusion – Damage To Work Performed By Subcontractors On Your Behalf – Designated Sites Or Operations As the title of this endorsement suggests, it allows underwriting flexibility by targeting the removal of the exception to designated sites or operations. Also, note that coverage is excluded in the Damage To Property exclusion for property damaged while being worked on. Some of this exposure can be insured with a Builders Risk policy.
ADDENDUM INFORMATION (continued)	**No other option is available with this insurer (check box)**	Check the box (if applicable): Indicates that property damage to work performed by subcontractors (exception to the "damage to your work" exclusion on the ISO CGL policy) is excluded or restricted and no other option is available with this insurer.
ADDENDUM INFORMATION (continued)	**No changes made (check box)**	Check the box (if applicable): Indicates that no changes have been made to the ISO CGL policy regarding property damage to work performed by subcontractors.

ADDENDUM INFORMATION (continued)	**M. Excess / umbrella policy is primary and non-contributory for additional insureds - Yes by specific policy provision (check box)**	Check the box (if applicable): Indicates the excess / umbrella policy is primary and noncontributory for additional insureds by specific policy provision. True follow form excess / umbrella policies are extremely rare, so care should be taken to examine the provisions of these policies. The issue of primary and noncontributory coverage takes on a more complex dimension with regard to excess / umbrella policies because of the additional insured's access to multiple policies at different levels of priority. "Vertical Exhaustion" establishes coverage priority for the additional insured in such a way as to require the exhaustion of primary and excess policies purchased by the [downstream] subcontractor before any policies purchased by the [upstream] general contractor respond with payment. "Horizontal Exhaustion" establishes coverage priority for the additional insured in such a way as to require the exhaustion of all primary policies available to the [upstream] general contractor before the excess policy purchased by the [downstream] subcontractor responds with payment. New York courts do not use the actual terms "vertical" or "horizontal" exhaustion, but refer to these issues as "priority of coverage" and rely on the "Other Insurance" clauses contained in policies to resolve priority issues. Therefore, close examination of these clauses is essential.
ADDENDUM INFORMATION (continued)	**Yes by endorsement (check box)**	Check the box (if applicable): Indicates that the excess / umbrella policy is primary and noncontributory for additional insureds by endorsement.
ADDENDUM INFORMATION (continued)	**No and (check box)**	Check the box (if applicable): Indicates that the excess / umbrella policy is not primary and noncontributory for additional insureds.
ADDENDUM INFORMATION (continued)	**No other option is available with this insurer (check box)**	Check the box (if applicable): Indicates that the excess / umbrella policy is not primary and noncontributory for additional insureds and no other option is available with this insurer.
SIGNATURE	**Authorized Representative Signature**	Sign here: Accommodates the signature of the authorized representative (e.g., producer, agent, broker, etc.) of the company(ies) listed on the document. This is required in most states.
SIGNATURE	**Date**	Enter date: The date the producer signed the form.

List of Acceptable Workers' Compensation and Disability Forms

The New York State Workers' Compensation Law Sections 57 and 220 require the heads of all municipal and state entities to ensure that businesses applying for leases, permits, licenses or contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original issuances and renewals, whether the governmental agency is having the work done or is simply issuing the lease, permit, license or contract. **Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a ~~c~~Contract.** Therefore, prior to the ~~Commissioner~~Agency executing a ~~c~~Contract, the ~~Vendor~~Contractor must submit proof that it has workers' compensation and disability benefits coverage as required by the New York State Workers' Compensation Law, or proof that it is legally exempt from obtaining such coverage in compliance with the New York State Workers' Compensation Law. Proof of compliance must be submitted on one of the forms designated by the New York State Workers' Compensation Board. An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Compliance with the Workers' Compensation Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers' Compensation Law pertaining to workers' compensation coverage, ~~vendor~~Contractors shall:

A) Be legally exempt from obtaining workers' compensation insurance coverage; or
B) Obtain such coverage from insurance carriers; or
C) Be a New York State Workers' Compensation Board-approved self-insured employer or participate in an authorized self-insurance plan.

~~Vendor~~Contractors seeking to enter into ~~c~~Contracts with the State of New York shall provide one of the following forms prior to execution of the ~~c~~Contract by the Agency~~Commissioner~~:

A) Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website (www.wcb.ny.gov);

B) Form C-105.2 (9/07), *Certificate of Workers' Compensation Insurance*, sent to the Agency by the ~~Vendor~~Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to the Agency upon request; or

C) Form SI-12, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office, or Form GSI-105.2, *Certificate of Participation in Workers' Compensation Group*

Self-Insurance, available from the ~~Vendor~~Contractor's Group Self-Insurance Administrator.

Proof of Compliance with the Disability Benefits Coverage Requirements:

In order to provide proof of compliance with the requirements of the New York State Workers' Compensation Law pertaining to disability benefits, ~~Vendor~~Contractors shall:

A) Be legally exempt from obtaining disability benefits coverage; or
B) Obtain such coverage from insurance carriers; or
C) Be self-insured.

~~Vendor~~Contractors seeking to enter into c~~C~~ontracts with the State of New York shall provide one of the following forms prior to execution of the c~~C~~ontract by the ~~Commissioner~~Agency:

A) Form CE-200, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required*, which is available on the New York State Workers' Compensation Board's website (www.wcb.ny.gov);

B) Form DB-120.1, *Certificate of Disability Benefits Insurance*, sent to the Agency by the ~~Vendor~~Contractor's insurance carrier upon request; or

C) Form DB-155, *Certificate of Disability Benefits Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, http://www.wcb.ny.gov. Once on the site, click on the Employers/Businesses tab and then click on Employers' Handbook.

Exhibit A.5-10

Placeholder for Workers' Compensation and Disability Insurance

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) **Work Location of Insured** ***(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)***	**1b. Business Telephone Number of Insured** **1c. NYS Unemployment Insurance Employer Registration Number of Insured** **1d. Federal Employer Identification Number of Insured or Social Security Number**
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	**3a. Name of Insurance Carrier** **3b. Policy Number of entity listed in box "1a"** **3c. Policy effective period** _____ **to** _____ **3d. The Proprietor, Partners or Executive Officers are** ☐ **included.** **(Only check box if all partners/officers included)** ☐ **all excluded or certain partners/officers excluded.**

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) ***Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.***

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: _____
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: _____
(Signature) (Date)

Title: _____

Telephone Number of authorized representative or licensed agent of insurance carrier: _____

Please Note: *Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are* ***NOT*** *authorized to issue it.*

SAMPLE

New York State Insurance Fund

Workers Compensation & Disability Benefits Specialists Since 1914

199 CHURCH STREET, NEW YORK, N.Y. 10007-1100
Phone: (212) 587-6870

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

POLICYHOLDER	CERTIFICATE HOLDER

POLICY NUMBER	CERTIFICATE NUMBER	PERIOD COVERED BY THIS CERTIFICATE	DATE

THIS IS TO CERTIFY THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE NEW YORK STATE INSURANCE FUND UNDER POLICY NO. 1195 111-8 UNTIL 04/16/2004 COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF SAID POLICY IS CANCELLED, OR CHANGED [illegible] TO [illegible] IN SUCH MANNER AS TO AFFECT THIS CERTIFICATE, 10 DAYS WRITTEN NOTICE OF SUCH CANCELLATION WILL BE GIVEN TO THE CERTIFICATE HOLDER ABOVE. NOTICE BY REGULAR MAIL [illegible] ADDRESSED SHALL BE SUFFICIENT COMPLIANCE WITH THIS PROVISION. THE NEW YORK STATE INSURANCE FUND DOES NOT ASSUME ANY LIABILITY IN THE EVENT OF FAILURE TO GIVE SUCH NOTICE.

THIS CERTIFICATE DOES NOT APPLY TO BUILDING DEMOLITION.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS NOR INSURANCE COVERAGE UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY.

THIS POLICY IS CANCELLED EFFECTIVE

SAMPLE

NEW YORK STATE INSURANCE F

Vincent M. Tracaville

DIRECTOR, INSURANCE FUND UNDERWRI

This certificate can be validated on our web site at https://www.nysif.com/cert/certvali.asp

VALIDATION NUMBER: 37185

U-88.3

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF PARTICIPATION IN WORKERS' COMPENSATION GROUP SELF-INSURANCE

1a. Legal Name and Address of Business Participating in Group Self-Insurance (Use Street Address Only)	1d. Business Telephone Number of Business referenced in box "1a"
	1e. NYS Unemployment Insurance Employer Registration Number of Business referenced in box "1a"
1b. Effective Date of Membership in the Group _____	
1c. The Proprietor, Partners or Executive Officers are ☐ included (only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded	1f. Federal Employer Identification Number of Business referenced in Box "1a"
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as Certificate Holder)	3. Name and Address of Group Self-Insurer

SAMPLE

This certifies that the business referenced above in box "1a" is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law as a participating member of the Group Self-Insurer listed above in box "3" and participation in such group self-insurance is still in force. The Group Self-Insurer's Administrator will send this Certificate of Participation to the entity listed below as the certificate holder in box "2".

The Group Self-Insurer's Administrator will notify the above certificate holder within 10 days IF the membership of the participant listed in box "1a" is terminated. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for a maximum of one year from the date certified by the group self-insurer.

If this certificate is to be issued according to the above guidelines and the business referenced in box "1a" continues to be named on a permit, license or contract issued by the certificate holder, the business must provide the certificate holder either with a new certificate or other authorized proof the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative of the Group Self-Insurer referenced above and that the business referenced in box "1a" has the coverage as depicted on this form.

Certified by: _____
(Print name of authorized representative of the Group Self-Insurer)

Certified by: _____ _____
(Signature) (Date)

Title: _____

Telephone Number: _____

GSI-105.2 (2-02) 17

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only)	1b. Business Telephone Number of Insured 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)	3a. Name of Insurance Carrier 3b. Policy Number of entity listed in box "1a": 3c. Policy effective period: _____ to _____

4. Policy covers:

a. ☐ All of the employer's employees eligible under the New York Disability Benefits Law

b. ☐ Only the following class or classes of the employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability Benefits insurance coverage as described above.

Date Signed_____ By_____
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number_____ Title_____

IMPORTANT: If box "4a" is checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.
If box "4b" is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" of Part 1 has been checked)

State Of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability Benefits Law with respect to all of his/her employees.

Date Signed_____ By_____
(Signature of NYS Workers' Compensation Board Employee)

Telephone Number_____ Title_____

Please Note: *Only insurance carriers licensed to write NYS disability benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1.* ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (5-06)

SAMPLE

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
SELF-INSURANCE OFFICE
20 PARK STREET - ROOM 201
ALBANY, NY 12207

THIS AGENCY EMPLOYS AND SERVES PEOPLE WITH DISABILITIES WITHOUT DISCRIMINATION.

ROBERT R. SNASHALL
CHAIRMAN

COMPLIANCE WITH DISAB[illegible]Y [illegible]EF[illegible] LAW

(Pursuant To Section 211, subd. 3 of the [illegible])

EMPLOYER	EMP[illegible]TRATION NUMBER
	LOC[illegible]ATION
ADDRESS (HOME OR MAIN OFFICE)	[illegible]RATIO[illegible]OUT:

There are o[illegible] with the Wor[illegible] Comp[illegible]oard, [illegible]umen[illegible]ng that the above-named employer has [illegible]plied with the [illegible]bili[illegible]aw w[illegible]espec[illegible]is or her employees, in the followi[illegible]nner:

____ By app[illegible]nce p[illegible]nt [illegible]ec. [illegible], sub[illegible] of the Disab[illegible] Benefits Law.

____ By a combination of [illegible]elf-in[illegible]ce [illegible]uant to Sec. 211, [illegible]bd. 3 of the Disability Benefits Law a[illegible]e wi[illegible]ed insurance carrier(s).

Date: _____ By _____

Title W.C. Examiner

DB-155 (1/98)

33

Sample

Certificate of Attestation of Exemption
From New York State Workers' Compensation and/or Disability Benefits Insurance Coverage

"This form cannot be used to waive the workers' compensation rights or obligations of any party."

The applicant may use this Certificate of Attestation of Exemption **ONLY** to show a government entity that New York State specific workers' compensation and/or disability benefits insurance is not required. The applicant may **NOT** use this form to show another business or that business's insurance carrier that such insurance is not required.

Please provide this form to the government entity from which you are requesting a permit, license or contract. This Certificate will not be accepted by government officials one year after the date printed on the form.

In the Application of (Legal Entity Name and Address):	Business Applying For:
JOHN SMITH 123 MAIN STREET ALBANY, NY 12207 111-111-1111 Federal ID Number: XXXXX6789	BUILDING PERMIT From: CITY OF ALBANY, DEPT OF BUILDING AND CODES The location of where work will be performed is 123 ACME AVENUE, ALBANY, NY 12203. Estimated dates necessary to complete work associated with the building permit are from October 14, 2008 to March 31, 2009. The estimated dollar amount of project is $25,001 - $50,000

Workers' Compensation Exemption Statement:

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE SPECIFIC WORKERS' COMPENSATION INSURANCE COVERAGE** for the following reason:

The business is owned by one individual and is not a corporation. Other then the owner, there are no employees, day labor, leased employees, borrowed employees, part-time employees, unpaid volunteers (including family members) or subcontractors.

Disability Benefits Exemption Statement:

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE STATUTORY DISABILITY BENEFITS INSURANCE COVERAGE** for the following reason:

The business is owned by one individual or is a partnership (LLC, LLP, PLLP or a RLLP) under the laws of New York State and is not a corporation; or is a one or two person owned corporation, with those individuals owning all of the stock and holding all offices of the corporation (in a two person owned corporation, each individual must be an officer and own at least one share of stock) or is a business with no NYS location. In addition, the business does not require disability benefits coverage at this time since it has not employed one or more individuals on at least 30 days in any calendar year in New York State. (Independent contractors are not considered to be employees under the Disability Benefits Law.)

I, JOHN SMITH, am the Sole Proprietor with the above-named legal entity. I affirm that due to my position with the above-named business I have the knowledge, information and authority to make this Certificate of Attestation of Exemption. I hereby affirm that the statements made herein are true, that I have not made any materially false statements and I make this Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation or concealment will subject me to felony criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws. By submitting this Certificate of Attestation of Exemption to the government entity listed above I also hereby affirm that if circumstances change so that workers' compensation insurance and/or disability benefits coverage is required, the above-named legal entity will immediately acquire appropriate New York State specific workers' compensation insurance and/or disability benefits coverage and also immediately furnish proof of that coverage on forms approved by the Chair of the Workers' Compensation Board to the government entity listed above.

SIGN HERE	Signature:	Date:

Exemption Certificate Number
2008-00197

Received
October 2, 2008
NYS Workers' Compensation Board

Sample

Placeholder for ELANY Affidavit-Exhibit A.11

PART V - Exhibit B

Guidelines for Submitting Evidence of Insurance

Exhibit B.1.

Guidelines for Submitting Evidence of Insurance to "AGENCY"

1. All evidence of insurance (except Railroad Protective Liability) **MUST be submitted** to "AGENCY" on a **Certificate of Insurance ,with the Supplemental Insurance Certificate and NYS-required Workers' Compensation/NYS Disability Insurance forms** or by a certified copy **of the actual policy(ies) as required by the Agency.** If by certificate, the form must contain the following:

    - **MUST be signed** by an authorized representative of the insurance carrier or **producer.**
    - **MUST** disclose any **deductible, self-insured retention or aggregate** limit.
    - **MUST** indicate the **Additional Insureds** and **Named Insureds** on the form.
    - **MUST make reference to the contract or agreement number** on the front after "contract number", as applicable.

2. For Railroad Protective Liability insurance:

    - A Certificate of Insurance and a **detailed binder** pending issuance of the policy, or a copy of the original policy on an ISO-RIMA or equivalent form **MUST be submitted**; and
    - Definition of "Physical damage to property" must be amended to mean direct and accidental loss of or damage to *"all property of any Named Insured and all property in any Named Insured's care, custody or control"*

3. Evidence of Workers' Compensation and Disability Benefits must be submitted on forms specified by the NYS Workers' Compensation Board – see attached.

4. **Original signed documents are required** for all of the above. Photocopied signatures are not acceptable, but electronic documents distributed by the insurance carrier and/or insurance agent are acceptable. Faxed documents must be followed up with originals.

5. Certificate issue date must be within 30 days of submittal

    [Note: These are general guidelines applicable to most agreements. Kindly refer to the actual agreement for specific requirements].

Exhibit B.2.

[Note: The following is a Sample Letter only. Each Agency should develop its own written communication based on the Agency's specific legal and procedural requirements].

[Date]

[Third Party Name]

[Third-Party Address]

Re: ***[Agreement # 123456]***

Dear Sir/Madam:

Please be advised that before ***[select one of the following:]***

- ***[Agency name]*** can issue you a contract for your services,
- ***[Agency name]*** can issue an award letter for your services,
- you can begin work in connection with the above referenced agreement,

we must receive a certificate of insurance from your insurance agent evidencing coverage as required by the agreement.

The agreement requires that you provide such evidence on a Certificate of Insurance accompanied by the Supplemental Insurance Certificate. Attached is a copy of said forms as well as Guidelines to assist your agent in filling out the forms.

Please forward the attached Certificate of Insurance and accompanying Supplemental Insurance Certificate to your insurance agent for completion. To assist in the smooth handling of this matter, it is requested that you also forward your agent a copy of the attached Guidelines, along with a copy of the insurance requirements contained in your agreement.

The completed certificate should be sent promptly to ***[fill in appropriate name & address].***

Sincerely,

[Contract Manager]

PART V - Exhibit C

"AGENCY" Procedures for Tracking and Approval and "AGENCY" Insurance Approval Form

Exhibit C.1.

SAMPLE **"AGENCY" Procedure for Tracking & Approving Certificates of Insurance**

[Note: Agencies should review and amend the SAMPLE procedure below to conform with their own internal policies and procedures]

New Contracts

1. If, prior to the submission of a request for approval of the certificate of insurance, any documentation (i.e. entry permit, award letter, license agreement, etc.) is received by the Insurance Analyst in connection with a new contract, agreement, entry permit, etc. which indicates that a Contractor has already been selected to perform the work, the Insurance Analyst shall:

    a. enter the relevant data into the certificate tracking system indicating that the agency has not received proof of insurance; and
    b. contact the Contractor and Contract Manager (either by phone or letter) to advise that proof of insurance has not been received.

    If any other documentation is received prior to the submission of a request for approval of the certificate of insurance, the Insurance Analyst shall set it aside in a file with no action taken until the request for approval is received.

2. Upon receipt of the "AGENCY" Insurance Approval Form from a submitting party (i.e. Contract Manager), the Insurance Analyst shall review the papers and provide a response within *5* days. The Approval Form must contain the relevant certificate of insurance and the contractual insurance and indemnification language.

3. If the certificate is satisfactory, the Insurance Analyst shall:

    a. sign the approval section of the Form;
    b. return the original Form to the submitting party (either by fax or interoffice mail);
    c. enter the relevant data into the certificate tracking system within 30 days; and
    d. set up a file for the contract/agreement/permit.

4. If the certificate is not satisfactory and an immediate approval is required, the Insurance Analyst shall contact the submitting party, advise him or her that the certificate is not satisfactory and promptly contact the Contractor or the insurance agent in order to obtain the correct certificate. Upon receipt of an acceptable certificate, the Insurance Analyst shall follow Step 3 above.

5. If the certificate is not satisfactory and an immediate approval is not required, the Insurance Analyst shall enter the relevant data into the certificate tracking system, using the appropriate unacceptable codes to indicate the deficiencies of the certificate. An unacceptable letter shall be sent to the Contractor with copies to the submitting party, (i.e. Contract Manager). Upon receipt of an acceptable certificate, the Insurance Analyst shall follow Step 3 above.

Exhibit C. 2.

AGENCY" INSURANCE APPROVAL FORM

Risk Management Review Checklist for Insurance Certificates
Construction, Professional, or Purchasing Contracts

Name of Contractor/Professional/Vendor

_____

Project Name _____

Contract # _____ **Project #** _____ **Date Contract Rec'd in RM** _____

Insurance: Construction Contracts

Insurance Requirements - Standard per Program **Yes** _____ **No** _____
(Renewal Certificates) Yes _____ **No**_____

- Insurance Carriers Licensed in NYS

- Carrier A Yes _____ No_____ Rating _____
- Carrier B Yes _____ No_____ Rating _____
- Carrier C Yes _____ No_____ Rating _____
- Carrier D Yes _____ No_____ Rating _____
- Carrier E Yes _____ No_____ Rating _____
- Worker's Comp Carrier Yes _____ No_____ Rating _____
- Disability Carrier Yes _____ No_____ Rating _____

Per the Certificate(s) provided, the following insurance is in compliance with the contract documents:

	Initials	Date
• General Liability	_____	_____
• Additional Insureds are appropriately named		
• Occurrence based policy		
• Limits are adequate		
• Automobile Liability	_____	_____
• Excess/Umbrella Liability	_____	_____
• Workers' Compensation	_____	_____
• Disability	_____	_____
• Builder's Risk	_____	_____
• Pollution/Asbestos	_____	_____
• Limits are in addition to required CGL/Excess Limits		
• Professional Liability Per Claim $_____ Deductible $_____	_____	_____
• Other	_____	_____

_____ _____
Name (Insurance Analyst) **Date Reviewed**

PART V - Exhibit D

"AGENCY" Insurance Analysts

"AGENCY" INSURANCE ANALYSTS

List Contacts:

PART V - Exhibit E

"Reference Materials"

- New York State Workers' Compensation Board "Employer's Handbook":

  http://www.wcb.state.ny.us/content/main/Employers/EmployerHandbook.pdf

- "Prove it to Move it Program" – New York State Workers' Compensation Board Instruction Manual – State & Municipal Agency Requirements Under General Municipal Law §125 & WCL §57 & §220 for Workers' Compensation And Disability Benefits:

  http://www.wcb.state.ny.us/content/main/Employers/ProveItToMoveIt5-2010.pdf

- Insurance Services Office (ISO) Forms:

  1. **CG 00 01 01 96** Commercial General Liability Coverage Form
  2. **CG 20 10 11 85** Additional Insured – Owners, Lessees or Contractors – (Form B)
  3. **CG 22 79 07 98** Exclusion – Contractors – Professional Liability
  4. **CG 22 80 07 98** Limited Exclusion – Contractors Professional Liability
  5. **CG 25 03 11 85** Amendment – Aggregate Limits of Insurance (Per Project)
  6. **CA 99 48 03 06** Pollution Liability – Broadening Coverage for Covered Autos – Business Auto, Motor Carrier and Truckers Coverage Forms
  7. **CA 00 12 03 06** Truckers Coverage Form
  8. **CG 00 14** Special Protective and Highway Liability Policy – New York Department of Transportation
  9. **CG 00 09** Owners and Contractors Protective Liability Coverage Form – Coverage for Liability of Designated Contractor
  10. **MCS 90** Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

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

The word "insured" means any person or organization qualifying as such under WHO IS AN INSURED (SECTION **II**).

Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (SECTION **V**).

SECTION I – COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

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

(1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION **III**); and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS – COVERAGES A AND B.

b. This insurance applies to "bodily injury" and "property damage" only if:

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

(2) The "bodily injury" or "property damage" occurs during the policy period.

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

2. Exclusions

This insurance does not apply to:

a. Expected or Intended Injury

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

b. Contractual Liability

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

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

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

c. Liquor Liability

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

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

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

d. Workers Compensation and Similar Laws

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

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of paragraph **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

f. Pollution

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

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;

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

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

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations:

(i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or

(ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

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

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Subparagraphs **(a)** and **(d)(i)** do not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

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

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

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

Pollutants means 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.

g. Aircraft, Auto or Watercraft

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

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 26 feet long; and

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

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

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

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

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

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

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

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Damage to Property

"Property damage" to:

(1) Property you own, rent, or occupy;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

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

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

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

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

k. Damage to Your Product

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

l. Damage to Your Work

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

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

m. Damage to Impaired Property or Property Not Physically Injured

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

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

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

n. Recall of Products, Work or Impaired Property

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

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

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

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

COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

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

(1) The amount we will pay for damages is limited as described in LIMITS OF INSURANCE (SECTION **III**); and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS – COVERAGES A AND B.

b. This insurance applies to:

(1) "Personal injury" caused by an offense arising out of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you;

(2) "Advertising injury" caused by an offense committed in the course of advertising your goods, products or services;

but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. "Personal injury" or "advertising injury":

(1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;

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(2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured;

(4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement; or

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

b. "Advertising injury" arising out of:

(1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;

(2) The failure of goods, products or services to conform with advertised quality or performance;

(3) The wrong description of the price of goods, products or services; or

(4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

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

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

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

Pollutants means 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.

COVERAGE C. MEDICAL PAYMENTS

1. Insuring Agreement

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

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(1) The accident takes place in the "coverage territory" and during the policy period;

(2) The expenses are incurred and reported to us within one year of the date of the accident; and

(3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. To any insured.

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

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

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

e. To a person injured while taking part in athletics.

f. Included within the "products-completed operations hazard".

g. Excluded under Coverage A.

h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

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SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

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

1. All expenses we incur.
2. Up to $250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.
5. All costs taxed against the insured in the "suit".
6. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

b. This insurance applies to such liability assumed by the insured;

c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

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

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of paragraph **2.b.(2)** of COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section **I** – Coverages), such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in paragraph **f.** above, are no longer met.

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SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
   a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
   b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
   c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
   d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
   a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:
      (1) "Bodily injury" or "personal injury":
         (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
         (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of paragraph **(1)(a)** above;
         (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs **(1)(a)** or **(b)** above; or
         (d) Arising out of his or her providing or failing to provide professional health care services.
      (2) "Property damage" to property:
         (a) Owned, occupied or used by,
         (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

      you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
   b. Any person (other than your "employee"), or any organization while acting as your real estate manager.
   c. Any person or organization having proper temporary custody of your property if you die, but only:
      (1) With respect to liability arising out of the maintenance or use of that property; and
      (2) Until your legal representative has been appointed.
   d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
   a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
   b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
   a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

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b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
   a. Insureds;
   b. Claims made or "suits" brought; or
   c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
   a. Medical expenses under Coverage C;
   b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
   c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to **2.** above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal injury" and all "advertising injury" sustained by any one person or organization.
5. Subject to **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
   a. Damages under Coverage A; and
   b. Medical expenses under Coverage C

   because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to **5.** above, the Fire Damage Limit is the most we will pay under Coverage A for 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 fire.
7. Subject to **5.** above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

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

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. **Bankruptcy**

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

2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit**
   a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
      (1) How, when and where the "occurrence" or offense took place;
      (2) The names and addresses of any injured persons and witnesses; and
      (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
   b. If a claim is made or "suit" is brought against any insured, you must:
      (1) Immediately record the specifics of the claim or "suit" and the date received; and
      (2) Notify us as soon as practicable.

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

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c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

3. Legal Action Against Us

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

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

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

4. Other Insurance

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

a. Primary Insurance

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

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner; or

(3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Coverage A (Section **I**).

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

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

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

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

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

c. Method of Sharing

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

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

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5. **Premium Audit**

   a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

   b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

   c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. **Representations**

   By accepting this policy, you agree:

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

   b. Those statements are based upon representations you made to us; and

   c. We have issued this policy in reliance upon your representations.

7. **Separation Of Insureds**

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

   a. As if each Named Insured were the only Named Insured; and

   b. Separately to each insured against whom claim is made or "suit" is brought.

8. **Transfer Of Rights Of Recovery Against Others To Us**

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

9. **When We Do Not Renew**

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

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

SECTION V – DEFINITIONS

1. "Advertising injury" means injury arising out of one or more of the following offenses:

   a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

   b. Oral or written publication of material that violates a person's right of privacy;

   c. Misappropriation of advertising ideas or style of doing business; or

   d. Infringement of copyright, title or slogan.

2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

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

4. "Coverage territory" means:

   a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

   b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or

   c. All parts of the world if:

      (1) The injury or damage arises out of:

         (a) Goods or products made or sold by you in the territory described in **a.** above; or

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(b) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; and

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

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

7. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

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

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

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

8. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

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

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

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

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

10. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

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b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

11. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

13. "Personal injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;

d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or

e. Oral or written publication of material that violates a person's right of privacy.

14. "Products-completed operations hazard":

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

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

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

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

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

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

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

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

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

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

(3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

15. "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.

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

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

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

17. "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.

18. "Your product" means:

a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(1) You;

(2) Others trading under your name; or

(3) A person or organization whose business or assets you have acquired; and

b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

b. The providing of or failure to provide warnings or instructions.

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

19. "Your work" means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

b. The providing of or failure to provide warnings or instructions.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

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

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CONTRACTORS – PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:

a. Providing engineering, architectural or surveying services to others in your capacity as an engineer, architect or surveyor; and

b. Providing, or hiring independent professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.

2. Subject to Paragraph **3.** below, professional services include:

a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and

b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.

3. Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED EXCLUSION – CONTRACTORS – PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you, but only with respect to your providing engineering, architectural or surveying services in your capacity as an engineer, architect or surveyor.

Professional services include:

1. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
2. Supervisory or inspection activities performed as part of any related architectural or engineering activities.

This exclusion does not apply to your operations in connection with construction work performed by you or on your behalf.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT – AGGREGATE LIMITS OF INSURANCE (PER PROJECT)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (SECTION III) applies separately to each of your projects away from premises owned by or rented to you.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLLUTION LIABILITY – BROADENED COVERAGE FOR COVERED AUTOS – BUSINESS AUTO, MOTOR CARRIER AND TRUCKERS COVERAGE FORMS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

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

A. Liability Coverage is changed as follows:

1. Paragraph **a.** of the **Pollution** Exclusion applies only to liability assumed under a contract or agreement.
2. With respect to the coverage afforded by Paragraph **A.1.** above, Exclusion **B.6. Care, Custody Or Control** does not apply.

B. Changes In Definitions

For the purposes of this endorsement, Paragraph **D.** of the **Definitions** Section is replaced by the following:

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. 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
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

"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":

a. 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

b. 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".

Paragraphs **a.** and **b.** 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:

(1) 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

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

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TRUCKERS COVERAGE FORM

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

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

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

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
41	Any "Autos"	
42	Owned "Autos" Only	Only the "autos" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those "autos" you acquire ownership of after the policy begins.
43	Owned Commercial "Autos" Only	Only those trucks, tractors and "trailers" you own (and for Liability Coverage any "trailers" you don't own while connected to a power unit you own). This includes those trucks, tractors and "trailers" you acquire ownership of after the policy begins.
44	Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the No-Fault law in the state where they are licensed or principally garaged.
45	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that, because of the law in the state where they are licensed or principally garaged, are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
46	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
47	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "private passenger type auto" you lease, hire, rent or borrow from any member of your household, any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or agents or members of their households.
48	"Trailers" In Your Possession Under A Written Trailer Or Equipment Interchange Agreement	Only those "trailers" you do not own while in your possession under a written "trailer" or equipment interchange agreement in which you assume liability for "loss" to the "trailers" while in your possession.

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Symbol	Description Of Covered Auto Designation Symbols	
49	Your "Trailers" In The Possession Of Anyone Else Under A Written Trailer Interchange Agreement	Only those "trailers" you own or hire while in the possession of anyone else under a written "trailer" interchange agreement. When Symbol "49" is entered next to a Physical Damage Coverage in Item Two of the Declarations, the Physical Damage Coverage exclusion relating to "loss" to a "trailer" in the possession of anyone else does not apply to that coverage.
50	Nonowned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "private passenger type 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 business or your personal affairs.
59	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **41, 42, 43, 44, 45** or **59** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **46** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
   a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
   b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
   a. Breakdown;
   b. Repair;
   c. Servicing;
   d. "Loss"; or
   e. Destruction.

SECTION II – LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages 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".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". 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".

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We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

a. You for any covered "auto".

b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:

(1) The owner or anyone else from whom you hire or borrow a covered "private passenger type auto".

(2) Your "employee" or agent if the covered "auto" is a "private passenger type auto" and is owned by that "employee" or agent or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership), or a member (if you are a limited liability company), for a covered "private passenger type auto" owned by him or her or a member of his or her household.

c. The owner or anyone else from whom you hire or borrow a covered "auto" that is a "trailer" while the "trailer" is connected to another covered "auto" that is a power unit, or, if not connected:

(1) Is being used exclusively in your business as a "trucker"; and

(2) Is being used pursuant to operating rights granted to you by a public authority.

d. The owner or anyone else from whom you hire or borrow a covered "auto" that is not a "trailer" while the covered "auto":

(1) Is being used exclusively in your business as a "trucker"; and

(2) Is being used pursuant to operating rights granted to you by a public authority.

e. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

However, none of the following is an "insured":

a. Any "trucker" or his or her agents or "employees", other than you and your "employees":

(1) If the "trucker" is subject to motor carrier insurance requirements and meets them by a means other than "auto" liability insurance.

(2) If the "trucker" is not insured for hired "autos" under an "auto" liability insurance form that insures on a primary basis the owners of the "autos" and their agents and "employees" while the "autos" are being used exclusively in the "truckers" business and pursuant to operating rights granted to the "trucker" by a public authority.

b. Any rail, water or air carrier or its "employees" or agents, other than you and your "employees", for a "trailer" if "bodily injury" or "property damage" occurs while the "trailer" is detached from a covered "auto" you are using and:

(1) Is being transported by the carrier; or

(2) Is being loaded on or unloaded from any unit of transportation by the carrier.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

(1) All expenses we incur.

(2) Up to $2,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

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(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $250 a day because of time off from work.

(5) All costs taxed against the "insured" in any "suit" against the "insured" we defend.

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-Of-State Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

(1) Increase the Limit of Insurance for Liability Coverage to meet the limit specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) 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" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

a. 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; or

b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

a. An "employee" of the "insured" arising out of and in the course of:

(1) Employment by the "insured"; or

(2) Performing the duties related to the conduct of the "insured's" business; or

b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

(1) Whether the "insured" may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

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7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

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

a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or

b. Machinery or equipment that is on, attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In the exclusion, your work means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

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

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

(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.

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

11. Pollution

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

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. 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

c. 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:

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

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment".

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Paragraphs **b.** and **c.** above of this exclusion 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:

(1) 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

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

12. War

"Bodily injury" or "property damage" 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.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – TRAILER INTERCHANGE COVERAGE

A. Coverage

1. We will pay all sums you legally must pay as damages because of "loss" to a "trailer" you don't own or its equipment under:

a. Comprehensive Coverage

From any cause except:

(1) The "trailer's" collision with another object; or

(2) The "trailer's" overturn.

b. Specified Causes Of Loss Coverage

Caused by:

(1) Fire, lightning or explosion;

(2) Theft;

(3) Windstorm, hail or earthquake;

(4) Flood;

(5) Mischief or vandalism; or

(6) The sinking, burning, collision or derailment of any conveyance transporting the "trailer".

c. Collision Coverage

Caused by:

(1) The "trailer's" collision with another object; or

(2) The "trailer's" overturn.

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

3. Coverage Extensions

The following applies as Supplementary Payments. We will pay for you:

a. All expenses we incur.

b. The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance.

c. All reasonable expenses incurred at our request, including actual loss of earnings up to $250 a day because of time off from work.

d. All costs taxed against the "insured" in any "suit" against the "insured" we defend.

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e. All interest on the full amount of any judgment that accrues after entry of the judgment; but our duty to pay interest ends when we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

   a. Nuclear Hazard

   (1) The explosion of any weapon employing atomic fission or fusion; or

   (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

   b. War Or Military Action

   (1) War, including undeclared or civil war;

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

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

2. We will not pay for loss of use.

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

   a. Wear and tear, freezing, mechanical or electrical breakdown.

   b. Blowouts, punctures or other road damage to tires.

C. Limit Of Insurance And Deductible

The most we will pay for "loss" to any one "trailer" is the least of the following amounts minus any applicable deductible shown in the Declarations:

1. The actual cash value of the damaged or stolen property at the time of the "loss".

2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

3. The Limit of Insurance shown in the Declarations.

SECTION IV – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

   a. Comprehensive Coverage

   From any cause except:

   (1) The covered "auto's" collision with another object; or

   (2) The covered "auto's" overturn.

   b. Specified Causes Of Loss Coverage

   Caused by:

   (1) Fire, lightning or explosion;

   (2) Theft;

   (3) Windstorm, hail or earthquake;

   (4) Flood;

   (5) Mischief or vandalism; or

   (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

   c. Collision Coverage

   Caused by:

   (1) The covered "auto's" collision with another object; or

   (2) The covered "auto's" overturn.

2. **Towing – Private Passenger Autos**

   We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the "private passenger type" is disabled. However, the labor must be performed at the place of disablement.

3. **Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

   If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

   a. Glass breakage;

   b. "Loss" caused by hitting a bird or animal; and

   c. "Loss" caused by falling objects or missiles.

   However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

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4. **Coverage Extension**

   a. **Transportation Expenses**

   We will also pay up to $20 per day to a maximum of $600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the "private passenger type". We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

   b. **Loss Of Use Expenses**

   For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

   (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

   (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

   (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

   However, the most we will pay for any expenses for loss of use is $20 per day, to a maximum of $600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

   a. **Nuclear Hazard**

   (1) The explosion of any weapon employing atomic fission or fusion; or

   (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

   b. **War Or Military Action**

   (1) War, including undeclared or civil war;

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

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

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

   a. Any covered "auto" while in anyone else's possession under a written trailer interchange agreement. But this exclusion does not apply to a loss payee; however, if we pay the loss payee, you must reimburse us for our payment.

   b. Any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for any such contest or activity.

   c. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

   d. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.

   e. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.

   f. Any accessories used with the electronic equipment described in Paragraph **e.** above.

   Exclusions **2.e.** and **2.f.** do not apply to:

   a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or

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b. Any other electronic equipment that is:

(1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or

(2) An integral part of the same unit housing any sound reproducing equipment described in Paragraph **a.** above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

a. Wear and tear, freezing, mechanical or electrical breakdown.

b. Blowouts, punctures or other road damage to tires.

4. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:

a. The actual cash value of the damaged or stolen property as of the time of "loss"; or

b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION V – TRUCKERS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the accident or "loss". Include:

(1) How, when and where the "accident" or "loss" occurred;

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:

(1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

(2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".

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(4) Authorize us to obtain medical records or other pertinent information.

(5) Submit to examination at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is a "loss" to a covered "auto" or its equipment you must also do the following:

(1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

(2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

(3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

(4) Agree to examination under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

a. There has been full compliance with all the terms of this Coverage Form; and

b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligation under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

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5. **Other Insurance – Primary And Excess Insurance Provisions**

   a. This Coverage Form's Liability Coverage is primary for any covered "auto" while hired or borrowed by you and used exclusively in your business as a "trucker" and pursuant to operating rights granted to you by a public authority. This Coverage Form's Liability Coverage is excess over any other collectible insurance for any covered "auto" while hired or borrowed from you by another "trucker". However, while a covered "auto" which is a "trailer" is connected to a power unit, this Coverage Form's Liability Coverage is:

      (1) On the same basis, primary or excess, as for the power unit if the power unit is a covered "auto".

      (2) Excess if the power unit is not a covered "auto".

   b. Any Trailer Interchange Coverage provided by this Coverage Form is primary for any covered "auto".

   c. Except as provided in Paragraphs **a.** and **b.** above, this Coverage Form provides primary insurance for any covered "auto" you own and excess insurance for any covered "auto" you don't own.

   d. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

   e. Regardless of the provisions of Paragraphs **a.**, **b.** and **c.** above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

   f. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. **Premium Audit**

   a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

   b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. **Policy Period, Coverage Territory**

   Under this Coverage Form, we cover "accidents" and "losses" occurring:

   a. During the policy period shown in the Declarations; and

   b. Within the coverage territory.

   The coverage territory is:

   a. The United States of America;

   b. The territories and possessions of the United States of America;

   c. Puerto Rico;

   d. Canada; and

   e. Anywhere in the world if:

      (1) A covered "auto" of the "private passenger" type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

      (2) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

   We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

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8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION VI – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

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

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

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. 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

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

"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":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured";

(3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. 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

c. 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:

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

(2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** 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:

(1) 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

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

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

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G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

H. "Insured Contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. That part of any contract or agreement, entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing; or

b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or

c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

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

J. "Loss" means direct and accidental loss or damage.

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
   a. Power cranes, shovels, loaders, diggers or drills; or
   b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in Paragraph **1.**, **2.**, **3.** or **4.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
   a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
   b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in Paragraph **1.**, **2.**, **3.** or **4.** above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
   a. Equipment designed primarily for:
      (1) Snow removal;
      (2) Road maintenance, but not construction or resurfacing; or
      (3) Street cleaning;
   b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

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c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

L. "Pollutants" means 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.

M. "Private passenger type" means a private passenger or station wagon type "auto" and includes an "auto" of the pickup or van type if not used for business purposes.

N. "Property damage" means damage to or loss of use of tangible property.

O. "Suit" means a civil proceeding in which:

1. Damages because of "bodily injury" or "property damage"; or

2. A "covered pollution cost or expense",

to which this insurance applies, are alleged.

"Suit" includes:

a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" submits with our consent.

P. "Trailer" includes semitrailer or a dolly used to convert a semitrailer into a trailer. But for Trailer Interchange Coverage only, "trailer" also includes a container.

Q. "Trucker" means any person or organization engaged in the business of transporting property by "auto" for hire.

R. "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.

SAMPLE

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SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF TRANSPORTATION

Various provisions of 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 **II** – Who Is An Insured.

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

SECTION I – COVERAGES

BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

(1) The amount we will pay as damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" and "property damage" is caused by an "occurrence" that takes place in the "coverage territory" and arises out of:

(a) Operations performed for you by the "contractor" named in the Declarations under the designated contract, including your general supervision of these operations; or

(b) The existence of any condition in any portion of a state highway included under the designated contract with the "contractor" named in the Declarations; and

(2) The "bodily injury" or "property damage" occurs during the policy period.

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

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

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

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

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

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

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

b. Contractual Liability

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

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

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

c. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft:

(1) Owned or operated by or rented or loaned to the State of New York or any of its subdivisions or departments; or

(2) Operated by any person in the course of employment by the State of New York or any of its subdivisions or departments.

Use includes operation and loading or unloading.

d. Mobile Equipment

"Bodily injury" or "property damage" arising out of the transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to or for the State of New York or any of its subdivisions or departments or the use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

e. War

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

(1) War, including undeclared or civil war;

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

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

f. Workers' Compensation And Similar Laws

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

g. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

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(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

h. Damage To Property

"Property damage" to:

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

(2) Property loaned to you;

(3) Personal property in the care, custody or control of the insured;

(4) "Work" performed for you by the "contractor".

i. Public Utility Operations

"Bodily injury" or "property damage" arising out of public utility operations by the State of New York or any of its subdivisions or departments.

j. Failure To Sand Or Remove Snow Or Ice

"Bodily injury" or "property damage" arising out of failure of the State of New York or the "contractor" to sand or remove snow or ice on the highway or temporary roadway. This exclusion does not apply if the "contractor" undertakes to sand or remove snow or ice and the work is performed in a negligent manner.

k. Pollution

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

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

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

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

(i) Any insured; or

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

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

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

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

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

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

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

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

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

l. Damage To Impaired Property Or Property Not Physically Injured

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

(1) A defect, deficiency, inadequacy or dangerous condition in your work; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "work" performed for you by the "contractor" after it has been put to its intended use by you.

SUPPLEMENTARY PAYMENTS

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

   a. All expenses we incur.

   b. Up to $250 for cost of bail bonds required because of accidents or traffic violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

   c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

   d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

   e. All costs taxed against the insured in the "suit".

   f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

   g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

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

   These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit", and any one of the parties described in Paragraphs **a.**, **b.**, **c.** or **d.** below is also named as a party to the "suit", we will defend that party against the "suit" if all of the conditions listed in Paragraph **3.** are met:

   a. Any municipality in which operations are being performed for you by the "contractor" named in the Declarations under the designated contract;

   b. A public benefit corporation, railroad or public utility whose property or facilities are affected by the operations being performed for you by the "contractor" named in the Declarations under the designated contract;

   c. Any consultant, inspecting engineer or inspector working on the project for which operations are being performed by the "contractor" named in the Declarations under the designated contract; or

   d. Any agents or employees of parties listed in Paragraphs **a.**, **b.** or **c.** above.

3. We will defend a party described in Paragraphs **2.a.**, **b.**, **c.** and **d.** above if all of the following conditions are met:

   a. A claim for damages to which this insurance applies is made against the insured in the "suit" and a claim for the same damages is also made in the same "suit" against such party;

   b. Such party and the insured ask us to conduct and control the defense of that party against such "suit"; and

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c. Such party agrees in writing to:

(1) Cooperate with us in the investigation and defense of the "suit"; and

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

d. Such party provides us with written authorization to:

(1) Obtain records and other information related to the "suit"; and

(2) Conduct and control the defense of such party in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of such party, necessary litigation expenses incurred by us and necessary litigation expenses incurred by such party at our request will be paid as Supplementary Payments.

4. Our obligation to defend a party named in Paragraphs **2.a., b., c.** and **d.** above and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the insured's applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraphs **3.b.** and **c.** above, are no longer met.

SECTION II – WHO IS AN INSURED

Each of the following is an insured under this insurance.

1. The Named Insured;

2. The Commissioner of Transportation and all employees of the Commissioner of Transportation while acting within the scope of their duties.

SECTION III – LIMITS OF INSURANCE

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

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of all damages because of all "bodily injury" and "property damage" arising out of operations performed for you by the "contractor" named in the Declarations under the designated contract, including your general supervision of these operations. However, this limit does not apply to damages covered under the Existence Hazard Aggregate Limit.

3. The Existence Hazard Aggregate Limit is the most we will pay for the sum of all damages because of all "bodily injury" and "property damage" arising out of the existence of any conditions in any portion of a state highway included under the designated contract with the "contractor" named in the Declarations. However, this limit does not apply to damages covered under the General Aggregate Limit.

4. Subject to Paragraphs **2.** and **3.** above, as applicable, the Each Occurrence Limit is the most we will pay for the sum of damages because of all "bodily injury" and "property damage" arising out of any one "occurrence".

If you designate more than one contract in the Declarations, both the General Aggregate Limit and the Existence Hazard Aggregate Limit shall apply separately, and in the same amount, with respect to operations performed under each designated contract.

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

SECTION IV – CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligation under this policy.

2. Cancellation

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 and the "contractor" written notice of cancellation at least:

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

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

c. We will mail or deliver our notices to the first Named Insured's and the "contractor's" last mailing address known to us.

d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

e. If this policy is canceled, we will send the "contractor" any premium refund due. If we cancel, the refund will be pro rata. If the insured or the "contractor" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

3. **Changes**

This policy contains all the agreements between you, the "contractor" and us concerning the insurance afforded. The first Named Insured and the "contractor" is authorized to make changes in the terms of this policy with our consent.

This policy's terms can be amended or waived only by endorsement issued by us and made part of this policy.

4. **Duties In The Event Of Occurrence, Claim Or Suit**

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

(1) How, when and where the "occurrence" took place;

(2) The names and addresses of any injured persons and witnesses; and

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

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

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

(2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

5. **Examination Of Your Books And Records**

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

6. **Inspections And Surveys**

a. We have the right to:

(1) Make inspections and surveys at any time;

(2) Give you reports on the conditions we find; and

(3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

(1) Are safe or healthful; or

(2) Comply with laws, regulations, codes or standards.

c. Paragraphs **1.** and **2.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph **2.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

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7. **Legal Action Against Us**

No person or organization has a right under this policy:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this policy unless all of its terms have been fully complied with.

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

8. **Other Insurance**

The insurance afforded by this policy is primary insurance and we will not seek contribution from any other insurance available to you except if the other insurance is provided by a contractor other than the designated "contractor" for the same operation and job location designated in the Declarations.

If the other insurance is available, we will share with that other insurance by the method described below.

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

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

9. **Premiums**

The "contractor":

a. Is responsible for the payment of all premiums; and

b. Will be the payee for any return premium we pay.

With respect to the payment and return of premium, the term Named Insured means the "contractor" named in the Declarations.

10. **Premium Audit**

a. We will compute all premiums for this policy in accordance with our rules and rates.

b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the "contractor". If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the "contractor".

c. The "contractor" must keep records of the information we need for premium computation, and send us copies at such times as we may request.

11. **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.

12. **Transfer Of Rights Of Recovery Against Others To Us**

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

13. **Policy Period**

This insurance applies only to "bodily injury" or "property damage" which occurs during the policy period. This period terminates when the operations of the "contractor" under the contract designated in the Declarations, are finally accepted by the State of New York, unless the policy is previously terminated in accordance with the provisions of the cancellation condition.

14. **When We Do Not Renew**

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

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

SECTION V – DEFINITIONS

1. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

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b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

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

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

3. "Contractor" means the contractor designated in the Declarations.

4. "Coverage Territory" means the United States of America (including its territories and possessions), Puerto Rico and Canada.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

7. "Impaired property" means tangible property other than "work" performed for you, that cannot be used or is less useful because:

a. It incorporates "work" performed for you, that is known or thought to be defective, deficient, inadequate or dangerous; or

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

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of the "work" performed for you; or

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

8. "Insured contract" means:

a. A lease of premises;

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or

e. An elevator maintenance agreement.

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

10. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

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

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

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

l. Damage To Impaired Property Or Property Not Physically Injured

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

(1) A defect, deficiency, inadequacy or dangerous condition in your work; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "work" performed for you by the "contractor" after it has been put to its intended use by you.

SUPPLEMENTARY PAYMENTS

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

   a. All expenses we incur.

   b. Up to $250 for cost of bail bonds required because of accidents or traffic violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

   c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

   d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

   e. All costs taxed against the insured in the "suit".

   f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

   g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

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

   These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit", and any one of the parties described in Paragraphs **a.**, **b.**, **c.** or **d.** below is also named as a party to the "suit", we will defend that party against the "suit" if all of the conditions listed in Paragraph **3.** are met:

   a. Any municipality in which operations are being performed for you by the "contractor" named in the Declarations under the designated contract;

   b. A public benefit corporation, railroad or public utility whose property or facilities are affected by the operations being performed for you by the "contractor" named in the Declarations under the designated contract;

   c. Any consultant, inspecting engineer or inspector working on the project for which operations are being performed by the "contractor" named in the Declarations under the designated contract; or

   d. Any agents or employees of parties listed in Paragraphs **a.**, **b.** or **c.** above.

3. We will defend a party described in Paragraphs **2.a.**, **b.**, **c.** and **d.** above if all of the following conditions are met:

   a. A claim for damages to which this insurance applies is made against the insured in the "suit" and a claim for the same damages is also made in the same "suit" against such party;

   b. Such party and the insured ask us to conduct and control the defense of that party against such "suit"; and

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c. Such party agrees in writing to:

(1) Cooperate with us in the investigation and defense of the "suit"; and

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

d. Such party provides us with written authorization to:

(1) Obtain records and other information related to the "suit"; and

(2) Conduct and control the defense of such party in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of such party, necessary litigation expenses incurred by us and necessary litigation expenses incurred by such party at our request will be paid as Supplementary Payments.

4. Our obligation to defend a party named in Paragraphs **2.a., b., c.** and **d.** above and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the insured's applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraphs **3.b.** and **c.** above, are no longer met.

SECTION II – WHO IS AN INSURED

Each of the following is an insured under this insurance.

1. The Named Insured;

2. The Commissioner of Transportation and all employees of the Commissioner of Transportation while acting within the scope of their duties.

SECTION III – LIMITS OF INSURANCE

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

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of all damages because of all "bodily injury" and "property damage" arising out of operations performed for you by the "contractor" named in the Declarations under the designated contract, including your general supervision of these operations. However, this limit does not apply to damages covered under the Existence Hazard Aggregate Limit.

3. The Existence Hazard Aggregate Limit is the most we will pay for the sum of all damages because of all "bodily injury" and "property damage" arising out of the existence of any conditions in any portion of a state highway included under the designated contract with the "contractor" named in the Declarations. However, this limit does not apply to damages covered under the General Aggregate Limit.

4. Subject to Paragraphs **2.** and **3.** above, as applicable, the Each Occurrence Limit is the most we will pay for the sum of damages because of all "bodily injury" and "property damage" arising out of any one "occurrence".

If you designate more than one contract in the Declarations, both the General Aggregate Limit and the Existence Hazard Aggregate Limit shall apply separately, and in the same amount, with respect to operations performed under each designated contract.

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

SECTION IV – CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligation under this policy.

2. Cancellation

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 and the "contractor" written notice of cancellation at least:

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

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

c. We will mail or deliver our notices to the first Named Insured's and the "contractor's" last mailing address known to us.

d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

e. If this policy is canceled, we will send the "contractor" any premium refund due. If we cancel, the refund will be pro rata. If the insured or the "contractor" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

3. **Changes**

This policy contains all the agreements between you, the "contractor" and us concerning the insurance afforded. The first Named Insured and the "contractor" is authorized to make changes in the terms of this policy with our consent.

This policy's terms can be amended or waived only by endorsement issued by us and made part of this policy.

4. **Duties In The Event Of Occurrence, Claim Or Suit**

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

(1) How, when and where the "occurrence" took place;

(2) The names and addresses of any injured persons and witnesses; and

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

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

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

(2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

5. **Examination Of Your Books And Records**

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

6. **Inspections And Surveys**

a. We have the right to:

(1) Make inspections and surveys at any time;

(2) Give you reports on the conditions we find; and

(3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

(1) Are safe or healthful; or

(2) Comply with laws, regulations, codes or standards.

c. Paragraphs **1.** and **2.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph **2.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

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

c. We will mail or deliver our notices to the first Named Insured's and the "contractor's" last mailing address known to us.

d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

e. If this policy is canceled, we will send the "contractor" any premium refund due. If we cancel, the refund will be pro rata. If the insured or the "contractor" cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

3. **Changes**

This policy contains all the agreements between you, the "contractor" and us concerning the insurance afforded. The first Named Insured and the "contractor" is authorized to make changes in the terms of this policy with our consent.

This policy's terms can be amended or waived only by endorsement issued by us and made part of this policy.

4. **Duties In The Event Of Occurrence, Claim Or Suit**

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

(1) How, when and where the "occurrence" took place;

(2) The names and addresses of any injured persons and witnesses; and

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

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

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

(2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

5. **Examination Of Your Books And Records**

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

6. **Inspections And Surveys**

a. We have the right to:

(1) Make inspections and surveys at any time;

(2) Give you reports on the conditions we find; and

(3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

(1) Are safe or healthful; or

(2) Comply with laws, regulations, codes or standards.

c. Paragraphs **1.** and **2.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph **2.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

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7. **Legal Action Against Us**

No person or organization has a right under this policy:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this policy unless all of its terms have been fully complied with.

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

8. **Other Insurance**

The insurance afforded by this policy is primary insurance and we will not seek contribution from any other insurance available to you except if the other insurance is provided by a contractor other than the designated "contractor" for the same operation and job location designated in the Declarations.

If the other insurance is available, we will share with that other insurance by the method described below.

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

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

9. **Premiums**

The "contractor":

a. Is responsible for the payment of all premiums; and

b. Will be the payee for any return premium we pay.

With respect to the payment and return of premium, the term Named Insured means the "contractor" named in the Declarations.

10. **Premium Audit**

a. We will compute all premiums for this policy in accordance with our rules and rates.

b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the "contractor". If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the "contractor".

c. The "contractor" must keep records of the information we need for premium computation, and send us copies at such times as we may request.

11. **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.

12. **Transfer Of Rights Of Recovery Against Others To Us**

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

13. **Policy Period**

This insurance applies only to "bodily injury" or "property damage" which occurs during the policy period. This period terminates when the operations of the "contractor" under the contract designated in the Declarations, are finally accepted by the State of New York, unless the policy is previously terminated in accordance with the provisions of the cancellation condition.

14. **When We Do Not Renew**

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

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

SECTION V – DEFINITIONS

1. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

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7. **Legal Action Against Us**

No person or organization has a right under this policy:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this policy unless all of its terms have been fully complied with.

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

8. **Other Insurance**

The insurance afforded by this policy is primary insurance and we will not seek contribution from any other insurance available to you except if the other insurance is provided by a contractor other than the designated "contractor" for the same operation and job location designated in the Declarations.

If the other insurance is available, we will share with that other insurance by the method described below.

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

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

9. **Premiums**

The "contractor":

a. Is responsible for the payment of all premiums; and

b. Will be the payee for any return premium we pay.

With respect to the payment and return of premium, the term Named Insured means the "contractor" named in the Declarations.

10. **Premium Audit**

a. We will compute all premiums for this policy in accordance with our rules and rates.

b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the "contractor". If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the "contractor".

c. The "contractor" must keep records of the information we need for premium computation, and send us copies at such times as we may request.

11. **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.

12. **Transfer Of Rights Of Recovery Against Others To Us**

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

13. **Policy Period**

This insurance applies only to "bodily injury" or "property damage" which occurs during the policy period. This period terminates when the operations of the "contractor" under the contract designated in the Declarations, are finally accepted by the State of New York, unless the policy is previously terminated in accordance with the provisions of the cancellation condition.

14. **When We Do Not Renew**

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

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

SECTION V – DEFINITIONS

1. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

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b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

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

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

3. "Contractor" means the contractor designated in the Declarations.

4. "Coverage Territory" means the United States of America (including its territories and possessions), Puerto Rico and Canada.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

7. "Impaired property" means tangible property other than "work" performed for you, that cannot be used or is less useful because:

a. It incorporates "work" performed for you, that is known or thought to be defective, deficient, inadequate or dangerous; or

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

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of the "work" performed for you; or

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

8. "Insured contract" means:

a. A lease of premises;

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or

e. An elevator maintenance agreement.

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

10. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

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

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

13. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such 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.

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

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

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

15. "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.

16. "Work" includes materials, parts or equipment furnished in connection with the operations.

SAMPLE

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OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM – COVERAGE FOR OPERATIONS OF DESIGNATED CONTRACTOR

Various provisions of 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 **II** – Who Is An Insured.

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

SECTION I – COVERAGES

BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

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

(1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

b. This insurance applies to "bodily injury" and "property damage" only if:

(1) The "bodily injury" or "property damage" is caused by an "occurrence" and arises out of:

(a) Operations performed for you by the "contractor" at the location specified in the Declarations; or

(b) Your acts or omissions in connection with the general supervision of such operations;

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

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

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

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

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

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

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

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

b. Contractual Liability

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

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and

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

c. Work Completed Or Put To Intended Use

"Bodily injury" or "property damage" which occurs after the earlier of the following times:

(1) When all "work" on the project (other than service, maintenance or repairs) to be performed for you by the "contractor" at the site of the covered operations has been completed; or

(2) When that portion of the "contractor's" "work", out of which the injury or damage arises, has been put to its intended use by any person or organization, other than another contractor or subcontractor working directly or indirectly for the "contractor" or as part of the same project.

d. Acts Or Omissions By You And Your Employees

"Bodily injury" or "property damage" arising out of your, or your "employees", acts or omissions other than general supervision of "work" performed for you by the "contractor".

e. Workers' Compensation And Similar Laws

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

f. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

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g. Damage To Property

"Property damage" to:

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

(2) Property loaned to you;

(3) Personal property in the care, custody or control of the insured; or

(4) "Work" performed for you by the "contractor".

h. War

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

(1) War, including undeclared or civil war;

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

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

i. Mobile Equipment

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

j. Pollution

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

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

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

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

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

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

(i) Any insured; or

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

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

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

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

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

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

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

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

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

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

k. Damage To Impaired Property Or Property Not Physically Injured

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

(1) A defect, deficiency, inadequacy or dangerous condition in "work" performed for you by the "contractor"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "work" performed for you by the "contractor".

l. Electronic Data

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

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

SUPPLEMENTARY PAYMENTS

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

   a. All expenses we incur.

   b. Up to $250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which this insurance applies. We do not have to furnish these bonds.

   c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

   d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $250 a day because of time off from work.

   e. All costs taxed against the insured in the "suit".

   f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

   g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

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

   These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

   a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

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b. This insurance applies to such liability assumed by the insured;

c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

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

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

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

Our obligation to defend an insured's indemnitee and to pay for attorneys fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to their duties as partners or members of a joint venture.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to their duties as members of a limited liability company. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

2. Each of the following is also an insured:

a. Any person (other than your "employee") or any organization while acting as your real estate manager.

b. Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

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

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

SECTION III – LIMITS OF INSURANCE

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

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

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2. The Aggregate Limit is the most we will pay for the sum of damages because of all "bodily injury" and "property damage".
3. Subject to **2.** above, the Each Occurrence Limit is the most we will pay for the sum of damages because of all "bodily injury" and "property damage" arising out of any one "occurrence".

If you designate more than one project in the Declarations, the Aggregate Limit shall apply separately to each project.

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

SECTION IV – CONDITIONS

1. Bankruptcy

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

2. Cancellation

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 and the "contractor" written notice of cancellation at least:

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

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

c. We will mail or deliver our notices to the first Named Insured's and the "contractor's" last mailing address known to us.

d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

e. If this policy is cancelled, we will send the "contractor" any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

3. Changes

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

4. Duties In The Event Of Occurrence, Claim Or Suit

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

(1) How, when and where the "occurrence" took place;

(2) The names and addresses of any injured persons and witnesses; and

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

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

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

(2) Notify us as soon as practicable.

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

c. You and any other involved insured must:

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

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

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

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5. Examination Of Your Books And Records

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

6. Inspections And Surveys

a. We have the right to:

(1) Make inspections and surveys at any time;

(2) Give you reports on the conditions we find; and

(3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

(1) Are safe or healthful; or

(2) Comply with laws, regulations, codes or standards.

c. Paragraphs **a.** and **b.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph **b.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

7. Legal Action Against Us

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

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

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

8. Other Insurance

The insurance afforded by this Coverage Part is primary insurance and we will not seek contribution from any other insurance available to you unless the other insurance is provided by a contractor other than the designated "contractor" for the same operation and job location designated in the Declarations. Then we will share with that other insurance by the method described below.

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

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

9. Premiums

The "contractor":

a. Is responsible for the payment of all premiums; and

b. Will be the payee for any return premiums we pay.

10. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the "contractor". The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the "contractor".

c. The "contractor" must keep records of the information we need for premium computation, and send us copies at such times as we may request.

11. Separation Of Insureds

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

a. As if each Named Insured were the only Named Insured; and

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b. Separately to each insured against whom claim is made or "suit" is brought.

12. Transfer Of Rights Of Recovery Against Others To Us

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

13. When We Do Not Renew

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

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

SECTION V – DEFINITIONS

1. "Auto" means:
   a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
   b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

   However, "auto" does not include "mobile equipment".
2. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
3. "Contractor" means the contractor designated in the Declarations.
4. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
5. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
6. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
7. "Impaired property" means tangible property, other than work performed for you, that cannot be used or is less useful because:
   a. It incorporates work performed for you that is known or thought to be defective, deficient, inadequate or dangerous; or
   b. You have failed to fulfill the terms of a contract or agreement;

   if such property can be restored to use by:
   a. The repair, replacement, adjustment or removal of the work performed for you; or
   b. Your fulfilling the terms of the contract or agreement.
8. "Insured contract" means:
   a. A lease of premises;
   b. A sidetrack agreement;
   c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
   d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or
   e. An elevator maintenance agreement.
9. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
10. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
    a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
    b. Vehicles maintained for use solely on or next to premises you own or rent;
    c. Vehicles that travel on crawler treads;
    d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
       (1) Power cranes, shovels, loaders, diggers or drills; or
       (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
    e. Vehicles not described in **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
       (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
       (2) Cherry pickers and similar devices used to raise or lower workers;
    f. Vehicles not described in **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

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

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

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

13. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

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

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

14. "Suit" means a civil proceeding, brought in the United States of America (including its territories and possessions), Puerto Rico or Canada, in which damages because of "bodily injury" or "property damage" to which this insurance applies are alleged. "Suit" includes:

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

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

15. "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.

16. "Work" includes materials, parts or equipment furnished in connection with the operations.

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Public Burden Statement

A Federal Agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control No. The OMB Control Number for this information collection is 2126-0008. Public reporting for this collection of information is estimated to be approximately 2 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRA, Washington, D.C. 20590

OMB NO: 2126-0008
Expiration Date:03/31/11

U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Issued to _____ of _____

Dated at _____ this _____ day of _____, 20_____

Amending Policy No _____ Effective Date _____

Name of Insurance Company _____

Countersigned by _____
Authorized Company Representative

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]," for the limits shown:

[ ] This insurance is primary and the company shall not be liable for amounts in excess of $_____ for each accident.

[ ] This insurance is excess and the company shall not be liable for amounts in excess of $_____ for each accident in excess of the underlying limit of $ _____for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: _____

Cancellation of this endorsement may be effected by the company of the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

Accident includes continuous or repeated exposure to conditions which results in bodily injury, property damage, or environmental damage which the insured neither expected nor intended.

Motor Vehicle means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

Bodily Injury means injury to the body, sickness, or disease to any person, including death resulting from any of these.

Property Damage means damage to or loss of use of tangible property.

Environmental Restoration means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

Public Liability means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA).

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of Sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered again the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

THE SCHEDULE OF LIMITS SHOWN ON THE REVERSE SIDE DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

SCHEDULE OF LIMITS--*PUBLIC LIABITY*

Type of carriage	Commodity transported	Jan. 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Property (nonhazardous)	$ 750,000
(2) For-hire and Private (In interstate, foreign or intrastate commerce, with a gross vehicle weight rating of 10,000 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1., 1.2, and 1.3 materials. Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403.	$5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity, or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,000 or more pounds).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	$1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,000 pounds).	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group 1, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	$5,000,000

Sample