

FARM BUREAU TOWN & COUNTRY INSURANCE COMPANY OF MISSOURI COMMERCIAL UMBRELLA LIABILITY

This is a legal contract. This contract consists of the application and all representations therein, the Declaration Page(s), and all policy forms and endorsements listed on the Declaration Page(s). **You** have a duty to read this policy carefully.

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

Words and phrases that appear in bold print have special meaning. Refer to Section V – Definitions.

SECTION 1 – COVERAGES

COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. **We** will pay on behalf of **you** the **ultimate net loss** in excess of the **retained limit** arising out of **bodily injury** or **property damage** to which this insurance applies. **We** will have the right and duty to defend **you** against any **suit** seeking damages for such **bodily injury** or **property damage** when the **underlying insurance** does not provide coverage or the limits of **underlying insurance** have been exhausted. When **we** have no duty to defend, **we** will have the right to defend, or to participate in the defense of, **you** against any other **suit** seeking damages to which this insurance may apply. However, **we** will have no duty to defend **you** against any **suit** seeking damages for **bodily injury** or **property damage** to which this insurance does not apply. At **our** discretion, **we** may investigate any **occurrence** that may involve this insurance and settle any resultant claim or **suit**, for which **we** have the duty to defend. But:
 - (1) The amount **we** will pay for the **ultimate net loss** is limited as described in Section III – Limits of Insurance; and
 - (2) **Our** right and duty to defend ends when **we** have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A or B.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverage A and B.

- b. This insurance applies to **bodily injury** and **property damage** only if:
 - (1) The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the **coverage territory**;
 - (2) The **bodily injury** or **property damage** occurs during the policy period; and
 - (3) Prior to the policy period, no **insured** listed under Paragraph 1. of Section II – Who Is An **Insured** and no **employee** authorized by **you** to give or receive notice of an **occurrence** or claim, knew that the **bodily injury** or **property damage** had occurred, in whole or in part. If such a listed **insured** or authorized **employee** knew, prior to the policy period, that the **bodily injury** or **property damage** has occurred, then any continuation, change or resumption of such **bodily injury** or **property damage** during or after the policy period will be deemed to have been known prior to the policy period.
- c. **Bodily injury** or **property damage** which occurs during the policy period and was not, prior to the policy period, known to have occurred by any **insured** listed under Paragraph 1. of Section II – Who Is An **Insured** or any **employee** authorized by **you** to give or receive notice of an **occurrence** or claim, includes any continuation, change or resumption of that **bodily injury** or **property damage** after the end of the policy period.
- d. **Bodily injury** or **property damage** will be deemed to have been known to have occurred at the earliest time when any **insured** listed under Paragraph 1. of Section II – Who Is An **Insured** or any **employee** authorized by **you** to give or receive notice of an **occurrence** or claim:
 - (1) Reports all, or any part, of the **bodily injury** or **property damage** to **us** or any other insurer; or
 - (2) Receives a written or verbal demand or claim for damages because of the **bodily injury** or **property damage**; or

- (3) Becomes aware by any other means that **bodily injury** or **property damage** has occurred or has begun to occur.

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

2. Exclusions

This insurance does not apply to:

- a. Expected Or Intended Injury
Bodily injury or **property damage** expected or intended from the standpoint of the **insured**. This exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property.
- b. Contractual Liability
Bodily injury or **property damage** for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
 - (1) That the **insured** would have in the absence of the contract or agreement; or
 - (2) Assumed in a contract or agreement that is an **insured contract**, provided the **bodily injury** or **property damage** occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **insured** are deemed to be damages because of **bodily injury** or **property damage**, provided:
 - i. Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
 - ii. Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.
- c. Liquor Liability
Bodily injury or **property damage** for which any **insured** may be held liable by reason of:
 - (1) Causing or contributing to the intoxication of any person;

- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

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

This exclusion does not apply to the extent that valid **underlying insurance** for the liquor liability risks described above exists or would have existed but for the exhaustion of underlying limits for **bodily injury** and **property damage**. Coverage provided will follow the provisions, exclusions and limitations of the **underlying insurance** unless otherwise directed by this insurance.

- d. Workers' Compensation and Similar Laws
Any obligation of the **insured** under a workers' compensation, disability benefits or unemployment compensation law or any similar law.
- e. Employee's Retirement Income Security Act
Any obligation of the **insured** under the Employees' Retirement Income Security Act (E.R.I.S.A), and any amendments thereto or any similar federal, state or local statute or law.
- f. **Auto** Coverages
 - (1) Except to the extent that coverage is available to **you** in an **underlying insurance** policy, this policy does not apply to the ownership, maintenance, operation, use, loading or unloading of any **auto** while away from premises owned by, rented to or controlled by **you**; or
 - (2) Any loss, cost or expense payable under or resulting from any first party physical damage coverage; no-fault law; personal injury protection or **auto** medical payments coverage; or uninsured or underinsured motorist law.
- g. Employer's Liability
Bodily injury to:
 - (1) An **employee** of the **insured** arising out of and in the course of:
 - a. Employment by the **insured**; or
 - b. Performing duties related to the conduct of the **insured's** business; or
 - (2) The spouse, child, parent, brother or sister of that **employee** as a consequence of Paragraph (1) above.

This exclusion applies whether the **insured** may be liable as an employer or in any other capacity,

and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

With respect to injury arising out of a **covered auto**, this exclusion does not apply to **bodily injury** to domestic **employees** not entitled to workers' compensation benefits. For purposes of this insurance, a domestic **employee** is a person engaged in household or domestic work performed principally in connection with a residence premises.

This exclusion does not apply to the extent that valid **underlying insurance** for the employer's liability risks described above exists or would have existed but for the exhaustion of underlying limits for **bodily injury**. Coverage provided will follow the provisions, exclusions and limitations of the **underlying insurance** unless otherwise directed by this insurance.

h. Employment Related Practices

Bodily injury or other damage to:

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

This exclusion applies whether the **insured** may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

i. Pollution

- (1) **Bodily injury** or **property damage** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any **insured**. However, this subparagraph does not apply to:

- (i) **Bodily injury** if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) **Bodily injury** or **property damage** for which **you** may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to **your** policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any **insured**, other than that additional insured; or
 - (iii) **Bodily injury** or **property damage** arising out of heat, smoke or fumes from a hostile fire.
- (b) At or from any premises, site or location which is or was at any time used by or for any **insured** or other for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i) any **insured**; or
 - (ii) any person or organization for whom **you** may be legally responsible; or
 - (d) At or from any premises, site or location on which any **insured** or any contractors or subcontractors working directly or indirectly on any **insured's** behalf are performing operations if the **pollutants** are brought on or to the premises, site or location in connection with such operations by such **insured**, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) **Bodily injury** or **property damage** arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of **mobile equipment** or its parts, if such fuels, lubricants

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

However, this paragraph does not apply to liability for damages because of **property damage** that the **insured** would have in the absence of such request, demand, order or statutory or regulatory requirement, or such

claim or **suit** by or on behalf of a governmental authority.

j. **Aircraft Or Watercraft**

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

This exclusion applies to any claim alleging negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **insured**, if the **occurrence** which caused the **bodily injury** or **property damage** involved the ownership, maintenance, use or entrustment to others of any **aircraft** or **watercraft** that is owned or operated by or rented or loaned to any **insured**.

k. **Racing Activities**

Bodily injury or **property damage** arising out of the use of **mobile equipment** or **autos** in, or while in practice for, or while being prepared for, any prearranged professional or organized racing, speed, demolition, or stunting activity or contest.

l. **War**

Bodily Injury or **property damage**, however caused, arising, directly or indirectly, out of:

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

m. **Damage to Property**

Property Damage to:

- (1) **Property**:
 - (a) **You** own, rent, lease, or occupy including costs or expenses incurred by **you**, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property; or
 - (b) Owned or transported by the **insured** and arising out of the ownership, maintenance or use of a **covered auto**.

- (2) Premises **you** sell, give away or abandon, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to **you**;
- (4) Personal property in the care, custody or control of the **insured**;
- (5) That particular part of real property on which **you** or any contractors or subcontractors working directly or indirectly on **your** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

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

Paragraph (1) (b), (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (3) and (4) of this exclusion do not apply to liability assumed under a written Trailer Interchange agreement.

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

- n. **Damage To Your Product**
Property damage to your product arising out of it or any part of it.
- o. **Damage To Your Work**
Property damage to your work arising out of it or any part of it and included in the **products – completed operations hazard**.
- p. **Damage To Impaired Property or Property Not Physically Injured**
Property damage to impaired property or property that has not been physically injured, arising out of:
 - (1) A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
 - (2) A delay or failure by **you** or anyone acting on **your** behalf to perform a contract or agreement in accordance with its terms.

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

q. **Recall Of Products, Work Or Impaired Property**

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

- (1) **Your product**;
- (2) **Your work**; or
- (3) **Impaired property**;

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

r. **Personal And Advertising Injury**
Bodily injury arising out of **personal and advertising injury**.

s. **Professional Services**

Bodily injury or property damage due to rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, providing, approving, or failing to prepare, provide or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Engineering services, including related supervisory or inspection service;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing services;
- (9) Services in the practice of pharmacy; but this exclusion does not apply if **you** are a retail druggist or **your** operations are those of a retail drugstore;
- (10) Law enforcement or firefighting services;
- (11) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies;
- (12) Production, use, or dissemination of program or advertising material by the **insured's** radio or television station;
- (13) Data processing;
- (14) Insurance;
- (15) Printing or Publishing; or

- (16) Real Estate.
- t. Electronic Data
Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data.

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

- u. Punitive or Exemplary Damages
- v. Asbestos
Bodily injury or property damage arising out of:
- (1) Inhalation, ingestion or prolonged physical exposure to asbestos or goods or products containing asbestos; or
 - (2) The use of asbestos in construction or manufacturing any goods, products or structure; or
 - (3) The removal of asbestos from any goods, products or structure; or
 - (4) The manufacture, transportation, storage or disposal of asbestos or goods or products containing asbestos.
- w. Eluding
Bodily injury or property damage if the **insured(s)** conduct contributed to the **bodily injury or property damage** by seeking to elude lawful apprehension, arrest by a police officer, or while committing a felony.
- x. Communicable Disease
Bodily injury or property damage arising out of the transmission of a communicable disease by any **insured**.
- y. Molestation Or Abuse
Bodily injury or property damage arising from the actual or threatened molestation, physical abuse, sexual abuse, sexual harassment, sexual molestation, by anyone of any person or to actual or threatened sexual relations by anyone with any person.
- z. Cross Suits
Bodily injury or property damage caused by an **insured** covered by this policy against any other **insured**.
- aa. Lead
- (1) Actual or alleged **bodily injury** that results directly or indirectly from the ingestion, inhalation or absorption of lead in any form;

- (2) Actual or alleged **property damage** that results directly or indirectly from any form of lead;
 - (3) Any loss, cost or expense arising out of any 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 lead; or
 - (4) Any loss, cost or expense arising out of any claim or **suit** by or on behalf of any governmental authority for damages resulting from testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of lead.
- bb. Fungi, Bacteria or Mold
- (1) **Bodily injury or property damage** which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any fungi, bacteria or mold on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
 - (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, fungi, bacteria or mold, by any **insured** or by any other person or entity.

This exclusion does not apply to any fungi, bacteria or mold that are on, or are contained in, a good or product intended for consumption.

- cc. Nuclear
Bodily injury or property damage:
1. Under any Liability Coverage, to **bodily injury or property damage:**
 - (a) 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 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

- (b) Resulting from the **hazardous properties of nuclear material** and with respect to which (a) any person or organizations 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 agent thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- 2. Under any Medical Payments coverage, to expenses incurred with respect to **bodily injury** resulting from the hazardous properties of **nuclear material** and arising out of the operation of a **nuclear material** by any person or organization.
- 3. Under any Liability Coverage, to **bodily injury** or **property damage** resulting from the **hazardous properties of nuclear material**, if:
 - (a) The **nuclear material** (1) is at any **nuclear facility** owned by or operated by or on behalf of, any **insured** or (2) 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** or **property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to **property damage** to such **nuclear facility** and any property there at.
- dd. Underground, Explosion and Collapse **Property damage** included within the **explosion hazard**, the **collapse hazard**, or the **underground property damage hazard**. This exclusion does not apply to:
 - (1) Operations performed for **you** by others; or
 - (2) **Property damage** included within the **products completed operations hazard**.
- ee. **Exterior Insulation and Finish Systems Bodily injury** or **property damage** arising out of, caused by, or attributable to, whether in whole or in part, the following:
 - (1) The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any **exterior insulation and finish system** or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
 - (2) **Your product** or **your work** with respect to any exterior component, fixture or feature of any structure if an **exterior insulation and finish system**, or any substantially similar system, is used on the part of that structure containing that component, fixture or feature.
- ff. **Bodily injury** or **property damage** for which coverage is provided by **underlying insurance** written on a claims made basis, including any renewal or replacement of such policy.
- gg. **Silica or Silica-Related Dust**
 - 1. **Bodily injury** arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, **silica** or **silica-related dust**.
 - 2. **Property damage** arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, **silica** or **silica-related dust**.
 - 3. 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, **silica** or **silica-related dust**, by any insured or by any other person or entity.
- hh. Any **bodily injury** or **property damage** arising out of any project

- covered by a wrap-up or similar rating plan.
- ii. Any **bodily injury or property damage** caused directly or indirectly, based on or attributable to, arising out of, resulting from or in any manner related to the “movement of land earth or soil”, or the existence of the substance Bentonite in the soil. This exclusion applies regardless of any other cause or event contributing concurrently or in any sequence or manner to the loss including, but not limited to, the following causes:

1. Flood waters, surface waters, subterranean waters, percolating waters, riparian and navigable waters, waves, tidal water or tidal waves, overflow of streams or other bodies of water, spray from any of the foregoing, or irrigation or other appropriated waters, all whether driven by wind or not;
2. Storm or sanitary sewer drain stoppage or back flow or water which backs up through sewers or drains;
3. Surface water or water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows, or any other openings in such sidewalks, driveways, foundation, walls or floors;
4. Water leakage, overflow or other escape from plumbing, heating, ventilating, air conditioning or other systems, equipment or appliances;
5. Any acts, decisions, error or omission, including the failure to act or decide, of any person, group, organization or governmental body;
6. Faulty, inadequate or defective:
 - a. planning, zoning, development, surveying, siting;
 - b. designs, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction, drainage;
 - c. materials used in repair,

construction, renovation or remodeling; or
 d. maintenance;
 of part or all of any property wherever located.

As used herein “movement of land, earth or soil” shall include, but is not limited to, earthquake, landslide, subsidence, mudflow, sinkhole, erosion, upheaval, slippage, sliding, sinking, rising, shifting, tilting, expanding or contracting of earth or soil.

If is further agreed that this insurance shall not become excess of any reduced or exhausted underlying aggregate limit to the extent that such reduction is the result of claims, damage, loss or expense arising out of or in any way related to the above.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. **We** will pay on behalf of the **insured** the **ultimate net loss** in excess of the **retained limit** because of **personal and advertising injury** to which this insurance applies. **We** will have the right and duty to defend the **insured** against any **suit** seeking damages for such **personal and advertising injury** when the **underlying insurance** does not provide coverage or the limits of **underlying insurance** have been exhausted. When **we** have no duty to defend, **we** will have the right to defend, or to participate in the defense of, the **insured** against any other **suit** seeking damages to which this insurance may apply. However, **we** will have no duty to defend the **insured** against any **suit** seeking damages for **personal and advertising injury** to which this insurance does not apply. At **our** discretion, **we** may investigate any offense that may involve this insurance and settle any resultant claim or **suit**, for which **we** have the duty to defend. But:
 - (1) The amount **we** will pay for the **ultimate net loss** is limited as described in Section III – Limits of Insurance; and
 - (2) **Our** right and duty to defend end when **we** have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A or B.

No other obligation or liability to pay sums or perform acts or services is covered unless

explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to **personal and advertising injury** caused by an offense arising out of **your** business but only if the offense was committed in the **coverage territory** during the policy period.

2. Exclusions

This insurance does not apply to:

a. Personal and advertising injury:

- (1) **Knowing Violation Of Rights Of Another**
Caused by or at the direction of the **insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**.
- (2) **Material Published With Knowledge of Falsity**
Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.
- (3) **Material Published Prior To Policy Period**
Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.
- (4) **Criminal Acts**
Arising out of a criminal act committed by or at the direction of the **insured**.
- (5) **Contractual Liability**
For which the **insured** has assumed liability in a contract or agreement. This exclusion does not apply to:
 - (a) Liability for damages that the **insured** would have in the absence of the contract or agreement.
 - (b) Liability for false arrest, detention or imprisonment assumed in a contract or agreement.
- (6) **Breach Of Contract**
Arising out of a breach of contract, except an implied contract to use another's advertising idea in **your advertisement**.
- (7) **Quality Or Performance Of Goods- Failure To Conform To Statements**
Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in **your advertisement**.
- (8) **Wrong Description Of Prices**
Arising out of the wrong description of the price of goods, products or services stated in **your advertisement**.
- (9) **Infringement Of Copyright, Patent, Trademark Or Trade Secret**

Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in **your advertisement**, of copyright, trade dress or slogan.

(10) Insureds In Media And Internet Type Businesses

Committed by an **insured** whose business is:

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

However, this exclusion does not apply to Paragraphs 23. a, b., and c. of **personal and advertising injury** under the Definitions Section.

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

(11) Electronic Chatrooms Or Bulletin Boards

Arising out of an electronic chatroom or bulletin board the **insured** hosts, owns, or over which the **insured** exercises control.

(12) Unauthorized Use Of Another's Name Or Product

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

(13) Pollution

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

(14) Employment Related Practices to:

- (a) A person arising out of any:
 - (i) Refusal to employ that person;
 - (ii) Termination of that person's employment; or
 - (iii) Employment related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

- (b) The spouse, child, parent, brother or sister of that person as a consequence of **personal and advertising injury** to that person at whom any of the employment related practices described in Paragraphs (i), (ii), or (iii) above is directed.

This exclusion applies whether the **insured** may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(15) Professional Services

Arising out of the rendering or failure to render any professional service. This includes but not limited to:

- (a) Legal, accounting or advertising services;
- (b) Preparing, approving, or failing to prepare, or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (c) Engineering services, including related supervisory or inspection services;
- (d) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (e) Any health or therapeutic service treatment, advice or instruction;
- (f) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (g) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (h) Body piercing services;
- (i) Services in the practice of pharmacy; but this exclusion does not apply if **you** are a retail druggist or **your** operations are those of a retail drugstore;
- (j) Law enforcement or firefighting services;
- (k) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies;
- (l) Production, use, or dissemination of program or advertising material by the **insured's** radio or television station;
- (m) Data Processing;
- (n) Insurance;
- (o) Printing or Publishing; or
- (p) Real Estate.

(16) War

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

- (a) War, including undeclared or civil war;

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

(17) **Exterior Insulation and Finish Systems**

Personal and advertising injury arising out of, caused by, or attributable to, whether in whole or in part, the following:

- (a) The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any **exterior insulation and finish system** or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
- (b) **Your product** or **your work** with respect to any exterior component, fixture or feature of any structure if an **exterior insulation and finish system**, or any substantially similar system is used on the part of that structure containing that component, fixture or feature.

(18) **Silica or Silica-Related Dust**

- (a) **Personal and advertising injury** arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, **silica** or **silica-related dust**.
- (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 addressing the effects of, **silica** or **silica-related dust**, by any **insured** or by any other person or entity.

- (19) Any **bodily injury** or **property damage** caused directly or indirectly, based on or attributable to, arising out of, resulting from or in any manner related to the "movement of land earth or soil", or the existence of the substance Bentonite in the soil. This

exclusion applies regardless of any other cause or event contributing concurrently or in any sequence or manner to the loss including, but not limited to, the following causes:

- a. Flood waters, surface waters, subterranean waters, percolating waters, riparian and navigable waters, waves, tidal water or tidal waves, overflow of streams or other bodies of water, spray from any of the foregoing, or irrigation or other appropriated waters, all whether driven by wind or not;
 - b. Storm or sanitary sewer drain stoppage or back flow or water which backs up through sewers or drains;
 - c. Surface water or water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows, or any other openings in such sidewalks, driveways, foundation, walls or floors;
 - d. Water leakage, overflow or other escape from plumbing, heating, ventilating, air conditioning or other systems, equipment or appliances;
 - e. Any acts, decisions, error or omission, including the failure to act or decide, of any person, group, organization or governmental body;
 - f. Faulty, inadequate or defective:
 1. planning, zoning, development, surveying, siting;
 2. designs, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction, drainage;
 3. materials used in repair, construction, renovation or remodeling; or
 4. maintenance;
- of part or all of any property wherever located.

As used herein "movement of land, earth or soil" shall include, but is not limited to, earthquake, landslide, subsidence, mudflow, sinkhole, erosion, upheaval, slippage, sliding, sinking, rising, shifting, tilting, expanding or contracting of earth or soil.

If is further agreed that this insurance shall not become excess of any reduced or exhausted underlying aggregate limit to the

extent that such reduction is the result of claims, damage, loss or expense arising out of or in any way related to the above.

b. Pollution cost or expense.

SUPPLEMENTARY PAYMENTS – COVERAGE A AND B

1. **We** will pay, with respect to any claim **we** investigate or settle, or any **suit** against an **insured we** defend, when the duty to defend exists:
 - a. All expenses **we** incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any **auto** to which **bodily injury** applies. **We** do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. **We** do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the **insured** at **our** request to assist **us** in the investigation or defense of the claim or **suit**, including actual loss of earnings up to \$250 a day because of time off from work.
 - e. All court costs taxed against the **insured** in the **suit**. However, these payments do not include attorney's fees or expenses taxed against the **insured**.
 - f. Prejudgment interest awarded against the **insured** on that part of the judgment **we** pay. If **we** make an offer to pay the applicable limit of insurance, **we** will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of judgment that is within the applicable limit of insurance. These payments will not reduce the limits of insurance.
2. When **we** have the right but not the duty to defend the **insured** and elect to participate in the defense, **we** will pay our own expenses but will not contribute to the expenses of the **insured** or the **underlying insurer**.
3. If **we** defend an **insured** against a **suit** and an indemnitee of the **insured** is also named as a party to the **suit**, **we** will defend that indemnitee if all of the following conditions are met:
 - a. The **suit** against the indemnitee seeks damages for which the **insured** has assumed the liability

- of the indemnitee in a contract or agreement that is an **insured contract**;
- b. This insurance applies to such liability assumed by the **insured**;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the **insured** in the same **insured contract**;
 - d. The allegations in the **suit** and the information **we** know about the **occurrence** are such that no conflict appears to exist between the interests of the **insured** and the interests of the indemnitee;
 - e. The indemnitee and the **insured** ask **us** to conduct and control the defense of that indemnitee against such **suit** and agree that **we** can assign the same counsel to defend the **insured** and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with **us** in the investigation, settlement or defense of the **suit**;
 - (b) Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with the **suit**;
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with **us** with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides **us** with written authorization to:
 - (a) Obtain records and other information related to the **suit**; and
 - (b) Conduct and control the defense of the indemnitee in such **suit**.

So long as the above conditions are met, attorneys fees incurred by **us** in the defense of that indemnitee, necessary litigation expenses incurred by **us** and necessary litigation expenses incurred by the indemnitee at **our** request will be paid as Supplementary Payments.

Notwithstanding the provisions of paragraph 2.b.(2) of COVERAGE A – **BODILY INJURY AND PROPERTY DAMAGE LIABILITY** (Section I – Coverages), such payments will not be deemed to be damages for **bodily injury** and **property damage** and will not reduce the limits of insurance.

Our obligation to defend an **insured's** indemnitee and to pay for attorneys fees and necessary litigation expenses and Supplementary Payments ends when **we** have used up the applicable limit of insurance in the payment of judgments, or settlements, or the

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

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
 - (a) An individual, **you** and **your** spouse are **insureds**, but only with respect to the conduct of a business of which **you** are the sole owner.

Business includes trade, profession or occupation and the ownership, maintenance or use of farms, and of property rented in whole or in part to others, or held for such rental, by the Named Insured.
 - (b) A partnership or joint venture, **you** are an **insured**. **Your** members, **your** partners, and their spouses are also **insureds**, but only with respects to the conduct of **your** business.
 - (c) A limited liability company, **you** are an **insured**. **Your** members are also **insureds**, but only with respect to the conduct of **your** business. **Your** managers are **insureds**, but only with respect to their duties as **your** managers.
 - (d) An organization other than a partnership, joint venture or limited liability company, **you** are an **insured**. **Your executive officers** and directors are **insureds**, but only with respect to their duties as **your** officers or directors. **Your** stockholders are also **insureds**, but only with respect to their liability as stockholders.
 - (e) A trust, **you** are an **insured**. **Your** trustees are also **insureds**, but only with respect to their duties as trustees.
2. Each of the following is also an **insured**:
 - (a) **Your volunteer workers** only while performing duties related to the conduct of **your** business, or **your employees**, other than either **your executive officers** (if **you** are an organization other than a partnership, joint venture or limited liability company) or **your** managers (if **you** are a limited liability company), but only for acts within the scope of their employment by **you** or while performing duties related to the conduct of **your** business. However, none of these **employees** or **volunteer workers** are **insureds** for:
 - (1) **Bodily injury or personal and advertising injury**:
 - (a) To **you**, to **your** partners or members (if **you** are a partnership or joint venture), to **your** members (if **you** are a limited liability company), to a co-**employee** in the course of his or her employment or performing duties

related to the conduct of **your** business or to **your** other **volunteer workers** while performing duties related to the conduct of **your** business;

- (b) To the spouse, child, parent, brother or sister of that co-**employee** or volunteer **worker** as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above.
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) **Property damage** to property:

- (a) Owned, occupied or used by,
 - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by **you**, any of **your employees, volunteer workers**, any partner or member (if **you** are a partnership or joint venture), or any member (if **you** are a limited liability company).
 - (b) Any person (other than **your employee** or **volunteer worker**), or any organization while acting as **your** real estate manager.
 - (c) Any person or organization having proper temporary custody of **your** property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of the property; and
 - (2) Until **your** legal representative has been appointed.
 - (d) **Your** legal representative if **you** die, but only with respect to duties as such. That representative will have all rights and duties under this Coverage Part.
3. Any organization **you** newly acquire or form, other than a partnership, joint venture or limited liability company, and over which **you** maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- (a) Coverage under this provision is afforded only until the 90th day after **you** acquire or form the organization or the end of the policy period, whichever is earlier;
 - (b) Coverage A does not apply to **bodily injury** or **property damage** that occurred before **you** acquired or formed the organization; and
 - (c) Coverage B does not apply to **personal and advertising injury** arising out of an offense

committed before **you** acquired or formed the organization.

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

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the language below fix the most **we** will pay regardless of the number of:
 - a. **Insureds**;
 - b. Claims made, **suits** brought, or number of vehicles involved; or
 - c. Persons or organizations making claims or bringing **suits**.
2. The Aggregate Limit is the most **we** will pay for the sum of all **ultimate net loss** under:
 - a. Coverage A, except **ultimate net loss** because of **bodily injury** or **property damage** arising out of the ownership, maintenance or use of a **covered auto**; and
 - b. Coverage B
3. Subject to 2. above, the Each Occurrence Limit is the most **we** will pay for the sum of all **ultimate net loss** under Coverage A because of all **bodily injury** and **property damage** arising out of any one **occurrence**.
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most **we** will pay under Coverage B for the sum of all **ultimate net loss** because of all **personal and advertising injury** sustained by any one person or organization.
5. If this policy and any other umbrella policy issued to **you** by **us** or any company affiliated with us apply to the same **occurrence**, the aggregate maximum limit of insurance under all of the umbrella policies shall not exceed the highest applicable limit of insurance under any one umbrella policy.

The Aggregate Limit, as described in Paragraph 2. above, applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – CONDITIONS

1. Appeals
If the **underlying insurer** or **insured** elects not to appeal a judgment in excess of the **retained limit**, **we** may do so at **our** own expense. **We** will be

liable for taxable costs, pre-and post judgment interest and disbursements.

2. Bankruptcy

Subject to other policy provisions:

- a. Bankruptcy of Insured
Bankruptcy or insolvency of the **insured** or of the **insured's** estate will not relieve **us** of **our** obligations under this policy.
- b. Bankruptcy of Underlying Insurer
Bankruptcy of the underlying insurer will not relieve us of our obligations under this policy.

However, this insurance will not replace the **underlying insurance** in the event of bankruptcy or insolvency of the **underlying insurer**. This insurance will apply as if the **underlying insurance** were in full effect.

3. Cancellation

- a. The Named **Insured** shown in the Declaration Page may cancel this policy by mailing or delivering to **us** advance written notice of cancellation.
- b. If **we** decide to cancel this policy for any reason, except at **your** request or for non-payment of premium, **we** will send notice to **you** at least sixty (60) days before the cancellation is to be effective. The notice will state:
 - (1) The effective date of the cancellation; and
 - (2) The actual reason for cancellation.
- c. **We** will mail or deliver our notice to the Named **Insured's** last mailing address known to **us**.
- d. If this policy is canceled, **we** will send the Named **Insured** any premium refund due. If **we** cancel, the refund will be pro-rata. The cancellation will be effective even if **we** have not made or offered a refund.
- e. If notice is mailed, proof of mailing will be sufficient proof of notice.

4. Changes

This policy contains all the agreements between **you** and **us** concerning the insurance afforded. This policy's terms can be amended or waived only by endorsement to the policy issued by **us**.

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

- a. **You** must see to it that **we** are notified as soon as practicable of an **occurrence** or an offense, regardless of the amount, which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the **occurrence** or offense took place;
 - (2) The names and address of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the **occurrence** or offense.

b. If a claim is made or **suit** is brought against any **insured**, **you** must:

- (1) Immediately record the specifics of the claim or **suit** and the date received; and
- (2) Notify **us** as soon as practicable.
You must see to it that **we** receive written notice of the claim or **suit** as soon as practicable.

c. **You** and any other involved **insured** must:

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

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

6. Legal Action Against Us

No person or organization has a right under this insurance:

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

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

7. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other available insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this policy.

When this insurance is excess, **we** will have no duty under Coverage A or B to defend the

- insured** against any **suit** if any other insurer has a duty to defend the **insured** against that **suit**. If no other insurer defends, **we** will undertake to do so, but **we** will be entitled to the **insured's** rights against all such other insurers.
- b. When this insurance is excess over other insurance, **we** will pay only **our** share of the **ultimate net loss** that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (2) The total of all deductible and self-insured amounts under all such other insurance.
8. Maintenance of **Underlying Insurance**
- a. **You** must keep the **underlying insurance** described on the Declaration Page, or renewal or replacement policies not more restrictive in their terms and conditions, in full force and effect during the policy period of this policy. The Limit(s) of Insurance must be maintained without reduction other than by payment of losses covered thereunder. **You** must also inform **us** within 30 days of any cancellation of any policy of **underlying insurance**, or replacement of any policy of **underlying insurance**.
 - b. **You** must notify **us** immediately of any changes to the terms of any **underlying insurance** policies. **We** may adjust premium charges under this policy from the effective date of such changes to the terms of any **underlying insurance**.
 - c. **Your** failure to comply with the foregoing paragraphs a. and b. will not invalidate this policy, but in the event of such failure, **we** shall be liable under this policy only to the extent that **we** would have been liable had **you** complied with these obligations.
9. Representation Or Fraud
- By accepting this policy, **you** agree:
- a. The statements in the application are accurate and complete;
 - b. Those statements are based upon representations **you** have made to **us**;
 - c. **We** have issued this policy in reliance upon **your** representations; and
 - d. This policy is void in any case of fraud by **you** as it relates to the application, this policy or any claim under this policy.
10. Separation Of **Insureds**
- Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to **you**, this insurance applies:
- a. As if each Named **Insured** were the only Named **Insured**; and
 - b. Separately to each **insured** against whom claim is made or **suit** is brought.
11. Sole Agent
- The Named Insured first shown on the Declaration Page is authorized to act on behalf of all **insured(s)** with respect to giving or receiving notice of cancellation or non-renewal, receiving refunds, and agreeing to any changes in this policy.
12. Inspections And Surveys
- We** have the right but are not obligated to:
- a. Make inspections and surveys at any time;
 - b. Give **you** reports on the conditions **we** find; and
 - c. Recommend changes to such conditions.
- Any inspections, surveys, reports or recommendations relate only to insurability and the premium to be charged. **We** do not make safety inspections. **We** do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. **We** also do not warrant that conditions:
- a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
- These conditions apply not only to **us**, but also to any rating, advisory, rate service or similar organization which make insurance inspection, surveys, reports or recommendations on **our** behalf.
13. Examination Of Your Books And Records
- We** may examine and audit **your** books and records as they relate to this policy at any time during the policy period shown on the Declaration Page and up to three years afterwards.
14. Transfer Of Rights Of Recovery Against Others To **Us**
- If the **insured** has rights to recover all or part of any payment **we** have made under this policy, those rights are transferred to **us**. The **insured** must do nothing after loss to impair them. At **our** request, the **insured** will bring **suit** or transfer those rights to **us** and help **us** enforce them.
15. Transfer Of **Your** Rights And Duties Under This Policy
- Your** rights and duties under this policy may not be transferred without **our** written consent except as stated in Section II – Who Is An Insured; 2.c and d.
16. Loss Payable
- Liability under this policy shall not apply unless and until the **insured** or **insured's underlying insurer** has become obligated to pay the **retained limit**. Such obligation by the **insured** to pay part of the **ultimate net loss** shall have been previously determined by a final settlement or judgment after and actual trial or written agreement between the **insured**, claimant, and **us**.
17. Premium Audits

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

18. Premiums

You:

- a. Are responsible for the payment of all premiums; and
- b. Will be the payee for any returned premiums **we** pay.

19. When **We** Do Not Renew

We will non-renew this policy if **you** fail to maintain an active Farm Bureau membership. If **we** decide for any reason not to renew this policy, **we** will mail or deliver to **your** mailing address shown on the Declaration Page written notice of the non-renewal not less than 60 days before the expiration date or such other period as may be required by law. If notice is mailed, proof of mailing will be sufficient proof of notice.

20. Expanded Coverage Territory

- a. If a **suit** is brought in a part of the **coverage territory** that is outside the United States of America (including its territories and possessions), Puerto Rico or Canada, and **we** are prevented by law, or otherwise, from defending the **insured**, the **insured** will initiate a defense of the **suit**. **We** will reimburse the **insured**, under Supplementary Payments, for any reasonable and necessary expenses incurred for the defense of a **suit** seeking damages to which this insurance applies, that **we** would have paid had **we** been able to exercise our right and duty to defend.

If the **insured** becomes legally obligated to pay sums because of damages to which this insurance applies in a part of the **coverage territory** that is outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and **we** are prevented by law, or otherwise, from paying

such sums on the **insured's** behalf, **we** will reimburse the **insured** for such sums.

- b. All payments or reimbursements **we** make for damages because of judgments or settlements will be made in U.S. currency at the prevailing exchange rate at the time the **insured** became legally obligated to pay such sums. All payments or reimbursements **we** make for expenses under Supplementary Payments will be made in U.S. currency at the prevailing exchange rate at the time the expenses were incurred.
- c. Any disputes between **you** and **us** 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), Puerto Rico or Canada.
- d. The **insured** must fully maintain any coverage required by law, regulation or other governmental authority during the policy period, except for reduction of the aggregate limits due to payment of claims, judgments or settlements.

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. Valid Premium Payment

If **your** payment of any premium for this policy is not honored by **your** bank when presented for payment, no coverage is afforded **you** for any time period or policy term for which that payment applies.

22. Renewal of Policy

This policy may be renewed:

- a. by mailing to **you** or **your** last mailing address shown in this policy a renewal premium notice for the applicable renewal period; or
- b. by issuing or offering to issue **you** a renewal policy, certificate or other evidence of renewal at the applicable renewal premium.

If **you** do not pay the renewal premium, **your** policy will terminate on the expiration date of the expiring policy period.

SECTION V - DEFINITIONS

- 1. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about **your** goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding websites, only that part of a website that is about **your** goods, products or services for the purposes of attracting customers or supporters is considered an **advertisement**.
- 2. **Aircraft** means a weight carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surface.
- 3. **Auto** means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment**.
- 4. **Bodily injury** means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. **Bodily injury** includes mental anguish or other mental injury resulting from bodily injury.
- 5. **Collapse hazard** means structural **property damage** and any resulting **property damage** to any other property at any time. Structural **property damage** means the collapse of or structural injury to any building or structure due to:
 - a. Grading of land, excavating, borrowing, filling, backfilling, tunneling, pile driving, cofferdam work or caisson work; or
 - b. Moving, shoring, underpinning, raising or demolition of any building or structural support of that building or structure.
- 6. **Coverage territory** means anywhere in the world with the exception of any country or jurisdiction which is subject to trade or other economic sanction or embargo by the United States of America.
- 7. **Covered auto** means only those **autos** to which **underlying insurance** applies.
- 8. **Employee** includes a **leased worker**. **Employee** does not include a **temporary worker**.
- 9. **Executive officer** means a person holding any of the officer positions created by **your** charter, constitution, by-laws or any other similar governing document.
- 10. **Explosion hazard** means **property damage** arising out of the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment.
- 11. **Exterior insulation and finish system** means a non-load bearing exterior cladding or finish system, and all component parts therein, used on any part of any structure, and consisting of:

- a. A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;
- b. The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
- c. A reinforced or un-reinforced base coat;
- d. A finish coat providing surface texture to which color may be added; and
- e. Any flashing, caulking or sealant used with the system for any purpose.
- 12. **Hazardous Properties** includes radioactive, toxic, or explosive properties.
- 13. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:
 - a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. **You** have failed to fulfill the terms of a contract or agreement;

If such property can be restored to use by the repair, replacement, adjustment or removal of **your product** or **your work**, or **your** fulfilling the terms of the contract or agreement.
- 14. **Insured** means a legal entity or person stipulated in SECTION II – WHO IS AN **INSURED**
- 15. **Insured contract** means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to **you** or temporarily occupied by **you** with permission of the owner is not an **insured contract**;
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any contract or agreement entered into, as part of **your** business, pertaining to the rental or lease, by **you** or any of **your employees**, of any **auto**. However, such contractor agreement shall not be considered an **insured contract** to the extent that it obligates **you** or any of **your employees** to pay for **property damage** to any **auto** rented or leased by **you** or any of **your employees**.
 - g. That part of any other contract or agreement pertaining to **your** business (including an indemnification of a municipality in connection with work performed for a municipality) under which **you** assume the tort liability of another party to pay for **bodily injury** or **property**

damage to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraphs f. and g. do not include that part of any contract or agreement:

- (a) That indemnifies a railroad for **bodily injury** or **property damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (b) That pertains to the loan, lease or rental of an **auto** to **you** or any of **your employees**, if the **auto** is loaned, leased or rented with a driver; or
- (c) That hold a person or organization engaged in the business of transporting property by **auto** for hire harmless for **your** use of a **covered auto** over a route or territory that person or organization is authorized to serve by public authority.

16. **Leased worker** means a person leased to **you** by a labor leasing firm under an agreement between **you** and the labor leasing firm, to perform duties related to the conduct of **your** business. **Leased worker** does not include a **temporary worker**.

17. **Loading or unloading** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an **aircraft** or **watercraft**;
- b. While it is in or on a **aircraft** or **watercraft**; or
- c. While it is being moved from an **aircraft** or **watercraft** to the place where it is finally delivered;

but **loading or unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the **aircraft** or **watercraft**.

18. **Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises **you** own or rent.
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers, drills; or

- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:

- (1) Equipment designed primarily for:
 - a. Snow removal;
 - b. Road maintenance, but not construction or resurfacing; or
 - c. Street cleaning;
- (2) Cherry picker and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, **mobile equipment** does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

19. **Nuclear Facility** means:

- a. Any **nuclear reactor**,
- b. Any equipment or device designed or used for:
 - (1) separating the isotopes of uranium or plutonium,
 - (2) processing or utilizing **spent fuel**, or
 - (3) handling, processing or packaging waste.
- c. Any equipment or device used for the processing, fabricating or alloying of special **nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d. Any structure, basin, excavation, premise 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.

20. **Nuclear Material** means **source material, special nuclear material or by-product material**.
21. **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.
22. **Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
23. **Personal and advertising injury** means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in **your advertisement**; or
 - g. Infringing upon another's copyright, trade dress or slogan in **your advertisement**.
24. **Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
25. **Pollution cost or expense** means any loss, cost or expense arising out of any:
 - a. Request, demand, order or statutory or regulatory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**; or
 - b. Claim or **suit** by or on behalf of a governmental authority for damages because of test for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.
26. **Products-completed operations hazard**:
 - a. Includes all **bodily injury** and **property damage** occurring away from premises **you** own or rent

and arising out of **your product** or **your work** except:

- (1) Products that are still in **your** physical possession; or
- (2) Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in **your** contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if **your** contract calls for work at more than one job site.
 - (c) When that part of the work done at that job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include **bodily injury** or **property damage** arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by **you**, and that condition was created by the loading or unloading of that vehicle by any **insured**; or
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

27. **Property damage** means:

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

With respect to **covered autos, property damage** also includes **pollution cost or expense**, but only to the extent that coverage exists under the **underlying insurance** or would have existed but for the exhaustion of the underlying limits.

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

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from

computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

28. **Retained limit** means the available limits of **underlying insurance** scheduled in the Declarations or the **self-insured retention**, whichever applies.
29. **Self-insured retention** means the dollar amount listed in the Declarations that will be paid by the **insured** before this insurance becomes applicable only with respect to **occurrences** or offenses not covered by the **underlying insurance**. The **self-insured retention** does not apply to **occurrences** or offenses which would have been covered by **underlying insurance** but for the exhaustion of applicable limits.
30. **Silica** means silicon dioxide (occurring in crystalline, amorphous and impure forms), **silica** particles, **silica** dust or **silica** compounds.
31. **Silica-related dust** means a mixture or combination of **silica** and other dust or particles.
32. **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.
33. **Spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.
34. **Suit** means a civil proceeding in which damages because of **bodily injury, property damage or personal and advertising injury** to which this insurance applies are alleged. **Suit** includes:
 - a. An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with **our** consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** submits with **our** consent or the **underlying insurer's** consent.
35. **Temporary worker** means a person who is furnished to **you**, by another person or entity, to substitute for a permanent **employee** on leave or to meet seasonable or short-term workload conditions.
36. **Ultimate net loss** means the total sum, after reduction for recoveries or salvages collectible, that the **insured** becomes legally obligated to pay as damages by reason of settlement or judgments or any arbitration or other alternate dispute method entered into with **our** consent or the **underlying insurer's** consent.
37. **Underlying insurance** means any insurance collectible by **you**, to which this policy applies, which covers liability for **bodily injury, property**

damage or personal and advertising injury in excess of the **retained limit**.

38. **Underlying insurer** means any insurer who provides any policy of insurance listed in the schedule of **underlying insurance**.
39. **Underground property damage hazard** means underground **property damage** and any resulting **property damage** to any other property at any time. Underground **property damage** includes **property damage** to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus used with them beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, backfilling, or pile driving.
40. **Volunteer worker** means a person who is not **your employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by **you**, and is not paid a fee, salary or other compensation by **you** or anyone else for their work performed for **you**.
41. **Watercraft** means a craft, vessel, or vehicle designed for the transportation of people or property on or over water. This includes an ice boat or jet ski.
42. **Wrap-up** means any agreement or arrangement under which all the contractors working on a specified project are insured under one or more policies issued by a specified insurer for liability arising out of the project.
43. **Your Product**
 - a. Means:
 - (1) Any good or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) **You**;
 - (b) Others trading under **your** name; or
 - (c) A person or organization whose business or assets **you** have acquired; and
 - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 - b. Includes:
 - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - (2) The providing of or failure to provide warnings or instructions.
 - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
44. **Your work:**
 - a. Means:

- (1) Work or operations performed by **you** or on **your** behalf; and
 - (2) Materials, parts or equipment furnished in connection with such work or operations.
- b. Includes:
- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
 - (2) The providing of or failure to provide warnings or instructions.

**MISSOURI PROPERTY AND CASUALTY INSURANCE GUARANTY
ASSOCIATION COVERAGE LIMITATION ENDORSEMENT**

- a. Subject to the provisions of the Missouri Property and Casualty Insurance Guaranty Association Act (to be referred to as the Act), if **we** are a member of the Missouri Property and Casualty Insurance Guaranty Association (to be referred to as the Association), the Association will pay claims covered under the Act if **we** become insolvent.
- b. The Act contains various exclusions, conditions and limitations that govern a claimant's eligibility to collect payment from the Association and affect the amount of any payment. The following limitations apply subject to all other provisions of the Act:
 1. Claims covered by the Association do not include a claim by or against an **insured** of an insolvent insurer, if the **insured** has a net worth of more than \$25 million on the later of the end of the **insured's** most recent fiscal year or the December thirty-first of the year next preceding that date the insurer becomes insolvent; provided that an **insured's** net worth on such date shall be deemed to include the aggregate net worth of the **insured** and all of its affiliates as calculated on a consolidation basis.
 2. Payments made by the Association for covered claims will include only that amount of each claim which is less than \$300,000.
However, the Association will not:
 - (a) Pay an amount in excess of the applicable limit of insurance of the policy from which a claim arises; or
 - (b) Return to an **insured** any unearned premium in excess of \$25,000.

These limitations have no effect on the coverage we will provide under this policy. All other provisions of this policy apply.

IN WITNESS WHEREOF, the Farm Bureau Town & Country Insurance Company of Missouri has caused this policy to be signed by its President and Secretary.

PRESIDENT



SECRETARY

