

CONTRACTORS POLLUTION AND PROFESSIONAL LIABILITY POLICY

Occurrence Contracting Operations Coverage and Claims-Made Professional Liability Coverage

Certain sections within this Policy are Claims-Made and Reported. In the event of a **Claim**, Claims-Made and Reported Coverage requires that a **Claim** be first made and reported to us during the **Policy Period** or as expressly provided for in SECTION VI – EXTENDED REPORTING PERIOD.

Other sections within this Policy provide Coverage for a **Pollution Condition** first discovered and reported to us by the **Insured** during the **Policy Period**.

Legal Expense reduces the Limits of Liability and is included within the Retention. This Policy contains provisions that limit the amount of **Legal Expense** we are responsible to pay.

Please read this Policy carefully, including the Declarations and all Endorsements, to determine your rights, duties, obligations and what is and what is not covered.

Throughout this Policy, the words “you” and “your” mean the **Insured**. The words “we”, “us”, and “our” mean the Company stated in the Declarations. Other words that appear in **bold**, with the exception of caption headings, have special meaning and are defined in SECTION III – DEFINITIONS.

In consideration of the payment of premium and in reliance upon all statements made in the application, including any supplemental information provided in connection with the application, we agree to provide insurance coverage as shown in the Declarations and as described herein.

I - INSURING AGREEMENTS

A. Contractors Pollution Coverages

1. Contracting Operations Coverage – Occurrence

We agree to pay for **Pollution Loss** in excess of the applicable Retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** arising from a **Pollution Condition** resulting from **Contracting Operations** only if the **Bodily Injury, Property Damage or Environmental Damage** first commences on or after the Contracting Operations Coverage Nose Date shown in ITEM 5.A.1. of the Declarations and prior to the end of the **Policy Period**

2. Emergency Response Coverage

We will reimburse you for **Emergency Response** incurred by you in excess of the applicable Retention, only if:

- a. the Insured discovers the **Pollution Condition** within seven (7) days of the **Pollution Condition** first commencing, and notice of the **Emergency Response** is reported to us, in writing, as soon as practicable during the **Policy Period**, but in no event later than fourteen (14) days from the discovery of the **Pollution Condition**, or the end of the **Policy Period**, whichever occurs first; and
- b. the **Pollution Condition**: (i) results from **Contracting Operations** or **Transportation** performed during the **Policy Period**; (ii) arises from waste or material disposed of during the **Policy Period** at a **Non-Owned Disposal Site**; or (iii) originates from **Your Insured Location**.

3. Non-Owned Disposal Site Coverage – Claims Made

We agree to pay for **Pollution Loss** in excess of the applicable Retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** arising from a **Pollution Condition** on, at, under, or migrating beyond the legal boundaries from a **Non-Owned Disposal Site**, only if:

- a. the **Pollution Condition** first commences on or after the Non-Owned Disposal Site Coverage Retroactive Date shown in ITEM 5.A.3. of the Declarations and prior to the end of the **Policy Period**; and
- b. the **Claim** is first made against the Insured during the **Policy Period** and reported to us during the **Policy Period** or as expressly provided for in SECTION VI – EXTENDED REPORTING PERIOD.

4. **Your Insured Location Coverage – Sudden & Accidental**

We agree to pay for **Pollution Loss** in excess of the applicable Retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** arising from a **Pollution Condition** on, at, under, or migrating beyond the legal boundaries of **Your Insured Location**, only if:

- a. the **Pollution Condition** is the result of an unforeseen, unplanned, or unexpected event or circumstance;
- b. the **Pollution Condition** first commences during the **Policy Period** and ceases fully within fifteen (15) days from its commencement; and
- c. the **Claim** is first made against the **Insured** during the **Policy Period** and reported to us during the **Policy Period** or as expressly provided for in the SECTION VI – EXTENDED REPORTING PERIOD.

5. **Transportation Coverage - Occurrence**

We agree to pay for **Pollution Loss** in excess of the applicable Retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** arising from a **Pollution Condition** resulting from **Transportation**, provided that the **Transportation** first commences on or after the Transportation Coverage Nose Date shown in ITEM 5.A.5. of the Declarations and prior to the end of the **Policy Period**.

6. **Pollution Protective Indemnity Coverage - Occurrence**

We agree to reimburse the **Insured** for **Pollution Protective Indemnity** in excess of applicable **Subcontractor's Insurance** and the applicable Retention resulting from a **Pollution Condition** only if:

- a. the **Bodily Injury, Property Damage or Environmental Damage** first commences on or after the Pollution Protective Indemnity Coverage Nose Date shown in ITEM 5.A.6. of the Declarations and prior to the end of the **Policy Period**;
- b. the **Pollution Condition** is the result of **Subcontracted Services** or **Completed Operations** of the **Subcontractor**; and
- c. you have exhausted all methods necessary to pursue the **Pollution Protective Indemnity** and obtain recovery of all **Pollution Protective Indemnity** from the **Subcontractor** and the **Subcontractor's Insurance**.

Our obligation to indemnify you for **Pollution Protective Indemnity** shall not attach until all applicable **Subcontractor's Insurance** has been fully diminished solely as a result of payments explicitly covered by such **Subcontractor's Insurance** and the applicable Retention has been

satisfied by you.

Further, notwithstanding any other provision of this Policy, we have no obligation to defend any **Subcontractor** in response to any **Claim**, even if the **Subcontractor's Insurance** has been fully diminished or is otherwise unavailable for any reason.

B. Professional Coverages

1. Professional Liability Coverage

We agree to pay for **Professional Loss** in excess of the applicable Retention that the **Insured** becomes legally obligated to pay as a result of a **Claim** caused by an actual or alleged negligent act, error, or omission in the performance of **Professional Services**, only if:

- a. the **Professional Services** are rendered on or after the Professional Liability Coverage Retroactive Date shown in ITEM 5.B.1. of the Declarations and prior to the end of the **Policy Period**; and
- b. the **Claim** is first made against the **Insured** during the **Policy Period** and reported to us during the **Policy Period** or as expressly provided for in SECTION VI - EXTENDED REPORTING PERIOD.

2. Rectification Expense Coverage

We agree to pay on behalf of the **Insured** for **Rectification Expense** in excess of the applicable Retention only if:

- a. the **Professional Services** giving rise to actual or potential damages are rendered on or after the Rectification Expense Coverage Retroactive Date shown in ITEM 5.B.2. of the Declarations and prior to the end of the **Policy Period**;
- b. the **Insured** provides us with immediate notice of the negligent act, error, or omission in the performance of **Professional Services** and of the proposed corrective actions;
- c. the **Insured** cooperates with us and provides any supporting documentation, in writing, prior to incurring any **Rectification Expense**;
- d. all **Rectification Expense** must be approved by us, in writing, prior to being incurred by the **Insured**; and
- e. Such **Rectification Expense** did not arise from the same or similar negligent act, error, or omission for which prior **Rectification Expense** have been requested or paid.

3. Professional Protective Indemnity Coverage

We agree to reimburse the **Named Insured** for **Professional Protective Indemnity** in excess of applicable **Professional Subconsultant's Insurance** and the applicable Retention resulting from an actual or alleged negligent act, error or omission in **Professional Subconsultant Services** performed by a **Professional Subconsultant**, provided that:

- a. the **Professional Subconsultant Services** are rendered on or after the Professional Protective Indemnity Coverage Retroactive Date shown in ITEM 5.B.3. of the Declarations and prior to the end of the **Policy Period**;
- b. the **Professional Protective Indemnity Claim** is first made by you against the **Professional Subconsultant** and reported by you to us during the **Policy Period** or as expressly provided for in SECTION VI - EXTENDED REPORTING PERIOD; and

- c. you have exhausted all methods necessary to pursue the **Professional Protective Indemnity Claim** and obtain recovery of all **Professional Protective Indemnity** from the **Professional Subconsultant** and the **Professional Subconsultant's Insurance**.

Our obligation to indemnify you for **Professional Protective Indemnity** shall not attach until all applicable **Professional Subconsultant's Insurance** has been fully diminished solely as a result of payments explicitly covered by such **Professional Subconsultant's Insurance** and the applicable Retention has been satisfied by you.

Further, notwithstanding any other provision of this Policy, we have no obligation to defend any **Professional Subconsultant** in response to any **Claim**, even if the **Professional Subconsultant's Insurance** has been fully diminished or is otherwise unavailable for any reason.

C. Supplemental Coverages

1. Adverse Media Coverage

We agree to reimburse the Insured for **Adverse Media Expenses** incurred by you in excess of the applicable Retention provided that:

- a. all **Adverse Media Expenses** have been approved by us, in writing, prior to being incurred by you; and
- b. reimbursement is limited to the costs directly associated with restoring your reputation and public confidence in you resulting from an actual negligent act, error or omission in **Professional Services**, or a **Pollution Condition** resulting from **Contracting Operations**, a **Non-Owned Disposal Site, Transportation** or **Your Insured Location**, that has resulted in an **Adverse Media Event**.

II - TERRITORY

This Policy applies only to **Professional Services** and **Contracting Operations** performed, and **Claims** made, within the United States of America. All premiums, limits, Retentions, **Pollution Loss, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity**, and other amounts under this Policy are payable in the currency of the United States of America.

This Policy shall not apply in any situation that would be in violation of the laws of the United States of America, as applicable, including but not limited to, United States of America economic or trade sanction laws or export control laws administered by the United States Treasury Office of Foreign Assets Control.

III - DEFINITIONS

A. Adverse Media Event means:

A public announcement by a third party that a **Claim**, for which you are legally responsible, has resulted in:

- 1. **Bodily Injury** to third parties;
- 2. **Property Damage**; or
- 3. **Environmental Damage**.

B. Adverse Media Expense means:

Reasonable and necessary costs and fees incurred by you for services provided by a professional firm that provides image restoration or crisis management services, exclusive of any salaries, wages, overhead or benefits expenses incurred by you, or expenses that are covered by any other valid and collectable insurance, including any applicable Retention or deductibles.

C. Bodily Injury means:

1. physical injury, sickness, or disease, sustained by any individual, including any accompanying medical or environmental monitoring; and
2. mental anguish, emotional distress or shock, sustained by any individual.

including resultant death there from.

D. Claim means a written demand, notice, or assertion of a legal right, seeking a remedy or alleging liability or responsibility on the part of you or any **Insured**, and includes, but is not limited to, a legal action, order, lawsuit, petition, order, or government or regulatory action filed against you or any **Insured**.

E. Completed Operations means work from **Contracting Operations** that have been completed. **Completed Operations** does not include **Contracting Operations** that have been abandoned or have not yet been completed.

Contracting Operations will be deemed completed at the earliest of the following times:

1. when all **Contracting Operations** to be performed in the contract are complete;
2. when all **Contracting Operations** to be performed at the **Job Site** have been completed; or
3. when that part of the **Contracting Operations** performed at the **Job Site** has been put to its intended use by any individual or organization other than another contractor or **Subcontractor** working on the same project.

Contracting Operations that may need service, maintenance, correction, repair, or replacement, but are otherwise complete, shall be deemed completed.

Contracting Operations will include those required repairs to the specific project, if applicable, covered by this Policy, performed by or on behalf of an **Insured** during a 12-month period from the expiration date as referenced in the Policy Declarations.

F. Contracting Operations means any contracting services performed by or on behalf of the **Named Insured** at a **Job Site**.

Contracting Operations also includes **Completed Operations**.

G. Emergency Response means reasonable and necessary **Remediation Expense** incurred by you to control or mitigate the immediate effects of a **Pollution Condition** covered under this policy and that is an imminent and substantial endangerment to public health, safety or welfare, or the environment.

H. Employee means persons, including temporary and leased staff, working on behalf of and under your direct supervision and control, but only while acting within the scope of performing **Contracting Operations**, **Professional Services**, **Completed Operations**, or **Transportation**, as applicable.

I. Environmental Damage means direct physical damage or injury to soil, plant or animal life, surface water or groundwater, into or upon land or structures, indoor air, or the atmosphere, caused by a **Pollution Condition** and resulting in **Remediation Expense**. **Environmental Damage** does not include **Property Damage**.

- J. First Named Insured** means the individual or entity stated in ITEM 2. of the Declarations.
- K. Green Building Materials** means materials which are environmentally preferable to those materials being repaired, replaced, or restored by means of being environmentally sustainable or providing improved energy efficiency.
- L. Insured** means each of the following:
1. the **First Named Insured**;
 2. the **Named Insured**;
 3. any current or former director, officer, principal, partner, stockholder, member, trustee, or **Employee** of the **Named Insured**, but solely while acting within the course and scope of their employment as such;
 4. the **Named Insured's** heirs, executors, administrators, assigns, or legal representatives in the event of death, incapacity, or bankruptcy, but only with respect to the liability of the **Named Insured** otherwise insured herein;
 5. any legal entity, including a joint venture or limited liability company, in which the **Named Insured** participates as a member, but solely with regard to the **Named Insured's** legal liability arising out of its performing or failure to perform **Professional Services** or **Contracting Operations** under the respective legal entity. **Insured** does not include the legal entity itself or any other entity that is part of the legal entity;
 6. any entity added via Endorsement to this Policy expressly naming such entity as an **Insured**;
 7. any entity newly formed or acquired by the **Named Insured** during the **Policy Period** provided that the **Named Insured** has greater than fifty percent (50%) ownership, control, or beneficial interest, and such entity performs operations and services consistent with your **Contracting Operations** and **Professional Services**, provided that:
 - a. this Coverage shall be provided only for **Professional Loss** and **Professional Protective Indemnity** arising out of **Professional Services** or **Professional Subconsultant Services** or **Pollution Loss** and **Pollution Protective Indemnity** arising out of **Contracting Operations** or **Subcontracted Services**, for services performed on or after the date of formation or acquisition, subject to the applicable **Retroactive Date**;
 - b. this Coverage shall expire at the end of the **Policy Period** or within ninety (90) days of such formation or acquisition of the entity, whichever is earlier, unless you submit written notice to us providing all relevant particulars concerning such entity, including but not limited to any formation, acquisition or operational documents, or other documents we may request from you; and
 - c. we agree to accept Coverage by issuing an Endorsement to this Policy expressly naming such entity as an **Insured**.
 8. Solely with regard to INSURING AGREEMENTS, A.1. Contracting Operations Coverage, A.3. Non-Owned Disposal Site Coverage and A.5. Transportation Coverage, any individual or entity, as required by a written contract or agreement, but only for:
 - a. a **Pollution Condition** caused by **Contracting Operations, Transportation**, or on, at, under, or migrating beyond the legal boundaries from a **Non-Owned Disposal Site**; and
 - b. the liability of the individual or entity that results from the performance of the **Named Insured's Contracting Operations, Transportation**, or use of a **Non-Owned Disposal**

Site

provided that such written contract or agreement was fully executed prior to the date the **Contracting Operations** first commenced.

M. **Insured Contract** means:

1. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
2. any easement, license agreement, or sidetrack agreement; or
3. that part of any written contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **Bodily Injury, Property Damage** or **Environmental 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.

N. **Job Site** means:

1. a site or location at which **Contracting Operations** are performed; or
2. a site rented, leased, used, or occupied by you and utilized in the direct support of **Contracting Operations**.

Job Site does not include:

- a. **Your Insured Location.**
- b. a **Non-Owned Disposal Site.**
- c. any location owned, rented, leased, used, or occupied by the **Named Insured** or any subsidiary, affiliate, or joint venture of yours other than a site rented, leased, used, or occupied by you and utilized in the direct support of **Contracting Operations**.

O. **Legal Expense** means reasonable and necessary legal costs, fees, charges, and expenses incurred by you or on your behalf in the investigation, adjustment or defense of a **Claim** to which this insurance applies, or as a direct result of your discovery of a **Pollutant Condition** to which this insurance applies, and includes any necessary fees paid to subject matter experts retained by defense counsel.

Legal Expense does not include:

1. salaries, wages, overhead, or benefit expenses incurred by the **Insured**, including, but not limited to **Employees** or monitoring counsel,
2. the cost of the **Insured's** in-house counsel;
3. fees or expenses incurred in connection with any dispute, disagreement or controversy arising out of the formation, interpretation, alleged breach, termination, or invalidity of this policy, or in assisting us in the investigation, adjustment, or resolution of any **Claim** to which this insurance applies, or in connection with **Remediation Expense**
4. legal cost, fees, charges, and expenses incurred by or on behalf of the **Insured** in connection with **Rectification Expense, Emergency Response** or to any legal costs, fees, charges, or expenses incurred by you or on your behalf in the investigation, prosecution, pursuit, adjustment, making, or appeal of a **Professional Protective Indemnity Claim** or a **Pollution Protective Indemnity Claim**.

- P. Low-Level Radioactive Waste and Material** means waste or material defined in 10 CFR § 61.2, and/or material regulated by the U.S. Nuclear Regulatory Commission or a U.S. State participating in the Agreement State Program under a type A, B or C Specific License of Broad Scope as defined in 10 CFR § 33.11.
- Q. Mediation** means the intervention of a third person, or mediator, approved by us, to assist the parties in negotiating a non-binding, jointly acceptable resolution.
- R. Mold Matter** means mold, mildew or any type or form of fungus, including mycotoxins, spores, microbial volatile organic compounds, or any by-products produced by or released by fungi.
- S. Named Insured** means the **First Named Insured** and any individual or entity designated a **Named Insured** by endorsement to this policy.
- T. Natural Resource Damage** means physical injury to, or destruction of, including the resulting loss of value of, and assessment of such physical injury to or destruction of: land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, or managed by, held in trust by, appertaining to, or otherwise controlled by the United States, including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801 et. seq.), any State or Local Government, any foreign government, any Indian Tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American Tribe.
- U. Non-Owned Disposal Site** means a facility used for the recycling, treatment, storage or disposal of waste or materials but only if:
1. the site or location is not owned, leased, managed, or operated an **Insured**, or its respective parents, subsidiaries, or affiliates;
 2. the **Non-Owned Disposal Site** is used by you for the recycling, treatment, storage, or disposal of waste or material generated by **Contracting Operations** or originating from **Your Insured Location**, but only if at the time the waste or material is accepted by the **Non-Owned Disposal Site** the **Non-Owned Disposal Site** possesses valid permits and/or licenses and is operating in compliance with applicable Federal, State, or Local authorities to accept, store or process such waste or material;
 3. the **Non-Owned Disposal Site**, at the time the waste or material is accepted by the **Non-Owned Disposal Site**, is not subject to any proceeding or litigation under CERCLA, RCRA or any equivalent U.S. state or local law; and
 4. the **Non-Owned Disposal Site** is not listed on a proposed or final Federal National Priorities List or any State equivalent National Priority List, Superfund or Hazardous Waste List prior to the treatment, storage or disposal of the waste or material at the **Non-Owned Disposal Site**.
- V. Policy Period** means the period listed in ITEM 4. of the Declarations beginning on the Effective Date and ending on the earlier of the Expiration Date set forth in ITEM 4. of the Declarations, or
1. on any date of cancellation; or
 2. with respect to **Your Insured Location** or **Non-Owned Disposal Sites**, on the date of deletion from this Policy.
- W. Pollutant** means any solid, liquid, gaseous, or thermal irritant or contaminant including, but not limited to smoke, vapor, odors, soot, fumes, acids, alkalis, electromagnetic fields (EMFs), hazardous substances, hazardous materials, bacteria including Legionella pneumophila, petroleum hydrocarbons, **Mold Matter**, toxic chemicals and waste materials, including municipal, industrial, medical, infectious and pathological, silt or sediment that originated at and migrated from a **Job Site**, and **Low-Level Radioactive Waste and Material**.

X. Pollution Condition means:

1. the discharge, dispersal, release, escape, migration, or seepage of **Pollutants** into or upon land, or any structures upon land, the atmosphere, surface water, or groundwater. The continued discharge, dispersal, release, escape, migration or seepage of such **Pollutants** comprises a single **Pollution Condition**;
2. the presence of **Mold Matter** in or on buildings or structures; and
3. the intentional placement or abandonment of **Pollutants** at **Your Insured Location** or a **Job Site** by an entity or individual that is not an **Insured**.

Y. Pollution Loss means:

1. a monetary award, judgment, or settlement, previously agreed to in writing by us, of compensatory damages;
2. punitive, exemplary, or multiplied damages, civil fines, penalties, and assessments, for **Bodily Injury, Property Damage** or **Remediation Expense** together with associated **Legal Expense**, but only where allowable by law;
3. **Restoration Expense** previously agreed to in writing by us; and
4. the cost of reasonable and necessary services performed by you or on your behalf, pursuant to any resolution previously agreed to in writing by us, to mitigate a **Pollution Condition** resulting from **Contracting Operations**.

Pollution Loss does not include:

- a. injunctive or equitable relief;
- b. the return or withholding of fees or charges for services rendered by you or on your behalf;
- c. your **Employee** salaries;
- d. your profit, overhead or mark-up; or
- e. costs to correct, re-perform or complete any **Contracting Operations**.

Z. Pollution Protective Indemnity Claim means a written demand by you against a **Subcontractor** wherein you seek a remedy from or allege or assert liability or responsibility on the part of such **Subcontractor** for **Pollution Protective Indemnity** based upon or arising out of **Subcontracted Services**.

AA. Pollution Protective Indemnity means a monetary amount the Insured is legally entitled to recover from a **Subcontractor**, as determined by a final non-appealable adjudication, arbitration, or other method of dispute resolution approved by us, or by a settlement entered into with our prior written consent.

Pollution Protective Indemnity does not include:

- a. non-pecuniary, injunctive, or equitable relief, or costs or expenses to comply with or undertake such relief;
- b. the return or withholding of fees or charges for services rendered by you or on your behalf;
- c. your **Employee** salaries; or

- d. any overhead, mark-up or profit.

BB. Professional Loss means:

1. a monetary award, judgment, or settlement, previously agreed to in writing by us, of compensatory damages;
2. only where allowable by law:
 - a. civil fines and penalties assessed against a third-party other than you that you are legally liable for;
 - b. civil fines and penalties assessed against you;
 - c. punitive, exemplary or multiplied damages that you are legally liable for.
4. **Legal Expense** previously agreed to in writing, by us, associated with Subsections 1. and 2. of this Definition; and
5. the cost of reasonable and necessary services performed by you or on your behalf, pursuant to any resolution previously agreed to in writing, by us, prior to the services being performed, to correct a negligent act, error, or omission in the performance of **Professional Services**.

Professional Loss does not include:

- a. injunctive or equitable relief;
- b. the return of fees or charges for services rendered;
- c. **Employee** salaries;
- d. your profit, overhead or mark-up; or
- e. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement.

CC. Professional Services means those services listed in ITEM 12. of the Declarations that are rendered by or on behalf of the **Named Insured**.

DD. Professional Subconsultant means only those individuals or entities with whom you enter into a written contract or agreement with for the performance of **Professional Subconsultant Services** provided that such individual or entity is qualified, certified, or licensed to perform such professional services that are covered by **Professional Subconsultant's Insurance**, including any **Subcontractors** and subconsultants.

EE. Professional Subconsultant's Insurance means any valid and collectible liability insurance policies issued to a **Professional Subconsultant**.

FF. Professional Subconsultant Services means professional services that any **Professional Subconsultant** agreed to perform pursuant to a written agreement with you or a **Professional Subconsultant** retained by you or on your behalf.

GG. Property Damage means:

1. physical injury to or destruction of tangible property of parties other than the **Insured**, including the resulting loss of use and diminution in value thereof;
2. loss of use and diminution in value of tangible property of parties other than the **Insured** that has not

been physically injured or destroyed; or

3. Natural Resource Damage.

Property Damage does not include **Environmental Damage** or **Remediation Expense**.

HH. Professional Protective Indemnity Claim means a written demand by you against a **Professional Subconsultant** wherein you seek a remedy or allege or assert liability or responsibility on the part of such **Professional Subconsultant** for **Professional Protective Indemnity** based upon or arising out of **Professional Subconsultant Services**.

II. Professional Protective Indemnity means a monetary amount the **Insured** is legally entitled to recover from a **Professional Subconsultant**, as determined by a final non-appealable adjudication, arbitration, or other method of dispute resolution approved by us, or by a settlement entered into with our prior written consent.

JJ. Rectification Expense means costs and expenses to:

1. correct actual damages or prevent potential damages, or prevent harm, injury or damage to individuals or tangible property, resulting from a negligent act, error, or omission in your **Professional Services**; and
2. reduce the cost of the **Insured's** potential liability to a person or organization other than an **Insured**.

Rectification Expense does not include:

- a. any of the **Insureds** overhead, mark-up, profit or time and expense incurred by an **Insured** in addressing or resolving a **Claim**;
- b. betterment to a project to which **Rectification Expense** applies; or
- c. project delays, cost overruns, increase in funding costs or any loss of use of any project.

KK. Remediation Expense means:

- a. reasonable and necessary expenses incurred to investigate, assess, remove, dispose of, treat, abate, contain, clean-up or neutralize, including any associated monitoring and testing costs, **Pollutants**; and
- b. Monetary awards or settlements, previously agreed to in writing by us, of compensatory damages that the **insured** is legally obligated to pay for investigation, removal, abatement, disposal, treatment, clean-up or neutralization, including associated monitoring, of **Contaminants**.

LL. Responsible Individual means:

- 1) any of your officers, directors, partners, managers, supervisors, or foreman; and
- 2) any of your managers or supervisors who are responsible, in whole or in part, for risk control, risk management, or health and safety or environmental affairs, control or compliance, and any manager or supervisor of **Your Insured Location**.

MM. Restoration Expense means reasonable and necessary costs incurred by the **Insured** to repair, replace, or restore real or personal property to substantially the same general condition it was in prior to being physically damaged only if:

1. except with respect to **Your Insured Location**, the real or personal property is not owned by an **Insured**; and

2. such physical damage was directly caused by work performed while incurring **Remediation Expense**.

Restoration Cost does not include any costs associated with betterments or improvements to, or depreciation of, such real or personal property, nor shall the costs exceed the Actual Cash Value of such real or personal property immediately prior to incurring **Remediation Expense**, except to the extent that such improvements or betterments result from the use of **Green Building Materials**.

- NN. Retroactive Date** means the date listed in ITEM 5. of the Declarations for each applicable Coverage, if any, or any **Retroactive Date** listed on an Endorsement to this Policy.
- OO. Subcontractor** means any individual or entity with whom the **Insured** enters into a written contract or agreement that assumes some or all of the obligations of the **Insured's Contracting Operations**.
- PP. Subcontracted Services** means **Contracting Operations** or **Transportation** that are rendered by or on behalf of the **Subcontractor**.
- QQ. Subcontractor's Insurance** means any insurance under which the **Subcontractor** qualifies as an **Insured**.
- RR. Transportation** means the movement of goods, waste, product or material by land motor vehicle, trailer, semi-trailer, mobile equipment, aircraft, rail car or watercraft while in support of **Contracting Operations** including the loading and unloading of such goods, waste, products, or material from the point of origin until it has arrived at its final destination, provided that the **Pollution Condition** occurs at a location other than a **Job Site** or **Your Insured Location**.
- SS. Underground Storage Tank** means any tank, including any underground piping and any ancillary pumps, sumps and equipment connected to the tank, that has at least ten percent (10%) of its combined volume underground.
- TT. Your Insured Location** means any real property owned, leased, or operated for use as an office, warehouse, or for equipment storage by the **Named Insured**.

Your Insured Location does not include a **Job Site** or **Non-Owned Disposal Site**.

IV - EXCLUSIONS

A. The following exclusions are applicable to all Coverages.

This Policy does not apply to any Coverage afforded under this Policy based upon or arising out of:

1. **Bankruptcy**
bankruptcy or insolvency of an **Insured** or of any other individual or entity.
2. **Contractual Liability**
the **Insured's**:
 - a. liability of others assumed under any contract or agreement; or
 - b. breach of contract or agreement.

This exclusion does not apply to liability:

- (i) that the **Insured** would have in the absence of such contract or agreement;
- (ii) for actual or alleged negligent acts, errors, or omissions in the performance of **Professional Services**; or

- (iii) solely with regard to **Contracting Operations, Non-Owned Disposal Sites and Transportation**, assumed by the **Named Insured** in an **Insured Contract** provided that the **Insured Contract** was fully executed prior to the **Bodily Injury, Property Damage or Environmental Damage** occurring.

3. Damage to Your Property

damage to or destruction of any real property owned, rented, loaned, or leased by an **Insured**, including property in the care, custody, or control of an **Insured**.

This exclusion does not apply to:

- (i) a **Job Site**; or
- (ii) a client who qualifies as an **Insured**.

2. Employer's Liability

any **Bodily Injury** to:

- a. any **Insured** or **Employee** arising out of and in the course of :
 - (i) employment by an **Insured**; or
 - (ii) performing duties related to the conduct of the **Insured's** business.
- b. the spouse, child, parent, sibling, or domestic partner, of such **Insured** or **Employee** as a consequence of Paragraph a. directly 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 such **Bodily Injury**.

This exclusion does not apply to liability the **Insured** assumed under an **Insured Contract**.

4. Faulty Workmanship

the cost to repair or replace faulty construction or workmanship in any fabrication, construction, installation, assembly, erection, manufacture, or remediation, performed, in whole or in part, by you, including the cost of materials, parts or equipment provided in connection therewith.

This exclusion does not apply to **Professional Loss** arising out of **Professional Services**.

5. Fiduciary Liability

the **Insured's** services and/or capacity as:

- a. an officer, director, partner, principal, member stockholder, trustee, or **Employee** of an organization not identified in ITEM 2. of the Declarations or of any charitable organization, or pension, welfare, profit sharing, mutual or investment fund, or trust; or
- b. a fiduciary pursuant to the Employee Retirement Income Security Act of 1974 and its amendments, or any regulation or order issued pursuant thereto, or under any other employee benefit plan.

6. Hostile Acts

based upon or arising out of any consequence of, whether direct or indirect, war, invasion, act of a foreign enemy, hostilities whether declared or not, civil war, rebellion, revolution, insurrection, military or usurped power, or any covert military action.

7. Insurance and Suretyship

the requiring, obtaining, procuring, purchasing, maintaining, advising as to, or the failure to require, obtain, procure, purchase, maintain or advise as to any form of insurance, suretyship, or bond, with respect to any **Insured** or any other individual or entity.

8. Insured Versus Insured

a **Claim** by any **Insured** against any other **Insured** under this Policy.

This exclusion does not apply to a **Claim** by any individual or entity that meets the Definition of an **Insured** in SECTION III - DEFINITIONS, **L. Insured**, Subsection 8.

9. Intentional Non-Compliance and Dishonest Acts

a. a **Responsible Individual's** intentional, willful, or deliberate noncompliance with or disregard of any law, or any statute, regulation, ordinance, municipal code, administrative complaint, notice of violation, notice letter, administrative order, law, or instruction of any governmental agency or body; or

b. actual or alleged fraudulent, criminal, dishonest, knowingly wrongful, or malicious conduct or intentionally or inherently harmful conduct committed by or at the direction of a **Responsible Individual**.

10. Known Conditions/Known Circumstances

any of the following which was in existence prior to the first **Policy Period** continuously renewed by us, which was not identified in the information contained in the application for this policy, and was known by or reasonably should have been known by any **Responsible Individual**:

a. **Pollution Condition**, including any subsequent discharge, dispersal, release, escape, migration, or seepage of such **Pollution Condition**,

b. a **Claim**, negligent act, error or omission in **Professional Services, Professional Loss, Rectification Expense, Professional Protective Indemnity Claim, Professional Protective Indemnity, Pollution Loss, Emergency Response, Pollution Protective Indemnity Claim** or **Pollution Protective Indemnity**; or

b. a fact, circumstance or condition that could reasonably be expected to give rise to a claim or to otherwise trigger coverage under this policy.

This exclusion does not apply to **Pollutants** at a **Job Site** provided such **Pollution Condition** was in existence prior to you first performing any **Contracting Operations** or **Professional Services** at such **Job Site** and the **Pollution Condition** would not exist but for your **Contracting Operations** resulting in exacerbation of the **Pollution Condition**.

11. Nuclear and Radioactive Material

a. radioactive, toxic, or explosive properties of Source Materials, Special Nuclear Material or By-Product Material, as defined in the Atomic Energy Act, and for which the United States Department of Energy or any other governmental authority or agency has indemnified the **Insured**, or for which the Price Anderson Act provides protection for the **Insured**;

c. tailings, milling wastes, or products produced by the extraction of uranium or thorium from any ore processed for its source material; and

e. naturally occurring radioactive materials, unless such naturally occurring radioactive materials are released or dispersed as a direct result of **Contracting Operations**.

This exclusion shall not apply to **Low Level Radioactive Waste and Material**.

12. Prior Reported Claims

any **Claim**, negligent act, error or omission in **Professional Services, Rectification Expense, Professional Protective Indemnity Claim, Pollution Condition, Emergency Response, Pollution Protective Indemnity Claim**, or other circumstance reported by you in part or in whole under any prior insurance policy that:

- a. was in effect prior to the Effective Date of this **Policy Period**; and
- b. was not issued by us or one of our affiliate companies.

13. Products Liability

any goods, materials, equipment, or products designed, manufactured, sold, distributed, or supplied by you, a **Professional Subconsultant**, a **Subcontractor** or by others trading under the **Insured's** name.

This exclusion does not apply to:

- a. the fabrication, assembly or installation of goods, materials or products provided in connection with the performance of **Contracting Operations** or **Professional Services**;
- b. software that is not available for general sale and distribution, and is sold or supplied by the **Named Insured** in conjunction with the performance of **Professional Services, Professional Subconsultant Services, Contracting Operations, or Subcontracted services**; or
- c. any goods, materials, equipment, or products while within the legal boundaries of **Your Insured Location** or during **Transportation**.

14. Related Entities

a **Claim** by an entity or individual that is or was operated, managed, owned, or controlled, in whole or in part, by you or your parent company, or any affiliate successor, or assignee of such company not named in the Declarations.

15. Warranties and Guarantees

any express warranty or guarantee.

This exclusion does not apply to a warranty or guarantee by you that **Contracting Operations** or **Professional Services** conform to generally accepted standards or any liability you would have in the absence of such express warranty or guarantee.

16. Workers' Compensation and Employment Practices

- a. the Merchant Marine Act of 1920 (Jones Act) or any workers compensation, unemployment compensation, disability, employee benefits, profit sharing, ERISA law or similar or related laws; or
- b. any type of employment relationship, terms of conditions of employment, or law relating to the employment of any person, including but not limited to:
 - (i) termination of employment;
 - (ii) refusal to employ; or
 - (iii) any employment-related practices, policies, procedures, acts, or omissions.

B. The following exclusions are applicable to only those specific insuring agreements as referenced below:

Solely with respect to **Pollution Protective Indemnity** and **Professional Protective Indemnity**, this Policy

does not apply to any coverage based upon or arising out of, or as a result of:

1. Judgment by Default

any default judgment or other action or inaction in which the **Professional Subconsultant** or **Subcontractor** failed to answer, plead, appear, respond, or otherwise failed to defend itself or failed to indemnify the **Insured** in response to a **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim**.

This exclusion will not apply to an amount that the **Insured** and the Company mutually agree would be legally responsible for in the absence of a judgment by default in which the **Professional Subconsultant** or **Subcontractor** failed to answer, plead, appear, respond, or otherwise failed to defend itself or failed to indemnify you in response to a **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim**. If the **Insured** and the Company cannot mutually agree on an amount, either party may submit their dispute to an appraiser. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If the appraisers cannot agree on an umpire, either may request the umpire be selected by a judge of a court having jurisdiction. If the appraisers fail to agree, they will submit their appraisals to the umpire. A decision agreed to by any two of the appraisers and umpire shall be binding.

If we submit to an appraisal, we retain our right to deny the **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim**.

2. Project-Specific Policy

a **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim** for which insurance is available to the **Insured**, or would have been available to the **Insured** if not for the exhaustion of the limits of liability, under a project specific policy.

Solely with respect to Your Insured Location Coverage this Policy does not apply to any coverage based upon or arising out of, or as a result of:

1. Asbestos/Lead

any asbestos, asbestos products or any substance or material containing asbestos, or any lead, lead products or any substance containing lead, in any form, in or on any building or structure, on or at **Your Insured Location**.

2. Divested Property

any **Pollution Condition** that first begins after **Your Insured Location** was divested, sold, abandoned, given away, no longer used or leased by you, abandoned by you, taken by eminent domain, or condemned.

3. Material Change at Your Insured Location

any material changes in the use or operations at **Your Insured Location** from the use or operations stated by you in the Application or information submitted to us that forms the basis of Coverage.

4. Underground Storage Tank

any **Pollution Condition** resulting directly or indirectly from an **Underground Storage Tank** on, at or under **Your Insured Location** the existence of which is known by, or which reasonably should have been known by, a **Responsible Individual**.

This exclusion does not apply to any **Underground Storage Tank**:

- a. that is a process or septic tank located partially in the ground;
- b. that is located on or above the floor in a man-made underground area such as a basement, cellar, mine shaft, or tunnel; or
- c. that is deemed closed, abandoned in place or removed by the regulatory body having

jurisdiction over the **Underground Storage Tank** in accordance with all applicable regulations and where such regulatory body has determined no further action or remediation related is required.

V - LIMITS OF LIABILITY AND RETENTION

A. Per Claim, Aggregate and Policy Aggregate Limit

1. The Limits of Liability shown in the Declarations and as described below are the most we will pay regardless of the number of **Insureds**, locations, **Claims** made or suits brought, or persons or organization making **Claims** or bringing suits.
2. The Total Policy Aggregate Limit is the most we will pay for the sum of:
 - a. all **Pollution Loss, Emergency Response, and Pollution Protective Indemnity**, and any other amounts for which insurance is afforded under Coverage A;
 - b. all **Professional Loss, Rectification Expense and Professional Protective Indemnity** and any other amounts for which insurance is afforded under Coverage B; and
 - c. all **Adverse Media Expenses** under Coverage C.
3.
 - a. Subject to Paragraph 2. above, the Aggregate Limit of Liability for Insuring Agreement A. Contractors Pollution Coverages shown in ITEM 6.A. of the Declarations is the most we will pay for the sum of all **Pollution Loss, Emergency Response, Pollution Protective Indemnity**, and any other amounts for which insurance is afforded under SECTION I - INSURING AGREEMENTS, A. Contractors Pollution Coverages.
 - b. Subject Paragraph 3.a. above, the most we will pay for all **Pollution Loss** under Contracting Operations Coverage is the Contracting Operations Coverage Aggregate Limit shown in the Declarations. Subject to the Contracting Operations Coverage Aggregate Limit, the Contracting Operations Coverage Per Claim Limit is the most we will pay for all **Pollution Loss** as the result of one **Claim**.
 - c. Subject to Paragraph 3.a. above, the most we will pay for all **Emergency Response** under Emergency Response Coverage is the Emergency Response Coverage Aggregate Limit shown in the Declarations. Subject to the Emergency Response Coverage Aggregate Limit, the Emergency Response Coverage Per Claim Limit is the most we will pay for all **Emergency Responses** as the result of one **Pollution Condition**.
 - d. Subject to Paragraph 3.a. above, the most we will pay for all **Pollution Loss** under Non-Owned Disposal Site Coverage is the Non-Owned Disposal Site Coverage Aggregate Limit shown in the Declarations. Subject to the Non-Owned Disposal Site Coverage Aggregate Limit, the Non-Owned Disposal Site Coverage Per Claim Limit is the most we will pay for all **Pollution Loss** as the result of one **Claim**.
 - e. Subject to Paragraph 3.a. above, the most we will pay for all **Pollution Loss** under Your Insured Location Coverage is the Your Insured Location Coverage Aggregate Limit shown in the Declarations. Subject to the Your Insured Location Coverage Aggregate Limit, the Your Insured Location Coverage Per Claim Limit is the most we will pay for all **Pollution Loss** as the result of one **Claim**.
 - f. Subject to the Transportation Coverage Aggregate Limit, the most we will pay for all **Pollution Loss** under Transportation Coverage is the Transportation Coverage Aggregate Limit shown in the Declarations. Subject to Paragraph 6.e. above, the Transportation Coverage Per Claim Limit is the most we will pay for all **Pollution Loss** as the result of one **Claim**.
 - g. Subject to Paragraph 3.a. above, the most we will pay for all **Pollution Protective Indemnity** under Pollution Protective Indemnity Coverage is the Pollution Protective Indemnity Coverage Aggregate Limit shown in the Declarations. Subject to the Pollution Protective Indemnity Coverage Aggregate Limit, the Pollution Protective Indemnity Coverage Per Claim Limit is the most we will pay for all **Pollution Protective Indemnity** as the result of one **Pollution Condition**.
4.
 - a. Subject to Paragraph 2. above, the Aggregate Limit of Liability for Insuring Agreement B.

Professional Coverages shown in ITEM 6.B. of the Declarations is the most we will pay for the sum of all **Professional Loss, Rectification Expense, Professional Protective Indemnity,** and any other amounts for which insurance is afforded under SECTION I - INSURING AGREEMENTS, B. Professional Coverages.

- b. Subject to Paragraph 4.a. above, the most we will pay for all **Professional Loss** under Professional Liability Coverage is the Professional Liability Coverage Aggregate Limit shown in the Declarations. Subject to Professional Liability Coverage Aggregate Limit, the Professional Liability Coverage Per Claim Limit is the most we will pay for all **Pollution Loss** as the result of one **Claim**.
 - c. Subject to Paragraph 4.a. above, the most we will pay for all **Rectification Expense** under Rectification Expense Coverage is the Rectification Expense Aggregate Coverage Limit shown in the Declarations. Subject to the Rectification Expense Aggregate Coverage Limit, the Rectification Expense Aggregate Coverage Per Claim Limit is the most we will pay for all **Rectification Expense** as the result of one **Claim**.
 - d. Subject to Paragraph 4.a. above, the most we will pay for all **Professional Protective Indemnity** under Professional Protective Indemnity Coverage is the Professional Protective Indemnity Coverage Aggregate Limit shown in the Declarations. Subject to the Professional Protective Indemnity Coverage Aggregate Limit, the Professional Protective Indemnity Coverage Per Claim Limit is the most we will pay for all **Professional Protective Indemnity** as the result of a **Professional Protective Indemnity Claim**.
5. a. Subject to Paragraph 2. above, the Aggregate Limit of Liability for Insuring Agreement C. Supplemental Coverages, set forth in ITEM 6.C. of the Declarations is the most we will pay for the sum of all **Adverse Media Expenses** afforded under SECTION I - INSURING AGREEMENTS, C. Supplemental Coverages.
- b. Subject to Paragraph 5.a. above, the most we will pay for all **Adverse Media Expenses** under Adverse Media Coverage is the Adverse Media Coverage Aggregate Limit shown in the Declarations. Subject to the Adverse Media Coverage Aggregate Limit, the Adverse Media Coverage Per Claim Limit is the most we will pay for all **Adverse Media Expenses** as a result of an **Adverse Media Event**.
6. Subject to the applicable Aggregate Limits, if more than one Per Claim Limit applies to the same **Claim**, the most we will pay is the highest applicable Per Claim Limit of Insurance.

B. Retention

1. You agree to assume the applicable Retention shown in the Declarations. The Retention must first be satisfied by payments by you that have been made with our prior written consent, or by covered **Emergency Response**. The Retention must be paid by you and be uninsured and cannot be satisfied by payments made under another Insurance Policy. We will not pay for **Pollution Loss, Emergency Response, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Coverage,** or other Coverage afforded under this Policy unless the amount of **Pollution Loss, Emergency Response, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense,** or other amounts for Coverage afforded under this Policy exceeds the applicable Retention shown in ITEM 5. of the Declarations or otherwise endorsed to this Policy.
2. **Legal Expense** applies to and reduces each applicable Retention shown in ITEM 5. of the Declarations.
3. One Retention shall apply to all **Pollution Loss, Emergency Response, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense,** or other amounts for Coverage afforded under this Policy arising out of or resulting from the same, related, repeated, or continuous negligent act, error or omission, or **Pollution Condition**. If the same, related, similar, repeated, or continuous negligent act, error or

omission, or **Pollution Condition** triggers Coverage under multiple Insuring Agreements of this Policy, the largest applicable Retention will apply.

4. If we jointly agree with you to use **Mediation** as a means to resolve a **Claim** made against you and such **Claim** is resolved as a direct result of and during, or directly after, **Mediation** with the same mediator, the applicable Retention for said **Claim** shall be reduced by fifty percent (50%), subject to a maximum reduction of no more than \$25,000 and a minimum post-reduction retained Retention of \$2,500. In the event you owe any portion of the Retention, it shall be paid to us within thirty (30) days following receipt of the executed, full, and final release of the **Claim**.

C. Multiple Insureds and Multiple Related Claims

1. The number of **Insureds** covered by this Policy shall not operate to increase either any Limits of Liability set forth in ITEM 5. and ITEM 6. of the Declarations or the applicable **Legal Expense**, notwithstanding any other provisions of this Policy.
2. Two or more **Claims** arising out of or resulting from the same, related, similar, repeated, or continuous negligent act, error or omission, or **Pollution Condition**, as applicable, will be deemed to:
 - a. be a single **Claim**;
 - b. have been first made at the time the first such **claim** was made against an **Insured**; and
 - c. be subject to only one Limit of Insurance shown in ITEM 5. of the Declarations or applicable Endorsement, if applicable.

The same, related, similar, repeated, or continuous **Pollution Condition** is a **Pollution Condition** that is based upon, arises out of, is the result of or is logically or causally connected to the same, similar, or related facts, circumstances, or situations. The same, related, similar, repeated, or continuous negligent act, error or omission is a negligent act, error, or omission that is based upon, arises out of, is the result of, or is logically or causally connected to the same, similar, or related facts, circumstances, or situations.

D. Depletion of Applicable Limit of Liability

Once any applicable Limit of Liability set forth in ITEM 5. or ITEM 6. of the Declarations has been depleted, we have no obligation to pay any additional amount under that applicable Limit of Liability.

E. Insurance Under Multiple Policies

If we or an affiliated company have issued multiple Contractors Pollution and Professional Liability Coverage Policies or policies providing Coverage similar thereto to you, in no event will more than one such Policy apply to any **Pollution Loss, Emergency Response, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense**, or other Coverage afforded under this Policy that arises out of the same, related, similar, repeated or continuous **Pollution Condition**, or the same, related, similar or continuous act, error or omission in **Professional Services**. In that event, only the Policy in effect when the **Claim** arising from such **Pollution Loss, Emergency Response, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense**, or other Coverage afforded under this Policy is first made against you and reported to us, or when the **Insured** discovers such **Pollution Condition** and reports it to us, as applicable, shall apply.

VI - EXTENDED REPORTING PERIOD

The provisions of this Section VI - EXTENDED REPORTING PERIOD shall apply only to Coverage provided by this Policy on a Claims-Made and Reported Basis.

A. Automatic Extended Reporting Period

1. If the event of non-renewal or cancellation of this Policy by you, or if we cancel or refuse to renew this Policy for reasons other than non-payment of premium or fraud or material misrepresentation on your part, we will provide to you a ninety (90) day Automatic Extended Reporting Period, at no additional charge.
2. The Automatic Extended Reporting Period will apply to any **Claim** first made against you and reported to us in writing during the ninety (90) day extension period, but only with respect to:
 - a. A **Pollution Condition** discovered by you during the **Policy Period** and reported to us in writing during the **Policy Period**, provided that such **Pollution Condition** is otherwise covered by this Policy; or
 - b. A negligent act, error, or omission in **Professional Services**, provided that such **Professional Services** are otherwise covered by this Policy.
3. If you purchase replacement coverage for this Policy or a Supplemental Extended Reporting Period under Subsection **B.** below, the ninety (90) day Automatic Extended Reporting Period will end on the Effective Date of the replacement coverage or on the Effective Date of the Supplemental Extended Reporting Period, whichever is earliest.

B. Supplemental Extended Reporting Period

1. In the event of non-renewal or cancellation of this Policy by you, or if we cancel or refuse to renew this Policy for reasons other than non-payment of premium or fraud or material misrepresentation on your part, the **First Named Insured** may purchase a Supplemental Extended Reporting Period of up to three (3) consecutive years from the Expiration Date set forth in ITEM 4. of the Declarations., for not more than two hundred and fifty percent (250%) of the expiring Policy premium.
 2. The **First Named Insured** must request the purchase of the Supplemental Extended Reporting Period in writing to us within thirty (30) days following the termination of this Policy and pay the premium to us promptly when due.
 3. The Supplemental Extended Reporting Period will apply to any **claim** first made against you and reported to us in writing during the Supplemental Extended Reporting Period, but only with respect to:
 - a. A **Pollution Condition** discovered by you during the **Policy Period** and reported to us in writing during the **Policy Period**, provided that such **Pollution Condition** is otherwise covered by this Policy; or
 - b. A negligent act, error, or omission in **Professional Services**, provided that such **Professional Services** are otherwise covered by this Policy.
- C.** Solely with respect to SECTION I - INSURING AGREEMENTS, A.4. Your Insured Location Coverage, if purchased, the Supplemental Extended Reporting Period does not apply where a **Pollution Condition** is first discovered by you after the **Policy Period**.
- D.** The Supplemental Extended Reporting Period shall commence upon the day that the Automatic Extended Reporting Period terminates.
- E.** In the event other similar or replacement insurance is in force covering any **Claim(s)** first made during the Automatic Extended Reporting Period, there is no Coverage under this Policy.

- F. In the event other similar or replacement insurance is in force covering **Claim(s)** first made during the Supplemental Extended Reporting Period, Coverage provided by this Policy shall be excess over any such other insurance, including any applicable deductibles or retention amounts of such other insurance. For purposes of this provision, other insurance includes all types of self-insurance, indemnification or other funding arrangement or program that is available to compensate an **Insured** for liability.
- G. The Supplemental Extended Reporting Period shall be non-cancellable except for fraud or for any ground set forth in Subsections 2.a., 2.b., and 2.c. of SECTION VIII - GENERAL CONDITIONS, E. Cancellation. At the commencement of the Supplemental Extended Reporting Period, the entire premium shall be considered one hundred percent (100%) fully earned.
- H. The Limits of Liability applicable to the Extended Reporting Period shall be the Limits of Liability remaining under this Policy.
- I. The quotation of different terms and conditions by us and the **First Named Insured's** choice not to accept those quoted terms and conditions shall not be construed as non-renewal of this Policy.

VII - NOTICE AND CLAIM REPORTING CONDITIONS

- A. Notice as required under this Policy must be given by you, or on your behalf:

- 1. FOR EMERGENCIES REQUIRING IMMEDIATE ATTENTION:

STRAVA 24-hour Emergency Response Hotline (administered by HETI): 1 (844) 232-4907

- 2. FOR NON-EMERGENCY CLAIMS:

North American Risk Services, Inc. (NARS)

Telephone: (800) 315-6090

Facsimile: (866) 261-8507

Internet: <http://www.narisk.com/report-a-claim/>

Electronic Mail: reportaclaim@narisk.com

Regular Mail: North American Risk Services

P.O. Box 166002

Altamonte Springs, FL 32716-6002

Attn: New Loss Unit

The **Insured** must give written notice to us as soon as practicable during the **Policy Period** or Extended Reporting Period, if applicable, of any **Claim** made against the **Insured** for **Pollution Loss, Pollution Protective Indemnity, Professional Loss, Professional Protective Indemnity**, or other Coverage afforded under the Policy, including **Rectification Expense**. Oral notification must be followed with a written notice to us as soon as practicable during the **Policy Period** or Extended Reporting Period, if applicable.

- B. If during the **Policy Period**, the **Named Insured** first becomes aware of a **Pollution Condition**, or an actual or alleged negligent act, error, or omission in **Professional Services** that the **Named Insured** reasonably believes may give rise to a **Claim**, the **Named Insured** must provide written notice to us regarding all particulars of such incident. Notice must be provided to us as soon as practicable after the **Named Insured** discovers said incident, but in no event later than the expiration of the **Policy Period**. Oral notification must be followed with a written notice to us as soon as practicable, but in no event later than the expiration of the **Policy Period**.

As a condition precedent to the rights afforded to the **Named Insured** under this Subsection B., such written notice to us of a **Pollution Condition**, or an actual or alleged negligent act, error, or omission in **Professional Services** that the **Named Insured** reasonably believes may give rise to a **Claim** shall contain all of the following information:

1. the date and details of all actual and alleged negligent acts, errors or omissions in **Professional Services** that took place, along with the specific nature, date and extent of any injury or damage that has been sustained;
2. the date and details of the **Pollution Condition** and the **Contracting Operations** that may have caused such condition;
3. copies of any agreements that have been entered into by the **Named Insured** that are related to the **Professional Services** or **Contracting Operations**; and
4. details explaining how the **Named Insured** first became aware of the incident.

We shall determine, in our sole discretion, whether the **Named Insured's** written notice satisfies the condition precedent above.

VIII - DUTIES IN THE EVENT OF A CLAIM, DEFENSE AND SETTLEMENT

A. Insured's Duties

As a condition precedent to the Coverage hereunder:

1. You must notify us of each of the following, as soon as practicable:
 - a. a **Claim, Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim**;
 - b. **Bodily Injury, Property Damage** or **Environmental Damage** that may result in a **Claim, Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim**;
 - c. an act, error or omission in **Professional Services** that may result in a **Claim, Rectification Expense** or **Professional Protective Indemnity Claim**;
 - d. a **Pollution Condition**; and
 - e. **Remediation Expense**.
2. You must immediately forward to us or to any of our authorized agents every demand, notice, summons, legal papers, or orders received by you or your representative.
3. You must provide to us, whether orally or in writing, notice of the particulars including the time, place and circumstances of the **Claim**, act, error or omission in **Professional Services** or **Professional Subconsultant Services, Professional Protective Indemnity Claim, Pollution Condition, Pollution Protective Indemnity Claim, Bodily Injury, Property Damage, or Remediation Expense**, along with the names and addresses of any injured individuals and witnesses. In the event of oral notice, you must furnish to us a written notice of such particulars as soon as practicable.

Notice, whether orally or in writing, must be provided to us when a **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim** is initiated.
4. You must take reasonable measures to protect your interests, and to mitigate any **Pollution Loss, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional**

Protective Indemnity, Adverse Media Expense, or any other Coverage afforded under this Policy, and to comply with applicable laws.

5. You must fully cooperate with us and, upon our request, assist in investigations, making settlements and in the conduct of defense of **Claims**, and the maintenance and pursuit of, and recovery of monies in connection with the **Professional Protective Indemnity Claim** and **Pollution Protective Indemnity Claim**. You must further cooperate with us and do whatever is necessary to secure and affect any rights of indemnity, contribution, apportionment, or subrogation that you or we may have. The **Insured** shall, at the **Insured's** cost, attend inquires, interviews, hearings, trials, and depositions, and shall assist in securing and giving evidence and in obtaining the attendance of witnesses and **Employees**. Upon our request, you shall submit to examination under oath by our representative.

B. Defense

1. We have the right and the duty to defend any **Insured** against any **Claim** seeking **Professional Loss** or **Pollution Loss** to which this Insurance applies, subject to satisfaction of the Retention, even if any of the allegations are groundless, false, or fraudulent. We shall have the right, but not the duty to defend you against any **Claim** for **Professional Loss** or **Pollution Loss** where the Retention has not yet been satisfied. However, we have no duty to defend any **Claim** against you to which this Policy does not apply.
2. We have the right to select counsel for the investigation, adjustment and defense of **Claims** or **Pollution Conditions** to which this Policy applies. The **Insured** shall have the right to propose such counsel and we will consult with the **Insured** on the selection. If we exercise such rights set forth above, you must promptly reimburse us for any payments made by us within the Retention, if any. If more than one **Insured** is involved in a **Claim** to which this Insurance applies, we may, in our sole discretion, appoint separate counsel for one or more of such **Insureds** if there is a material (actual or potential) conflict of interest among any such **Insureds**.
3. In the event that by mutual agreement or by applicable law the **Insured** is entitled to select independent counsel to defend a **Claim** to which this Policy applies, the **Legal Expense** we must pay to such counsel is limited to the rates we would actually pay to counsel that we retain in the ordinary course of business in the defense of similar **Claims** in the venue where the **Claim** arose or is being defended. We have the right to require that such counsel have certain minimum qualifications with respect to competency, including experience in defending **Claims** similar to the one pending against the **Insured**, and to require that such counsel have acceptable limits of Errors and Omissions Insurance Coverage. The **Insured** agrees that such counsel will timely respond to our requests for information regarding any **Claim**. Notwithstanding the foregoing, the **Insured** may at any time, by its written consent, freely and fully waive any right to select independent counsel. This applies to **Legal Expense** both within and excess of any Retention.

C. Admission of Liability and Recommended Settlement

With respect to any **Claim**, you shall admit no liability, make no payments, assume no obligation, and incur no expense without our prior written consent. We shall not be liable for **Pollution Loss, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense**, or any other Coverage afforded under this Policy admitted by the **Insured** without our prior written consent.

If we recommend a settlement of a **Claim**:

1. for an amount within the Retention, and you refuse to settle for such recommended amount, we shall not be liable for any **Professional Loss, Pollution Loss**, and any other Coverage afforded by Endorsement; or
2. for a total amount in excess of the Retention, and you refuse to settle for such recommended amount,

our liability for **Professional Loss**, **Pollution Loss**, and any other Coverage afforded by Endorsement, shall be limited to that portion of such recommended amount, plus the **Legal Expense** incurred as of the date we recommended such settlement amount, which exceeds the Retention, but falls at or within the Limits of Liability.

IX - GENERAL CONDITIONS

A. Action Against Us

No person or organization has a right under this Insurance to:

1. join us as a party or otherwise bring us into a **Claim**; or
2. sue us under this Policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on a fully executed settlement agreement or on a final judgment against the **Insured** obtained after an actual trial; but we will not be liable for **Pollution Loss** or **Professional Loss** that is not payable under the terms of this Insurance or that is in excess of the applicable Limits of Insurance.

B. Assignment

This Policy cannot be assigned without our prior written consent.

C. Authorization Clause

By acceptance of this Policy, you warrant that:

1. the statements, declarations and information contained in the Application and information submitted to us as part of the Application process for this Policy are true, correct, and complete;
2. all such statements, declarations and information are material to our underwriting of this Policy;
3. this Policy has been issued by us in reliance upon the truth, correctness, and completeness of such statements, declarations, and information; and
4. the Application for this Policy, including all statements, declarations and information submitted to us as part of the Application process, is incorporated in and made part of this Policy.

D. Bankruptcy or Insolvency

Your bankruptcy or insolvency, or that of your successors in interest, shall not relieve us of any of our obligations under this Policy.

E. Cancellation

The **First Named Insured** can cancel this policy by surrendering it to us or one of our authorized agents or by providing written notice by certified mail, return receipt requested or by electronic mail providing us a future date when the cancellation shall be effective. The Effective Date and time of cancellation stated in the written notice shall become the end of the **Policy Period**. If you cancel this Policy, we shall retain the customary short-rate portion of the premium or the Minimum Earned Premium, whichever is greater. The Minimum Earned Premium for this Policy shall be the percentage stated in ITEM 9. of the Declarations of the total premium for this Policy.

We may cancel this policy by mailing written notice to the **First Named Insured** at the Mailing Address stated

in ITEM 3. of the Declarations stating, when not less than ninety (90) days thereafter (or fifteen (15) days for non-payment of premium or Retention, fraud, or material misrepresentation by you) such cancellation shall become effective. If we cancel the policy, earned premium shall be computed pro-rata. The mailing of Notice of Cancellation as aforementioned shall be sufficient notice of the intent to cancel. The Effective Date and time of cancellation stated in the written notice shall become the end of the **Policy Period**.

This Policy may only be cancelled by us for the following reasons:

1. failure to pay the premium or Retention;
2. change in your operations that materially increase risks covered under this Policy;
3. fraud or material misrepresentation by you that affects our assessment of the risks insured by this Policy;
or
4. you breached or failed to comply with Policy terms, conditions, contractual duties, or any of your obligations under this Policy or at law. You shall have ninety (90) days from the date of Notice of Cancellation to remedy such breach or failure that is a ground for cancellation. If such remedy is satisfactory to us, we shall rescind the Notice of Cancellation with a written confirmation to the **First Named Insured**.

The following shall also apply:

If a **Claim** for **Professional Loss** or **Pollution Loss** is made, a **Pollution Condition** is discovered, a **Professional Protective Indemnity Claim** or **Pollution Protective Indemnity Claim** is made by you against a **Professional Subconsultant** or **Subcontractor**, or Coverage is otherwise requested from us by you, during the **Policy Period**, the Automatic Extended reporting Period, or the Extended Reporting Period, the premium shall be considered one hundred percent (100%) earned, and the **First Named Insured** is not entitled to any return of premium upon cancellation.

F. Changes

Notwithstanding anything to the contrary, no provision of this Policy may be amended, waived, or otherwise changed except by Endorsement issued by us to form part of this Policy.

G. Choice of Law and Jurisdiction and Venue

All matters arising from or related to this Policy, including without limitation questions related to the validity, interpretation, performance, and enforcement of this Policy, and all forms of contractual, tort and statutory claims, shall be determined in accordance with the law and practice of the State of New York (notwithstanding New York's Conflicts of Law Rules).

It is agreed that, in the event of any dispute arising from or related to this Policy, including without limitation questions related to the validity, interpretation, performance, and enforcement of this Policy, and all forms of contractual, tort and statutory claims, we and the **Insured** will submit to the jurisdiction of any court (state or federal) in New York and will comply with all the requirements necessary to give such court jurisdiction. Nothing in this clause constitutes or should be understood to constitute a waiver of the right of us or the **Insured** to remove an action to the United States District Court, regardless of the jurisdiction in which, an action is commenced.

H. Consent

Where consent by us or an **Insured** is required under this Policy, such consent shall not be unreasonably withheld, delayed, conditioned, or denied.

I. Headings

The descriptions in the headings of this policy and any endorsements attached hereto are solely for convenience and form no part of the terms and conditions of coverage.

J. Access and Inspection

In connection with underwriting of this Policy or with our defense or adjustment of any **Pollution Loss, Pollution Protective Indemnity, Professional Loss, Rectification Expense, Professional Protective Indemnity, Adverse Media Expense**, or any other Coverage afforded under this Policy, we shall be permitted, but not obligated, to conduct inspections, surveys, audits or reviews on a continuing basis any of your books, records, services, properties, and activities at any time, as far as they relate to the subject matter of this Policy. Such inspections, surveys, audits, or reviews could involve the taking of samples, interviewing of **Employees**, physical access to locations or access to materials or information concerning your operations, structure, or financials.

Neither our right to conduct inspections, surveys, audits or reviews, or the actual undertaking thereof, or any report thereon, neither constitutes an undertaking 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. Any inspections shall be coordinated through the broker or agent of the **First Named Insured**.

K. Other Insurance

If other valid and collectable insurance is available to the **Insured** for Coverage granted under this Policy, our obligations are limited as follows:

1. This Policy is primary, and our obligations are not affected unless any other insurance is also primary. In that case, we will share with all such other insurance by the method described in Subsection K. 2. below, or this Policy will be primary and non-contributory when Subsection K. 3. below applies; and
2. If all of the other insurance permits contribution by equal shares, we will also follow this method. In this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the applicable loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. In contribution by limits, each insurer's share is based upon the ratio its applicable limit of insurance bears to the total applicable limits of insurance of all insurers.
3. This Policy is primary and non-contributory with other valid and collectable insurance, but only if the **First Named Insured** has a written contract or agreement requiring this Policy to be primary and non-contributory, and such contract or agreement was executed prior to the date that **Contracting Operations** or **Professional Services**, as applicable first commenced.

For purposes of this provision, other insurance includes all types of self-insurance, indemnification or other funding arrangement or program that is available to compensate an **Insured** for liability.

L. Professional Subconsultant's Insurance

You will require that each **Professional Subconsultant** carry a minimum Per Claim Limit of \$500,000 of Professional Liability Insurance.

M. Severability

Except with respect to the Limits of Liability and the Retention, and any rights or duties specifically assigned in this Policy to the **First Named Insured**, this Policy applies as if each **Named Insured** were the only **Named Insured**, and separately to each **Insured** against whom a **Claim** is made. Any misrepresentation, act, error, or omission that is in violation of a duty, term, or condition under this Policy by one **Insured** shall not by itself affect Coverage for another **Insured** under this Policy. However, this exception shall not apply to the **Insured** who is a parent, subsidiary or affiliate of the **Insured** which committed the misrepresentation, act, error, or omission referenced above.

N. Sole Agent

The **First Named Insured** shall act on behalf of all **Insureds**, if any, for the payment or return of any premium, payment of any Retention, receipt and acceptance of any Endorsement issued to form a part of this Policy, giving and receiving Notices of Cancellation or Non-Renewal, the exercise of the rights provided in the Extended Reporting Period, and the receipt and acceptance of any payment required to be made by us under the Policy.

O. Subrogation

If we pay any amount under this policy, we shall be subrogated to all of the **Insured's** rights of recovery against any person, firm, or organization. The **Insured** shall execute and deliver instruments and papers and do whatever is necessary to secure such rights. The **Insured** shall not waive or prejudice such rights subsequent to when a **Claim** is first made or when the **Insured** discovers a **Pollution Condition**.

Any recovery as a result of a subrogation proceeding under this Policy shall accrue first to you to the extent of any payments in excess of the Limits of Liability of this Policy; then to us to the extent of our payment under this Policy, and then to you to the extent of your payment of the Retention. Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery amount.

Notwithstanding the foregoing, we waive our right of recovery against any individual or entity, except for a **Professional Subconsultant** or **Subcontractor**, if and to the extent you agreed to waive your right of recovery against such individual or entity in a written agreement signed by the **Named Insured** prior to the first commencement of a **Pollution Condition** or prior to a negligent act, error or omission in **Professional Services**, as applicable to which this insurance applies.