

## STORAGE TANK THIRD-PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY

**NOTICE: THIS IS A CLAIMS-MADE AND REPORTED POLICY. AMOUNTS INCURRED FOR LEGAL DEFENSE SHALL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT AND ALSO SHALL REDUCE THE SEPARATE LIMIT OF LIABILITY AVAILABLE TO PAY LEGAL DEFENSE COSTS COVERED BY THIS INSURANCE.**

**PLEASE READ CAREFULLY**

POLICY NUMBER: FPL7509547#1

REN/NEW:

RENEWAL OF FPL7509547

## DECLARATIONS

Item 1: NAMED INSURED

NASSAU COUNTY BD OF COMMISSIONERS  
PO BOX 1010  
FERNANDINA BEACH, FL 32034

Item 2: POLICY PERIOD: FROM March 20, 2003 TO March 20, 2004  
12:01 a.m. standard time at the address of the named insured shown above

Item 3:	LIMIT OF LIABILITY, up to	\$ 1,000,000	Each Incident
		\$ 1,000,000	Aggregate Limit

Item 4:	DEDUCTIBLE	\$	10,000	Each Claim
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Item 5: COVERED LOCATION(s): See Covered Locations Endorsement, 60298 (5/94)

Item 6: COVERED UNDERGROUND STORAGE TANK SYSTEM(s) AND OR ABOVEGROUND STORAGE TANK(s): See Covered Locations Endorsement, 60298(5/94)

Item 7: RETROACTIVE DATE: March 20, 1995

Item 8:	POLICY PREMIUM	\$	759.00
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Broker: SUE MELOGY  
JOHN T FERREIRA INSURANCE INC  
PO BOX 777  
FERNANDINA BEACH, FL 32035  
(904) 261-5571

Valerie S. Gardolfi  
AUTHORIZED REPRESENTATIVE

or countersignature (where required by law)

## ENDORSEMENT

This endorsement, effective 12:01 AM, March 20, 2003  
 Forms a part of policy no. FPL7509547#1  
 Issued to: NASSAU COUNTY BD OF COMMISSIONERS  
 By: COMMERCE & INDUSTRY INSURANCE COMPANY

COVERED LOCATIONS UNDERGROUND STORAGE TANKS  
AND ABOVEGROUND STORAGE TANKS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

It is hereby agreed that Item 5 of the Declarations, Covered Location(s), and Item 6 of the Declarations, Covered Underground Storage System(s) and Aboveground Storage Tank(s), shall include only the following:

See SCHEDULED LIST OF SITES/TANKS, below.

All other terms, conditions and exclusions remain the same.

*Valerie S. Gardolfi*  
 AUTHORIZED REPRESENTATIVE

or countersignature (where required by law)

## SCHEDULED LIST OF SITES/TANKS

LOCATION # 1	TANK	CAPACITY	UST/AST	CONTENTS	INSTALL DATE
NASSAU COUNTY LANDFILL	1	5,000	AST	DIESEL: VEHICLE	1997
440 N KINGS RD	2	1,500	AST	USED/WASTE OIL	1999
CALLAHAN, FL 32011					
DEP # 9700721					
Retroactive Date: 03/20/1995					

LOCATION # 2	TANK	CAPACITY	UST/AST	CONTENTS	INSTALL DATE
NASSAU COUNTY PUBLIC WORKS	1	5,000	AST	UNLEADED GAS	1992
708 EASTWOOD RD					
HILLIARD, FL 32046					
DEP # 8521128					
Retroactive Date: 03/20/1995					

LOCATION # 3	TANK	CAPACITY	UST/AST	CONTENTS	INSTALL DATE
NASSAU COUNTY PUBLIC WORKS	1	4,000	AST	UNLEADED GAS	1992
3163 BAILEY RD					
FERNANDINA BEACH, FL 32034					
DEP # 8521115					
Retroactive Date: 03/20/1995					

LOCATION # 4	TANK	CAPACITY	UST/AST	CONTENTS	INSTALL DATE
NASSAU COUNTY DETECTION CTR	1	4,000	AST	UNLEADED GAS	1992
870 BOBBY MOORE CIR					
YULEE, FL 32097					
DEP # 8841517					
Retroactive Date: 03/20/1995					

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

**FLORIDA CANCELLATION/NONRENEWAL ENDORSEMENT**

Wherever used in this endorsement: 1) "we", "us", "our", and "insurer" mean the insurance company which issued this policy, and 2) "you", "your", "named insured", "First Named Insured", and "insured" mean the Named Corporation, Named Organization, Named Sponsor, Named Insured, or Insured stated in the declarations page; and 3) "Other Insured(s)" means all other persons or entities afforded coverage under the policy.

It is hereby agreed and understood that the cancellation provision of this policy is to be deleted in its entirety and to be replaced with the following:

A. The Insured shown in the Declarations may cancel this policy by mailing or delivering to the Insurer advance written notice of cancellation.

B.1. Cancellation for Policies in Effect Ninety (90) Days or Less

If this policy has been in effect ninety (90) days or less the Insurer may cancel this policy by mailing or delivering to the Insured written notice of cancellation, accompanied by the reasons for cancellation, at least:

(a) Ten (10) days before the effective date of cancellation if the Insurer cancels for nonpayment of premium; or

(b) Twenty (20) days before the effective date of cancellation if the Insurer cancels for any other reason, except the Insurer may cancel immediately if there has been:

1. A material misstatement or misrepresentation; or

2. A failure to comply with underwriting requirements established by the Insurer.

B.2. Cancellation for Policies in Effect for More Than Ninety (90) Days.

If this policy has been in effect for more than ninety (90) days the Insurer may cancel this policy only for one or more of the following reasons:

(a) Nonpayment of premium;

(b) The policy was obtained by a material misstatement;

(c) There has been a failure to comply with underwriting requirements established by us within ninety (90) days of the date of effectuation of coverage;

(d) There has been a substantial change in the risk covered by the policy; or

(e) The cancellation is for all insureds under such policies for a given class of insureds.

If the Insurer cancels this policy for any of these reasons, the Insurer will mail or deliver to the First Named Insured written notice of cancellation, accompanied by the reasons for cancellation at least:

1. Ten (10) days before the effective date of cancellation if cancellation is for the reason stated in 2(a) above; or

2. Forty-five (45) days before the effective date of cancellation if cancellation is for the reasons stated in 2(b), (c), (d) or (e) above.

The following is added.

C.1. Non-Renewal

- (a) If the insurer decides not to renew this policy the insurer will mail or deliver to the insured written notice of nonrenewal, accompanied by the reason for nonrenewal, at least forty-five (45) days prior to the expiration of this policy.

- (b) Any notice of nonrenewal will be mailed or delivered to the insured's last mailing address known to the insurer. If notice is mailed, proof of mailing will be sufficient proof of notice.

C.2. Renewal

- (a) The insurer shall give the named insured at least forty-five (45) days' advance written notice of the renewal premium.

All other terms, conditions, and exclusions shall remain the same.

*James J. Dondorf*

AUTHORIZED REPRESENTATIVE

**ENDORSEMENT NO.**

**This endorsement, effective 12:01 AM,**

**Forms a part of Policy No:**

**Issued to:**

**By:**

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

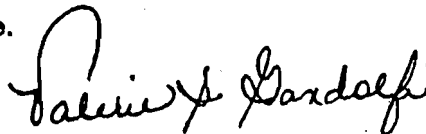
**INDEPENDENT COUNSEL**

In the event the Insured is entitled by law to select independent counsel to defend the Insured at the Company's expense, the attorney fees and all other litigation expenses the Company must pay to that counsel are limited to the rates the Company actually pays to counsel the Company retains in the ordinary course of business in the defense of similar claims or suits in the community where the claim arose or is being defended.

Additionally, the Company may exercise the right to require that such counsel have certain minimum qualifications with respect to their competency including experience in defending claims or suits similar to the one pending against the Insured and to require such counsel to have errors and omissions insurance coverage. As respects any such counsel, the Insured agrees that counsel will timely respond to the Company's requests for information regarding the claim or suit.

Furthermore, the Insured may at anytime, by its signed consent, freely and fully waive its right to select independent counsel.

All other terms, conditions, and exclusions shall remain the same.



**AUTHORIZED REPRESENTATIVE**  
or countersignature (in states where applicable)

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

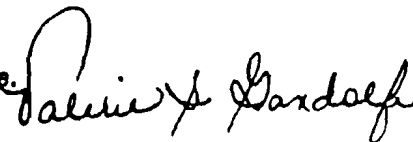
By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CROSS LIABILITY EXCLUSION

It is hereby agreed that this insurance does not apply to any claims made by any insured against any other person or entity who is also an insured under this policy.

All other terms, conditions, and exclusions shall remain the same.



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AUTHORIZED REPRESENTATIVE  
or countersignature (in states where applicable)

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Page 1 of 1

**ENDORSEMENT NO.**

**This endorsement, effective 12:01 AM,**

**Forms a part of Policy No:**

**Issued to:**

**By:**

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

**EXTENDED REPORTING PERIOD ENDORSEMENT**

**It is agreed that Section VI. EXTENDED REPORTING PERIOD, is deleted in its entirety and replaced with the following:**

**VI. EXTENDED REPORTING PERIOD**

The Named Insured shall be entitled to an Automatic Extended Reporting Period, and be entitled to purchase an Optional Extended Reporting Period upon termination of coverage as defined in Paragraph B of this Section. Neither the Automatic nor the Optional Extended Reporting Period shall reinstate or increase the limit of liability shown in Item 3 of the Declarations as applicable to the "Aggregate Limit" of this Policy.

**A. Automatic Extended Reporting Period**

Provided that the Named Insured has not purchased any other insurance to replace this insurance which applies to a Claim otherwise covered hereunder, the Named Insured shall have the right to a period of sixty (60) days following the effective date of such termination of coverage in which to provide written notice to the Company of Claims first made and reported within the Automatic Extended Reporting Period.

A Claim first made and reported within the Automatic Extended Reporting Period will be deemed to have been made on the last day of the Policy Period, provided that the Claim arises from a Pollution Condition that commenced before the end of the Policy Period and is otherwise covered by this Policy. No part of the Automatic Extended Reporting Period shall apply if the Optional Extended Reporting Period is purchased.

**B. Optional Extended Reporting Period**

The Named Insured shall be entitled to purchase an Optional Extended Reporting Period upon termination of coverage as defined herein as follows:

1. A Claim under which is first made and reported during the Optional Extended Reporting Period, if purchased in accordance with the provisions contained in Paragraph 2 below, will be deemed to have been made and reported on the last day of the Policy Period if the Claim arises from a Pollution Condition which commenced on or after the Retroactive Date shown in the Declarations and before the end of the Policy Period.
2. The Company shall issue an endorsement providing an Optional Extended Reporting Period of up to forty (40) months from the date of the termination of coverage hereunder for all locations designated in Item 5 of the Declarations if the Policy is cancelled or nonrenewed, or any specific location listed in the Declarations, if coverage for that specific location is terminated during the Policy Period. The Named Insured must:

- (a) make a written request for such endorsement which the Company receives within thirty (30) days after termination of coverage as defined below; and
- (b) pay the additional premium when due. If that additional premium is paid when due, the Optional Extended Reporting Period may not be canceled, provided that all other terms and conditions of the Policy are met.

3. Termination of coverage occurs:


- (a) At the time of cancellation or nonrenewal of this Policy by the Named Insured or by the Company; or
- (b) At the time of the deletion of a listed location in the Declarations from this Policy by the Company at the Insured's written request, but solely with respect to such location;

4. The Optional Extended Reporting Period is available to the Named Insured for not more than 100% of the Policy premium.

For purposes of coverage under this Endorsement, the following definition is added to Section III. DEFINITIONS:

**Extended Reporting Period** means either the automatic additional period of time or the optional additional period of time, whichever is applicable, in which to report Claims following termination of coverage, as described in Section VI. of this Policy.

All other terms, conditions and exclusions remain the same.

  
\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE/  
or countersignature (in states where applicable)



**ENDORSEMENT NO.**

**This endorsement, effective 12:01 AM,**

**Forms a part of Policy No:**

**Issued to:**

**By:**

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

**AMENDMENT TO OTHER INSURANCE CONDITION ENDORSEMENT**  
**(THIS INSURANCE IS EXCESS OVER STATE TANK FUNDS)**

**It is hereby agreed that Section VIII. CONDITIONS, Paragraph I is deleted in its entirety and replaced with the following:**

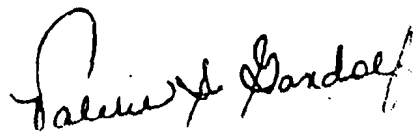
- I. Other Insurance - Where other insurance, or funds from any Tank Fund, is available to the Named Insured for Losses or for costs for Corrective Action or Cleanup covered under the terms and conditions of the Policy, the Company's obligation to the Insured shall be as follows:**
- 1. This insurance shall apply as excess insurance over any other valid insurance, whether collectible or not, be it primary or excess. This excess insurance shall in no way be increased or expanded as a result of the receivership, insolvency, or inability to pay of any insurer with respect to both the duty to indemnify and the duty to defend.**
  - 2. Where this insurance is excess over any other valid insurance, the Company will pay only its share of the amount of Loss and covered costs for Corrective Action or Cleanup, if any, that exceeds the total amount of all such valid insurance, whether collectible or not.**
  - 3. This insurance shall also apply as excess insurance over any Tank Fund, provided that in the event of the receivership, insolvency, or inability to pay of any state fund or program, this insurance shall act as primary insurance.**

**The Insured shall promptly upon request of the Company provide the Company with copies of all policies potentially applicable against the liability covered by this Policy.**

**For purposes of this endorsement, the following definition applies:**

**Tank Fund means any state storage tank trust fund, state administered insurance program, restoration (corrective action) funding for storage tanks whose owners qualify for reimbursement, or any self insurance fund established for the purpose of funding Corrective Action or Cleanup for Pollution Conditions from Underground Storage Tank Systems or Aboveground Storage Tanks.**

**All other terms, conditions, and exclusions shall remain the same.**

By   
**AUTHORIZED REPRESENTATIVE**  
**or countersignature (in states where applicable)**

**ENDORSEMENT NO.**

**This endorsement, effective 12:01 AM,**

**Forms a part of Policy No:**

**Issued to:**

**By:**

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

**STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP BROADENING**

**ENDORSEMENT**

**It is hereby agreed that the Policy is amended as follows.**

1. Section 1. INSURING AGREEMENT, Coverage D - DEFENSE is deleted in its entirety and replaced with the following:

**COVERAGE D - DEFENSE**

The Company shall have the right and the duty to defend the insured against any Claim under Coverages A, B or C provided such coverage has been purchased. The Company's duty to defend or continue defending any such Claim shall cease when the "Aggregate Limit" as described in Section V. LIMITS OF LIABILITY AND DEDUCTIBLE, has been exhausted by the payment of Loss or costs for Corrective Action or Cleanup.

2. Section II. CLAIM PROVISIONS, Paragraph A. is deleted in its entirety and replaced with the following:

A. It is a condition precedent to coverage under this Policy that:

**1. NOTICE OF CLAIM:**

Coverage A: In the event of a Claim under Coverage A, the insured shall give the Company's representative as identified in this paragraph written notice as soon as possible after receipt of the Claim by the insured.

Coverage B: In the event that a Pollution Condition has taken place which the insured has verified as a Confirmed Release, the insured must submit a Claim under Coverage B, in writing, as soon as possible after verifying the Confirmed Release.

Coverage C: In the event the insured is issued a Governmental Order requiring Cleanup, the insured must submit a Claim under Coverage C, in writing, as soon as possible after receipt of the Governmental Order.

All Claims under Coverage A, Coverage B and Coverage C shall be reported to:

Manager, Pollution Insurance Products Unit  
AIG Technical Services, Inc.  
Environmental Claims Department  
80 Pine Street, 6<sup>th</sup> Floor  
New York, New York 10005

or other address(es) as substituted by the Company in writing.

3. Section III. DEFINITIONS, Paragraph A. Aboveground Storage Tank; Paragraph B. Bodily Injury; Paragraph H. Environmental Laws; and Paragraph R. Underground Storage Tank are deleted in their entirety and replaced with the following, respectively:

A. Aboveground Storage Tank means a stationary device on, within, or under a location designated in item 5 of the Declarations and that is designated in item 6 of the Declarations:

1. Designed to contain an accumulation of hazardous waste, waste product, petroleum product or any other product, which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support;

2. That is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including or excluding the tank bottom) is able to be visually inspected; and
3. Includes any underground or aboveground piping directly connected to the tank, dispensing system, underground or aboveground ancillary equipment and containment system.

B. Bodily Injury means physical injury, or sickness, disease, mental anguish or emotional distress, sustained by any person, including death resulting therefrom.

H. Environmental Laws means any applicable federal, state, provincial or local law pursuant to which the insured has or may have a legal obligation to pay for Corrective Action or Cleanup.

R. Underground Storage Tank System means a tank or tanks operated by the insured, including any connected underground or aboveground piping, dispensing system, underground ancillary equipment and containment system:

1. That are on, within, or under a location designated in item 5 of the Declarations and that are designated in item 6 of the Declarations; and

2. That are used solely to contain Regulated Substances.

Each tank in an Underground Storage Tank System, including associated underground piping connected to the tank, must have at least ten (10) percent of its volume beneath the surface of the ground.

4. Section IV. EXCLUSIONS, Paragraphs A., B. and D. are deleted in their entirety and replaced with the following, respectively:

A. Arising from Pollution Conditions existing prior to the inception of this Policy and not disclosed in the application for this Policy, if the insured knew or reasonably could have expected that such Pollution Conditions could give rise to a Claim, Corrective Action, or Cleanup.

B. Due to or for any punitive, exemplary or the multiplied portion of multiple damages, or any civil or administrative fines, penalties or assessments, except where such damages, fines, penalties or assessments are insurable by applicable law; or any criminal fines, penalties or assessments.

D. Arising out of the ownership, use, operation, loading or unloading of any automobile, aircraft, watercraft or rolling stock, except that this exclusion does not apply to Claims arising out of the loading or unloading from or to any automobile at locations designated in item 5 of the Declarations.

5. Section IV. EXCLUSIONS, Paragraphs F., N., and O. are deleted in their entirety.

6. Section V. LIMIT OF LIABILITY AND DEDUCTIBLE is deleted in its entirety and replaced with the following:

A. The Company's total liability:

1. For all losses from Claims first made against the insured and reported;

2. For all costs for Corrective Action from Claims first reported by or on behalf of the insured; and

3. For all costs for Cleanup from Governmental Orders first made against the insured and reported by or on behalf of the insured as a Claim;

in writing to the Company during the Policy Period and including the Extended Reporting Period, if applicable, shall not exceed the limit of liability shown in item 3 as applicable to the "Aggregate Limit". The purchase by the Named Insured of an Extended Reporting Period, pursuant to Section V. of this Policy, shall not serve to renege or increase the "Aggregate Limit" limit of liability.

B. Subject to Paragraph A. above, this Policy is to pay any Loss, or any costs as a result of any Corrective Action or Cleanup, in excess of the deductible amount shown in item 4 of the Declarations, up to but not exceeding the limit of liability shown in item 3 of the Declarations as applicable to the "Each Incident" limit of liability.

However, regardless of the number of Claims, claimants, or insureds, the total liability of the Company for all Claims, during one or more policy periods, resulting either in Loss, or in costs for Corrective Action or Cleanup, or in any combination thereof, and arising out of the same, unrelated, associated, repeated, or continuous Pollution Conditions, shall be considered one incident, subject to the "Each Incident" limit of liability shown in item 3 of the Declarations of the Policy in effect when the first such Claim was made and reported to the Company. Such Claims shall be deemed first reported to the Company during the policy period in which the first such Claim was first reported to the Company or an affiliate.

C. For each Claim under Coverage A, Coverage B or Coverage C, or under any combination of Coverage A, Coverage B and or Coverage C, one deductible amount as shown in item 4 of the Declarations shall apply collectively to the "Each Incident" limit of liability shown in item 3 of the Declarations. However, the deductible amount does not reduce either the "Each Incident" limit of liability or the "Aggregate Limit", unless the insured fails to reimburse the deductible amount. Such costs within the deductible amount are to be assumed by the insured, and any payment of such costs by the Company is subject to prompt reimbursement by the insured.

7. Reference in item 3 of the Declarations page to "Aggregate Defense Limit" is deleted.

AUTHORIZED REPRESENTATIVE

or countersignature (in states where applicable)

*James J. Bond*

All other terms, conditions, and exclusions shall remain the same.

**STORAGE TANK THIRD-PARTY LIABILITY,  
CORRECTIVE ACTION AND CLEANUP POLICY**

**NOTICE:** THIS POLICY HAS CERTAIN PROVISIONS AND REQUIREMENTS UNIQUE TO IT AND MAY BE DIFFERENT FROM OTHER POLICIES THE NAMED INSURED MAY HAVE PURCHASED. THIS IS A CLAIMS-MADE-AND-REPORTED POLICY WITH RESPECT TO THIRD PARTY OFF-SITE LIABILITY COVERAGE AND CLEANUP COVERAGE FOR ABOVEGROUND STORAGE TANKS, AND A RELEASE-REPORTED FORM WITH RESPECT TO CORRECTIVE ACTION COVERAGE FOR UNDERGROUND STORAGE TANKS. THIS POLICY IS SITE-SPECIFIC: ONLY SCHEDULED TANKS AT SCHEDULED LOCATIONS ARE COVERED.

PLEASE READ THE ENTIRE POLICY CAREFULLY TO DETERMINE THE INSURED'S RIGHTS, DUTIES, AND WHAT IS AND IS NOT COVERED. VARIOUS PROVISIONS THROUGHOUT THIS POLICY RESTRICT OR EXCLUDE COVERAGE.

Defined terms appear in bold face type.

In consideration of the payment of the premium, in reliance upon the statements in the Declarations and Application made part hereof and subject to all the terms of this Policy, the Company agrees with the Named Insured as follows:

**I. INSURING AGREEMENT**

**COVERAGE A - THIRD PARTY BODILY INJURY AND PROPERTY DAMAGE**

Subject to the applicable limits of liability and the deductible, the Company agrees to pay Loss on behalf of the Insured that the Insured is legally obligated to pay as a result of Claims first made against the Insured and reported to the Company, in writing, during the Policy Period or during the Extended Reporting Period if applicable, for Pollution Conditions Emanating From the locations designated in Item 5 of the Declarations which result beyond the boundaries of such locations in Bodily Injury or Property Damage. The Pollution Conditions must be unexpected and unintended from the standpoint of the Insured and must commence on or after the Retroactive Date shown in Item 7 of the Declarations.

**COVERAGE B - CORRECTIVE ACTION DUE TO UNDERGROUND STORAGE TANK RELEASES**

Subject to the applicable limits of liability and the deductible, the Company agrees to pay on behalf of the Insured reasonable and necessary costs that the Insured is legally obligated to pay for Corrective Action due to Confirmed Releases resulting from Pollution Conditions from an Underground Storage Tank System which are unexpected and unintended from the standpoint of the Insured. The Pollution Conditions must commence on or after the Retroactive Date shown in Item 7 of the Declarations. Claims reporting a Confirmed Release must be first reported to the Company, in writing, during the Policy Period or during the Extended Reporting Period, if applicable.

**COVERAGE C - CLEANUP DUE TO ABOVEGROUND STORAGE TANK RELEASES**

Subject to the applicable limits of liability and the deductible, the Company agrees to pay on behalf of the Insured reasonable and necessary costs that the Insured is legally obligated to pay for Cleanup of Pollution Conditions from an Aboveground Storage Tank, as a result of a Governmental Order. The Pollution Conditions must be unexpected and unintended from the standpoint of the Insured and must commence on or after the Retroactive Date shown in Item 7 of the Declarations. During the Policy Period, or during the Extended Reporting Period, if applicable, both the Governmental Order must first issue against the Named Insured and the Claim reporting the Governmental Order must be first reported to the Company, in writing.

## **COVERAGE D - DEFENSE**

To have the right and duty to defend the Insured against:

- A. Any Claims for Loss to which Coverage A applies; and**
- B. Any civil or administrative proceedings or suits which seek to impose a legal obligation upon the Insured to undertake Corrective Action or Cleanup, but the civil or administrative proceedings or suits must result from Claims reporting a Confirmed Release to which Coverage B applies, or reporting a Governmental Order to which Coverage C applies.**

Our duty to defend will cease at the earlier of the following times:

- 1. When the "Aggregate Defense Expense Limit" as described in Section V. LIMIT OF LIABILITY AND DEDUCTIBLE, is exhausted by the payment of costs, charges and expenses incurred by the Company in the defense, investigation, or adjustment of Claims, proceedings or suits to which this Coverage D - Defense, applies; or**
- 2. When the "Aggregate Limit" as described in Section V. LIMIT OF LIABILITY AND DEDUCTIBLE, is exhausted by the payment of Loss or costs for Corrective Action or Cleanup.**

## **II. CLAIMS PROVISIONS**

**A. It is a condition precedent to coverage under this Policy that:**

### **1. NOTICE OF CLAIM:**

**Coverage A:** In the event of a Claim under Coverage A, the Insured shall give the Company's representative as identified in this paragraph written notice as soon as possible but in any event no later than seven (7) days after receipt of the Claim by the Insured.

**Coverage B:** In the event that a Pollution Condition has taken place which the Insured has verified as a Confirmed Release, the Insured must submit a Claim under Coverage B, in writing, as soon as possible but in any event no later than seven (7) days after verifying the Confirmed Release.

**Coverage C:** In the event the Insured is issued a Governmental Order requiring Cleanup, the Insured must submit a Claim under Coverage C, in writing, as soon as possible but in any event no later than seven (7) days after receipt of the Governmental Order.

**All Claims under Coverage A, Coverage B and Coverage C shall be reported to:**

**Manager, Pollution Insurance Products Unit  
AIG Technical services, Inc.  
Environmental Claims Department  
80 Pine Street, 6<sup>th</sup> Floor  
New York, New York 10005**

**or other address(es) as substituted by the Company in writing.**

- 2. When a Claim under Coverage A, Coverage B or Coverage C has been made, the Insured must forward to the Company as soon as practicable after receipt, or receipt by its representative or agent, of the following:**
  - (a) All technical reports, laboratory data, field notes or any other documents generated by or on behalf of the Insured to investigate or abate a Pollution Condition or to implement Corrective Action or Cleanup.**

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For Claims under Coverage B, the Insured shall also forward documentation of the release detection tests or procedures, such as system tightness tests or site checks, undertaken to investigate a suspected Pollution Condition and verify that a Confirmed Release has taken place.

- (b) All correspondence between the Insured and any third party claimant, including but not limited to any Implementing Agency;
  - (c) All demands, summons, notices or other processes or papers from a court of law, administrative agency or an investigative body;
  - (d) All expert reports, investigations and data collected by experts retained by the Insured whether or not the Insured intends to use the material for any purpose; and
  - (e) Any other information developed or discovered by the Insured concerning the Claim whether or not deemed by the Insured to be relevant to the Claim.
- B. No costs, charges and expenses incurred in the defense, investigation, or adjustment of Claims, proceedings or suits to which Section I. Coverage D - Defense applies shall be incurred without the Company's consent. No costs of preparing, developing, modifying or implementing a corrective action plan undertaken as part of a covered Corrective Action, shall be incurred without the Company's consent.
- C. The Insured shall not admit or assume any liabilities or settle any Claims without the Company's consent.
- D. The Company may at its discretion investigate any Pollution Condition or Confirmed Release and settle any Claim under Coverage A for Loss or any suit or proceeding under Coverage B for Corrective Action or under Coverage C for Cleanup.
- E. The Insured, on demand of the Company, shall promptly reimburse the Company for any element of the Loss or costs for Corrective Action or Cleanup falling within the Insured's deductible, as described in Section V. LIMIT OF LIABILITY AND DEDUCTIBLE.
- F. The Insured shall cooperate with the Company to the fullest extent possible by providing the assistance necessary to adjust, investigate and defend the Claim under Coverage A, Coverage B and/or Coverage C. The Insured agrees to provide the Company free access to interview any employee, agent, representative or independent contractor of the Insured and to review any of the Insured's documents concerning the Claim.
- G. The Company shall have the right but not the duty to participate in decisions regarding Corrective Action or Cleanup, or to assume direct control over all aspects of such Corrective Action or Cleanup, and the adjustment of any Claim under Coverage A, Coverage B or Coverage C, up to the limit of liability. In the case of the exercise of this right, the Insured, on demand of the Company, shall promptly reimburse the Company for any element of Loss or costs for Corrective Action or Cleanup the Company advances falling within the Insured's Deductible, pursuant to Section V.
- H. The Insured shall cooperate with the Company to the fullest extent possible by providing the assistance necessary to adjust, investigate and defend the Claim and or the Governmental Order, and shall participate in discussions regarding Corrective Action or Cleanup, or performance of a Corrective Action or Cleanup should the Company exercise its rights under Paragraph G. of this Section.

### III. DEFINITIONS

- A. Aboveground Storage Tank means a device:

1. That meets the definition of a tank, as follows: a stationary device designed to contain an accumulation of hazardous waste or other waste product or any product, which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support;
  2. That is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including or excluding the tank bottom) is able to be visually inspected; and
  3. That is on, within, or under a location designated in Item 5 of the Declarations and that is designated in Item 6 of the Declarations.
- B. Bodily Injury** means physical injury, or sickness, disease, mental anguish or emotional distress when accompanied by physical injury, sustained by any person, including death resulting therefrom, caused by a Pollution Condition Emanating From the locations designated in Item 5 of the Declarations.
- C. Claim** means:
1. Under Coverage A, a written demand by a third party that is received by the Named Insured seeking a remedy and alleging liability or responsibility on the part of the Named Insured for Loss.
  2. Under Coverage B, a notice to the Company written by or on behalf of the Named Insured reporting a Confirmed Release.
  3. Under Coverage C, a notice to the Company written by or on behalf of the Named Insured reporting receipt of a Governmental Order which was first issued against the Named Insured during the Policy Period or Extended Reporting Period, if applicable.
- D. Cleanup** means:
1. Response, abatement, investigative, and removal actions resulting from Pollution Conditions from one or more Aboveground Storage Tank(s).
  2. The cleanup, pursuant to a Governmental Order from the Implementing Agency and with the prior written approval of the Company, of a Pollution Condition from one or more Aboveground Storage Tank(s), including the preparation, development, modification and implementation of a corrective action plan, and the monitoring, evaluation and reporting of the results of the implementation of such plan.
- E. Confirmed Release** means a Pollution Condition from an Underground Storage Tank System that has been investigated and confirmed by or on behalf of the Insured utilizing a system tightness check, site check or other procedure approved by the Implementing Agency in accordance with 40 C.F.R. 280.52 or another applicable federal or state regulation or state statute.
- F. Corrective Action** means:
1. Response, abatement, investigative, and removal actions resulting from a Confirmed Release as legally required by Subpart F of the federal underground storage tank regulations, 40 C.F.R. 280.60 through 280.66, and 280.72, or as legally required by other applicable federal regulations or by other applicable regulations promulgated by a state under an underground storage tank program approved by the federal Environmental Protection Agency in accordance with Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended;
  2. The cleanup, pursuant to a written order from the Implementing Agency and with the prior written approval of the Company, of Regulated Substances in soil or groundwater due to a Confirmed Release, including the preparation, development, modification and implementation of a



- G. Emanating From** means directly and immediately releasing, dispersing or escaping from and originating from an Aboveground Storage Tank or an Underground Storage Tank System that is on or within a location designated in Item 5 of the Declarations.
- H. Environmental Laws** means one or more of the following statutes, any amendments thereto, any regulations promulgated thereunder, and any similar statutes, amendments or regulations of any state or province or political subdivision thereof, of the United States or Canada in effect at the commencement of the Policy Period: Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601-9675; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901-6992K; Federal Water Pollution Control Act, 33 U.S.C. 1251-1387.
- I. Governmental Order** means an order, including any governmental directive, lawfully issued against the Insured by an Implementing Agency or other governmental agency or court having jurisdiction over the locations designated in Item 5 of the Declarations and acting under authority granted by Environmental Laws.
- J. Implementing Agency** means the federal Environmental Protection Agency (E.P.A.) or a state or local agency having jurisdiction over the Aboveground Storage Tank(s) pursuant to applicable Environmental Laws, or over the Underground Storage Tank System(s) pursuant to an underground storage tank program approved by the federal E.P.A. in accordance with Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, or other applicable statute.
- K. Insured** means the Named Insured, and any director, officer, partner or employee thereof while acting within the scope of his/her duties as such.
- L. Loss** means monetary awards or settlements of compensatory damages arising from Bodily Injury or Property Damage.
- M. Named Insured** means the person or entity designated as such in Item 1 of the Declarations.
- N. Policy Period** means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of:
1. Cancellation of this Policy; or
  2. With respect to particular locations designated in Item 5 of the Declarations:
    - (a) The deletion of such location(s) from this Policy by the Company; or
    - (b) The sale, giving away or abandonment of such location(s), or the sub-leasing of such location(s), unless the sub-lease has been approved in writing by the underwriter prior to the commencement of the sub-lease.
- O. Pollution Condition** means any spilling, leaking, emitting, discharging, escaping or leaching of:
1. The contents of an Aboveground Storage Tank; or
  2. One or more Regulated Substances from an Underground Storage Tank System;
- into groundwater, surfacewater or surface or subsurface soils. The entirety of the same, interrelated, associated, repeated or continuous episodes of Pollution Conditions from the same Aboveground Storage Tank or Underground Storage Tank System shall be deemed to be a single Pollution Condition commencing at the time of the initial Pollution Condition.

**P. Property Damage means:**

1. Physical injury to or destruction of tangible property of parties other than the Insured including the resulting loss of use thereof;
2. Loss of use of tangible property of parties other than the Insured that has not been physically injured or destroyed;

provided that such Claims for physical injury or destruction, or loss of use are caused by a Pollution Condition Emanating From the locations designated in Item 5 of the Declarations.

**Q. Regulated Substance means:**

1. Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure;
2. Hazardous substance as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), except that for the purposes of this definition, hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, is NOT included in this definition of Regulated Substance.

**R. Underground Storage Tank System means** a tank or tanks operated by the Insured, including any connected underground piping, underground ancillary equipment and containment system:

1. That are on, within, or under a location designated in Item 5 of the Declarations and that are designated in Item 6 of the Declarations; and
2. That are used solely to contain Regulated Substances.

Each tank in an Underground Storage Tank System, including associated underground piping connected to the tank, must have at least ten (10) percent of its volume beneath the surface of the ground.

**IV. EXCLUSIONS**

This insurance does not apply to Claims:

- A. Arising from a Pollution Condition existing prior to the inception of this Policy, if any employee of the Named Insured responsible for environmental affairs, control or compliance or any manager, supervisor, officer, director or partner of the Named Insured knew or could have reasonably foreseen that such Pollution Condition could have been expected to give rise to a Claim.**

This exclusion does not apply to such Pollution Conditions which commenced during the term of a prior storage tank pollution liability policy issued by the Company or an insurance company which is a member company of American International Group, Inc. (hereinafter "affiliate"), provided that:

1. The Insured has maintained storage tank pollution liability insurance with the Company or its affiliate on a successive and uninterrupted basis for the periods succeeding the Pollution Condition; and
2. The Insured made full and complete disclosure of such Pollution Condition on each renewal application for storage tank pollution liability insurance with the Company or its affiliate.

However, none of the preceding provisions (i) shall restrict or prevent the Company from exercising its right to cancel or nonrenew either this Policy or the coverage for a particular Aboveground Storage Tank or Underground Storage Tank System designated in Item 6 of the Declarations; or (ii) shall be deemed to reinstate or increase any of the limits of liability shown in Item 3 of the Declarations.

B. For any punitive, exemplary or multiplied damages or statutory assessments, or any civil, administrative or criminal fines or penalties.

C. Arising from Pollution Conditions based upon or attributable to the Insured's intentional, knowing, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.

D. Arising out of the ownership, maintenance, use, operation, loading or unloading of any aircraft, watercraft, rolling stock, or automobile or any other land motor vehicle, trailer or semi-trailer designed for travel on public roads including any machinery or apparatus attached thereto.

E. For costs, charges or expenses incurred by the Insured for goods supplied by the Insured or services performed by the staff and/or salaried employees of the Insured, or its parent, subsidiary or affiliate, unless such costs, charges or expenses are incurred with the prior written approval of the Company at its sole discretion.

F. Arising from any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.

G. Under Coverage B or Coverage C:

1. For any costs arising out of the reconstruction, repair, replacement, upgrading or rebuilding of any Aboveground Storage Tank or Underground Storage Tank System or any other improvements and any site enhancement or routine maintenance on, within, or under the locations designated in Item 5 of the Declarations.

2. For any costs arising out of the removing, replacing or recycling of the contents of any Aboveground Storage Tank or Underground Storage Tank System.

H. For any costs, charges or expenses incurred to investigate or verify that a Confirmed Release under Coverage B or a Pollution Condition under Coverage C has taken place.

I. Under Coverage A, due to Bodily Injury to an employee of the Insured or its parent, subsidiary or affiliate arising out of and in the course of employment by the Insured or its parent, subsidiary or affiliate.

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 third parties who must pay damages because of the injury.

J. Under Coverage A, arising as a result of liability of others assumed by the Insured under any contract or agreement, unless the liability of the Insured would have attached in the absence of such contract or agreement.

K. Under Coverage A, arising from Bodily Injury or Property Damage on, within or under the location(s) designated in Item 5 of the Declarations, whether or not incurred in the course of avoiding or mitigating Bodily Injury, Property Damage, or costs for Corrective Action or Cleanup which may be covered under this Policy.

L. Under Coverage A, for Property Damage to goods or products manufactured, sold, handled or distributed by the Insured or its parent, subsidiary or affiliate arising out of such goods or products or any part thereof, or due to Property Damage to work performed by, or on behalf of the Insured or its

parent, subsidiary or affiliate arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith.

**M. Arising from Pollution Conditions on, within or under or Emanating From the locations designated in Item 5 of the Declarations, which commence subsequent to the time such locations are**

1. Sold;
2. Given away;
3. Abandoned; or
4. Sub-leased, unless the sub-lease has been approved in writing by the underwriter prior to the commencement of the sub-lease.

**N. 1. For Bodily Injury, Property Damage, Corrective Action or Cleanup**

(a) With respect to which an Insured under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) Resulting from the Hazardous Properties of Nuclear Material and with respect to which

(i) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or

(ii) 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.

**2. For Bodily Injury, Property Damage, Corrective Action or Cleanup resulting from the Hazardous Properties of Nuclear Material, if**

(a) The Nuclear Material

(i) Is at any Nuclear Facility owned by, or operated by or on behalf of, an Insured, or

(ii) Has been discharged or dispersed therefrom;

(b) The Nuclear Material is contained in Spent Fuel or Waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or

(c) The Bodily Injury, Property Damage, Corrective Action or Cleanup arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to Property Damage to such Nuclear Facility and any property thereat.

**3. As used in this exclusion:**

**"Hazardous Properties"** include radioactive, toxic or explosive properties;

**"Nuclear Material"** means Source Material, Special Nuclear Material or By-Product Material;

**"Source Material," "Special Nuclear Material," and "By-Product Material"** have the meanings given them in the Atomic Energy Act of 1954 or in any law, amendatory thereof;

**"Spent Fuel"** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a Nuclear Reactor;

**"Waste"** means any waste material

(a) containing By-Product Material; and

(b) resulting from the operation by any person or organization of any Nuclear Facility included within the definition of Nuclear Facility under paragraph (a) or (b) thereof;

**"Nuclear Facility"** means

(a) Any Nuclear Reactor;

(b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing Spent Fuel, or (3) handling, processing or packaging Waste;

(c) Any equipment or device used for the processing, fabricating or alloying of Special Nuclear Material if at anytime the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of Waste;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**"Nuclear Reactor"** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

**"Property Damage"** includes all forms of radioactive contamination of property.

O. Arising from the actual, alleged or threatened exposure of person(s) or property to any radioactive matter except where specifically endorsed onto this Policy.

## **V. LIMIT OF LIABILITY AND DEDUCTIBLE**

### **A. The Company's total liability:**

1. For all Losses from Claims first made against the Insured and reported;
2. For all costs for Corrective Action from Claims first reported by or on behalf of the Insured; and
3. For all costs for Cleanup from Governmental Orders first made against the Insured and reported by or on behalf of the Insured as a Claim;

In writing to the Company during the Policy Period and including the Extended Reporting Period, if applicable, shall not exceed the limit of liability shown in Item 3 as applicable to the "Aggregate Limit". The purchase by the Named Insured of an Extended Reporting Period, pursuant to Section V. of this Policy, shall not serve to reinstate or increase the "Aggregate Limit" limit of liability.

- B. Subject to Paragraph A. above, this Policy is to pay any Loss, or any costs as a result of any Corrective Action or Cleanup, in excess of the deductible amount shown in Item 4 of the Declarations, up to but not exceeding the limit of liability shown in Item 3 of the Declarations as applicable to the "Each Incident" limit of liability.

However, regardless of the number of Claims, claimants, or Insureds, the total liability of the Company for all Claims, during one or more policy periods, resulting either in Loss, or in costs for Corrective Action or Cleanup, or in any combination thereof, and arising out of the same, interrelated, associated, repeated, or continuous Pollution Conditions, shall be considered one incident, subject to the "Each Incident" limit of liability and "Aggregate Defense Expense Limit" of liability shown in Item 3 of the Declarations of the policy in effect when the first such Claim was made and reported to the Company. Such Claims shall be deemed first reported to the Company during the policy period in which the first such Claim was first reported to the Company or an affiliate.

- C. The most the Company will pay in defending any one Claim and all Claims under Section I. Coverage D - Defense, is shown in Item 3 of the Declarations as applicable to the "Aggregate Defense Expense Limit". Each payment or reimbursement the Company makes in defending a Claim under Section I. Coverage D - Defense, reduces the "Aggregate Defense Expense Limit" but does not reduce the "Aggregate Limit".
- D. For each Claim under Coverage A, Coverage B or Coverage C, or under any combination of Coverage A, Coverage B and or Coverage C, one deductible amount as shown in Item 4 of the Declarations shall apply collectively both to the "Each Incident" limit of liability and to the "Aggregate Defense Expense Limit" which are shown in Item 3 of the Declarations. However, the deductible amount does not reduce either the "Each Incident" limit of liability or the "Aggregate Defense Expense Limit", unless the Insured fails to reimburse the deductible amount. Such costs within the deductible amount are to be assumed by the Insured, and any payment of such costs by the Company is subject to prompt reimbursement by the Insured.

#### VI. EXTENDED REPORTING PERIOD

The Named Insured shall be entitled to purchase an Extended Reporting Period upon termination of coverage as defined herein.

- A. A Claim under Coverage A first made and reported, or a Claim under Coverage B or Coverage C first reported, within the Extended Reporting Period if purchased in accordance with the provisions contained in Paragraph B. of this Section, will be deemed to have been made and or reported on the last day of the Policy Period, provided that the Claim arises from a Pollution Condition that commenced on or after the Retroactive Date shown in Item 7 of the Declarations and before the end of the Policy Period.
- B. The Company shall issue an endorsement providing an Extended Reporting Period of 12 months from termination of coverage hereunder for all covered locations or any specific locations listed in Item 5 of the Declarations provided that the Named Insured:
1. Makes a written request for such endorsement which the Company receives within 30 days after termination of coverage as defined herein; and
  2. Pays the additional premium when due. If that additional premium is paid when due, the Extended Reporting Period may not be cancelled, provided that all other terms and conditions of the Policy are met.
- C. Termination of coverage occurs:
1. At the time of cancellation or nonrenewal of this Policy by the Named Insured or by the Company;  
or

2. (a) At the time of the deletion of a location listed in Item 5 of the Declarations from this Policy by the Company; or

(b) At the time a location listed in Item 5 of the Declarations is

(i) Sold;

(ii) Given away;

(iii) Abandoned; or

(iv) Sub-leased, unless the sub-lease has been approved in writing by the underwriter prior to the commencement of the sub-lease.

D. The Extended Reporting Period is available to the Named Insured for not more than 100% of the Policy premium.

E. The purchase of an Extended Reporting Period shall not serve to reinstate or increase the limit of liability shown in Item 3 of the Declarations as applicable to the "Aggregate Limit."

## VII. TERRITORY

This Policy only applies to Claims arising from Pollution Conditions in the United States, its territories or possessions or Canada and only if such Claims or the Governmental Orders are made, brought or issued in the United States, its territories or possessions or Canada.

## VIII. CONDITIONS

A. **Inspection and Audit** - The Company shall be permitted but not obligated to inspect, sample and monitor on a continuing basis the Insured's property or operations, at any time. Neither the Company's right to make inspections, sample and monitor, nor the actual undertaking thereof nor any report thereon, shall constitute an undertaking, on behalf of the Insured or others, to determine or warrant that property or operations are safe, healthful or conform to acceptable engineering practice or are in compliance with any law, rule or regulation. The Company does not manage or exercise control over any premises or any Underground Storage Tank System or Aboveground Storage Tank, nor is the Company in control of any source of a Regulated Substance.

B. **Cancellation** - This Policy may be cancelled by the Named Insured by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This Policy, or the coverage afforded by this Policy with respect to a particular location or locations designated in Item 5 of the Declarations, may be cancelled by the Company by mailing to the Named Insured at the address shown in the Policy, written notice stating when not less than 60 days (not less than 10 days for nonpayment of premium or for misrepresentation by the Insured) thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the Policy Period. Delivery of such written notice either by the Named Insured or by the Company shall be equivalent to mailing.

If the Named Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

C. **Representations** - By acceptance of this Policy, the Insured agrees that the statements in the Declarations and Application are their agreements and representations, that this Policy is issued in reliance upon the truth of such representations and that this Policy embodies all agreements existing between the Insured and the Company or any of its agents relating to this insurance.

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- D. Action Against Company** - No action shall lie against the Company, unless as a condition precedent thereto, there shall have been full compliance with all of the terms of this Policy, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the insurance afforded by this Policy. No person or organization shall have any right under this Policy to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his 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.

- E. Assignment** - This Policy shall not be assigned without the prior written consent of the Company. Assignment of interest under this Policy shall not bind the Company until its consent is endorsed thereon.
- F. Subrogation** - In the event of any payment under this Policy, the Company shall be subrogated to all the Insured's rights of recovery therefor 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 a Claim to prejudice such rights.

Any recovery as a result of subrogation proceedings arising out of a Loss or out of costs for Corrective Action, caused by Pollution Conditions under this Policy after expenses incurred in such subrogation proceeding are deducted by the party bearing the expense shall accrue to the Insured and the Company in proportion to each amount actually paid as a result of judgment, settlement or defense of a Claim for Bodily Injury, Property Damage, Corrective Action, or Cleanup Costs.

- G. Changes** - Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop 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 issued to form a part of this Policy.
- H. Sole Agent** - The Named Insured first listed in Item 1 of the Declarations shall act on behalf of all other Insureds, if any, for the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, giving and receiving notice of cancellation or nonrenewal, and the exercise of the rights provided in the Extended Reporting Period clause.
- I. Other Insurance** - Where other insurance is available to the Named Insured for Losses or for costs for Corrective Actions or Cleanups covered under the terms and conditions of the Policy, the Company's obligation to the Insured shall be as follows:

1. This insurance shall apply as excess insurance over any other valid insurance, whether collectible or not, be it primary or excess. This excess insurance shall in no way be increased or expanded as a result of the receivership, insolvency, or inability to pay of any insurer with respect to both the duty to indemnify and the duty to defend. This also applies to the Insured while acting as a self-insured for any coverage.
2. Where this insurance is excess insurance, the Company will pay only its share of the amount of Loss and costs for Corrective Action or Cleanup, if any, that exceeds the total amount of all such valid insurance, whether collectible or not.

The Insured shall promptly upon request of the Company provide the Company with copies of all policies potentially applicable against the liability covered by this Policy.

- J. Regulatory Amendments** - References in this Policy to the Resource Conservation and Recovery Act of 1976, The Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

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applicable sections of the Code of Federal Regulations (the "federal regulations"), and any other Environmental Laws include any amendments to such statutes, regulations or Environmental Laws, promulgated subsequent to binder of coverage.

#### IX. CHOICE OF LAW AND FORUM

In the event that the Insured and the Company dispute the meaning, interpretation or operation of any term, condition, definition or provision of this Policy resulting in litigation, arbitration or other form of dispute resolution, the Insured and the Company agree that the law of the State of New York shall apply and that all litigation, arbitration or other form of dispute resolution shall take place in the State of New York.

#### Arbitration:

1. Any disputes or difference which the Insured and the Company agree to resolve through arbitration shall be submitted to the decision of two arbitrators, one to be chosen by each party, and in the event of the arbitrators failing to agree, to the decision of any umpire to be chosen by the arbitrators. The arbitrators and umpire shall be disinterested, active or retired executive officials of fire or casualty insurance or reinsurance companies or Underwriters at Lloyd's of London. If either of the parties fails to appoint an arbitrator within one month after being requested by the other party in writing to do so, or if the arbitrators fail to appoint an umpire within one month of a request in writing by either of the to do so, such arbitrator or umpire, as the case may be, shall at the request of either party be appointed by a Justice of the Supreme Court of the State of New York.

2. The arbitration proceeding shall take place in New York, New York. The Applicant shall submit its case within one month after the appointment of the court of arbitration, and the respondent shall submit its reply within one month after the receipt of the claim. The arbitrators and umpire are relieved from all judicial formality and may abstain from following the strict rules of law. They shall settle any dispute under the Policy according to an equitable rather than a strictly legal interpretation of its terms.

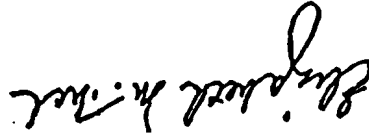
3. Their written decision shall be provided to both parties and shall be final and not subject to appeal.

4. Each party shall bear the expenses of his arbitrator and shall jointly and equally share with the other the expenses of the umpire and of the arbitration.

5. This article shall survive the termination of the policy.

IN WITNESS WHEREOF of the Company has caused this Policy to be signed by its president and secretary and signed on the Declarations page by a duly authorized representative of the Company.

Elizabeth M. Tuck, Secretary



Joseph L. Boren, President



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This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ON-SITE AND OFF SITE THIRD PARTY BODILY INJURY AND PROPERTY DAMAGE  
COVERAGE FOR SCHEDULED LOCATIONS**

In consideration of the premium charged, it is hereby agreed that the following changes are made to the Policy. Terms appearing in boldface type are defined in Section III. DEFINITIONS, of the policy.

1. The below-listed locations are included in Item 5 of the Declarations as covered locations, subject to the terms and conditions of this Endorsement. This Endorsement applies only with respect to Claims for Pollution Conditions Emanating From the locations designated below:

\*See Covered Locations Endorsement, 60298 (5/94)

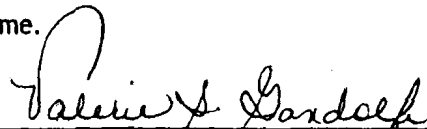
2. With respect to Claims for Pollution Conditions Emanating From the locations designated in Item 1. of this Endorsement, Section I. **INSURING AGREEMENT**, Coverage A - Third Party Bodily Injury And Property Damage, is deleted and replaced with the following:

Coverage A - Third Party Bodily Injury And Property Damage. Subject to the applicable limits of liability and the deductible, the Company agrees to pay Loss on behalf of the Insured that the Insured is legally obligated to pay as a result of Claims first made against the Insured and reported to the Company, in writing, during the Policy Period or during the Extended Reporting Period if applicable, for Pollution Conditions Emanating From the locations designated in Item 5 of the Declarations which result in Bodily Injury or Property Damage. The Pollution Conditions must be unexpected and unintended from the standpoint of the Insured and must commence on or after the Retroactive Date shown in Item 7 of the Declarations.

3. With respect to Claims for Pollution Conditions Emanating From the locations designated in Item 1. of this Endorsement, Paragraph K. in Section IV. **EXCLUSIONS**, is deleted.

Nothing in this Endorsement shall be deemed or construed to increase any of the limits of liability shown in Item 3 of the Declarations.

All other terms, conditions, and exclusions shall remain the same.



**AUTHORIZED REPRESENTATIVE**

or countersignature (in states where applicable)

**ENDORSEMENT NO.**

**This endorsement, effective 12:01 AM,**

**Forms a part of Policy No:**

**Issued to:**

**By:**

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

**TERRORISM EXCLUSION - CERTIFIED ACTS OF TERRORISM EXCLUSION ENDORSEMENT**

Pursuant to the requirements of the Terrorism Risk Insurance Act of 2002, the "Act," the Insured has been provided notice that the Insured may elect to purchase coverage for loss covered under this Policy arising directly or indirectly as a result of a certified "act of terrorism" as defined by Section 102., Definitions, of the Act and any revisions or amendments thereto and the premium charge for such coverage.

After receiving such notice, the Insured has elected not to purchase coverage for such certified "acts of terrorism" and has agreed to the attachment of a Terrorism Exclusion excluding coverage for such certified "acts of terrorism."

Therefore, this Policy shall be amended by the addition of the following exclusion:

The Company has no obligation to make any payment or to provide or to pay for a defense under this Policy due to or arising directly or indirectly as a result of or in connection with Terrorism including but not limited to, any contemporaneous or ensuing loss caused by fire, looting, or theft.

Terrorism means an Act of Terrorism defined as follows in Section 102., Definitions of the Terrorism Risk Insurance Act of 2002 and any revisions or amendments thereto:

**(1) Act of Terrorism -**

**(A) Certification. -** The term "act of terrorism" means any act that is certified by the Secretary of the Treasury of the United States, in concurrence with the Secretary of State, and the Attorney General of the United States --

**(i)** to be an act of terrorism;

**(ii)** to be a violent act or an act that is dangerous to --

**(I)** human life;

**(II)** property; or

**(III)** infrastructure;

**(iii)** to have resulted in damage within the United States, or outside of the United States in the case of --

**(I)** an air carrier or vessel described in paragraph (5)(B); [for the convenience of this endorsement, paragraph (5)(B) reads: occurs to an air carrier (as defined in Section 40102 of title 49, United States Code) to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission];

**(II)** the premises of a United States mission; and

**(iv)** to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

**(B) Limitation. --** No act shall be certified by the Secretary as an act of terrorism if --

**(i)** the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or

ENDORSEMENT NO. (Continued)

- (ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000.
- (C) Determinations Final. - Any certification of, or determination not to certify, an act as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.
- (D) Nondelegation. - The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism has occurred.

All other terms, conditions, and exclusions shall remain the same.

James J. Gendron  
AUTHORIZED REPRESENTATIVE  
or countersignature (in states where applicable)

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