

POLICY NUMBER: 71A2040000-081
RENEWAL OF: 71P2000004-071

ITEM 1.
Named
Insured

Participants of the ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM (ANML)



Everest National Insurance Company
477 Martinsville Road
P.O. Box 830 Liberty Corner, NJ 07938-0830
1-800-438-4375

Address
(Street,
Town,
State)

1301 Dove Street –Suite 200
New port Beach, CA 92660

Managing Underwriter:

SPECIAL EXCESS LIABILITY POLICY DECLARATIONS FOR PARTICIPANTS OF THE ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM (ANML)

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

ITEM 2. POLICY PERIOD See Individual Participation Endorsements

ITEM 3. LIMITS OF INSURANCE

The Limits of Insurance, subject to all the terms and conditions of this Policy are:

A. Limits of Insurance

1. Aggregate Limits

Limits of Liability

a. See Individual Participation
Endorsement

“Completed Operations Hazard” Aggregate

2. Per Occurrence

See Individual Participation
Endorsement

Any one “Occurrence” for “Bodily Injury”, “Property Damage”, “Public Officials Errors And Omissions”, “Unfair Employment Practices”, Or “Personal Injury” Or Any Combination Thereof

B. Retained Limit

See Individual Participation
Endorsement

Any one “Occurrence” for “Bodily Injury”, “Property Damage”, “Public Officials Errors And Omissions”, “Unfair Employment Practices”, Or “Personal Injury” Or Any Combination Thereof

This Policy is not valid unless countersigned by a duly authorized agent of the Company.

Producer Name and Address
(Not an authorized broker of Everest National Insurance Company)

AmWins Insurance Brokerage of CA, LLC
19867 Prairie Street, Suite 250
Chatsworth, CA 91311

Date of Issue: July 30 2008,

Countersigned By:

Authorized Representative

PARTICIPATION NUMBER: 71A7040001-081

RENEWAL OF: 71A7000001-071

MASTER POLICY NUMBER: 71A2040000-081

**ITEM 1.
Participating
Named
Insured**

**Authority for California Cities Excess
Liability (ACCEL)**



Everest National Insurance Company
477 Martinsville Road
P.O. Box 830 Liberty Corner, NJ 07938-
0830
1-800-438-4375

Address
(Street, Town,
State)

**c/o Driver Alliant Insurance Services
1010 Second Avenue, #300
San Diego, CA 92101**

Managing Underwriter:
C.V. Starr & Company

**PARTICIPATION ENDORSEMENT
ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM (ANML)**

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

ITEM 2. POLICY FROM: July 1, 2008 **TO:** July 1, 2009 **AT 12:01 A.M.**
**PERIOD STANDARD TIME AT THE ADDRESS OF THE "PARTICIPATING NAMED
INSURED" SHOWN ABOVE.**

ITEM 3. LIMITS OF INSURANCE

The Limits of Insurance, subject to all the terms and conditions of this Policy are:

A. Limits of Insurance

1. Aggregate Limits Limits of Liability

\$10,000,000 "Completed Operations Hazard" Aggregate

2. Per Occurrence

\$10,000,000 Any one "Occurrence" for "Bodily Injury", "Property Damage",
"Public Officials Errors And Omissions", "Unfair Employment
Practices", Or "Personal Injury" Or Any Combination Thereof

B. Retained Limit

\$5,000,000 Any One "Occurrence" For "Bodily Injury", "Property Damage",
"Public Officials Errors And Omissions", "Unfair Employment
Practices", Or "Personal Injury" Or Any Combination Thereof

ITEM 4.	ENDORSEMENTS APPLICABLE TO THIS POLICY ON THE ORIGINAL DATE OF ISSUE:	
	<u>Title</u>	<u>Number</u>
	Cap on Losses From Certified Acts of Terrorism	CU 21 30 01 08
	Disclosure of Premium Pursuant to Terrorism Risk Insurance Act	IL 09 85 01 08
	Policy Changes-Amendatory Endorsement	CU 22 40 12 04
	Policy Changes-Named Insured Schedule	CU 22 40 12 04
	Company Signature Page	EIL 00 515 03 07

ITEM 5.	PREMIUM, MINIMUM PREMIUM AND MINIMUM EARNED PREMIUM		
	<u>POLICY PREMIUM</u>	<u>MINIMUM PREMIUM</u>	<u>MINIMUM EARNED PREMIUM</u>
	1,173,408	1,173,408	293,352
	Total Premium (including Terrorism Risk Insurance Act Coverage): \$1,173,408		
Premium for Terrorism risk Insurance Act Coverage: \$23,008			

ITEM 6.	A. NOTICE OF CLAIM OR SUIT REPORTING LOCATION:		B. RETAINED LIMIT CLAIMS SERVICING ORGANIZATION:	
	Name:	Everest National Insurance Company	Name:	Carl Warren & Co.
	Address:	Westgate Corporate Center 477 Martinsville Road Liberty Corner, New Jersey 07938-0830	Address:	500 North Central Avenue, Fourth Floor Glendale, CA. 91203
	Phone Number:		Phone Number:	818.247.2206
				Contact: Keyan Aghili kaghili@carlwarren.com

This "Participation Endorsement" and any endorsement(s) or attached Schedule (if applicable), in conjunction the Declarations and Policy form issued for the **ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM (ANML)** complete the above numbered policy.

This Policy is not valid unless countersigned by a duly authorized agent of the Company.

Producer Name and Address
(Not an authorized broker of Everest National Insurance Company)

AmWins Insurance Brokerage of CA, LLC 19867 Prairie Street - Suite 250 Chatsworth, CA 91311

Date of Issue: July 30, 2008

Countersigned By: _____



Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

SCHEDULE

Terrorism Premium (Certified Acts) \$ 23,008

This premium is the total Certified Acts premium attributable to the following Coverage Part(s), Coverage Form(s) and/or Policy(s):

Additional information, if any, concerning the terrorism premium:

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses


If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGES

This endorsement modifies insurance provided under the following:

PUBLIC ENTITIES EXCESS LIABILITY

Effective Date of Change: July 1, 2008			
Change Endorsement No.: N/A			
Named Insured: Authority for California Cities Excess Liability (ACCEL)			
The following item(s):			
<input type="checkbox"/> Insured's Name	<input type="checkbox"/> Insured's Mailing Address		
<input type="checkbox"/> Policy Number	<input type="checkbox"/> Company		
<input type="checkbox"/> Effective/Expiration Date	<input type="checkbox"/> Insured's Legal Status/Business of Insured		
<input type="checkbox"/> Payment Plan	<input type="checkbox"/> Premium Determination		
<input type="checkbox"/> Additional Interested Parties:	<input checked="" type="checkbox"/> Coverage Forms and Endorsements		
<input type="checkbox"/> Limits/Exposures	<input type="checkbox"/> Self-Insured Retention		
<input type="checkbox"/> Covered Property/Located Description	<input type="checkbox"/> Classification/Class Codes		
<input type="checkbox"/> Rates	<input type="checkbox"/> Underlying Insurance		
is (are) changed to read {See Additional Page(s)}:			
The above amendments result in a change in the premium as follows:			
<input checked="" type="checkbox"/> NO CHANGES	<input type="checkbox"/> TO BE ADJUSTED AT AUDIT	ADDITIONAL PREMIUM	RETURN PREMIUM
		\$	\$
Endorsement Effective: July 1, 2008		Countersigned By:	
Named Insured: Authority for California Cities Excess Liability (ACCEL)			
		(Authorized Representative)	

POLICY CHANGES ENDORSEMENT DESCRIPTION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

SPECIAL EXCESS LIABILITY POLICY FORM FOR PARTICIPANTS OF THE ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM

A. Exclusion **9.** in Paragraph **D. EXCLUSIONS** of **SECTION I. COVERAGES** is replaced by the following:

- 9. a.** For “bodily injury” or “property damage” due to an “occurrence” which would not have occurred in whole or in part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of “pollutants” at any time,
- b.** For 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”, unless arising from any spill, release, or other hazardous condition at or from the premises, equipment, or location(s) which the “insured” does not own, rent, control or occupy.

However, this exclusion shall not apply to the following:

- i.** Any liability arising out of “bodily injury” or “property damage” due to an “occurrence” by the “insured” arising out of heat, smoke, or fumes from a “hostile fire”;
- ii.** Any liability arising out of explosion, lightning, windstorm, vandalism or malicious mischief, collapse, riot and civil commotion, flood, earthquake or collision, upset, or overturn of an “automobile” or equipment;
- iii.** Any liability arising out of police use of mace, oleoresin capsicum (O.C.), pepper gas or tear gas;
- iv.** Any liability arising out of weed abatement or spraying; or
- v.** Any liability arising out of the “completed operations hazard”.

All “bodily injury” or “property damage” due to an “occurrence” arising from **i.**, **ii.**, **iii.**, **iv.**, or **v.** above arising out of the same, interrelated, associated, repeated or continual discharge, dispersal, release or escape of “pollutants” shall be deemed one “occurrence”. The commencement of such discharge, dispersal, release or escape of “pollutants” shall be recorded and reported to the risk manager or designated department head within a one hundred sixty-eight (168) hour period.

POLICY CHANGES ENDORSEMENT DESCRIPTION

Regardless of whether any "suit" or "claim" against the "insured" has been made, the "insured" shall give written notice to the company or any of the company's authorized brokers within forty (40) calendar days of the risk manager's or designated department head's recorded entry or such discharge, dispersal, release or escape of "pollutants" which may result in liability for "bodily injury" or "property damage" due to an "occurrence" as described in **i.**, **ii.**, **iii.**, **iv.**, or **v.** above.

B. Exclusion **12.** of Paragraph **D. EXCLUSIONS** of **SECTION I. COVERAGES** is replaced by the following:

- 12.** To liability arising out of any transit authority, transit system or public transportation system owned or operated by any "insured". This exclusion shall not apply to:
- a. Transit or public transportation systems operating over non-fixed routes such as dial-a-ride, senior citizen transportation, or handicapped persons transportation;
 - b. Contingent liability coverage where such services are contracted; or
 - c. The Santa Monica Big Blue Bus Line.

C. Exclusion **18.** in Paragraph **D. EXCLUSIONS** of **SECTION I. COVERAGES** is replaced by the following:

- 18.** Any liability arising out of the rupture, bursting, over-topping, flooding, cracking, seepage, under-seepage, accidental discharge or partial or complete structural failure of any "dams". However, this exclusion does not apply to liabilities with respect to the Walnut Canyon Dam.

D. The definition of "dam" in **SECTION V. DEFINITIONS** is replaced by the following:

- G.** "Dam" means any artificial barrier, together with appurtenant works, which does or may impound or divert water and which either (A) is twenty five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream tow of the barrier, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation, or (B) has an impounding capacity of fifty (50) acre feet or more. Any such barrier which is not in excess of six (6) feet in height, regardless of storage capacity, or which has a storage capacity not in excess of fifteen (15) acre feet, regardless of height, shall not be considered a "dam".

E. For the purpose of the endorsement, the following definition is added:

"Hostile fire" means a fire that becomes uncontrollable or breaks out from where it is intended to be.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

Effective Date of Change:	July 1, 2008
Change Endorsement No.:	N/A
Participating Named Insured:	Authority for California Cities Excess Liability (ACCEL)
The following item(s):	
<input checked="" type="checkbox"/> Insured's Name	<input type="checkbox"/> Insured's Mailing Address
<input type="checkbox"/> Policy Number	<input type="checkbox"/> Company
<input type="checkbox"/> Effective/Expiration Date	<input type="checkbox"/> Insured's Legal Status/Business of Insured
<input type="checkbox"/> Payment Plan	<input type="checkbox"/> Premium Determination
<input type="checkbox"/> Additional Interested Parties:	<input type="checkbox"/> Coverage Forms and Endorsements
<input type="checkbox"/> Limits/Exposures	<input type="checkbox"/> Self-Insured Retention
<input type="checkbox"/> Covered Property/Located Description	<input type="checkbox"/> Classification/Class Codes
<input type="checkbox"/> Rates	<input type="checkbox"/> Underlying Insurance

is (are) changed to read **{See Additional Page(s)}**:

The above amendments result in a change in the premium as follows:

<input checked="" type="checkbox"/> NO CHANGES	<input type="checkbox"/> TO BE ADJUSTED AT AUDIT	ADDITIONAL PREMIUM	RETURN PREMIUM
		\$	\$

Endorsement Effective: July 1, 2008 Named Insured: Authority for California Cities Excess Liability (ACCEL)	Countersigned By:  (Authorized Representative)
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POLICY CHANGES ENDORSEMENT DESCRIPTION

NAMED INSURED SCHEDULE

Item 1. Participating Named Insured, as shown on the Participation Endorsement , is completed to read as follows:

Authority for California Cities (Excess Liability) ACCEL and the following member cities:

1. Anaheim
2. Bakersfield
3. Burbank
4. Modesto
5. Monterey
6. Mountain View
7. Ontario
8. Palo Alto
9. Santa Barbara
10. Santa Cruz
11. Santa Monica
12. Visalia

**SPECIAL EXCESS LIABILITY POLICY
FOR
PARTICIPANTS OF THE ALLIANT NATIONAL MUNICIPAL LIABILITY PROGRAM**

Throughout this policy, words and phrases that are shown in "quotation marks" have special meaning and are defined in the policy.

In consideration of the payment of the premium, if paid, and in reliance upon the statements made to the "company" and subject to Declarations, Schedules, terms, conditions, exclusions, and endorsements that complete this policy, the "company" and each "participating named insured" agree as follows:

I. COVERAGES

A. INSURING AGREEMENT

The "company" will pay on behalf of any "insured" the "ultimate net loss" in excess of the "retained limit(s)" hereinafter stated which the "insured" shall become legally obligated to pay as "damages" by reason of liability imposed by law or liability assumed by contract for "damages" because of:

- Coverage A. "Bodily injury" liability
- Coverage B. "Property damage" liability
- Coverage C. "Public officials errors and omissions" liability
- Coverage D. "Unfair employment practices" liability
- Coverage E. "Personal injury" liability

to which this policy applies, caused by an "occurrence" during the "policy period".

B. DEFENSE AND SETTLEMENT

After the amount of any "participating named insured's" "retained limit" has been exhausted by payment of judgments, settlements and/or "defense costs", the "company" will reimburse the "insured" for "excess defense costs" incurred by the "insured". However, "excess defense costs" are subject to, and not in addition to, the limit of the "company's" liability.

The "company", at its own expense, shall have the right to associate itself with the "insured" in the control, investigation, defense or appeal of any "claim", "suit" or proceeding which, in the opinion of the "company", is or may be covered by this policy. The "insured" shall fully cooperate in all matters pertaining to such "claim", "suit" or proceeding.

No "claim" or "suit" shall be settled for an amount in excess of any "participating named insured's" "retained limit" without the prior written consent of the "company". Such consent shall not be unreasonably withheld.

If allegations of an "occurrence" solely as respect to "unfair employment practices" liability are not subsequently proven after a trial by a final judgment or other adjudication adverse to a "participating named insured" or if there is a dismissal of the "claim" or "suit" before a trial, the "company" will reimburse the "participating named insured" up to fifty percent (50%) of reasonable "defense costs" the "participating named insured" incurs, subject to a maximum of \$250,000. However, reimbursement of such "defense costs" will not be made by the "company" to the "participating named insured" if there is any kind of settlement with a third party.

C. POLICY PERIOD/TERRITORY

This policy applies to "bodily injury", "property damage", "public officials errors and omissions", "unfair employment practices", or "personal injury" which occurs anywhere in the world during the "policy period".

D. EXCLUSIONS

As respect to the "ultimate net loss", this policy does not apply:

1. To liability arising out of:
 - a. "Bodily injury" or "property damage":
 - 1) With respect to which an "insured" under the policy is also an "insured" under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association Of Canada or any of their successors, or would be an "insured" under any such policy but for its termination upon exhaustion of its limit of liability; or
 - 2) Resulting from the use of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the atomic energy act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - b. The "hazardous properties" of "nuclear material", if:
 - 1) The "nuclear material" is at any "nuclear facility" owned by, or operated by the "insured" or on the "insured's" behalf or has been discharged or dispersed there from;
 - 2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by the "insured" or on the "insured's" behalf; or
 - 3) The "damage" or loss arises out of the furnishing by the "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions, or Canada, this Exclusion 3. applies only to "damage" or loss to such "nuclear facility" and any property located at the facility;
2. To any obligation of any "insured" under any Uninsured Motorists or Underinsured Motorists Law and to any sums the "insured" may be legally entitled to recover as "damages" from the owner or operator of an uninsured or underinsured "automobile" because of "bodily injury" and "property damage" sustained by any "insured", caused by an "occurrence" and arising out of the ownership, maintenance or use of such "automobile". Use includes operation and loading and unloading.
3. To "bodily injury" and "property damage" arising out of the ownership, maintenance, loading or unloading, use or operation of any:
 - a. "Aircraft";
 - b. Airfields;
 - c. Runways;
 - d. Hangars; or
 - e. Buildings or other properties in connection with aviation activities.

This exclusion shall not apply, however, to those areas open to the public for the purpose of entering, leaving, or using the airport facilities (including parking lots and garages) or to liability arising out of the ownership, operation, rental, or loan of vehicles licensed for highway use while being operated away from the premises of any airfield;
4. To any obligation for which any "insured" or any carrier as its insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law;

5. To "bodily injury" to any employee of any "insured" arising out of and in the course of his/her employment by any "insured"; but this exclusion does not apply to liability assumed by any "insured" under any written contract;
6. To liability arising out of or in connection with those causes of action or counts in any "claim" or "suit" which do not contain demands or prayers for "damages";
7. To "property damage" to (1) property owned by any "insured", or (2) "aircraft" in the care, custody or control of any "insured", including aircraft of which the "insured" is exercising physical control;
8. To any liability for which the "insured" is obligated to pay "damages" by reason of assumption of liability in any contract or agreement. 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. Liability for "damages" that the "insured" would have in the absence of the contract or agreement.
9. To liability arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" anywhere in the world;
 - a. To "ultimate net loss" arising out of any governmental direction or request that any "insured" or any other person or organization test for, monitor, clean-up, remove, contain, treat, detoxify, neutralize, or in any way respond to or assess the effects of "pollutants"; or
 - b. To "ultimate net loss", including, but not limited to, costs of investigation or attorneys' fees, incurred by a governmental unit or any other person or organization to test for, monitor, clean-up, remove, contain, treat, detoxify, neutralize, or in any way respond to "pollutants".

However, this exclusion does not apply to liability arising out of:

- 1) Water, whether recycled, reconditioned or reclaimed;
- 2) Any discharge, dispersal, seepage, migration, release or escape directly or indirectly caused by fire, explosion, lightning, windstorm, vandalism or malicious mischief, riot and civil commotion, flood, collision, or upset of a motor vehicle, railroad vehicle, mobile equipment, automatic sprinkler leakage or "aircraft";
- 3) Any liability arising out of police use of mace, oleoresin capsicum (o.c.), pepper gas or tear gas;
- 4) Any liability arising from weed abatement or spraying;
- 5) The "products hazard" or the "completed operations hazard"; or
- 6) Any discharge, dispersal, seepage, migration, release or escape of "pollutants" that meets all of the following conditions:
 - a) It was accidental and neither expected nor intended by any "insured". This condition would not serve to deny coverage for a specific incident where such discharge, dispersal, seepage, migration, release or escape of "pollutants" was a result of an attempt by any "insured" to mitigate or avoid a situation where substantial third party "bodily injury", "property damage" or "personal injury" could occur; and
 - b) It was demonstrated as having commenced on a specific date during the "policy period"; and
 - c) Its commencement became known to any "insured" within seven (7) calendar days and was further reported to the person responsible for risk management at the "participating named insured" within a reasonable time frame; and

- d) Its commencement was reported in writing to the “company” within forty (40) calendar days of becoming known to the person responsible for risk management at the “participating named insured”; and
- e) Reasonable effort was expended by the “insured” to terminate the situation as soon as conditions permitted.

However, nothing contained in this provision 6, shall operate to provide any coverage with respect to:

- i) Any site or location principally used by any “insured”, or by others on the “insured’s” behalf, for the handling, storage, disposal, dumping, processing or treatment of waste material;
- ii) Any fines or penalties;
- iii) Any clean up costs ordered by the superfund program, or any federal, state or local governmental authority. However, this paragraph shall not serve to deny coverage for third party clean up costs otherwise covered by this exception to this exclusion simply because of the involvement of a governmental authority;
- iv) Acid rain;
- v) Clean up, removal, containment, treatment, detoxification or neutralization of “pollutants” situated on premises the “insured” owns, rents or occupies at the time of the actual discharge, dispersal, seepage, migration, release or escape of said “pollutants”; or
- vi) Water pollution caused by oil or its derivatives.

10. To:

- a. Any liability arising, in whole or in part, out of actual or alleged, threatened or suspected, inhalation of, ingestion of, contact with, exposure to, existence of, or presence of asbestos; or
- b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating, or disposing of or in any way responding to or assessing the effects of asbestos by any “insured” or by any other person or entity.

11. To “bodily injury” or “property damage” arising out of the failure to supply or provide an adequate supply of gas, steam, water or electricity. This exclusion does not apply if:

- a. Such failure arises out of an “occurrence”; and
- b. The combined capacity of the “insured’s” installed production facilities and contractual supply arrangements is equal to or greater than one hundred and ten percent (110%) of the electricity, steam and/or gas demand or one hundred percent (100%) of the water demand, whichever demand is applicable to the “insured’s” electric, gas, steam or water system.

12. To liability arising out of any transit authority, transit system or public transportation system owned or operated by any “insured”. This exclusion shall not apply to transit or public transportation systems operating over non-fixed routes such as dial-a-ride, senior citizen transportation, or handicapped persons transportation, or to contingent liability coverage where such services are contracted;

13. To liability arising out of the operation of any hospital, clinic, or health care facility, owned or operated by any “insured”. This includes, but is not limited to:

- a. The rendering or failure to render:
 - (1) Medical, surgical, dental, x-ray or nursing service or treatment, or the furnishing of food or beverages in connection therewith;
 - (2) Any service or treatment related to physical or mental health or of a professional nature; or

(3) Any cosmetic or tonsorial service or treatment.

b. The furnishing of or dispensing of drugs or medical, dental or surgical supplies or appliances.

This exclusion does not apply to any liability arising out of:

(1) Ambulance operations, occupational physical examinations, non-clinic nursing services or services of the "insured's" employees who are nurses, paramedics, emergency medical technicians, speech therapists, speech pathologists, nutritionists, psychologists, audiologists, or physical therapists;

(2) "Unfair employment practices" liability;

(3) "First aid" to any person;

(4) Any nursing services clinic that does not perform invasive surgery of any kind; or

(5) Operations performed by coroners;

14. To any obligation of any "insured" under the "Employment Retirement Income Security Act Of 1974" and any law amendatory thereto or any similar federal, state or local statute;

15. Under Coverage C. to:

a. "Bodily injury" or "property damage" or "unfair employment practices" or "personal injury" as defined in this policy;

b. The refund of taxes, fees or assessments;

c. 1) Liability of any "insured" arising in whole or in part, out of any "insured" obtaining remuneration or financial gain to which any "insured" was not legally entitled;

2) Liability arising out of the willful violation of a penal statute, code or ordinance committed by or with the knowledge or consent of any "insured"; except that any act for which an "insured" is responsible shall not be imputed to any other "insured" for purposes of this subpart c.;

This exclusion does not apply to liability arising from the managerial, advisory, supervisory, or controlling obligations of any "insured" over the actions of another "insured".

d. Liability of any "insured" arising out of estimates of probable costs or cost estimates being exceeded or for faulty preparation of bid specifications or plans or failure to award contracts in accordance with statute or ordinance which under law must be submitted for bids;

e. Injury to, destruction or disappearance of any tangible property (including money) or the loss of use thereof; or

f. Liability arising out of the failure to perform or breach of a contractual obligation.

Nothing contained in this exclusion shall limit the "insured's" rights of recovery, where applicable, under Coverages A., B., D. or E. of this policy;

16. To liability arising out of:

a. The purchase, or sale, or offer of sale, or solicitation of any security, debt, bank deposit or financial interest or instrument;

b. Any representation made at any time in relation to the price or value of any security, debt, bank deposit or financial interest or instrument; or

c. Any depreciation or decline in price or value of any security, debt, bank deposit or financial interest or instrument.

17. To any liability arising out of or in connection with the principles of eminent domain or condemnation proceedings, by whatever name called, and whether or not liability accrues directly against the "insured" or by virtue of any agreement entered into by or on behalf of the "insured".

This exclusion shall not apply to any inverse condemnation where any "suits" or "claims" for inverse condemnation are a result of negligence proven on the part of an "insured". Nothing herein shall act to increase the "company's" limit of liability;

18. To liability arising out of the "subsidence", rupture, bursting, overtopping, accidental discharge or partial or complete failure of any "dam(s)";
19. To "property damage" arising out of "subsidence" for any reason.
20. Any liability if the "participating named insured's" risk manager or claims servicing organization:
 - a. Knew that the "bodily injury", "property damage", "public officials error or omission", "unfair employment practice" or "personal injury" had occurred or had taken place, in whole or in part, prior to the "policy period"; and
 - b. First reported all, or any part, of the "bodily injury", "property damage", "public officials error or omission", "unfair employment practice" or "personal injury" as a "claim" or "suit" to the "company" under another policy or to any other insurer under a previous policy.

Any continuation, change or resumption of such "bodily injury", "property damage", "wrongful act", "employment practice liability wrongful act" or "employee benefit wrongful act" during or after the "policy period" will be deemed to have been reported under the "claim" or "suit" first reported.

21. Any liability arising out of criminal, fraudulent or dishonest acts or omissions committed by or at the direction of the "insured". We may, at our sole discretion, agree to waive this exclusion in order to supply certain payments under Paragraph **B. DEFENSE AND SETTLEMENTS** of **SECTION I. COVERAGES**. If the judgment or final adjudication is adverse to the "participating named insured", the "participating named insured" will reimburse the "company" for all "defense costs".

This exclusion does not apply to liability arising from the managerial, advisory, supervisory, or controlling obligations of any "insured" over the actions of another "insured".

II. WHO IS AN INSURED

Each of the following is an "insured" to the extent set forth below:

1. The entity or entities, shown on participation endorsements as the "participating named insured";
2. Those individuals who were or are now elected or appointed officials of the "participating named insured", whether or not compensated (including volunteers), including members of the "participating named insured's" governing body or any other committees, boards, commissions or special districts of the "participating named insured", while acting for or on behalf of the "participating named insured";
3. All special districts "governed directly" by the "participating named insured's" board (or similar governing body) and other districts or agencies which are named on the policy;
4. Past or present employees of the "participating named insured" or other "insureds", whether or not compensated, (including volunteers), independent contractors and/or persons working on retainer, while acting for or on behalf of any "insured";
5. Any legally authorized "joint powers authority(ies)" representing any "participating named insured". The following are also "insureds" with respect to such "joint powers authority(ies)":
 - a. The interest of "municipality" agencies participating as member agencies in the "joint powers authority(ies)", and any and all districts, authorities, committees, trustees, boards, commissions, or similar entity subject to the direction or control of such agencies or for which the board members act as governing body. A member agency includes any department or constituent agency of the member agency; and
 - b. Any individual who was previously or is presently elected or appointed as an official of a member agency in the "joint powers authority", but only with respect to their duties as an official of the member agency, including acting on boards at the direction of the member agency; or

- c. Any volunteer of the member agency but only while performing duties related to the conduct of the member agencies, or any employee of the member agencies but only for acts within the scope of their employment or while performing duties related to the conduct of the member agencies.
6. Any person designated in the foregoing paragraphs 1. through 5.:
- a. While acting within the scope of his/her duties with respect to the "use" of an "automobile" not owned by the "participating named insured", while being "used" in the business of the "participating named insured", and then only excess over any other insurance specifically insuring such "automobile";
 - b. While using any "owned automobile" or "hired automobile" and any person legally responsible for the "use" of the "automobile" with the permission of the "participating named insured". With respect to "hired automobiles", this insurance will be excess over any other insurance specifically insuring such "hired automobile".

The coverage extended by this paragraph 6. shall not apply:

- 1) To any person or organization, or to any agent or employee thereof, while working in a business of selling, servicing, repairing, delivering, testing, road testing, parking or storing "automobiles", unless the repair work is performed for another "municipality"; or
 - 2) To the owner or lessee of any "hired automobile". This exception does not apply if the owner or lessee is an "insured" designated in the foregoing paragraphs 1. through 5. above.
7. Any person(s), entity(ies), or organization(s) to whom the "participating named insured" is obligated by virtue of a written contract to provide insurance solely with respect to "bodily injury" and "property damage" arising out of:
- a. Premises leased, used or occupied by any "insured";
 - b. "Automobiles" leased or rented by any "insured";
 - c. Equipment owned, leased, rented, maintained or used by any "insured";
 - d. Mortgagees of a "participating named insured"; or
 - e. Property owners and property managers of property owned, leased, rented or occupied by any "insured".

For the coverage provided under this paragraph, this insurance does not apply to:

- i. Any "occurrence" which takes place prior to or after the "insured" ceases to occupy the premise as stated in the written contract,
- ii. Contracts for any structural alteration, new construction or demolition operations , or
- iii. "Unfair employment practices", "public official errors and omissions" or "personal injury".

The limits of insurance will be limited to the limits of insurance required within the terms of the written contract or the limits of insurance of this policy, whichever is less, and will apply in excess of any underlying insurance or the "participating named insured's" "retained limit" shown in the participation endorsement. The "company" will not be obligated for limits of insurance shown in the written contract that are greater than the limits of insurance of this policy.

III. INSURED'S RETAINED LIMIT(S) – THE COMPANY'S LIMIT OF LIABILITY

Regardless of the number of (1) "insureds" under this policy, (2) persons or organizations who sustain injury or "damage", (3) "claims" made or "suits" brought, the "company's" liability for the "ultimate net loss" shall be limited as follows:

- 1. With respect to "bodily injury", "property damage", "public officials errors and omissions", "unfair employment practices", or "personal injury" or any combination thereof, the "company's" liability shall be limited to the "ultimate net loss" in excess of the "insured's" "retained limit" as specified in the limit of liability listed in each participation endorsement for the respective "participating named insured".

2. The "company's" liability arising out of the "completed operations hazard" because of all "occurrences" during each "policy period" shall not exceed the amount specified in the limit of liability listed in each participation endorsement for each respective "participating named insured".
3. For the purpose of determining the limit of the "company's" liability, all "damages" arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one "occurrence".
4. "Public officials errors and omissions" or "unfair employment practices" taking place over more than one annual "policy period" shall be deemed to have taken place during the "policy period" when the first "claim" or "suit" is made and reported to the "company".
5. In the event that there are multiple "municipalities" as "participating named insureds" shown on the respective participation endorsements under this policy, the "company's" each "occurrence" limit of liability and the "insured's" "retained limit" under this policy shall apply separately to each "municipality".
6. In the event that a "joint powers authority(ies)" is a "participating named insured" shown on the respective participation endorsements under this policy, the "company's" each "occurrence" limit of liability and the "insured's" "retained limit" under this policy shall apply separately to each member of the "joint power authority(ies)" that is a "municipality".

IV. CONDITIONS

1. APPEALS

When a lawsuit has proceeded to trial court judgment and neither the "participating named insured" nor the "company" have invoked the provisions of Condition 3.d., (1) or (2) below and the "participating named insured" elects not to appeal a judgment in excess of the "retained limit", the "company" may elect to do so at its own expense, but in no event shall the liability of the "company" for "ultimate net loss" exceed the applicable amount specified in the limits of liability section of the respective participating endorsement inclusive of all "defense costs" necessary and incident to such appeal.

2. BANKRUPTCY, INSOLVENCY OR INABILITY TO PAY

Any "participating named insured's" bankruptcy, insolvency or inability to pay, or the bankruptcy, insolvency or inability to pay of any "insured's" underlying insurers will not relieve the "company" from the payment of any "claim" or "suit" covered by this policy.

However, this insurance will not drop down or replace the "retained limit" in the event of bankruptcy or insolvency of any "insured", or assume any obligation associated with your "retained limit". This insurance will apply as if the "retained limit" were in full effect.

If the "participating named insured" is declared legally bankrupt, the "participating named insured's" rights and duties will be transferred to the "participating named insured's" legal representative but only while acting within the scope of his duties as the "participating named insured's" legal representative.

3. PARTICIPATING NAMED INSURED'S DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT

a. In the event of an "occurrence" reasonably likely to involve the "company", written notice containing particulars sufficient to identify the "participating named insured" and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the "participating named insured" to the "company" as soon as practicable, after the individual responsible for the coverage at the "participating named insured", or his/her designee, has knowledge of the "occurrence".

b. If "claim" is made or "suit" is brought against the "participating named insured" which appears likely to involve the "company", the "participating named insured" shall forward to the "company" every demand, notice, summons or other process received by him/her or his/her representative,

immediately or within a reasonable amount of time after the individual responsible for coverage at the participating named insured" or his/her designee has knowledge of the "claim" or "suit".

- c. The "insured" shall cooperate with the "company" and upon its request, assist in making settlements, in the conduct of "claims" or "suits" and in enforcing any right to contribution or indemnity against any person or organization who may be liable to the "participating named insured" because of liability with respect to which coverage is afforded under this policy, and the "participating named insured" shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The "participating named insured" shall not, except at its own costs, voluntarily make any payment, assume any obligation or incur any expense; however, in the event that the amount of "ultimate net loss" becomes certain either through trial court judgment or agreement among the "participating named insured", the claimant and the "company" then the "insured" may pay the amount of "ultimate net loss" to the claimant to effect settlement and, upon submission of due proof thereof, the "company" shall indemnify the "participating named insured" for that part of such payment which is in excess of the "retained limit", or will, upon request of the "participating named insured", make such payment to the claimant on behalf of the "insured".
- d. The "company", at its option, shall have the right at its own expense to investigate any "claim" or "suit" and/or negotiate the settlement thereof, as it deems expedient, but the "company" shall not commit the "participating named insured" to any settlement without the "participating named insured's" consent. Should the claimant or plaintiff, as the case might be, tender a bona-fide, good faith, settlement demand which when added to the incurred "defense costs" is in excess of the "participating named insured's" retention, the payment of which would result in the full and final disposition of such "claim" or "suit", then if such settlement demand is acceptable to either (1) the "participating named insured", or (2) the "company" (but not both), then with regard to that settlement demand:
 - 1) If such settlement demand is not acceptable to the "company" and the "insured" tenders to the "company" an amount equal to the "participating named insured's" "retained limit" less incurred "defense costs", if any, the "company" shall then pay on behalf of the "participating named insured" all sums which the "participating named insured" shall be legally obligated to pay as "damages", including without limitation, the "insured's" "retained limit", plus future investigation, adjustment, appraisal, appeal, post judgment interest and "defense costs". Such investigation, adjustment, appraisal, appeal, post judgment interest and "defense costs" shall be paid by the "company" in addition to the applicable, maximum limit of liability under this policy. However, in no event shall the "company's" agreement to pay on behalf of the "participating named insured" exceed the limit of liability as stated in the respective participating endorsement in addition to such investigation, adjustment, appraisal, appeal, post-judgment interest and "defense costs". Should the full and final disposition of the "claim" or "suit", including judgments, settlements, investigation, adjustment, appraisal, appeal, post-judgment interest and "defense costs" be less than the amount tendered by the "participating named insured", the unused portion of the tendered amount shall be returned to the "participating named insured" by the "company".
 - 2) If such settlement demand is not acceptable to the "participating named insured" and the "company" tenders to the "insured" an amount equal to the difference between the "participating named insured's" "retained limit", less incurred "defense costs", and such settlement demand, or the applicable amount specified in the limits of liability section of the respective participating endorsement, whichever is less, then the "company's" agreement to pay on behalf of the "participating named insured" for the "ultimate net loss" hereunder shall be discharged and terminated and the "company" shall have no further obligations with respect thereto. Should the full and final disposition of the "claim" or "suit", including judgments, settlements, investigation, adjustment, appraisal, appeal, post-judgment interest and "defense costs" be less than the amount paid by the "company", the unused portion of the payment shall be returned to the "company" by the "participating named insured".

4. ACTION AGAINST THE COMPANY

No action shall lay against the "company" unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this policy, nor until the amount of the "participating named insured's" obligation to pay shall have been finally determined either by judgment against the "participating named insured" after actual trial or by written agreement of the "participating named insured", the claimant and the "company".

No person or organization shall have any right under this policy to join the "company" as a party to any action against any "insured" to determine the "insured's" liability, nor shall the "company" be joined by the "insured" or the "insured's" legal representative. Bankruptcy or insolvency of the "insured" or of the "insured's" estate shall not relieve the "company" of any of its obligations hereunder.

5. OTHER INSURANCE

If other valid and collectible insurance or group coverage applies to a "claim" or "suit" that is also covered by this policy, and subject to Section III. INSURED'S RETAINED LIMIT(S) - THE COMPANY'S LIMIT OF LIABILITY, this policy will apply excess of the other insurance, whether this other insurance is primary, excess, contingent, or issued on any other basis. This provision, however, will not apply if the other insurance is specifically written to be excess of this policy.

6. SPECIAL SERIOUS CLAIMS REPORTING REQUIREMENTS

It is agreed that with respect to "claim" reporting, the "participating named insured" must report an "occurrence" of any injury, death or disease, paid or reserved, for 50% or more of their individual "retained limit". Written notice shall be given by or on behalf of the "participating named insured" to the "company" as soon as practicable. Notice shall also be given to the "company" as soon as practicable for any "claims" or "suits" of which the "participating named insured" becomes aware which involves:

- a) Paralysis, paraplegia, quadriplegia;
- b) Loss of eye(s) or limb(s);
- c) Spinal cord or brain injury;
- d) Sensory organ or nerve injury, or neurological deficit;
- e) Serious burns;
- f) Substantial disability or disfigurement
- g) Class action or mass tort "suits"; or
- h) Loss of work time of six months or more.

7. WHERE TO REPORT CLAIMS OR SUITS

With respect to paragraph 6. above, notice to the "company" is to be sent with all pertinent facts to the name and address listed in the respective participation endorsement.

8. SEVERABILITY OF INTERESTS

The terms "participating named insured" and "insured" is used severally and not collectively, but the inclusion herein of more than one "participating named insured" or "insured" shall not operate to increase the limits of the "company's" liability.

9. SUBROGATION

In the event of any payment of a "claim" or "suit" under this policy, the "company" shall be subrogated to all the "insured's" rights of recovery against any person or organization, and the "insured" shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The "insured" shall do nothing after an "occurrence" to prejudice such rights and shall do everything necessary to secure such rights.

10. NONRENEWAL

- a. If the "company" elects not to renew this policy, the "company" will mail or deliver written notice stating the reason for nonrenewal to the first "participating named insured" shown in the respective participating endorsement and to the producer of record no less than ninety (90)

days before the expiration or anniversary date. The notice of nonrenewal shall state the actual reason for nonrenewal. The "company" will also mail to any mortgage holder or any other person shown in this policy with an interest in any loss which may occur thereunder, at their last mailing address known to the "company", written notice of nonrenewal.

The "company" will mail or deliver our notice to the first "participating named insured", and to the producer of record, at the mailing address shown in the respective participation endorsement.

- b.** Otherwise, the "company" will renew this policy unless:
 - 1)** The "participating named insured" fails to pay the renewal premium after the "company" has expressed willingness to renew and has sent a statement of the renewal premium to the "participating named insured" and to the "participating named insured's" broker at least twenty (20) days before the expiration date;
 - 2)** Other equivalent coverage has been procured by the "participating named insured" prior to the expiration date of the policy; or
 - 3)** The contract is evidenced by a written binder containing a clearly stated expiration date which has expired according to its terms.
- c.** If the "company" fails to mail or deliver the notice of nonrenewal, the "company" will extend this existing policy for an additional ninety (90) days. Notice of nonrenewal will not be required if:
 - a.** The "company" has offered renewal,
 - b.** The "company" has replaced coverage, or
 - c.** The "insured" has agreed in writing to replace coverage. If the "company" provides such notice and extends this policy for ninety (90) days or less, an additional notice of nonrenewal is not required.

11. ARBITRATION

In the event of a disagreement as to the interpretation of this policy, the disagreement shall be submitted to binding arbitration before a panel of three (3) arbitrators. Within thirty (30) days of a written request for arbitration by either the "participating named insured" or the "company", each party will choose an arbitrator. If the two (2) arbitrators are unable to agree within one (1) month upon the third arbitrator, such arbitrator shall at the request of either party be selected by the American Arbitration Association in accordance with its rules and procedures.

The parties shall submit their cases to the panel by written and oral evidence at a hearing time and place selected by the third arbitrator. The panel shall be relieved of all judicial formality, shall not be obligated to adhere to the strict rules of law or of evidence, shall seek to enforce the intent of the parties hereto and may refer to, but are not limited to, relevant legal principles. The decision of at least two (2) of the three (3) panel members shall be binding and final and not subject to appeal except for grounds of fraud and gross misconduct by the arbitrators. The award will be issued within thirty (30) days of the close of the hearings. Each party shall bear the expenses of its designated arbitrator and shall jointly and equally share with the other the expense of the third arbitrator and of the arbitration.

The arbitration proceedings shall take place in the state shown in the respective participation endorsements. The procedural rules applicable to this arbitration shall, except as provided otherwise herein, be in accordance with the commercial arbitration rules of the American Arbitration Association.

12. CONFORMANCE TO STATUTE

To the extent a term or condition of this policy conflicts with a statute of the state within which this policy is issued, this policy shall be amended to conform to the minimum requirement of the statute.

13. INSPECTION AND AUDIT

The "company" shall be permitted but not obligated to inspect any "participating named insured's" property and operations at any time.

The "company" may examine the "participating named insured's" books and records at any time during the "policy period" and extensions thereof and within three (3) years after the final termination of this policy, as far as they relate to the subject matter of this coverage.

Neither the "company's" right to perform inspections nor the "company's" right to examine the "participating named insured's" books and records, shall constitute an undertaking, on behalf of or for the benefit of the "participating named insured" or others, to determine or warrant that such property or operations are safe.

14. ENDORSEMENTS TO THIS POLICY

Reference to commercial liability umbrella coverage part, public entity excess liability or commercial excess liability coverage part in any endorsement that is attached to or made a part of this policy shall apply to this policy.

15. MINIMUM PREMIUM AND MINIMUM EARNED PREMIUM

Earned premium shall be subject to the minimum premium and the minimum earned premium, as stated in the respective participation endorsement. In the event of cancellation by the "insured", there will be no return of any portion of the minimum earned premium.

16. CHANGES

Notice to any broker or knowledge possessed by any broker or by any other person shall not affect a waiver or change in any part of this policy or stop the "company" from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed except by endorsement.

17. ASSIGNMENT

The interest of any "participating named insured" is not assignable. If the "participating named insured" shall die, such coverage as is afforded by this policy shall apply to the "participating named insured's" legal representative, as the "participating named insured", but only while acting within the scope of his/her duties as such, and with respect to the property of the "participating named insured", to the person having proper temporary custody thereof, as the "participating named insured", but only until the appointment and qualification of the legal representative.

18. CANCELLATION

a. All participation endorsements in effect for 60 days or less

If a participation endorsement has been in effect for 60 days or less, and is not a renewal of a policy the "company" has previously issued, the "company" may cancel coverage provided to the "participating named insured" under the participation endorsement by mailing or delivering to the first "participating named insured" at the mailing address shown on the participation endorsement and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

- (1)** Ten (10) days before the effective date of cancellation if the "company" cancels for:
 - (a)** Nonpayment of premium; or
 - (b)** Discovery of fraud by:
 - i.** Any "participating named insured" or his or her representative in obtaining this insurance; or
 - ii.** Any "participating named insured" or their representative in pursuing a "claim" under this policy.
- (2)** Ninety (90) days before the effective date of cancellation if the "company" cancels for any other reason.

- b. All participating endorsements in effect for more than 60 days
- (1) If a participating endorsement has been in effect for more than sixty (60) days, or is a renewal of a policy the “company” issued, the “company” may cancel the respective participating endorsement only upon the occurrence, after the effective date of the policy, of one or more of the following:
- (a) Nonpayment of premium, including payment due on a prior policy the “company” issued and due during the current policy term covering the same risks.
 - (b) Discovery of fraud or material misrepresentation by:
 - i. Any “insured” or his or her representative in obtaining this insurance; or
 - ii. A “participating named insured” or his or her representative in pursuing a “claim” under this policy.
 - (c) a judgment by a court or an administrative tribunal that a “participating named insured” has violated a California or federal law, having as one of its necessary elements an act which materially increases any of the risks “insured” against.
 - (d) discovery of willful or grossly negligent acts or omissions or of any violations of state laws or regulations establishing safety standards, by the “participating named insured” or his or her representative, which materially increase any of the risks “insured” against.
 - (e) Failure by the “participating named insured” or his or her representative to implement reasonable loss control requirements, agreed to by the “insured” as a condition of policy issuance, or which were conditions precedent to the “company’s” use of a particular rate or rating plan, if that failure materially increases any of the risks “insured” against.
 - (f) A determination by the commissioner of insurance that the:
 - i. Loss of, or changes in, the “company’s” reinsurance covering all or part of the risk would threaten the “company’s” financial integrity or solvency; or
 - ii. Continuation of the policy coverage would:
 - (aa) Place the “company” in violation of California law or the laws of the state where the “company” is domiciled; or
 - (bb) Threaten our solvency.
 - (g) A change by the “participating named insured” or his or her representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
 - (h) A material change in limits, type or scope of coverage, or exclusions in one or more of the underlying policies.
 - (i) Cancellation or nonrenewal of one or more of the underlying policies where such policies are not replaced without lapse.
 - (j) A reduction in financial rating or grade of one or more insurers, insuring one or more underlying policies based on an evaluation obtained from a recognized financial rating organization.

The actions of one “participating named insured” under this paragraph, shall not effect the cancellation of any other “participating named insured”.

- (2) The “company” will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first “participating named insured” at the mailing address shown in the participation endorsement, and to the producer of record, at least:
- (a) Ten (10) days before the effective date of cancellation if the “company” cancels for nonpayment of premium or discovery of fraud; or
 - (b) Ninety (90) days before the effective date of cancellation if the “company” cancels for any other reason listed in paragraph b.(1).

19. UNDERLYING INSURANCE

The “company” acknowledges that any “participating named insured” from time to time may purchase underlying insurance with limits of liability less than, equal to, or greater than the amount of the “participating named insured’s” “retained limit(s)” for certain operations, events or hazards for which this policy affords excess coverage.

It is agreed that this policy (subject to its declarations, schedule, terms, conditions, exclusions, and endorsements that complete this policy) shall provide insurance in excess of such underlying insurance subject to the following condition:

If the limits of liability of the underlying policy are less than the "participating named insured's" "retained limit(s)", the "participating named insured" shall bear the risk of the difference; however, if such limits are greater than the "participating named insured's" "retained limit(s)", this policy is in excess of the greater limit.

20. EXPANDED COVERAGE TERRITORY

- a. If a "suit" is brought outside the United States of America (including its territories and possessions), Puerto Rico or Canada, the "participating named insured" will initiate a defense of the "suit". The "company" will reimburse the "participating named insured" "excess defense costs", for any reasonable and necessary expenses incurred for the defense of a "suit" seeking "damages" to which this insurance applies.
- b. All payments or reimbursements the "company" makes for "damages" because of judgments or settlements will be made in U.S. currency at the prevailing exchange rate at the time the "participating named insured" became legally obligated to pay such sums. All payments or reimbursements the "company" makes for "excess defense costs" will be made in U.S. currency at the prevailing exchange rate at the time the expenses were incurred.
- c. Any disputes between "participating named insured" and the "company" as to whether there is coverage under this policy must be filed in the courts of the United States of America (including its territories and possessions), Canada or Puerto Rico.
- d. The "participating named insured" must fully maintain any coverage required by law, regulation or other governmental authority during this "policy period", except for reduction of the aggregate limits due to payments of judgments or settlements and/or "defense costs".

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

21. REPRESENTATIONS

By accepting this Policy, the "participating named insured" agrees:

- a. The statements in the Declarations and participation endorsement are accurate and complete;
- b. Those statements are based upon representations the "participating named insured" made to the "company"; and
- c. The "company" issued this Policy in reliance upon the "participating named insured's" representations;

V. DEFINITIONS

- A. "Aircraft" means a vehicle designed for the transport of persons or property principally in the air.
- B. "Automobile" or "auto" means a land motor vehicle or trailer designed for travel on public roads, including any attached machinery or equipment.
- C. "Bodily injury" means bodily harm, sickness, disability or disease. "Bodily injury" shall also mean mental injury, mental anguish, humiliation, shock or death if directly resulting from "bodily injury", sickness, disability or disease. "Bodily injury" shall include care and loss of services resulting at any time from the "bodily injury" of any person or persons.
- D. "Claim" means a demand for money.
- E. "Company" means the insurer specified in the Declarations.

F. "Completed operations hazard" includes "bodily injury" and "property damage" arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the "bodily injury" or "property damage" occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the "insured". Operations include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

1. When all operations to be performed by or on behalf of the "insured" under the contract have been completed; or
2. When all operations to be performed by or on behalf of the "insured" at the site of the operations have been completed; or
3. When the portion of the 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 engaged in performing operations as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete shall be deemed completed.

The "completed operations hazard" does not include liability arising out of:

- i. Operations in connection with the transportation of property, unless the liability arises out of a condition in or on a vehicle created by the loading or unloading thereof; or
- ii. The existence of tools, uninstalled equipment or abandoned or unused materials.

G. "Dam" means any artificial barrier together with appurtenant works which:

1. Is 25 feet or more in height from the foot of a natural bed of the stream or watercourse; or
2. Has water impounding capacity of 50 acre feet or more,

Except, any such barrier which is not in excess of twenty five (25) feet in height regardless of storage capacity, or which has a storage capacity not in excess of fifteen (15) acre feet regardless of height, shall not be considered a "dam", and, no structure specifically exempted from jurisdiction by the applicable state agency overseeing "dams" shall be considered a "dam", unless such structure is under the jurisdiction of any agency of the federal government.

H. "Damage"(s) means monetary compensation resulting from:

1. "Bodily injury";
2. "Property damage";
3. "Public officials errors and omissions",
4. "Unfair employment practices"; or
5. "Personal injury".

"Damages" include third-party attorney fees and costs awarded against an insured in a judgment authorized by law or settlement.

I. "Defense costs" means reasonable fees charged by an attorney, (including expenses of a "claims" servicing organization the "participating named insured" has engaged), and all other reasonable fees, costs and expenses attributable to the investigation, defense or appeal of a "claim" or "suit" within the scope of coverage afforded by this policy ("defense costs" shall include any allocated "claim" expenses incurred by attorneys who are employees of the "insured").

- J.** "Excess defense costs" means "defense costs" incurred by the "insured" with the written consent of the "company" after the "participating named insured's" "retained limit" has been exhausted by payment of judgments, settlements or "defense costs".
- K.** "First aid" means the immediate and emergency care given to an ill or injured person before regular medical aid can be obtained.
- L.** "Governed directly" means the "participating named insured's" board, or equivalent, sitting as the governing board.
- M.** "Hired automobile" means an "automobile" "used" under contract on behalf of, or loaned to the "participating named insured", provided such "automobile" is not owned by or registered in the name of the "participating named insured" or an employee or volunteer of the "participating named insured".
- N.** "Insured" means any person or entity set forth in Section II of this policy.
- O.** "Insured contract" means:
1. A contract for a lease of premises including but not limited to premises rented or loaned to you;
 2. A sidetrack agreement;
 3. Any easement or license agreement;
 4. An obligation, as required by ordinance;
 5. An elevator maintenance agreement;
 6. That part of any other contract or agreement pertaining to the "participating named insured's" business under which the "participating named insured" assumes the tort liability of another party to pay for "bodily injury", "property damage", "personal injury" to a third person or organization or "unfair employment practices" liability. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph 6. does not include that part of any contract or agreement:
- a. That indemnifies an architect, engineer, or surveyor, his agents or "employees", for injury or damage arising out of preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs, or specifications or giving directions or instructions, or failing to give them, if that is the primary cause of the injury or "damage".
 - b. To any "claim", judgment or agreement from any arbitration proceeding wherein the "company" is not entitled to exercise with the "insured", the "insured's" rights in the choice of arbitrators, and in the conduct of such proceedings.
- P.** "Joint powers authority(ies)" includes an inter-local agency or similar authority within a jurisdiction and means two (2) or more public agencies joined together by a joint agreement in order to jointly exercise any power common to the contracting parties, including, but not limited to the power to create risk pooling and joint purchase of private insurance.
- Q.** "Municipality" means a legally incorporated or duly authorized association of inhabitants of a limited area limited to the following: city, town, county, village, township, parish, borough, hamlet, burgh, or state, and the special districts, authorities and bureaus directly related to such entities.
- R.** "Nuclear material" means "source material", special "nuclear material" or "by-product material".
- S.** "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
- T.** "Occurrence" as respect to Coverages A. and B. means an act, omission to act, failure to act, or accident or event, during the "policy period", which results in "bodily injury" or "property damage",

neither expected nor intended from the “insured’s” standpoint, unless the “bodily injury” or “property damage” results from the use of reasonable force to protect persons or property.

“Occurrence” as respect to Coverage C. means an act, omission to act or failure to act during the “policy period”, which results in injury or “damage”.

“Occurrence” as respect to Coverage D. means an act, omission to act or failure to act during the “policy period” resulting from “unfair employment practices”.

“Occurrence” as respect to Coverage E. means an act, omission to act or failure to act during the “policy period” which results in injury or “damage”.

As respect to Coverages A., B., C., D., and E., all injuries or “damages” arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one “occurrence” and;

As respect to Coverages A., B., C., D., and E., “occurrences” shall apply separately to each “participating named insured” on this policy.

- U.** “Owned automobile” means an “automobile” owned by or under long-term lease to the “participating named insured”.
- V.** “Participating named insured” means any Named Insured listed on a participation endorsement attached to this policy. Named Insured means any public entity designates as such on a participation endorsement attached to this policy.
- W.** “Personal injury” means false arrest, detention or imprisonment or malicious prosecution; the publication or utterance of libel or slander, including disparaging statements concerning the condition, value, quality or use of real or personal property, or publication or utterance in violation of rights of privacy; wrongful entry or eviction, or other invasion of the right of private occupancy; assault and battery, not committed by or at the direction of or with the consent of the “insured”, unless committed or directed for the purpose of protecting persons or property from injury or death; discrimination on any basis, including but not limited to: race, religion, nationality, national origin, color, creed, sex, sexual preference, age, employment, or disability.
- X.** “Policy period” means the “policy period” listed in each participation endorsement for the respective “participating named insured”.
- Y.** “Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste material. Waste material includes materials which are intended to be or have been recycled, reconditioned or reclaimed.
- Z.** “Products hazard” includes “bodily injury” and “property damage” arising out of the “participating named insured’s” products or reliance upon a representation or warranty made at any time with respect thereto, but only if the “bodily injury” or “property damage” occurs away from premises owned by or rented to the “participating named insured” and after physical possession of such “participating named insured’s” products has been relinquished to others.
- AA.** “Property damage” means (1) physical injury to or destruction of tangible property which occurs during the “policy period” including the loss of use thereof at any time resulting therefrom; or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an “occurrence” during the “policy period”.
- BB.** “Public officials errors and omissions” shall mean any actual or alleged error or misstatement, act, omission to act, failure to act, or neglect or breach of duty including misfeasance, malfeasance or nonfeasance by any “insured” in the discharge of their duties with any “insured” entity individually or collectively, or any matter claimed against them solely by reason of their being or having been “insureds”.
- CC.** “Retained limit(s)” refers to the amount specified in the participation endorsement for the respective “participating named insured”. This amount may consist of a self insured retention, underlying insurance or a combination thereof. If there are policies of underlying insurance and they do not apply to the “occurrence”, the “participating named insured” shall retain this amount as self-insurance as stated in respective participation endorsement.

The "retained limit", with respect to a self insured retention, shall include "defense costs".

- DD.** "Retaliation" means any act of any "insured" relating to or alleged to be in response to any of the following activities:
1. The disclosure or threat of disclosure by any "insured's" employee to a superior or to any governmental agency of any act by any "insured" which is alleged to be a violation of any federal, state, local, or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
 2. The actual or attempted exercise by any "insured's" employee of any right that such employee has under law;
 3. The filing of any "claim" or "suit" under the federal false "claims" act of any other federal, state, local, or foreign "whistle-blower" law; or
 4. Strikes of the "insured's" employees.
- EE.** "Source material", special "nuclear material" and "by-product material" have the meaning given them in the atomic energy act of 1954 or in any amendatory law thereof.
- FF.** "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used in or exposed to radiation in a "nuclear reactor".
- GG.** "Subsidence" means land or earth movement, including, but not limited to, sinking or settling of land, earthquake, earth movement, earth expansion and/or contraction, landslide, slipping, falling away, caving in, eroding, earth sinking, and earth rising or shifting or tilting.
- HH.** "Suit(s)" means a civil proceeding in which "damages" are alleged because of "bodily injury", "property damage", "public officials errors and omissions" liability, "unfair employment practices" liability, or "personal injury" to which this policy applies. "Suit" includes:
1. An arbitration proceeding in which "damages" are "claimed and to which the "insured" must submit or does submit with the consent of the "company"; or
 2. Any other alternative dispute resolution or proceeding in which "damages" are "claimed and to which the "insured" submits with the consent of the "company".
- II.** "Ultimate net loss" means the total sum which any "insured" becomes legally liable to pay as "damages" by reason of judgments or by reason of settlements made with the written consent of the "company" after making proper deductions for all recoveries and salvaged collectibles, and shall also include "defense costs", "excess defense costs", court costs and interest on any judgment or award.
- JJ.** "Unfair employment practices" means any circumstance relating to a past, present, or prospective employee of the "insured" (and the spouse, child, parent, brother or sister of that person as a consequence of "unfair employment practices" that person at whom any of the employment-related practices described below is directed) for or arising out of any actual or alleged wrongful dismissal, discharge, or termination, either actual or constructive, of employment, employment related misrepresentation, "retaliation", wrongful failure or refusal to employ or promote, wrongful deprivation of career opportunity or reassignment, wrongful discipline, failure to grant tenure or negligent employee evaluation; or sexual or workplace harassment or humiliation of any kind, including, but not limited to, the alleged operation of a harassing workplace environment, or actual or alleged negligence resulting in "damages" to a person that is a "whistle-blower"; unlawful discrimination, whether direct, indirect, intentional or unintentional, or failure to provide adequate employee policies and procedures.
- "Unfair employment practices" shall include actions brought under state, local, or federal law, whether common or statutory, and shall include, but not be limited to allegations of violations of the following federal laws, as amended, including regulations promulgated thereunder:
1. Americans With Disabilities Act of 1992 (ADA);
 2. Civil Rights Act of 1991;

3. Age Discrimination In Employment Act of 1967 (ADEA), including the Older Workers Benefit Protection Act of 1990;
 4. Title VII of the Civil Rights Law of 1964, as amended (1983), including the Pregnancy Discrimination Act of 1978;
 5. Civil Rights Act of 1866, Section 1981; and
 6. Fifth and Fourteenth Amendments of the U.S. Constitution.
- KK.** "Use" of an "automobile" includes the loading and unloading thereof.
- LL.** "Waste" means any waste material containing "by-product material" and arising out of the operation by any person or organization of any "nuclear facility" included within the definition of "nuclear facility".
- MM.** "Watercraft" means a vehicle designed for the transport of persons or property principally on water.
- NN.** "Whistle-blower" means an s employee, who discloses or threatens to disclose to a superior or any governmental agency, or who gives tests, mainly relating to any action by the "insured", which may be a violation of public policy as reflected in legislation administrative rules, regulations or decisions, judicial decisions, or professional codes of ethics.

