

SERFF Tracking Number: FFDC-125705618 State: Arkansas  
First Filing Company: American Automobile Insurance Company, ... State Tracking Number: EFT \$20  
Company Tracking Number: NARGL0608-F  
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1022 Other  
Product Name: Manufacturer's Reliability Insurance  
Project Name/Number: Manufacturer's Reliability Insurance/NWGL0606

## Filing at a Glance

Companies: American Automobile Insurance Company, Associated Indemnity Corporation, Fireman's Fund Insurance Company, The American Insurance Company, National Surety Corporation

Product Name: Manufacturer's Reliability Insurance SERFF Tr Num: FFDC-125705618 State: Arkansas

TOI: 17.1 Other Liability - Claims Made Only SERFF Status: Closed State Tr Num: EFT \$20  
Sub-TOI: 17.1022 Other Co Tr Num: NARGL0608-F State Status: Fees verified and received

Filing Type: Form Co Status: Pending Reviewer(s): Betty Montesi, Edith Roberts

Authors: Lilia Francisco, Rebecca Linkous Disposition Date: 08/08/2008

Date Submitted: 07/11/2008 Disposition Status: Approved

Effective Date Requested (New): 09/01/2008 Effective Date (New):  
Effective Date Requested (Renewal): 09/01/2008 Effective Date (Renewal):

State Filing Description:

see filer response...sent \$50 but typed in \$20....

## General Information

Project Name: Manufacturer's Reliability Insurance

Project Number: NWGL0606

Reference Organization:

Reference Title:

Filing Status Changed: 08/08/2008

State Status Changed: 07/17/2008

Corresponding Filing Tracking Number:

Filing Description:

Dear Sir or Madam:

Status of Filing in Domicile: Not Filed

Domicile Status Comments:

Reference Number:

Advisory Org. Circular:

Deemer Date:

Enclosed for your review and approval are revisions to our previously approved manufacturer's errors and omissions insurance.



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## Company and Contact

### Filing Contact Information

Lilia Francisco, Regulatory Analyst lilia\_francisco@ffic.com  
 777 San Marin Drive (415) 899-4537 [Phone]  
 Novato, CA 94998 (866) 290-0671[FAX]

### Filing Company Information

American Automobile Insurance Company	CoCode: 21849	State of Domicile: Missouri
777 San Marin Drive	Group Code: 761	Company Type:
Novato, CA 94998	Group Name:	State ID Number:
(415) 899-2817 ext. [Phone]	FEIN Number: 22-1608585	
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Associated Indemnity Corporation	CoCode: 21865	State of Domicile: California
777 San Marin Drive	Group Code: 761	Company Type:
Novato, CA 94998	Group Name:	State ID Number:
(415) 899-2817 ext. [Phone]	FEIN Number: 22-1708002	
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Fireman's Fund Insurance Company	CoCode: 21873	State of Domicile: California
777 San Marin Drive	Group Code: 761	Company Type:
Novato, CA 94998	Group Name:	State ID Number:
(415) 899-3290 ext. [Phone]	FEIN Number: 94-1610280	
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The American Insurance Company	CoCode: 21857	State of Domicile: Nebraska
777 San Marin Drive	Group Code: 761	Company Type:
Novato, CA 94998	Group Name:	State ID Number:
(415) 899-2817 ext. [Phone]	FEIN Number: 22-0731810	
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National Surety Corporation	CoCode: 21881	State of Domicile: Illinois
777 San Marin Drive	Group Code: 761	Company Type:
Novato, CA 94998	Group Name:	State ID Number:
(415) 899-2817 ext. [Phone]	FEIN Number: 36-2704643	
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## Filing Fees

SERFF Tracking Number: FFDC-125705618 State: Arkansas  
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Fee Required? Yes  
 Fee Amount: \$100.00  
 Retaliatory? No  
 Fee Explanation: \$50 x 2 forms  
 Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
American Automobile Insurance Company	\$0.00	07/11/2008	
Associated Indemnity Corporation	\$20.00	07/11/2008	21366723
Fireman's Fund Insurance Company	\$0.00	07/11/2008	
The American Insurance Company	\$0.00	07/11/2008	
National Surety Corporation	\$0.00	07/11/2008	

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## Correspondence Summary

### Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	08/08/2008	08/08/2008

### Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Edith Roberts	07/17/2008	07/17/2008	Lilia Francisco	07/22/2008	07/22/2008
Pending Industry Response	Edith Roberts	07/15/2008	07/15/2008	Lilia Francisco	07/16/2008	07/16/2008
Pending Industry Response	Edith Roberts	07/15/2008	07/15/2008	Lilia Francisco	07/16/2008	07/16/2008

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## Disposition

Disposition Date: 08/08/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

### Overall Rate Information for Multiple Company Filings

Overall Percentage Rate Indicated For This Filing	0.000%
Overall Percentage Rate Impact For This Filing	0.000%
Effect of Rate Filing-Written Premium Change For This Program	\$0
Effect of Rate Filing - Number of Policyholders Affected	0

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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Actuarial Memorandum	Approved	Yes
Supporting Document	Explanatory Memo	Approved	Yes
Supporting Document	Declaration Page	Approved	Yes
Form	Supplemental Extended Reporting Period	Approved	Yes
Form (revised)	Manufacturer's Reliability Plus Insurance	Approved	Yes
Form	Manufacturer's Reliability Plus Insurance	Approved	Yes

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## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 07/17/2008

Submitted Date 07/17/2008

Respond By Date

Dear Lilia Francisco,

This will acknowledge receipt of the captioned filing.

My former objection was a "cut and paste" of the requirements for the basic and supplemental Extended Reporting Period requirements of AR Code Anno 23-79-306 (1-6).

The language that does not comply is V.A..."other than non-payment of premium"... and E. must be 60 days, rather than 90. Having 90 days can possibly be a restriction in coverage if the aggregate limit of liability has been almost exhausted at policy expiration. The insured would have to wait an additional 30 for reinstatement of limits.

With reference to the fees, I will override and correct that for you.

Thanks.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 07/22/2008

Submitted Date 07/22/2008

Dear Edith Roberts,

**Comments:**

### Response 1

Comments: Dear Ms. Roberts:

SERFF Tracking Number: FFDC-125705618 State: Arkansas  
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Thank you for your 7/17/2008 correspondence.

We comply with Arkansas requirements for providing an Extended Reporting Period in that Section V.A. of form CG 71 40AR 05 08 states the following: "We will provide an Extended Reporting Period as described below if this coverage is cancelled or non-renewed for any reason, or if we renew this coverage with insurance that has a retroactive date later than the date shown in the Declarations of this Coverage Part."

Pursuant to your comments, we have revised section V.E. of form CG 71 40AR 05 08 to sixty (60) days.

With this response, we trust we have addressed your concerns and look forward to approval of our filing.

Sincerely,

Lilia Francisco

**Changed Items:**

No Supporting Documents changed.

**Form Schedule Item Changes**

Form Name	Form Number	Edition Date	Form Type	Action	Action Specific Data	Readability Score	Attach Document
Manufacturer's Reliability Plus Insurance	CG 71 40AR	05 08	Endorsement/Amendment/Conditions	Replaced	NWGL0790 5		CG7140 SideXSide final.pdf,C G71 40AR 05 08Rev.pdf

**Previous Version**

Manufacturer's Reliability Plus Insurance	CG 71 40AR	05 08	Endorsement/Amendment/Conditions	Replaced	NWGL0790 5		CG7140 SideXSide final.pdf,C G 71 40AR 05 08.pdf
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*SERFF Tracking Number:*      *FFDC-125705618*                      *State:*                      *Arkansas*  
*First Filing Company:*      *American Automobile Insurance Company, ...*      *State Tracking Number:*      *EFT \$20*  
*Company Tracking Number:*      *NARGL0608-F*  
*TOI:*                      *17.1 Other Liability - Claims Made Only*      *Sub-TOI:*                      *17.1022 Other*  
*Product Name:*                      *Manufacturer's Reliability Insurance*  
*Project Name/Number:*              *Manufacturer's Reliability Insurance/NWGL0606*

**No Rate/Rule Schedule items changed.**

Sincerely,  
Lilia Francisco, Rebecca Linkous

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## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 07/15/2008

Submitted Date 07/15/2008

Respond By Date

Dear Lilia Francisco,

This will acknowledge receipt of the captioned filing.

Form filing fee is \$50.00. It is noted that \$20 was submitted. If this is correct, please submit the additional \$30 filing fee.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

## Response Letter

Response Letter Status Submitted to State

Response Letter Date 07/16/2008

Submitted Date 07/16/2008

Dear Edith Roberts,

### Comments:

### Response 1

Comments: Dear Edith Roberts,

Please note that I requested \$100 (wrong amount, should be \$50 only), but indicated \$20 only. I cannot update/amend the filing fees section.

Let me know how I can amend the filing fee section.

Your help is much appreciated.

Sincerely,

*SERFF Tracking Number:*      *FFDC-125705618*                      *State:*                      *Arkansas*  
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*Company Tracking Number:*      *NARGL0608-F*  
*TOI:*                      *17.1 Other Liability - Claims Made Only*                      *Sub-TOI:*                      *17.1022 Other*  
*Product Name:*                      *Manufacturer's Reliability Insurance*  
*Project Name/Number:*                      *Manufacturer's Reliability Insurance/NWGL0606*

Lilia Francisco

**Changed Items:**

No Supporting Documents changed.

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,

Lilia Francisco, Rebecca Linkous

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## Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 07/15/2008

Submitted Date 07/15/2008

Respond By Date

Dear Lilia Francisco,

This will acknowledge receipt of the captioned filing.

Please provide copies of the forms other than the side by side comparison. I need a copy of how the form will appear. Also, before resubmitting, please amend the basic 60 day mandatory free of charge Extended Reporting Period as well as the optional ERP endorsement that can be purchased upon expiration of the basic mandatory 60 ERP.

The basic and supplemental Extended Reporting Periods must comply as follows:

The basic ERP must be in compliance with Ark. Code Ann. §23-79-306 (b) (c). The policy must indicate that the insurer must provide at no additional charge an automatic sixty (60) day Extended Reporting Period upon cancellation or termination (for any reason including non-payment of premium or deductibles owed) of the policy by the insured or insurer. And, at the expiration of the automatic sixty (60) day extended reporting period, a supplemental (optional) extended reporting period endorsement must be offered by the insurer.

You may not refuse either the basic 60 day ERP or fail to put into force the supplemental optional ERP if requested by the insured and premium paid. In cases of termination for non-payment of premium, the ERPs may only be refused for flat cancellation as of the date of inception.

The Supplemental Extended Reporting Endorsement must comply with Ark. Code. Ann. §23-79-306 (f) which states that the limit of liability must be no less than the greater of the amount of coverage remaining in the expiring policy aggregate or fifty percent (50%) of the aggregate limit at policy inception.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

## Response Letter

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Response Letter Status Submitted to State  
Response Letter Date 07/16/2008  
Submitted Date 07/16/2008

Dear Edith Roberts,

**Comments:**

**Response 1**

Comments: Dear Edith Roberts,

Thank you for your letter dated 07/15/08.

We believe we submitted form CG 7140AR 5-08AR. Page 14, section V.E of form CG 7140AR 5-08AR addresses all your Extended Reporting Periods concerns.

We look forward to the Department's approval of this filing.

Sincerely,

Lilia Francisco

**Changed Items:**

No Supporting Documents changed.

No Form Schedule items changed.

No Rate/Rule Schedule items changed.

Sincerely,

Lilia Francisco, Rebecca Linkous

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## Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Supplemental Extended Reporting Period	CG 71 47	05 08	Endorsement/Amendment/Conditions New		0.00	CG 71 47 05 08Final.pdf
Approved	Manufacturer's Reliability Plus Insurance	CG 71 40AR	05 08	Endorsement/Amendment/Conditions Replaced	Replaced Form #:0.00 CG 71 40 06 95 Previous Filing #: NWGL0795		CG7140 SideXSidefinal.pdf CG71 40AR 05 08Rev.pdf

**Supplemental Extended Reporting Period – CG 71 47 05 08**  
Policy Amendment

**This endorsement modifies insurance provided under the following:**

**Manufacturer's Reliability Insurance CG 70 96**  
**Manufacturer's Reliability Plus Insurance CG 71 40**

A Supplemental Extended Reporting Period of \_\_\_\_ year(s) is provided as described in Section V. **Extended Reporting Periods.**

Premium: \$\_\_\_\_\_

All other terms and conditions of the Policy remain unchanged.

**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
Fireman's Fund Insurance Companies®**

CG 71 40 06 95	CG 71 40 05 08	Comments
<p><b>Manufacturers' Broad Form Errors and Omissions Liability Insurance CG 71 40 06 95</b> Claims-Made Coverage Part</p> <p>Words and phrases that appear in <b>bold</b> print have special meaning and are defined in the Definitions section of this coverage part.</p> <p>Throughout this Coverage Part, the words, <b>you</b> and <b>your</b> refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this Coverage Part. The words, <b>we</b>, <b>us</b> and <b>our</b> refer to the Company providing this insurance.</p> <p>In addition to the Named Insured, other persons or organizations qualify as <b>insureds</b>. Those persons or organizations and the conditions under which they qualify are identified in Section 1 - Who Is Insured of this Coverage Part.</p> <p>Various provisions of this Coverage Part restrict coverage. Read the entire Coverage Part carefully to determine your rights, duties and what is and is not covered.</p>	<p><b>Manufacturer's Reliability Plus Insurance – CG 71 40 05 08</b> (Manufacturers' Errors and Omissions Liability Insurance)</p> <p><b>NOTICE – THIS IS A “CLAIMS MADE AND REPORTED” COVERAGE PART. CLAIM EXPENSES ARE NOT INCLUDED IN THE LIMITS OF INSURANCE. THIS MEANS THAT COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED DURING THE COVERAGE PERIOD OR, IF APPLICABLE, DURING THE EXTENDED REPORTING PERIOD AND THAT CLAIM EXPENSES ARE IN ADDITION TO THE LIMITS OF INSURANCE.</b></p> <p>Read this entire Coverage Part carefully to determine rights, duties and what is and is not covered. Various provisions in this Coverage Part restrict coverage.</p> <p>Throughout this Coverage Part the words <b>you</b> and <b>your</b> refer to the Named Insured shown in the Policy Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words <b>we</b>, <b>us</b> and <b>our</b> refer to the Company providing this insurance. The word “insured” means any person or organization qualifying as such under Section II – Who is an Insured. Some words in bold face have special meaning – Refer to Definitions.</p> <p>In consideration of the payment of the premium, <b>you</b> promise to pay the Deductible shown in the Declarations, and in reliance on all statements made and information <b>you</b> furnished to <b>us</b>, including the statements made in the Application and subject to the Limit of Insurance stated in the Declarations, and all of the terms and conditions of this Coverage Part, <b>we</b> and <b>you</b> agree as follows:</p>	<p>The 05 08 version has been completely reformatted to match our CG 70 96 05 08 style and language and other ISO and Fireman's Fund proprietary language and formatting.</p> <p>Notice of claims-made trigger has been added to the introduction.</p>

**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
Fireman's Fund Insurance Companies®**

<p><b>Section 2 – Coverage</b></p> <p><i>Damages for Loss of Use</i>      Subject to Section 3 - Limits of Insurance, we will pay those sums the <b>insured</b> becomes legally obligated to pay as <b>damages</b> for <b>Loss of Use</b> caused by a defect, deficiency, inadequacy or dangerous condition in <b>your manufactured product</b> or <b>your work</b>.</p> <p>This insurance applies to <b>Loss of Use</b> only if:</p> <p>A. The defect, deficiency, inadequacy or dangerous condition in <b>your manufactured product</b> or <b>your work</b> that causes the <b>Loss of Use</b> arises out of a negligent act, error or omission your design, manufacturing, labeling, packaging, instructions or distribution of <b>your manufactured product</b> or <b>your work</b>.</p> <p>B. The <b>Loss of Use</b> happens in the <b>Coverage Territory</b>;</p> <p>C. The <b>Loss of Use</b> begins on or after the retroactive date, shown in the Declarations, and before the end of the policy period; and</p> <p>D. A claim for <b>damages</b> because of <b>Loss of Use</b> is first made against the <b>insured</b>, in accordance with Section 6 - Claims-Made of this Coverage Part.</p> <p><i>Damage to Customer's Property</i>      Subject to Section 3 - Limits of Insurance, we will pay those sums the <b>insured</b> becomes legally obligated to pay as <b>damages</b> for <b>Property Damage</b> to which this insurance applies.</p> <p>This insurance applies to <b>Property Damage</b> only if:</p>	<p><b>I. COVERAGES</b></p> <p><b>A. Insuring Agreement</b></p> <p>We will pay those sums <b>you</b> become legally obligated to pay as <b>damages</b> caused by a defect, deficiency, inadequacy or dangerous condition in <b>your product</b> or <b>your work</b> due to a <b>wrongful act</b> resulting in:</p> <ol style="list-style-type: none"> <li>1. <b>Loss of use</b> of <b>impaired property</b> or property that has not been physically injured: <ol style="list-style-type: none"> <li>a. Which occurs after <b>you</b> or others at <b>your</b> direction, complete any testing and inspection; and</li> <li>b. After <b>you</b> release <b>your product</b> into the stream of commerce; or</li> </ol> </li> <li>2. <b>Property damage</b> to the personal property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by an insured.</li> </ol> <p>This coverage applies to <b>wrongful act(s)</b> taking place in the coverage territory, provided that such <b>wrongful act(s)</b> took place:</p> <ol style="list-style-type: none"> <li>1. During the <b>coverage period</b>, but then only if the <b>claim</b> is first made against <b>you</b> and reported to <b>us</b> during the <b>coverage period</b> or during the Extended Reporting Period, if applicable, in accordance with Section V, Condition C; or</li> <li>2. Prior to the effective date of this Coverage Part, but after the <b>retroactive date</b>, if any, stated in the Declarations, provided that: <ol style="list-style-type: none"> <li>a. As of the effective date of this Coverage Part, <b>you</b> do not have actual or constructive knowledge of any circumstances or <b>wrongful acts</b> which could reasonably be expected to result in a <b>claim</b>;</li> <li>b. There is no other valid and collectible insurance available to <b>you</b> for any such prior <b>wrongful act</b>; and</li> <li>c. The <b>claim</b> is first made against <b>you</b> and reported during the <b>coverage period</b>, Extended Reporting Period, or Supplemental Extended Reporting Period, if applicable.</li> </ol> </li> </ol>	<p>The Insuring Agreement is restructured to provide one simplified Insuring Agreement for both Loss of Use (previously Damages for Loss of Use) and Property Damage (previously Damage to Customer's Property).</p> <p>The term Wrongful Act is introduced and defined in Section VI. DEFINITIONS.</p> <p>For Loss of Use, the term 'impaired property' and clauses 1.a and 1.b have been added to clarify coverage intent. Impaired Property is defined in Section VI. DEFINITIONS.</p>
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**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
Fireman's Fund Insurance Companies®**

<p>A. The <b>Property Damage</b> arises out of a negligent act, error or omission committed by you in the performance of <b>your work</b> while you are performing that work on the personal property of others that is on your premises for the purpose of having <b>your work</b> performed on it;</p> <p>B. The work that gives rise to <b>Property Damage</b> is performed at premises located in the <b>Coverage Territory</b>;</p> <p>C. The <b>Property Damage</b> occurs on or after the retroactive date, shown in the Declarations, and before the end of the policy period; and</p> <p>D. A claim for <b>damages</b> because of <b>Property Damage</b> is first made against the <b>insured</b>, in accordance with the claims-made reporting section of this Coverage Part.</p>		
<p><b>Section 5 - Investigation, Defense and Payment of Damages</b></p> <p>We will have the right and duty to defend any <b>insured</b> against a <b>suit</b> for <b>damages</b> or <b>loss of use</b>. However, we will have no duty to defend any <b>insured</b> against a <b>suit</b> seeking <b>damages</b> to which this insurance does not apply. We may at our discretion investigate and settle any claim or <b>suit</b> that may result.</p> <p>The amount we will pay for <b>damages</b> is limited as described in Section 3 – Limits of Insurance. 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 <b>loss of use</b> and <b>damages</b>.</p> <p>We have no further obligation or liability to pay sums or perform acts or services.</p>	<p><b>B. Defense, Investigation and Settlement of a Claim</b></p> <ol style="list-style-type: none"> <li>1. <b>We</b> have the right and duty to defend <b>you</b>, including the right to select counsel, against any <b>claim</b> brought against <b>you</b> for which coverage under this Coverage Part applies. However, <b>we</b> will have no duty to defend <b>you</b> against any <b>claim</b> for which there is no coverage under this Coverage Part. <b>We</b> have the right to conduct any investigation or negotiation and make any settlement of any <b>claim</b>.</li> <li>2. <b>We</b> will have the right, but not the duty, to appeal any judgment; and</li> <li>3. For any <b>claim</b> to which this Coverage Part applies: <ol style="list-style-type: none"> <li>a. <b>We</b> shall pay all <b>claims expenses</b> that <b>we</b> incur in any such <b>claim</b>;</li> <li>b. <b>Our</b> right and duty to defend <b>you</b> ends when the Limit of Insurance set forth in the Declarations is exhausted by payment of judgments and settlements;</li> <li>c. <b>You</b> may not incur any <b>claims expenses</b>, admit liability for, make payment for, or settle any <b>claim</b> without <b>our</b> prior written consent, which shall not be unreasonably withheld. <b>We</b> shall not be liable for any expense, settlement, assumed obligation or admission to which <b>we</b> have not consented; and</li> </ol> </li> </ol>	<p>Defense, Investigation and Settlement conditions have been renamed in the 05 08 version from the prior Section 5 Investigation, Defense and Payment of Damages. We have added wording that clarifies that Fireman's Fund has the right to select counsel. Other clarifying language has been added for the appeal of judgments. Also, clauses 3.c. and 3.d. have been added to track with our other Proprietary language in other</p>

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	<p>d. <b>You</b> agree to cooperate with <b>us</b> in the defense, investigation, and settlement of any <b>claim</b> and <b>you</b> agree, as a condition of coverage under this Coverage Part, to submit to <b>us</b> upon request, such information and documentation as <b>we</b> may require in the investigation and defense of any <b>claim</b>.</p>	<p>professional liability forms.</p>
<p><b>Section 7 - Coverage Territory</b></p> <p>This insurance applies to the United States of America, its territories and possessions, Puerto Rico and Canada; or all parts of the world if:</p> <p>The <b>loss of use</b> arises out of <b>your manufactured products</b> made or sold, or <b>your work</b> completed, within the territory described above; and the <b>insured's</b> responsibility to pay <b>damages</b> is determined in a <b>suit</b> on the merits in the territory described above, or in a settlement we agree to</p>	<p><b>C. Coverage Territory</b></p> <p>This coverage applies to a <b>wrongful act</b> taking place or a <b>claim</b> made anywhere in the world.</p> <p>In jurisdictions outside the United States of America, its territories and possessions, Puerto Rico and Canada, if <b>we</b> are prevented from investigating, defending, settling or paying a <b>claim</b>, <b>you</b> agree to make or cause to be made such investigation, defense, settlement or payment as may be reasonably necessary. However, settlement or payment requires <b>our</b> prior written authorization, which shall not be unreasonably withheld.</p> <p>If the preceding paragraph applies, <b>we</b> will reimburse <b>you</b> for the reasonable cost of any investigation and defense and for the amounts of such authorized settlements or payment.</p> <p>The amount <b>we</b> will reimburse is limited as described in Section III. LIMITS OF INSURANCE AND DEDUCTIBLES and <b>our</b> duty to reimburse <b>you</b> for the reasonable cost of any investigation and defense ends when the applicable Limit of Insurance is exhausted.</p> <p>If <b>we</b> make a reimbursement to <b>you</b> of costs and settlements, it will be paid in the currency of the United States. Payments of covered costs and settlements which are made by <b>you</b> in the currencies of other nations will be converted to the currency of the United States at the exchange rate prevailing at the date the reimbursement is processed</p> <p><b>D. Supplemental Payments</b></p> <p>In addition to the Limits of Insurance, <b>we</b> will pay:</p> <ol style="list-style-type: none"> <li>1. Any premium for appeal bonds for the covered part of the judgment, provided however, that <b>we</b> have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;</li> <li>2. Post judgment interest;</li> <li>3. Prejudgment interest awarded against <b>you</b> on that part of the judgment <b>we</b> pay. If <b>we</b> make an offer to pay the applicable Limit of Insurance, <b>we</b> will not pay any prejudgment interest based on that period of time after the offer;</li> <li>4. All costs awarded against <b>you</b> in a <b>suit</b>, but this does not include attorneys'</li> </ol>	<p>Coverage Territory has been expanded to both Wrongful Acts and Claims Made anywhere in the world regardless of where the suit is filed. Prior coverage required the suit to be brought in the United States.</p> <p>Section D. Supplemental Payments has been added to define payments that will be made in addition to the limits of insurance.</p>

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	<p>fees awarded to the person or entity bringing the <b>claim</b> or <b>suit</b>; and</p> <p>5. All <b>claims expenses</b> that <b>we</b> incur in any such <b>claim</b> to which this coverage applies.</p> <p>However, <b>we</b> have no obligation to make any Supplemental Payments once the Limits of Insurance shown in the Declarations are exhausted by payment of <b>damages</b>.</p>	
<p><b>Section 8 – Exclusions</b></p> <p><i>This insurance does not apply to <b>Damages for Loss of Use or Damage to Customer's Property</b>:</i></p> <p>A. that results from any dishonest, fraudulent, criminal, intentional or malicious act or omission of any <b>insured</b> or anyone for whose acts an <b>insured</b> is legally responsible.</p> <p>B. the <b>insured</b> is obligated to pay <b>damages</b> by reason of the assumption of liability in a contract or agreement.</p> <p>C. due to gradual deterioration or wear and tear.</p> <p>D. that would not have occurred in whole or part but for the actual, alleged, or threatened existence, presence, discharge, dispersal, seepage, migration, release or escape of <b>pollutants</b>; or any loss, cost or expense that arises out of any:</p> <p>1. Request, demand or order that any <b>insured</b> or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, <b>pollutants</b>; or</p> <p>2. Claim or <b>suit for Property Damage</b> because of testing, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to, or assessing the effects of, <b>pollutants</b>.</p>	<p><b>E. Exclusions</b></p> <p>This insurance does not apply to any <b>claim</b>:</p> <p>1. For <b>damages from loss of use</b>:</p> <p>a. Arising from, or in any way involving <b>your work</b> that has not been completed. <b>Your work</b> will be deemed to be completed at the earliest of the following times:</p> <p>(1) When all the work called for in <b>your</b> contract has been completed.</p> <p>(2) When all of the work to be done at the job site has been completed if <b>your</b> contract calls for work at more than one job site.</p> <p>(3) When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.</p> <p>Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.</p> <p>2. Involving <b>property damage</b>, other than damage to the property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by <b>you</b>.</p> <p>3. Based upon or arising out of any dishonest, fraudulent, criminal, malicious, intentional or willful <b>wrongful act</b> by <b>you</b> or anyone at <b>your</b> direction who knows or expects that such an act will reduce the quality or performance of <b>your products</b> or <b>your work</b> below the level expected or required by the buyers or users of <b>your products</b> or <b>your work</b>.</p> <p>This includes, but is not limited to <b>damages</b> that result from <b>your</b> decision to cease providing consultation, advice, repair services, maintenance services, replacement parts, or other similar support for <b>your products</b> or <b>your work</b>.</p> <p>4. Based upon, arising out of or in any way involving any <b>personal and</b></p>	<p>The Exclusions section of the 05 08 version has been restructured to form one unified set of exclusions rather than four separate listings of exclusions as in the 06 95 form.</p> <p>Exclusion 3 in the 05 08 version combines prior Exclusions A. of Damages for Loss of Use or Damage to Customer's Property and C. Damages for Loss of Use.</p> <p>Prior Exclusion C. of Damages for</p>

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<p>E. Claims or <b>suits</b> brought by any <b>insured</b> against any other <b>insured</b>.</p> <p><i>This insurance does not apply to <b>Damages for Loss of Use</b> caused by:</i></p> <p><b>A. Property Damage</b></p> <p>B. sudden, abrupt and accidental physical injury to <b>your manufactured product</b> or <b>your work</b> after it has been put to its intended use.</p> <p>C. an intentional act or omission committed by any <b>insured</b> that the <b>insured</b> knows will reduce the quality or performance of <b>your manufactured product</b> or <b>your work</b> below the level expected or required by the buyers or users of the product. This includes, but is not limited to <b>loss of use</b> that results from the decision of any <b>insured</b> to cease providing consultation, advice, repair services, maintenance services, replacement parts or other similar support for <b>your manufactured product</b> or <b>your work</b>.</p> <p><i>This insurance does not apply to <b>Damages for Loss of Use</b> that results from or arises out of:</i></p> <p>A. your failure to meet the terms of any cost guarantee or cost estimate.</p> <p>B. an actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws.</p> <p>C. an actual or alleged:</p> <ol style="list-style-type: none"> <li>1. Infringement of any copyright, patent, trademark, trade name; or</li> <li>2. Wrongful appropriation or disclosure of trade secrets; or</li> </ol>	<p><b>advertising injury, or bodily injury.</b></p> <ol style="list-style-type: none"> <li>5. Based upon, arising out of or in any way involving any cost guarantees, in excess of probable cost estimates or cost overruns.</li> <li>6. Based upon, arising out of, or in any way involving, costs to comply with <b>your</b> contracts or agreements.</li> <li>7. Based upon, arising out of or in any way involving costs or expenses incurred by any insured to comply with any warranty for <b>your products</b> or <b>your work</b>.</li> <li>8. Based upon, arising out of, or in any way involving any damage to property owned, rented, leased, or loaned to <b>you</b>.</li> <li>9. Based upon, arising out of or in any way involving any failure to begin <b>your work</b> as required by contract or agreement, or any delay or failure in the delivery of <b>your products</b>.</li> <li>10. Based upon, arising out of, or in any way involving any liability assumed under a contract or agreement. This exclusion does not apply to any liability <b>you</b> would have in absence of such contract or agreement.</li> <li>11. Based upon, arising out of or in any way involving the installation of <b>your product</b> by others, unless on <b>your</b> behalf. However, this exclusion does not apply to loss because of inadequate instructions provided by <b>you</b>.</li> <li>12. Based upon, arising out of or in any way involving the failure to perform professional services by <b>you</b> while acting as any of the following: <ol style="list-style-type: none"> <li>a. Architect, Surveyor, or civil or structural engineer; or</li> <li>b. <b>Technology product or service</b> provider or advisor. However, this exclusion does not apply if <b>you</b> are in a business other than that of a <b>technology product or service</b> provider or software developer.</li> </ol> </li> <li>13. Based upon any actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws including but not limited to demands or proceedings brought by: <ol style="list-style-type: none"> <li>a. The Federal Trade Commission;</li> <li>b. The Food and Drug Administration;</li> <li>c. The Occupational Safety and Health Administration; or</li> <li>d. The Federal Communications Commission, or any other federal, state, local or foreign government agency in its capacity as a regulator.</li> </ol> </li> <li>14. Based upon, arising out of, or in any way involving any <b>claim</b> made or brought by any insured against any other insured.</li> </ol>	<p>Loss of Use has been reworded as Exclusion 4 and the definition of Personal and Advertising Injury has been added to Section VI. DEFINITIONS.</p> <p>Exclusion 8 was previously within the definition of "Your manufactured product" in the 06 95 version.</p> <p>Exclusions 7, 11, 12, 14, 15, 16, 19, 20, 21 and 22 have been added for coverage clarification and consistency with other ISO and proprietary Liability forms.</p>
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<p>3. Violation of any other intellectual property right.</p> <p>D. a delay in the performance of any contract or agreement.</p> <p>E. <b>your work</b> that has not been completed. <b>Your work</b> shall be deemed to be completed at the earliest of the following times:</p> <ol style="list-style-type: none"> <li>1. When all the work called for in your contract has been completed;</li> <li>2. When all of the work to be done at the site has been completed if your contract calls for work at more than one site;</li> <li>3. When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.</li> </ol> <p>Work that may need service, maintenance, correction, repair or replacement, but is otherwise complete will be treated as completed.</p> <p><i>This insurance does not apply to <b>Damage</b> to Customer's Property:</i></p> <p>A. expected or intended form the standpoint of any <b>insured</b>.</p>	<ol style="list-style-type: none"> <li>15. Based upon, arising out of or in any way involving any credit or voluntary payment made or given by <b>you</b> for any reason.</li> <li>16. Based upon, arising out of or in any way involving any products for which <b>bodily injury</b> or <b>property damage</b> are excluded by endorsement under Coverage A – Bodily Injury and Property Damage Liability in the Commercial General Liability coverage part of this policy.</li> <li>17. Based upon, arising out of, or in any way involving gradual deterioration, wear and tear, age, obsolescence, or any structural or technological incompatibility.</li> <li>18. Based upon, arising out of, or in any way involving any actual, alleged, or threatened presence, discharge, dispersal, seepage, migration, release or escape of <b>pollutants</b>; or any loss, cost or expense that arises out of any:             <ol style="list-style-type: none"> <li>a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to, or assess the effects of, <b>pollutants</b>; or</li> <li>b. <b>Claim</b> 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, <b>pollutants</b>.</li> </ol> </li> <li>19. Based upon, arising out of or in any way including any nuclear reaction, radiation, radioactive contamination or radioactive substance, in any form, no matter how emitted.</li> <li>20. Based upon, arising out of, or in any way, either directly or indirectly, involving:             <ol style="list-style-type: none"> <li>a. War, including undeclared or civil war;</li> <li>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</li> <li>c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.</li> </ol> </li> <li>21. Based upon, arising out of, or in any way, either directly or indirectly, involving damages, loss, cost or expense from the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of <b>asbestos</b>.</li> </ol> <p>This coverage does not apply to any damages, loss, cost or expense arising</p>	
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	<p>out of, but not limited to, any:</p> <ul style="list-style-type: none"> <li>a. manufacture, sale, distribution, handling, use, installation, removal, abatement, containment, storage, transportation, disposal, existence, presence, emanation, emission, release, inhalation, ingestion, absorption, or transmission of or exposure to <b>asbestos</b>;</li> <li>b. supervision, instructions, recommendations, notices, warnings or advice given or which should have been given in connection with <b>asbestos</b>;</li> <li>c. request, demand, order or regulatory or statutory 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 <b>asbestos</b>; or</li> <li>d. <b>claim</b> or proceeding by or on behalf of a governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of <b>asbestos</b>.</li> </ul> <p><b>We</b> shall have no obligation of any kind, including, but not limited to, any obligation to investigate, defend, pay defense costs, settle, or pay settlements or judgments as to any <b>claim, suit</b> or proceeding involving or allegedly involving <b>asbestos</b>.</p> <p>As used in this exclusion, <b>asbestos</b> includes, but is not limited to the mineral <b>asbestos</b> in any form, whether or not the <b>asbestos</b> is:</p> <ul style="list-style-type: none"> <li>a. A fiber, particle, or dust;</li> <li>b. Contained in, or on, or incorporated into, products, goods, or materials; or</li> <li>c. Contained in any part of any building, structure, building material, product or any other real or personal property.</li> </ul> <p>22. Arising, in whole or in part, directly or indirectly out of, or which is in any way related to <b>silica</b>.</p> <p>As used in this exclusion, the term <b>silica</b> includes, but is not limited to, silicon dioxide, silica, silica products, silica fibers, silica dust, any other silica byproducts, and silica whether alone or in combination with any substance, product or material. Without limiting the foregoing, this exclusion applies to every loss, damage, cost or expense otherwise covered by this Coverage Part, if any.</p>	
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<p><b>Section 1 - Who Is Insured</b></p> <p><i>Sole Proprietorship</i> If you are designated in the Declarations as an individual, you and your spouse are <b>insureds</b>, but only for the conduct of a business of which you are the sole owner.</p> <p><i>Partnership or Joint Venture</i> If you are designated in the Declarations as a partnership or joint venture, you are an <b>insured</b>. Your members, your partners and their spouses are also <b>insureds</b>, but only with respect to the conduct of your business.</p> <p><i>Limited Liability Company</i> If you are designated in the Declarations as a limited liability company, you are an <b>insured</b>. Your members and managers are also <b>insureds</b>, but only with respect to the conduct of your business.</p> <p><i>Other Organizations</i> If you are designated in the Declarations as an organization other than a partnership or joint venture, you are an <b>insured</b>. Your executive officers and directors are also <b>insureds</b>, but only with respect to their duties as your officers or directors. Your stockholders are also <b>insureds</b>, but only with respect to their liability as your stockholders.</p> <p><i>Employees</i> Your employees, other than your executive officers, are also <b>insureds</b>, but only for acts or omissions within the scope of their employment by you.</p> <p><i>Newly Acquired or Formed Organizations</i> Any organization you newly acquire or form, other than a partnership or joint venture, 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.</p> <p>However, coverage under this provision is afforded only until the 90th day after you</p>	<p><b>II. WHO IS AN INSURED</b></p> <p>A. If <b>you</b> are designated in the Declarations as:</p> <ol style="list-style-type: none"> <li>1. An individual, <b>you</b> and <b>your</b> spouse are insureds, but only with respect to the conduct of a business of which <b>you</b> are the sole owner.</li> <li>2. A partnership or joint venture, <b>you</b> are an insured. <b>Your</b> members, <b>your</b> partners, and their spouses are also insureds, but only with respect to the conduct of <b>your</b> business.</li> <li>3. A limited liability company, <b>you</b> are an insured. <b>Your</b> members are also insureds, but only with respect to the conduct of <b>your</b> business. <b>Your</b> managers are insureds, but only with respect to their duties as <b>your</b> managers.</li> <li>4. An organization other than a partnership, joint venture or limited liability company, <b>you</b> are an insured. <b>Your</b> executive officers and directors are insureds, but only with respect to their duties as <b>your</b> officers and directors. <b>Your</b> stockholders are also insureds, but only with respect to their liability as stockholders.</li> <li>5. A trust, <b>you</b> are insured. <b>Your</b> trustees are also insureds, but only with respect to their duties as trustees.</li> </ol> <p>B. Each of the following is also an insured:</p> <ol style="list-style-type: none"> <li>1. <b>Your</b> employees, <b>leased workers</b> and <b>temporary workers</b> while performing duties related to the conduct of <b>your</b> business, other than either <b>your executive officers</b> (if <b>you</b> are an organization other than a partnership, joint venture or limited liability company) or <b>your</b> managers (if <b>you</b> are a limited liability company), but only for acts within the scope of their employment by <b>you</b> while performing duties related to the conduct of <b>your</b> business;</li> <li>2. An employee leasing firm who provides <b>leased workers</b> or <b>temporary workers</b> only while those workers are performing duties related to the conduct of <b>your</b> business; and</li> <li>3. Any legal representative of a deceased or mentally incompetent insured, but only for the deceased or mentally incompetent insured's right and duties under this agreement.</li> </ol> <p>C. Any organization <b>you</b> newly acquire or form, other than a partnership, joint venture or limited liability company, and over which <b>you</b> maintain ownership or majority interest, will qualify as a Named Insured if there is no similar insurance available to that organization. However:</p>	<p>The Who Is An Insured Section has been reformatted to reflect ISO wording and include coverage for leased/temporary workers and employee leasing firms who employ those leased or temporary workers.</p> <p>Wording has been added to the Newly Acquired Organization clause to remind insureds that they must add those new</p>
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<p><i>No Other Insureds</i></p> <p>acquire or form the organization or the end of the policy period, whichever is earlier; and</p> <p>Coverage does not apply to <b>Loss of Use or Property Damage</b> arising out of a negligent act, error or omission that first took place before you acquired or formed the organization.</p> <p>No person or organization is an <b>insured</b> with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.</p>	<ol style="list-style-type: none"> <li>1. Coverage under this provision is afforded only until the 90<sup>th</sup> day after <b>you</b> acquire or form the organization or the end of the <b>coverage period</b>, whichever is earlier. During this 90 day period <b>you</b> must add the new organization as a Named Insured to the policy to continue coverage; and</li> <li>2. Coverage does not apply to <b>wrongful acts</b> that occurred before <b>you</b> acquired or formed the organization.</li> </ol> <p>D. 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 or by endorsement.</p>	<p>organizations to the policy to continue coverage past 90 days.</p>
<p><b>Section 3 - Limits of Insurance</b></p> <p>The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:</p> <ul style="list-style-type: none"> <li>• <b>insureds</b>;</li> <li>• claims made or <b>suits</b> brought; or</li> <li>• persons or organizations making claims or bringing <b>suits</b>.</li> </ul> <p>The limits of this Coverage Part apply separately to each consecutive annual policy period and to any coverage period that is less than 12 months. However, if we agree to extend an annual coverage period for an additional period of less than 12 months, the additional period will be deemed to be part of the preceding annual policy period for the purpose of determining the limits that apply.</p> <p><i>Each Claim Limit</i></p> <p>The Each Claim Limit in the Declarations is the most we will pay for all <b>damages</b> that arise out of a single claim or <b>suit</b> for <b>Loss of Use or Property Damage</b> caused by <b>your manufactured products</b> or <b>your work</b>, in excess of the deductible stated in the Declarations.</p>	<p><b>III. LIMITS OF INSURANCE AND DEDUCTIBLES</b></p> <p>Regardless of the number of insureds, persons or organizations making <b>claims</b>, or <b>wrongful acts</b> committed, <b>our</b> liability is limited as follows:</p> <p><b>A. Limits of Insurance</b></p> <ol style="list-style-type: none"> <li>1. The Limit of Insurance shown in the Declarations for this Coverage Part as the EACH CLAIM Limit is the most <b>we</b> will pay for <b>damages</b> resulting from any one <b>claim</b> under this Coverage Part. Without regard to the number of <b>claims</b> or insureds against whom a <b>claim</b> has been made, all <b>damages</b> arising out of the same <b>wrongful act</b> or <b>interrelated wrongful acts</b> will be subject to the EACH CLAIM Limit of Insurance in effect when the first <b>claim</b> arising out of the <b>wrongful act</b> or <b>interrelated wrongful acts</b> was made.</li> <li>2. The AGGREGATE Limit is the most <b>we</b> will pay for <b>damages</b> under this Coverage Part during the <b>coverage period</b>.</li> </ol> <p><b>B. Deductibles</b></p> <ol style="list-style-type: none"> <li>1. <b>We</b> shall only be liable to pay <b>damages</b> in excess of the EACH CLAIM deductible shown in the Declarations, which deductible shall apply to each and every <b>claim</b>. The deductible does not increase the Limit of Insurance.</li> <li>2. If <b>we</b> pay all or part of any deductible amount, <b>we</b> will notify the Named Insured of <b>our</b> payment of the deductible, and request reimbursement. The Named Insured will pay <b>us</b> for the part of the deductible <b>we</b> paid within thirty (30) days of <b>our</b> request.</li> <li>3. The deductible may only be satisfied by an actual cash payment by <b>you</b> and may not be satisfied by the release of a <b>claim</b> or counterclaim. <b>You</b> agree that the deductible shall be uninsured.</li> </ol>	<p>Items in the Limits and Deductibles section of the 05 08 version have been reordered and reworded to be in a consistent format with other Liability forms. The description of the application of the EACH CLAIM limit has been expanded to include application of the limit to “interrelated wrongful acts”.</p> <p>Section 3 – Limits of Insurance, the clause beginning “The limits of this Coverage Part apply...” has been incorporated into Section V. EXTENDED REPORTING PERIODS.</p> <p>The Deductibles section has been</p>

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<p><i>Aggregate Limit</i></p> <p>Subject to the Each Claim Limit, the Aggregate limit in the Declarations is the most we will pay for all <b>damages</b> that arise out of all claims or <b>suits</b> for <b>Loss of Use</b> or <b>Property Damage</b> caused by <b>your manufactured products</b> or <b>your work</b>.</p> <p><b>Section 4 – Deductible</b></p> <p>Our obligation to pay <b>damages</b> arising out of a single claim or <b>suit</b> is excess of the Deductible amount in the Declarations, subject to:</p> <p>A. The terms of this Coverage Part, including those with respect to our right and duty to defend any claim or <b>suit</b> and your duties in the event of a claim or <b>suit</b>, apply irrespective of the application of the deductible amount.</p> <p>B. We may pay any part or all of the deductible amount as to effect settlement of any claim or <b>suit</b> and, on notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.</p>	<p><b>C. Reduction of Limits</b></p> <p>1. The EACH CLAIM and AGGREGATE limits of insurance shall be reduced by the sum of:</p> <p>a. The amounts <b>we</b> pay as <b>damages</b>; and</p> <p>b. The amounts <b>you</b> are required to pay as deductibles.</p> <p>When the EACH CLAIM limit of insurance is exhausted by payment of <b>damages</b> and deductibles, <b>we</b> shall have no further obligation to defend that <b>claim</b> or pay any <b>damages</b> or <b>claims expenses</b> including defense costs.</p> <p>When the AGGREGATE limit of insurance is exhausted by payment of <b>damages</b> and deductibles, <b>we</b> shall have no further obligation to defend any <b>claim</b> or pay any <b>damages</b> or <b>claims expenses</b>.</p> <p>When <b>our</b> right and duty to defend <b>claims</b> ends, <b>we</b> may withdraw and tender the defense to <b>you</b> as provided in Section III. D. Transfer of Duties When a Limit of Insurance Is Exhausted.</p>	<p>reorganized and reworded to match other current Professional Liability forms.</p> <p>The Reduction of Limits section has been added for clarity.</p>
	<p><b>D. Transfer of Duties When a Limit of Insurance Is Exhausted</b></p> <p>1. If <b>we</b> conclude, based upon the <b>claims</b> which have been reported to <b>us</b> and to which this insurance may apply, that the AGGREGATE limit or EACH CLAIM limit is likely to be exhausted by the payment of judgments or settlements, <b>we</b> will notify the first Named Insured in writing to that effect.</p> <p>2. When a limit of insurance described in paragraph 1, above, has actually been exhausted in the payment of judgments or settlements:</p> <p>a. <b>We</b> will notify the first Named Insured, in writing, as soon as practicable, that:</p> <p>(1) Such a limit has actually been exhausted; and</p> <p>(2) <b>Our</b> duty to defend <b>claims</b> seeking <b>damages</b> subject to that limit has also ended.</p> <p>b. <b>We</b> will initiate, and cooperate in, the transfer of control, to any</p>	<p>Section D. “Transfer of Duties When a Limit of Insurance Is Exhausted” in the 05 08 version of the form is new and has been added for clarity.</p>

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	<p>appropriate insured, of all <b>claims</b> seeking <b>damages</b> subject to that limit, which are reported to <b>us</b> before that limit is exhausted. That insured must cooperate in the transfer of control of such <b>claims</b>.</p> <p><b>We</b> agree to take such steps, as <b>we</b> deem appropriate, to avoid a default in, or continue the defense of such <b>claims</b> until the transfer is completed, provided the appropriate insured is cooperating.</p> <p><b>We</b> will take no action whatsoever with respect to any <b>claim</b> seeking <b>damages</b> that would have been subject to that limit, had it not been exhausted, if the <b>claim</b> is reported to <b>us</b> after the limit of insurance has been exhausted.</p> <p>c. The first Named Insured, and any other insured involved in a <b>claim</b> seeking <b>damages</b> subject to that limit, must arrange for the defense of such <b>claim</b> within a time period agreed to by the appropriate insured and <b>us</b>. Absent any such agreement, arrangements for the defense of a <b>claim</b> must be made as soon as practicable.</p> <p>3. The first Named Insured will reimburse <b>us</b> for expenses <b>we</b> incur in taking those steps <b>we</b> deem appropriate in accordance with paragraph 2.b. above. The duty of the first Named Insured to reimburse <b>us</b> will begin on:</p> <p>a. The date on which the applicable limit of insurance is exhausted, if <b>we</b> sent notice in accordance with paragraph 1. above; or</p> <p>b. The date on which <b>we</b> sent notice in accordance with paragraph 2.a. above, if <b>we</b> did not send notice in accordance with paragraph 1. above.</p> <p>4. The exhaustion of any limit of insurance by the payment of judgments or settlements, and the resulting end of <b>our</b> duty to defend, will not be affected by <b>our</b> failure to comply with any of the provisions of this Condition.</p>	
	<p><b>IV. CONDITIONS</b></p> <p><b>A. Authorization Clause/Notices</b></p> <p>By acceptance of this Coverage Part by payment of the premium, <b>you</b> agree that the first Named Insured shall act on <b>your</b> behalf with respect to giving and receiving of notices of any cancellation or non-renewal, the payment of premiums, the receiving of any return premiums that may accrue under this Coverage Part, or any other notices regarding this insurance.</p>	<p>This is a new condition added to the 05 08 version to conform with ISO and other proprietary liability forms.</p>
<p><b>Section 9 - Conditions</b> <i>Bankruptcy</i></p> <p>Bankruptcy or insolvency of the <b>insured</b> or of the <b>insured's</b> estate will not relieve us of our obligations under this Coverage Part.</p>	<p><b>B. Bankruptcy</b></p> <p>Bankruptcy or insolvency of <b>you</b> or of <b>your</b> estate will not relieve <b>us</b> of <b>our</b> obligations under this Coverage Part.</p>	<p>Unchanged</p>

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	<p><b>C. Changes</b> The terms of this Coverage Part shall not be waived or changed, except by endorsement issued by <b>us</b> to form a part of this Coverage Part. Notice to any agent or broker or knowledge possessed by any agent or broker or by any other person shall not effect a waiver or change in any part of this Coverage Part or stop <b>us</b> from asserting any right under the terms of this Coverage Part.</p> <p><b>D. Conformance with Statutes</b> Terms of this Coverage Part that are in conflict with the statutes of the state or province in which this Coverage Part is issued are hereby amended to conform to such statutes.</p>	<p>Conditions B. and C. are new conditions added to the 05 08 version to conform with ISO and other proprietary liability forms.</p>
<p><b>Section 6 - Claims-Made</b></p> <p>A claim by a person or organization seeking <b>damages</b> will be deemed to have been made when notice of such claim is received and recorded by any <b>insured</b> or by us, whichever comes first.</p> <p>All claims or <b>suits</b> caused by any one manufacturing error, or series of related manufacturing errors, will be deemed to have been made at the time the first of these claims is made against any <b>insured</b> and shall constitute a single claims under Section 3 - Limits of Insurance section.</p> <p><b>Section 9 - Conditions</b> <i>Duties in the Event of A Negligent Act, Error, Omission, Claim or Suit</i></p> <p>A. You must notify us, in writing, as soon as practicable when you learn of a negligent act, error or omission that may result in a claim or <b>suit</b> for <b>Loss of Use or Property Damage</b> . To the extent possible, notice should include:</p> <ol style="list-style-type: none"> <li>1. A description of the act, error or omission that is alleged to have caused the claim;</li> <li>2. How, when and where the <b>Loss of</b></li> </ol>	<p><b>E. Duties Related to Potential or Actual Claims</b></p> <ol style="list-style-type: none"> <li>1. <b>Duties related to Potential Claims</b>  If during the <b>coverage period</b> or within ninety (90) days after the end of the <b>coverage period</b>, <b>you</b> first become aware of a <b>wrongful act</b> which might reasonably be expected to give rise to a <b>claim</b> covered by this insurance, and <b>you</b> give written notice to <b>us</b> of such <b>wrongful act</b> as required below, then any <b>claim</b> subsequently made against <b>you</b> by reason of such <b>wrongful act</b> shall be deemed to have been first made during the <b>coverage period</b>.  Written report of a potential claim must include:             <ol style="list-style-type: none"> <li>a. The specific facts and circumstances which constitute the <b>wrongful act</b> including the date(s) thereof, and the names of all parties and insureds involved;</li> <li>b. The date and circumstances by which <b>you</b> became aware of such <b>wrongful acts</b>; and</li> <li>c. The damages that may reasonably result.</li> </ol> </li> <li>2. <b>Duties Related to Actual Claims</b> <ol style="list-style-type: none"> <li>a. <b>You</b> shall provide notice to <b>us</b> as soon as practicable after a <b>claim</b> is first made against <b>you</b>. This notice shall be deemed to be sent to <b>us</b> only if it is received by <b>us</b> via facsimile or electronic mail or sent by <b>you</b> by prepaid registered or return-receipt-requested mail properly</li> </ol> </li> </ol>	<p>Condition E. "Duties Related to Potential or Actual Claims" (previously Sections 6 – "Claims-Made") has been completely rewritten in the 05 08 version for consistency with our other Professional Liability forms and to incorporate the new terms "coverage period", "wrongful act" and "claim" vs. "suits". This section now also incorporates prior Section 9 – "Conditions – Duties in the Event of A Negligent Act, Error, Omission, Claim or Suit."</p> <p>Duties have been divided between Potential Claims, Actual Claims and those that apply to both types of claims.</p>

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<p><b>Use or Property Damage</b> is alleged to have occurred;</p> <p>3. The names and addresses of parties claiming <b>Loss of Use or Property Damage</b> ; and</p> <p>4. The nature and extent of the <b>loss of use or property damage</b>.</p> <p>B. You must take all reasonable steps to correct any negligent acts, errors or omissions and to prevent shipment of any of <b>your manufactured products or your work</b> that may contain any defect, deficiency, inadequacy or dangerous condition or any property of others that has been damaged by <b>your work</b> performed on it.</p> <p>C. If a claim is made or <b>suit</b> is brought for <b>loss of use</b> or for <b>Property Damage</b> that may be covered by this insurance, you, or any other involved <b>insured</b>, must:</p> <ol style="list-style-type: none"> <li>1. Immediately record the specifics of the claim and the date received; and</li> <li>2. Notify us as soon as practicable. You must see that we receive written notice of the claim as soon as practicable.</li> </ol> <p>D. You and any other involved <b>insured</b> must:</p> <ol style="list-style-type: none"> <li>1. Immediately send us copies of any demands, notices, summons or legal papers in connection with the claim or <b>suit</b>;</li> <li>2. Authorize us to obtain records and other information;</li> <li>3. Cooperate with us in the investigation, defense and settlement of any claim or <b>suit</b>; and</li> </ol>	<p>addressed to <b>us</b> at the address shown in or attached to this Policy;</p> <ol style="list-style-type: none"> <li>b. <b>You</b> must immediately send <b>us</b> copies of any demands, notices, summonses, or legal papers in connection with the <b>claim</b> or <b>suit</b>;</li> <li>c. <b>You</b> must authorize <b>us</b> to obtain records and other information;</li> <li>d. <b>You</b> must cooperate with <b>us</b> in the investigation, defense and settlement of any <b>claim</b>; and</li> <li>e. <b>You</b> must assist <b>us</b>, upon <b>our</b> request, in the enforcement of any rights against any person or organization which may be liable to <b>you</b> because of <b>loss of use</b> or <b>property damage</b> to which this insurance may also apply.</li> </ol> <p>3. Duties Related to Potential and Actual <b>Claims</b></p> <p><b>You</b> must take all reasonable steps to correct any <b>wrongful acts</b> and to prevent shipment of any of <b>your products or your work</b> which may contain any defect, deficiency, inadequacy, or dangerous condition or any property of others which has been damaged by <b>your work</b> performed upon it.</p>	
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<p>4. Assist us, on our request, in the enforcement of any rights against any person or organization that may be liable to the <b>insured</b> because of <b>loss of use</b> or <b>Property Damage</b> to which this insurance may also apply.</p> <p>E. No <b>insureds</b> will, except at their own cost, voluntarily make a payment, assume any obligation or incur expense without our consent. We will not reimburse any <b>insured</b> for any amounts they may pay as <b>damages</b> or defense costs without our permission.</p> <p>F. If any claim or <b>suit</b> we are defending is submitted for decision to a finder of fact (including, but not limited to, a judge, jury, arbitrator, or arbitration panel) either you or we may request that the finder of facts make special written findings on each issue of fact submitted to it.</p> <p>If we ask you to, you must instruct your attorney to request that the finder of the facts make special written findings on each issue of fact submitted to it.</p> <p>If you fail to do so, we have no further obligation to defend that <b>suit</b> or to pay <b>damages</b> for any claims that gave rise to that <b>suit</b>.</p>		
<p><i>Legal Action Against Us</i></p> <p>No person or organization has a right under this Coverage Part:</p> <ul style="list-style-type: none"> <li>• To join us as a party or otherwise bring us into a <b>suit</b> asking for <b>damages</b></li> <li>• from any <b>insured</b>; or</li> <li>• To sue us on this Coverage Part unless all of its terms have been fully complied with,</li> </ul> <p>but we will not be liable for <b>damages</b> that</p>	<p><b>F. Legal Action Against Us</b></p> <p>No person or organization has a right under this Coverage Part:</p> <ol style="list-style-type: none"> <li>1. To join <b>us</b> as a party or otherwise bring <b>us</b> into a <b>suit</b> asking for <b>damages</b> from an insured; or</li> <li>2. To sue <b>us</b> under this Coverage Part unless all or its terms have been fully complied with.</li> </ol>	<p>No changes.</p>

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<p>are not payable under the terms of this Coverage Part or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by us, the <b>insured</b> and either the claimant or the claimant’s legal representative.</p>	<p>A person or organization may sue <b>us</b> to recover on an agreed settlement or on a final judgment against <b>you</b>; but <b>we</b> will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by <b>us, you,</b> and the claimant or the claimant’s legal representative.</p>	
	<p><b>G. Liberalization</b></p> <p>If <b>we</b> adopt a change in <b>our</b> forms or rules during the term of this Coverage Part that would broaden the coverage provided by any form that is part of this Coverage Part without an extra premium, the broader coverage will apply to this Coverage Part. This extension is effective upon approval of such broader coverage in the Insured’s state.</p>	<p>A new condition which expands coverage to automatically broaden coverage if subsequent changes in this form broaden coverage.</p>
<p><i>Other Insurance</i></p> <p>If other valid and collectible insurance is available to any <b>insured</b> for a loss we cover, our obligations are limited as follows:</p> <p>A. This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, except for insurance that:</p> <ol style="list-style-type: none"> <li>1. Is purchased by the <b>insured</b> to apply specifically in excess of this insurance; and</li> <li>2. Specifically states that it applies in excess of the limits of insurance shown in the Declarations of this coverage part.</li> </ol> <p>B. Because this insurance is excess, the following conditions apply:</p> <ol style="list-style-type: none"> <li>1. We will have no duty to defend any claim or <b>suit</b> that any other insurer has a duty to defend. If no other insurer defends and we have an obligation to do so, then: <ol style="list-style-type: none"> <li>a. We will undertake the defense; and</li> </ol> </li> </ol>	<p><b>H. Other Insurance</b></p> <p>If other valid and collectible insurance or any bond is available to any insured for a loss <b>we</b> cover under this Coverage Part, <b>our</b> obligations are limited as follows:</p> <ol style="list-style-type: none"> <li>1. This insurance is excess over any of the other insurance and any bond, whether primary, excess, contingent or on any other basis, except for insurance which: <ol style="list-style-type: none"> <li>a. Is purchased by <b>you</b> to apply specifically in excess of this insurance; and</li> <li>b. Specifically states that it applies in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.</li> </ol> </li> <li>2. Because this insurance is excess, the following conditions apply: <ol style="list-style-type: none"> <li>a. <b>We</b> will have no duty to defend any <b>claim</b> or <b>suit</b> that any other insurer has a duty to defend. If no other insurer defends and <b>we</b> have an obligation to do so, then: <ol style="list-style-type: none"> <li>(1) <b>We</b> will undertake the defense; and</li> <li>(2) <b>We</b> will be entitled to enforce <b>your</b> rights against all other insurers.</li> </ol> </li> <li>b. <b>We</b> will pay only <b>our</b> share of the amount of loss, if any, that exceeds the sum of: <ol style="list-style-type: none"> <li>(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and</li> <li>(2) The total of all deductible and self-insured amounts under all that</li> </ol> </li> </ol> </li> </ol>	<p>The “Other Insurance” clause is substantially the same in the new 05 08 version of the form except for the following changes:</p> <ul style="list-style-type: none"> <li>✓ The words “or any bond” have been added to the first paragraph and the words “and any bond” have been added to paragraph 1.</li> <li>✓ Paragraph 3 Method of Sharing has been reworded from prior paragraph B. 2. to clarify methods of sharing.</li> </ul>

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<p>b. We will be entitled to enforce the <b>insured's</b> rights against all other insurers.</p> <p>2. We will pay only our share of the amount of loss, if any, that exceeds:</p> <p>a. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and</p> <p>b. The total of all deductible and self-insured amounts under all that other insurance.</p>	<p>other insurance.</p> <p>3. Method of Sharing</p> <p>If all of the other insurance and bonds permit contribution by equal shares, <b>we</b> will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.</p> <p>If any of the other insurance does not permit contribution by equal shares, <b>we</b> will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.</p>	
<p><i>Premium Audit</i></p> <p>We will compute all premiums for this Coverage Part in accordance with our rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the First Named Insured. If the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the First Named Insured. 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.</p> <p><i>Representations</i></p> <p>By accepting this coverage part, you agree:</p> <ul style="list-style-type: none"> <li>• The statements in the Declarations are accurate and complete;</li> <li>• The statements are based on representations you made to us; and</li> <li>• We have issued this coverage part in reliance on your representations.</li> </ul>	<p><b>I. Premium Audit</b></p> <p><b>We</b> will compute all premiums for this Coverage Part in accordance with <b>our</b> rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period <b>we</b> will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the coverage term is greater than the earned premium, <b>we</b> will return the excess to the first Named Insured. The first Named Insured must keep records of the information <b>we</b> need for premium computation, and send <b>us</b> copies at such times as <b>we</b> may request.</p> <p><b>J. Representations</b></p> <p>By accepting this insurance, <b>you</b> agree:</p> <ol style="list-style-type: none"> <li>1. The statements in the Declarations are <b>accurate</b> and complete;</li> <li>2. Those statements are based upon representations <b>you</b> made to <b>us</b>; and</li> <li>3. <b>We</b> have issued this Coverage Part in reliance upon <b>your</b> representations.</li> </ol>	<p>No changes</p>
<p><i>When We Do Not Renew</i></p> <p>If we decide not to renew this Coverage Part, we will mail or deliver to the First Named Insured shown in the Declarations written notice of non-renewal not less than 30 days before the expiration date. If</p>	<p><b>K. Cancellation and Nonrenewal</b></p> <ol style="list-style-type: none"> <li>1. Cancellation             <ol style="list-style-type: none"> <li>a. The first Named Insured may cancel this Coverage Part by mailing or delivering to <b>us</b> advance written notice of cancellation. The <b>coverage</b></li> </ol> </li> </ol>	<p>Condition K Cancellation and Nonrenewal in the 05 08 version has been completely</p>

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<p>notice is mailed, proof of mailing will be sufficient proof of notice.</p>	<p><b>period</b> will end on the effective date requested.</p> <p>b. <b>We</b> may cancel this Coverage Part only in the event of non-payment of premium. If <b>we</b> cancel for non-payment of premium, <b>we</b> will mail by first class or certified mail, to the first Named Insured and the agent or broker of record, at their last address known to <b>us</b>, written notice stating the reason for cancellation at least ten (10) days before the effective date of the cancellation.</p> <p>c. Notice of cancellation will state the effective date of cancellation. The <b>coverage period</b> will end on the date of cancellation.</p> <p>d. If this Coverage Part is cancelled, <b>we</b> will send the first Named Insured any premium refund due. If <b>we</b> cancel, the refund will be the pro-rata unearned premium. If the first Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if <b>we</b> have not made or offered a refund.</p> <p>e. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.</p> <p>2. Non-renewal by <b>us</b></p> <p>a. <b>We</b> are not required to renew this Coverage Part when it expires.</p> <p>b. If <b>we</b> elect not to renew this Coverage Part, <b>we</b> will mail by first class or certified mail, to the Named Insured and the agent or broker of record, at their last address known to <b>us</b>, written notice stating the reason for non-renewal, at least sixty (60) days, but not more than one hundred and twenty (120) days before the effective date of non-renewal.</p> <p>c. Notice of non-renewal will state the effective date of non-renewal. The <b>coverage period</b> will end on the date of non-renewal.</p> <p>d. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.</p>	<p>rewritten from the prior Condition "When We Do Not Renew" in the 06 95 version. The new version addresses conditions for both cancellation as well as nonrenewal. State specific versions address state specific requirements.</p>
<p><i>Separation of Insureds</i></p> <p>Except with respect to the limits of insurance and any rights or duties specifically assigned to the first Named Insured, this insurance applies:</p> <ul style="list-style-type: none"> <li>• As if each Named Insured were the only Named Insured; and</li> <li>• Separately to each <b>insured</b> against whom claim is made or <b>suit</b> is brought.</li> </ul>	<p><b>L. Separation of Insureds</b></p> <p>Except with respect to the Limits of Insurance and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:</p> <ol style="list-style-type: none"> <li>1. As if each Named Insured were the only Named Insured; and</li> <li>2. Separately to each insured against whom a <b>claim</b> is made or <b>suit</b> is brought.</li> </ol>	<p>No changes.</p>

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<p><i>Transfer of Rights of Recovery</i> If the <b>insured</b> has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The <b>insured</b> must do nothing after loss to impair them. At our request, the <b>insured</b> will bring <b>suit</b> or transfer those rights to us and help us enforce them.</p>	<p><b>M. Transfer of Rights of Recovery Against Others To Us</b></p> <p><b>We</b> will waive the right of recovery <b>we</b> would otherwise have had against another person or organization, for payments <b>we</b> have made under this Coverage Part, provided <b>you</b> have waived <b>your</b> rights of recovery against such person or organization in a contract or agreement that has been executed before such loss.</p> <p>If <b>you</b> have rights to recover all or part of any payment <b>we</b> have made under this Coverage Part, those rights are transferred to <b>us</b>. You must do nothing after a loss to impair them. At <b>our</b> request, you will bring <b>suit</b> or transfer those rights to <b>us</b> and help <b>us</b> enforce them.</p>	<p>Condition M "Transfer of Rights of Recovery Against Others To Us" has been expanded in the 05 08 form to honor Waiver of Subrogation agreements that are part of contracts between our insured and their subcontractors or customers.</p>
<p><i>Your Right to Information</i> We will provide the first Named Insured shown in the Declarations the following information relating to this and any preceding Manufacturing Errors and Omissions Liability claims-made Coverage Part we have issued to you during the previous three years:</p> <ul style="list-style-type: none"> <li>• An existing list or other record in our possession of each negligent act, error or omission, not previously reported to any other insurer, of which we were notified in accordance with your duties in this Section. We will include the date and a brief description of the negligent act, error or omission, if that information was in the notice we received.</li> <li>• A summary, by policy year, of payments made and claims reserves, stated separately, under any applicable aggregate limit.</li> </ul> <p>You must not disclose this information to a claimant, or any claimant's representative, without our consent.</p> <p>If we cancel, or elect not to renew this</p>		<p>The section "Your Right to Information" in the 06 95 version has been deleted in the new 05 08 Nation wide version. Where state law requires this language, a state specific version of this Coverage Part has been created which includes this condition with the appropriate state wording.</p>

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<p>Coverage Part, we will provide this information no later than 30 days before the date of policy termination. In other circumstances, we will provide this information only if we receive a written request from the first Named Insured within 60 days after the end of the policy period. In this case, we will provide this information within a reasonable time.</p>		
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<p><i>Extended Reporting Periods</i> We will provide the following Extended Reporting Period options if we cancel or non renew this Coverage Part. The options will also be provided if we renew or replace this Coverage Part with insurance that has a Retroactive Date later than the date shown in the Declarations of this Coverage Part or if the replacement insurance does not apply to <b>Loss of Use</b> or <b>Property Damage</b> on a claims-made basis.</p> <p>A. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for <b>Loss of Use</b> or <b>Property Damage</b> that happen before the end of the policy period but not before the Retroactive Date shown in the Declarations. Once in effect, Extended Reporting Periods may not be canceled.</p> <p>B. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:</p> <p>Five years for claims arising out of an incident reported to us no later than 60 days after the end of the policy period, in accordance with the Conditions - <b>Loss of Use</b> section; or sixty days for all other claims.</p> <p>The Basic Extended Reporting Period does not apply to claims covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.</p> <p>C. A Supplemental Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.</p>	<p><b>V. EXTENDED REPORTING PERIODS</b></p> <p>A. <b>We</b> will provide an Extended Reporting Period as described below if this coverage is cancelled or non-renewed for any reason other than non-payment of premium, or if <b>we</b> renew this coverage with insurance that has a <b>retroactive date</b> later than the date shown in the Declarations of this Coverage Part.</p> <p>B. Extended Reporting Periods do not extend the <b>coverage period</b> or change the scope of coverage provided. Once in effect, Extended Reporting Periods may not be cancelled.</p> <p>C. Extended Reporting Periods do not apply to <b>claims</b> that are covered under any subsequent insurance <b>you</b> purchase or that would be covered but for exhaustion of the amount of insurance applicable to such <b>claims</b>.</p> <p>D. All <b>claims</b> under Extended Reporting Periods must be reported to <b>us</b> in accordance with Conditions IV. E.</p> <p>E. Basic Extended Reporting Period</p> <ol style="list-style-type: none"> <li>1. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts at the date of coverage termination or the end of the <b>coverage period</b>, whichever is earlier, and lasts for ninety (90) days.</li> <li>2. <b>Claims</b> made against <b>you</b> within ninety (90) days after coverage termination or the end of the <b>coverage period</b>, whichever is earlier, and which arise out of a <b>wrongful act</b> that was committed during the <b>coverage period</b> but not before the <b>retroactive date</b>, if any, stated in the Declarations, will be deemed to have been made on the last day of the <b>coverage period</b>.</li> <li>3. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</li> </ol> <p>F. A Supplemental Extended Reporting Period of 5 years is available by endorsement. This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends.</p> <p><b>You</b> must give <b>us</b> a written request for the Supplemental Extended Reporting Period within ninety (90) days after the end of the <b>coverage period</b> or coverage termination date, whichever is earlier. The Supplemental Extended Reporting Period will not go into effect unless <b>you</b> pay the additional premium promptly when due.</p> <p><b>We</b> will determine the additional premium in accordance with <b>our</b> rules and rates. The additional premium will not exceed 200 percent of the annual</p>	<p>Section V EXTENDED REPORTING PERIODS has been completely rewritten in the 05 08 version to align with language used in our current Professional Liability Claims-Made forms. Changes are as follows:</p> <ul style="list-style-type: none"> <li>✓ Provision A in the 05 08 form allows the insured to purchase a reporting period regardless of who initiates the cancellation.</li> <li>✓ The Basic Extended Reporting Period is amended in the 05 08 form to 90 days vs. 60 days in the 06 95 version. The clause beginning "Five years for claims..." under paragraph B. has been removed for clarity.</li> <li>✓ State specific versions address state specific requirements re: ERPs.</li> </ul>
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<p>This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends.</p> <p>You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.</p> <p>We will determine the additional premium in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this Coverage Part.</p> <p>This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.</p> <p>D. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</p> <p>E. If the Supplemental Extended Reporting Period is in effect, we will provide the separate aggregate limits of insurance described below, but only for claims first received and recorded during the Supplemental Extended Reporting Period.</p> <p>The separate aggregate limits of insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period. Section 3 - Limits of Insurance will be amended accordingly.</p>	<p>premium for this coverage.</p> <p>This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for <b>claims</b> first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.</p> <p>G. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</p> <p>H. If the Supplemental Extended Reporting Period is in effect, <b>we</b> will provide the separate Aggregate Limits of Insurance described below, but only for <b>claims</b> first received and recorded during the Supplemental Extended Reporting Period.</p> <p>The separate Aggregate Limits of Insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the <b>coverage period</b>.</p> <p>Paragraph A of Section III. Limits of Insurance and Deductibles will be amended accordingly.</p>	
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	<p><b>VI. DEFINITIONS</b></p> <p><b>A. Bodily injury</b> means bodily injury, sickness, death or disease, mental anguish, or emotional distress.</p> <p><b>B. Claim</b> means a written or oral demand for <b>damage</b></p>	<p>Section VI. DEFINITIONS – Definitions for “Bodily Injury” and “Claim” have been added. These definitions align with current ISO and proprietary liability form language.</p>
	<p><b>C. Claims expenses</b> means the following fees, costs, and expenses that result directly from the investigation, defense or appeal of a specific <b>claim</b> or <b>suit</b>:</p> <ol style="list-style-type: none"> <li>1. Fees, costs and expenses of attorneys;</li> <li>2. The costs of proceedings involved in the <b>claim</b>, including court reporter, arbitrator and mediator fees;</li> <li>3. Independent expert and special investigator fees, costs and expenses;</li> <li>4. Any premiums for appeal bonds for the covered part of the judgment provided however, <b>we</b> have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;</li> <li>5. Any premiums for bonds to release property that is being used to secure a legal obligation, but only for bond amounts within the available Limits of Insurance. <b>We</b> do not have to furnish such bonds;</li> <li>6. Post judgment interest;</li> <li>7. Prejudgment interest awarded against <b>you</b> on that part of the judgment <b>we</b> pay, however, if <b>we</b> make an offer to pay the applicable Limit of Insurance, <b>we</b> will not pay any prejudgment interest based on that period of time after the offer; and</li> <li>8. All reasonable expenses incurred by <b>you</b> at <b>our</b> request to assist <b>us</b> in the investigation or defense of any <b>claim</b>, including actual loss of earnings because of time off work, up to \$500 per day.</li> </ol>	<p>Definition C. “Claims Expenses” in the 05 08 version is new for this form and specifically defines what claims settlement expenses Fireman’s Fund will pay. The prior 06 95 form did not address what defense or claims expenses would be covered – only that we would defend a claim covered by the Coverage Part.</p>
	<p><b>D. Coverage period</b> means the period of time from the inception date of this Coverage Part to the expiration date shown in the Declarations, or, if applicable, any earlier termination date. The <b>coverage period</b> does not include the Extended Reporting Period or Supplemental Extended Reporting Period, if any.</p>	<p>New definition added to 05 08 version.</p>
<p><b>Section 10 - Definitions</b> <i>When used with respect to insurance under this coverage part:</i></p>	<p><b>E. Damages</b> means the following amounts, costs and expenses for which <b>you</b> are legally liable and which are covered by this Coverage Part:</p>	<p>Definition E in the 05 08 form reflects the combination of</p>

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<p><i>Damages</i></p>	<p><b>Damages</b> means the following amounts, costs and expenses for which the <b>insured</b> is legally liable and are covered by this Coverage Part:</p> <p>Under <b>Loss of Use</b> Coverage:</p> <p>A. Income lost by the claimant during a <b>Loss of Use</b>. Income means the net profit before income taxes that would have been earned or incurred during the period of <b>Loss of Use</b>. Income includes continuing normal operating expenses, including payroll, incurred during the period of <b>Loss of Use</b>. Income does not include any salvage or resale value of the property suffering the <b>Loss of Use</b>;</p> <p>B. Costs and expenses paid by the claimant to reduce the <b>Loss of Use</b>, except for the cost of any replacements for <b>your manufactured product</b> or <b>your work</b>, but only if the costs and expenses paid reduce the total <b>damages</b>; and</p> <p>C. The amount by which the cost of any replacements for <b>your manufactured product</b> or <b>your work</b> exceeds the cost of <b>your manufactured product</b> or <b>your work</b>.</p> <p>Under Damage to Customer's Property:</p> <p>Costs to repair or replace the property of others that has been damaged as a result of your operations performed on it. But <b>Damages</b> under this Coverage Part does not include:</p> <p>A. Refunds or penalties required to be paid to others under any contract or agreement;</p> <p>B. Cost and expenses incurred by or on behalf of any <b>insured</b> to fulfill a warranty, representation or promise provided with</p>	<ol style="list-style-type: none"> <li>1. For <b>loss of use</b>:             <ol style="list-style-type: none"> <li>a. Income lost by the claimant due to a covered period of <b>loss of use</b>. Income means the net profit or loss before income taxes that would have been earned or incurred during the period of <b>loss of use</b>. Income includes continuing normal operating expenses incurred, including payroll, incurred during the period of <b>loss of use</b>. Income does not include any salvage or resale value of the property suffering the <b>loss of use</b>;</li> <li>b. Costs and expenses paid by the claimant to reduce the <b>loss of use</b>, except for the cost of any replacements for <b>your products</b>, or <b>your work</b>, but only if the costs and expenses paid reduce the total <b>damages</b>; and</li> <li>c. The amount by which the cost of any replacements for <b>your products</b> or <b>your work</b> exceeds the cost of <b>your products</b> or <b>your work</b>.</li> </ol> <p>However, <b>loss of use</b> does not include <b>loss of use</b> of other property arising out of the sudden and accidental injury to <b>your product</b> or <b>your work</b> after it has been put to its intended purpose.</p> </li> <li>2. For <b>property damage</b>:             <ol style="list-style-type: none"> <li>a. Costs to repair or replace the property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by an insured, and which has been damaged as a result of <b>your work</b>.</li> </ol> </li> <li>3. But <b>damages for loss of use</b> and <b>property damage</b> do not include:             <ol style="list-style-type: none"> <li>a. Refunds or penalties required to be paid to others under any contract or agreement;</li> <li>b. Costs and expenses incurred by or on behalf of <b>you</b> to fulfill a warranty, representation, or promise provided with <b>your products</b> or <b>your work</b>;</li> <li>c. Costs and expenses incurred by <b>you</b> or others to withdraw or recall <b>your products</b> or <b>your work</b>, or any part of such product or work, or any product or work into which <b>your products</b> or <b>your work</b> is incorporated, from the marketplace or from use by any person or organization; or</li> <li>d. The cost of <b>your products</b> or <b>your work</b>.</li> </ol> </li> </ol>	<p>the 06 95 Coverage "Loss of Use" and "Damage to Customer's Property" as discussed in the Insuring Agreement comments above. The is no change in the Damages covered but the term "your manufactured product" in the 06 95 form has been replaced with the broader wording "your product" in the 05 08 form. See the definitions of "your manufactured product" and "your product" below.</p>
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<p><b>your manufactured product or your work;</b></p> <p>C. Costs and expenses incurred by you or others to withdraw or recall <b>your manufactured product or your work</b>, or any part of such product or work, or any product or work in which <b>your manufactured product or your work</b> is incorporated, from the marketplace or from use by any person or organization; or</p> <p>D. The cost of <b>your manufactured product or your work</b>.</p>		
	<p><b>F. Executive officer</b> means a person holding any of the officer positions created by <b>your</b> charter, constitution, by-laws or any similar governing document.</p> <p><b>G. Impaired Property</b> means tangible property, other than <b>your product or your work</b>, that cannot be used or is less useful because it incorporates <b>your product or your work</b> that is known to be defective, deficient, inadequate or dangerous if such property can be restored to use by the repair, replacement, adjustment or removal of <b>your product or your work</b>.</p> <p><b>H. Interrelated Wrongful Acts</b> means <b>wrongful acts</b> that arise out of, or flow from, either directly or indirectly, one or a series of the same, common, related or repeated facts, matters, events, circumstances, transactions, practices, statements, or decisions, whether such <b>wrongful acts</b> involve just <b>you</b> or others for whose acts <b>you</b> may be legally responsible, or the same or different claimants.</p> <p><b>I. Leased worker</b> means a person leased to <b>you</b> by a labor leasing firm under an agreement between <b>you</b> and a labor leasing firm, to perform duties related to the conduct of <b>your</b> business. A <b>leased worker</b> does not include a <b>temporary worker</b>.</p>	<p>Definitions F, G, H, and I in the 05 08 form are new.</p>
<p><i>Loss of Use</i></p>	<p><b>J. Loss of Use</b> means loss of use of tangible property that is not physically injured.</p>	<p>No change</p>
	<p><b>K. Personal and Advertising Injury</b> means injury, including consequential <b>bodily injury</b>, arising out of one or more of the following offenses:</p> <ol style="list-style-type: none"> <li>1. False arrest, detention or imprisonment;</li> <li>2. Malicious prosecution;</li> <li>3. 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;</li> </ol>	<p>Definition K in the 05 08 form is new.</p>

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	<ol style="list-style-type: none"> <li>4. 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;</li> <li>5. Oral or written publication, in any manner, of material that violates a person’s right of privacy;</li> <li>6. The use of another’s advertising idea in <b>your</b> advertisement; or</li> <li>7. Infringing upon another’s copyright, trade dress or slogan in <b>your</b> advertisement.</li> </ol>	
<p><i>Pollutants</i></p>	<p><b>Pollutants</b> means any solid, liquid, gaseous or thermal irritant or contaminant. It includes, but is not limited to, smoke vapors, soot, fumes, acids, alkalis, chemical elements, minerals, chemicals and waste. <b>Waste</b> includes materials to be recycled, reconditioned or reclaimed.</p>	<p><b>L. Pollutants</b> 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.</p> <p>Minor change to “Pollution” definition in 05 08 form – removing phrase “but is not limited to”.</p>
<p><i>Property Damage</i></p>	<p><b>Property Damage</b> means physical injury to tangible personal property. <b>Property Damage</b> does not include any resulting <b>Loss of Use</b> of that property.</p>	<p><b>M. Property Damage</b> means:  Physical injury to tangible property not including the resulting <b>loss of use</b> of that property. 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.</p> <p>The “Property Damage” definition has been amended in the 05 08 version to specifically exclude electronic data from the definition of Property Damage as has been done in current ISO contract language.</p>
	<p><b>N. Retroactive date</b> means the earliest date a <b>wrongful act</b> may be committed and be covered under this coverage form. This date is shown in the Declarations. However, if no date is shown in the Declarations, <b>we</b> will consider the <b>retroactive date</b> to be the same as the inception date of this Coverage Part.</p>	<p>This is a new definition in the 05 08 version of the form. The term “retroactive date” was used in the 06 95 form but never fully defined.</p>
<p><i>Suit</i></p>	<p><b>Suit</b> means a civil proceeding in which <b>damages</b> to which this insurance applies are alleged. It includes alternative dispute resolution proceedings such as an arbitration or mediation to which you must submit or do submit with our consent.</p>	<p><b>O. Suit</b> means a civil proceeding in which <b>damages</b> are sought because of a <b>wrongful act</b>, to which this insurance applies are alleged. <b>Suit</b> includes:</p> <ol style="list-style-type: none"> <li>1. An arbitration proceeding in which such <b>damages</b> are claimed and to which <b>you</b> must submit or do submit with <b>our</b> consent; or</li> <li>2. Any other alternative dispute resolution proceeding in which such</li> </ol> <p>The definition of “suit” remains the same in both forms but the 05 08 version incorporates the term “wrongful act” and is</p>

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	<p align="center"><b>damages</b> are claimed and to which <b>you</b> submit with <b>our</b> consent.</p>	<p>formatted to be consistent with ISO and other proprietary liability forms.</p>
	<p><b>P. Technology product or service</b> means:</p> <ol style="list-style-type: none"> <li>1. Any telecommunication, computer, electronic, internet, network or website equipment, programs, systems, software, data or other electronic information; and</li> <li>2. Any design, integration, maintenance, management, processing, programming, repair, analytical or systems support services in connection with any products in P.1. above.</li> </ol> <p><b>Q. Temporary worker</b> means a person who is furnished to <b>you</b> to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.</p>	<p>The terms "Technology product or service" and "Temporary worker" are new in the 05 08 version.</p>
<p><i>Your Manufactured Product</i> <b>Your manufactured product</b> means:</p> <ol style="list-style-type: none"> <li>A. Any goods or products that have been manufactured, by or for you, or others using your name with your written approval or authorization, or others whose business or assets you have acquired;</li> <li>B. Containers, materials, parts or equipment you provide in connection with such goods or products;</li> <li>C. Warranties or representations made at any time about the fitness, quality, durability, performance or use of <b>your manufactured product</b>; and</li> <li>D. The providing of or failure to provide warnings or instructions.</li> </ol> <p><i>Your Manufactured Product</i> <b>Your manufactured product</b> does not include:</p> <ol style="list-style-type: none"> <li>A. Goods or products that are still in your actual physical possession;</li> <li>B. Containers that are part of a vehicle; and</li> </ol>	<p><b>R. Your products:</b></p> <ol style="list-style-type: none"> <li>1. Means:             <ol style="list-style-type: none"> <li>a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:                 <ol style="list-style-type: none"> <li>(1) <b>You</b>;</li> <li>(2) Others trading under <b>your</b> name; or</li> <li>(3) A person or organization whose business or assets <b>you</b> have acquired; and</li> </ol> </li> <li>b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.</li> </ol> </li> <li>2. Including:             <ol style="list-style-type: none"> <li>a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of <b>your products</b>; and</li> <li>b. The providing of or failure to provide warnings or instructions.</li> </ol> </li> <li>3. But not including:             <ol style="list-style-type: none"> <li>a. Vending machines or other property rented to or located for the use of others but not sold;</li> <li>b. Goods or products still in <b>your</b> actual physical possession;</li> </ol> </li> </ol>	<p>The term "Your products" in the 05 08 version replaces the older term "Your manufactured product" in the 06 95 form. This represents an expansion of coverage as the 05 08 version also covers goods that are handled, distributed and disposed of by the insured vs. just those goods manufactured by the insured.</p> <p>The exclusion of vending machines from the definition of "Your Products" is consistent with ISO wording. The limitation in paragraph C. of "Your</p>

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<p>C. Goods or products that you have not sold but you allow others to use, such as property loaned, leased or rented to others.</p>		<p>Manufactured Product” in the 06 95 version has been moved to Section E. Exclusion 8 in the 05 08 version.</p>
<p><i>Your Work</i></p> <p><b>Your work</b> means:</p> <p>A. Work or operations performed by you or on your behalf;</p> <p>B. Materials, parts or equipment furnished in connection with such work or operations;</p> <p>C. Warranties or representations made at any time about the fitness, quality, durability, performance or use of <b>your work</b>; and</p> <p>D. The providing of or failure to provide warnings or instructions.</p>	<p><b>S. Your Work:</b></p> <p>1. Means:</p> <p>a. Work or operations performed by <b>you</b> or on <b>your</b> behalf; and</p> <p>b. Materials, parts, or equipment furnished in connection with such work or operations.</p> <p>2. Includes:</p> <p>a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of <b>your work</b>, and:</p> <p>b. The providing of or failure to provide warnings or instructions.</p>	<p>Minor formatting changes only to the definition of “Your Work”.</p>
	<p><b>T. Wrongful Act(s)</b> means any actual or alleged negligent act, error or omission. However, a <b>wrongful act</b> shall not include any actual or alleged infringement of the following rights or laws:</p> <ol style="list-style-type: none"> <li>1. Copyright;</li> <li>2. Patent;</li> <li>3. Trade dress;</li> <li>4. Trade name;</li> <li>5. Trademark;</li> <li>6. Trade secret;</li> <li>7. Piracy or plagiarism; or</li> <li>8. Any other intellectual property right or law.</li> </ol>	<p>“Wrongful Act” is a new term used in the 05 08 version.</p>
<p><i>Insured</i></p> <p><b>Insured</b> means any person or organization qualifying as an insured under the Who Is Insured provision and against whom claim is made or suit is brought.</p>		<p>“Insured” is defined in the introductory paragraph of the 05 08 form</p>

**Manufacturer's Reliability Plus Insurance – CG 71 40AR 05 08  
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**NOTICE – THIS IS A “CLAIMS MADE AND REPORTED” COVERAGE PART.  
CLAIM EXPENSES ARE NOT INCLUDED IN THE LIMITS OF INSURANCE.**

**THIS MEANS THAT COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE  
AGAINST THE INSURED AND REPORTED DURING THE COVERAGE PERIOD  
OR, IF APPLICABLE, DURING THE EXTENDED REPORTING PERIOD AND THAT  
CLAIM EXPENSES ARE IN ADDITION TO THE LIMITS OF INSURANCE.**

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

Throughout this Coverage Part the words **you** and **your** refer to the Named Insured shown in the Policy Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words **we**, **us** and **our** refer to the Company providing this insurance. The word “insured” means any person or organization qualifying as such under Section II – Who is an Insured. Some words in bold face have special meaning – Refer to Definitions.

In consideration of the payment of the premium, **you** promise to pay the Deductible shown in the Declarations, and in reliance on all statements made and information **you** furnished to **us**, including the statements made in the Application and subject to the Limit of Insurance stated in the Declarations, and all of the terms and conditions of this Coverage Part, **we** and **you** agree as follows:

**I. COVERAGES**

**A. Insuring Agreement**

**We** will pay those sums **you** become legally obligated to pay as **damages** caused by a defect, deficiency, inadequacy or dangerous condition in **your product** or **your work** due to a **wrongful act** resulting in:

1. **Loss of use of impaired property** or property that has not been physically injured:
  - a. Which occurs after **you** or others at **your** direction, complete any testing and inspection; and
  - b. After **you** release **your product** into the stream of commerce; or
2. **Property damage** to the personal property of others which is on **your** premises for the purpose of having **your work** performed upon it by an insured.

This Form must be attached to Change Endorsement when issued after the policy is written.  
One of the **Fireman's Fund Insurance Companies** as named in the policy



Secretary



President

This coverage applies to **wrongful act(s)** taking place in the coverage territory, provided that such **wrongful act(s)** took place:

1. During the **coverage period**, but then only if the **claim** is first made against **you** and reported to **us** during the **coverage period** or during the Extended Reporting Period, if applicable, in accordance with Section V, Condition C; or
2. Prior to the effective date of this Coverage Part, but after the **retroactive date**, if any, stated in the Declarations, provided that:
  - a. As of the effective date of this Coverage Part, **you** do not have actual or constructive knowledge of any circumstances or **wrongful acts** which could reasonably be expected to result in a **claim**;
  - b. There is no other valid and collectible insurance available to **you** for any such prior **wrongful act**; and
  - c. The **claim** is first made against **you** and reported during the **coverage period**, Extended Reporting Period, or Supplemental Extended Reporting Period, if applicable.

#### **B. Defense, Investigation and Settlement of a Claim**

1. **We** have the right and duty to defend **you**, including the right to select counsel, against any **claim** brought against **you** for which coverage under this Coverage Part applies. However, **we** will have no duty to defend **you** against any **claim** for which there is no coverage under this Coverage Part. **We** have the right to conduct any investigation or negotiation and make any settlement of any **claim**.
2. **We** will have the right, but not the duty, to appeal any judgment; and
3. For any **claim** to which this Coverage Part applies:
  - a. **We** shall pay all **claims expenses** that **we** incur in any such **claim**;
  - b. **Our** right and duty to defend **you** ends when the Limit of Insurance set forth in the Declarations is exhausted by payment of judgments and settlements;
  - c. **You** may not incur any **claims expenses**, admit liability for, make payment for, or settle any **claim** without **our** prior written consent, which shall not be unreasonably withheld. **We** shall not be liable for any expense, settlement, assumed obligation or admission to which **we** have not consented; and
  - d. **You** agree to cooperate with **us** in the defense, investigation, and settlement of any **claim** and **you** agree, as a condition of coverage under this Coverage Part, to submit to **us** upon request, such information and documentation as **we** may require in the investigation and defense of any **claim**.

#### **C. Coverage Territory**

This coverage applies to a **wrongful act** taking place or a **claim** made anywhere in the world.

In jurisdictions outside the United States of America, its territories and possessions, Puerto Rico and Canada, if **we** are prevented from investigating, defending, settling or paying a **claim**, **you** agree to make or cause to be made such investigation, defense, settlement or

payment as may be reasonably necessary. However, settlement or payment requires **our** prior written authorization, which shall not be unreasonably withheld.

If the preceding paragraph applies, **we** will reimburse **you** for the reasonable cost of any investigation and defense and for the amounts of such authorized settlements or payment.

The amount **we** will reimburse is limited as described in Section III. LIMITS OF INSURANCE AND DEDUCTIBLES and **our** duty to reimburse **you** for the reasonable cost of any investigation and defense ends when the applicable Limit of Insurance is exhausted.

If **we** make a reimbursement to **you** of costs and settlements, it will be paid in the currency of the United States. Payments of covered costs and settlements which are made by **you** in the currencies of other nations will be converted to the currency of the United States at the exchange rate prevailing at the date the reimbursement is processed

#### **D. Supplemental Payments**

In addition to the Limits of Insurance, **we** will pay:

1. Any premium for appeal bonds for the covered part of the judgment, provided however, that **we** have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;
2. Post judgment interest;
3. Prejudgment interest awarded against **you** 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;
4. All costs awarded against **you** in a **suit**, but this does not include attorneys' fees awarded to the person or entity bringing the **claim** or **suit**; and
5. All **claims expenses** that **we** incur in any such **claim** to which this coverage applies.

However, **we** have no obligation to make any Supplemental Payments once the Limits of Insurance shown in the Declarations are exhausted by payment of **damages**.

#### **E. Exclusions**

This insurance does not apply to any **claim**:

1. For **damages** from **loss of use**:
  - a. Arising from, or in any way involving **your work** that has not been completed. **Your work** will be deemed to be completed at the earliest of the following times:
    - (1) When all the work called for in **your** contract has been completed.
    - (2) 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.
    - (3) When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

2. Involving **property damage**, other than damage to the property of others which is on **your** premises for the purpose of having **your work** performed upon it by **you**.
3. Based upon or arising out of any dishonest, fraudulent, criminal, malicious, intentional or willful **wrongful act** by **you** or anyone at **your** direction who knows or expects that such an act will reduce the quality or performance of **your products** or **your work** below the level expected or required by the buyers or users of **your products** or **your work**.

This includes, but is not limited to **damages** that result from **your** decision to cease providing consultation, advice, repair services, maintenance services, replacement parts, or other similar support for **your products** or **your work**.
4. Based upon, arising out of or in any way involving any **personal and advertising injury**, or **bodily injury**.
5. Based upon, arising out of or in any way involving any cost guarantees, in excess of probable cost estimates or cost overruns.
6. Based upon, arising out of, or in any way involving, costs to comply with **your** contracts or agreements.
7. Based upon, arising out of or in any way involving costs or expenses incurred by any insured to comply with any warranty for **your products** or **your work**.
8. Based upon, arising out of, or in any way involving any damage to property owned, rented, leased, or loaned to **you**.
9. Based upon, arising out of or in any way involving any failure to begin **your work** as required by contract or agreement, or any delay or failure in the delivery of **your products**.
10. Based upon, arising out of, or in any way involving any liability assumed under a contract or agreement. This exclusion does not apply to any liability **you** would have in absence of such contract or agreement.
11. Based upon, arising out of or in any way involving the installation of **your product** by others, unless on **your** behalf. However, this exclusion does not apply to loss because of inadequate instructions provided by **you**.
12. Based upon, arising out of or in any way involving the failure to perform professional services by **you** while acting as any of the following:
  - a. Architect, Surveyor, or civil or structural engineer; or
  - b. **Technology product or service** provider or advisor. However, this exclusion does not apply if **you** are in a business other than that of a **technology product or service** provider or software developer.
13. Based upon any actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws including but not limited to demands or proceedings brought by:
  - a. The Federal Trade Commission;
  - b. The Food and Drug Administration;

- c. The Occupational Safety and Health Administration; or
  - d. The Federal Communications Commission, or any other federal, state, local or foreign government agency in its capacity as a regulator.
14. Based upon, arising out of, or in any way involving any **claim** made or brought by any insured against any other insured.
  15. Based upon, arising out of or in any way involving any credit or voluntary payment made or given by **you** for any reason.
  16. Based upon, arising out of or in any way involving any products for which **bodily injury** or **property damage** are excluded by endorsement under Coverage A – Bodily Injury and Property Damage Liability in the Commercial General Liability coverage part of this policy.
  17. Based upon, arising out of, or in any way involving gradual deterioration, wear and tear, age, obsolescence, or any structural or technological incompatibility.
  18. Based upon, arising out of, or in any way involving any actual, alleged, or threatened presence, discharge, dispersal, seepage, migration, release or escape of **pollutants**; or any loss, cost or expense that arises 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, neutralize, or in any way respond to, or assess the effects of, **pollutants**; or
    - b. **Claim** 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**.
  19. Based upon, arising out of or in any way including any nuclear reaction, radiation, radioactive contamination or radioactive substance, in any form, no matter how emitted.
  20. Based upon, arising out of, or in any way, either directly or indirectly, involving:
    - 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.
  21. Based upon, arising out of, or in any way, either directly or indirectly, involving damages, loss, cost or expense from the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of **asbestos**.

This coverage does not apply to any damages, loss, cost or expense arising out of, but not limited to, any:

- a. manufacture, sale, distribution, handling, use, installation, removal, abatement, containment, storage, transportation, disposal, existence, presence, emanation, emission, release, inhalation, ingestion, absorption, or transmission of or exposure to **asbestos**;
- b. supervision, instructions, recommendations, notices, warnings or advice given or which should have been given in connection with **asbestos**;
- c. request, demand, order or regulatory or statutory 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 **asbestos**; or
- d. **claim** or proceeding by or on behalf of a governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **asbestos**.

**We** shall have no obligation of any kind, including, but not limited to, any obligation to investigate, defend, pay defense costs, settle, or pay settlements or judgments as to any **claim, suit** or proceeding involving or allegedly involving **asbestos**.

As used in this exclusion, **asbestos** includes, but is not limited to the mineral **asbestos** in any form, whether or not the **asbestos** is:

- a. A fiber, particle, or dust;
  - b. Contained in, or on, or incorporated into, products, goods, or materials; or
  - c. Contained in any part of any building, structure, building material, product or any other real or personal property.
22. Arising, in whole or in part, directly or indirectly out of, or which is in any way related to **silica**.

As used in this exclusion, the term **silica** includes, but is not limited to, silicon dioxide, silica, silica products, silica fibers, silica dust, any other silica byproducts, and silica whether alone or in combination with any substance, product or material. Without limiting the foregoing, this exclusion applies to every loss, damage, cost or expense otherwise covered by this Coverage Part, if any.

## II. WHO IS AN INSURED

### A. If **you** are designated in the Declarations as:

1. 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.
2. A partnership or joint venture, **you** are an insured. **Your** members, **your** partners, and their spouses are also insureds, but only with respect to the conduct of **your** business.
3. 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.
4. 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 and directors. **Your** stockholders are also insureds, but only with respect to their liability as stockholders.
5. A trust, **you** are insured. **Your** trustees are also insureds, but only with respect to their duties as trustees.

### B. Each of the following is also an insured:

1. **Your** employees, **leased workers** and **temporary workers** while performing duties related to the conduct of **your** business, 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** while performing duties related to the conduct of **your** business;
2. An employee leasing firm who provides **leased workers** or **temporary workers** only while those workers are performing duties related to the conduct of **your** business; and
3. Any legal representative of a deceased or mentally incompetent insured, but only for the deceased or mentally incompetent insured's right and duties under this agreement.

### C. 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 similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until the 90<sup>th</sup> day after **you** acquire or form the organization or the end of the **coverage period**, whichever is earlier. During this 90 day period **you** must add the new organization as a Named Insured to the policy to continue coverage; and
2. Coverage does not apply to **wrongful acts** that occurred before **you** acquired or formed the organization.

### D. 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 or by endorsement.

### III. LIMITS OF INSURANCE AND DEDUCTIBLES

Regardless of the number of insureds, persons or organizations making **claims**, or **wrongful acts** committed, **our** liability is limited as follows:

#### A. Limits of Insurance

1. The Limit of Insurance shown in the Declarations for this Coverage Part as the EACH CLAIM Limit is the most **we** will pay for **damages** resulting from any one **claim** under this Coverage Part. Without regard to the number of **claims** or insureds against whom a **claim** has been made, all **damages** arising out of the same **wrongful act** or **interrelated wrongful acts** will be subject to the EACH CLAIM Limit of Insurance in effect when the first **claim** arising out of the **wrongful act** or **interrelated wrongful acts** was made.
2. The AGGREGATE Limit is the most **we** will pay for **damages** under this Coverage Part during the **coverage period**.

#### B. Deductibles

1. **We** shall only be liable to pay **damages** in excess of the EACH CLAIM deductible shown in the Declarations, which deductible shall apply to each and every **claim**. The deductible does not increase the Limit of Insurance.
2. If **we** pay all or part of any deductible amount, **we** will notify the Named Insured of **our** payment of the deductible, and request reimbursement. The Named Insured will pay **us** for the part of the deductible **we** paid within thirty (30) days of **our** request.
3. The deductible may only be satisfied by an actual cash payment by **you** and may not be satisfied by the release of a **claim** or counterclaim. **You** agree that the deductible shall be uninsured.

#### C. Reduction of Limits

1. The EACH CLAIM and AGGREGATE limits of insurance shall be reduced by the sum of:
  - a. The amounts **we** pay as **damages**; and
  - b. The amounts **you** are required to pay as deductibles.

When the EACH CLAIM limit of insurance is exhausted by payment of **damages** and deductibles, **we** shall have no further obligation to defend that **claim** or pay any **damages** or **claims expenses** including defense costs.

When the AGGREGATE limit of insurance is exhausted by payment of **damages** and deductibles, **we** shall have no further obligation to defend any **claim** or pay any **damages** or **claims expenses**.

When **our** right and duty to defend **claims** ends, **we** may withdraw and tender the defense to **you** as provided in Section III. D. Transfer of Duties When a Limit of Insurance Is Exhausted.

#### **D. Transfer of Duties When a Limit of Insurance Is Exhausted**

1. If **we** conclude, based upon the **claims** which have been reported to **us** and to which this insurance may apply, that the AGGREGATE limit or EACH CLAIM limit is likely to be exhausted by the payment of judgments or settlements, **we** will notify the first Named Insured in writing to that effect.
2. When a limit of insurance described in paragraph 1, above, has actually been exhausted in the payment of judgments or settlements:
  - a. **We** will notify the first Named Insured, in writing, as soon as practicable, that:
    - (1) Such a limit has actually been exhausted; and
    - (2) **Our** duty to defend **claims** seeking **damages** subject to that limit has also ended.
  - b. **We** will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all **claims** seeking **damages** subject to that limit, which are reported to **us** before that limit is exhausted. That insured must cooperate in the transfer of control of such **claims**.

**We** agree to take such steps, as **we** deem appropriate, to avoid a default in, or continue the defense of such **claims** until the transfer is completed, provided the appropriate insured is cooperating.

**We** will take no action whatsoever with respect to any **claim** seeking **damages** that would have been subject to that limit, had it not been exhausted, if the **claim** is reported to **us** after the limit of insurance has been exhausted.
  - c. The first Named Insured, and any other insured involved in a **claim** seeking **damages** subject to that limit, must arrange for the defense of such **claim** within a time period agreed to by the appropriate insured and **us**. Absent any such agreement, arrangements for the defense of a **claim** must be made as soon as practicable.
3. The first Named Insured will reimburse **us** for expenses **we** incur in taking those steps **we** deem appropriate in accordance with paragraph 2.b. above. The duty of the first Named Insured to reimburse **us** will begin on:
  - a. The date on which the applicable limit of insurance is exhausted, if **we** sent notice in accordance with paragraph 1. above; or
  - b. The date on which **we** sent notice in accordance with paragraph 2.a. above, if **we** did not send notice in accordance with paragraph 1. above.
4. The exhaustion of any limit of insurance by the payment of judgments or settlements, and the resulting end of **our** duty to defend, will not be affected by **our** failure to comply with any of the provisions of this Condition.

## IV. CONDITIONS

### A. Authorization Clause/Notices

By acceptance of this Coverage Part by payment of the premium, **you** agree that the first Named Insured shall act on **your** behalf with respect to giving and receiving of notices of any cancellation or non-renewal, the payment of premiums, the receiving of any return premiums that may accrue under this Coverage Part, or any other notices regarding this insurance.

### B. Bankruptcy

Bankruptcy or insolvency of **you** or of **your** estate will not relieve **us** of **our** obligations under this Coverage Part.

### C. Changes

The terms of this Coverage Part shall not be waived or changed, except by endorsement issued by **us** to form a part of this Coverage Part. Notice to any agent or broker or knowledge possessed by any agent or broker or by any other person shall not effect a waiver or change in any part of this Coverage Part or stop **us** from asserting any right under the terms of this Coverage Part.

### D. Conformance with Statutes

Terms of this Coverage Part that are in conflict with the statutes of the state or province in which this Coverage Part is issued are hereby amended to conform to such statutes.

### E. Duties Related to Potential or Actual Claims

#### 1. Duties related to Potential **Claims**

If during the **coverage period** or within ninety (90) days after the end of the **coverage period**, **you** first become aware of a **wrongful act** which might reasonably be expected to give rise to a **claim** covered by this insurance, and **you** give written notice to **us** of such **wrongful act** as required below, then any **claim** subsequently made against **you** by reason of such **wrongful act** shall be deemed to have been first made during the **coverage period**.

Written report of a potential **claim** must include:

- a. The specific facts and circumstances which constitute the **wrongful act** including the date(s) thereof, and the names of all parties and insureds involved;
- b. The date and circumstances by which **you** became aware of such **wrongful acts**; and
- c. The **damages** that may reasonably result.

#### 2. Duties Related to Actual **Claims**

- a. **You** shall provide notice to **us** as soon as practicable after a **claim** is first made against **you**. This notice shall be deemed to be sent to **us** only if it is received by **us** via facsimile or electronic mail or sent by **you** by prepaid registered or return-receipt-requested mail properly addressed to **us** at the address shown in or attached to this Policy;

- b. **You** must immediately send **us** copies of any demands, notices, summonses, or legal papers in connection with the **claim** or **suit**;
- c. **You** must authorize **us** to obtain records and other information;
- d. **You** must cooperate with **us** in the investigation, defense and settlement of any **claim**; and
- e. **You** must assist **us**, upon **our** request, in the enforcement of any rights against any person or organization which may be liable to **you** because of **loss of use** or **property damage** to which this insurance may also apply.

### 3. Duties Related to Potential and Actual **Claims**

**You** must take all reasonable steps to correct any **wrongful acts** and to prevent shipment of any of **your products** or **your work** which may contain any defect, deficiency, inadequacy, or dangerous condition or any property of others which has been damaged by **your work** performed upon it.

## F. Legal Action Against Us

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

- 1. To join **us** as a party or otherwise bring **us** into a **suit** asking for **damages** from an insured; or
- 2. To sue **us** under this Coverage Part unless all or its terms have been fully complied with.

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

## G. Liberalization

If **we** adopt a change in **our** forms or rules during the term of this Coverage Part that would broaden the coverage provided by any form that is part of this Coverage Part without an extra premium, the broader coverage will apply to this Coverage Part. This extension is effective upon approval of such broader coverage in the Insured's state.

## H. Other Insurance

If other valid and collectible insurance or any bond is available to any insured for a loss **we** cover under this Coverage Part, **our** obligations are limited as follows:

- 1. This insurance is excess over any of the other insurance and any bond, whether primary, excess, contingent or on any other basis, except for insurance which:
  - a. Is purchased by **you** to apply specifically in excess of this insurance; and
  - b. Specifically states that it applies in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.
- 2. Because this insurance is excess, the following conditions apply:

- a. **We** will have no duty to defend any **claim** or **suit** that any other insurer has a duty to defend. If no other insurer defends and **we** have an obligation to do so, then:
    - (1) **We** will undertake the defense; and
    - (2) **We** will be entitled to enforce **your** rights against all other insurers.
  - b. **We** will pay only **our** share of the amount of loss, if any, that exceeds the sum of:
    - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
    - (2) The total of all deductible and self-insured amounts under all that other insurance.
3. Method of Sharing

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

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

#### **I. Premium Audit**

**We** will compute all premiums for this Coverage Part in accordance with **our** rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period **we** will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the coverage term is greater than the earned premium, **we** will return the excess to the first Named Insured. 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.

#### **J. Representations**

By accepting this insurance, **you** agree:

1. The statements in the Declarations are **accurate** and complete;
2. Those statements are based upon representations **you** made to **us**; and
3. **We** have issued this Coverage Part in reliance upon **your** representations.

#### **K. Cancellation and Nonrenewal**

1. Cancellation
  - a. The first Named Insured may cancel this Coverage Part by mailing or delivering to **us** advance written notice of cancellation. The **coverage period** will end on the effective date requested.
  - b. **We** may cancel this Coverage Part only in the event of non-payment of premium. If **we** cancel for non-payment of premium, **we** will mail by first class or certified mail, to the first Named Insured and the agent or broker of record, at their last address known to **us**, written notice stating the reason for cancellation at least ten (10) days before the effective date of the cancellation.

- c. Notice of cancellation will state the effective date of cancellation. The **coverage period** will end on the date of cancellation.
- d. If this Coverage Part is cancelled, **we** will send the first Named Insured any premium refund due. If **we** cancel, the refund will be the pro-rata unearned premium. If the first Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if **we** have not made or offered a refund.

**We** will refund the pro-rata unearned premium if this Coverage Part is cancelled:

- (1) By **us** at **our** request;
- (2) Rewritten with **us** or in **our** company group;
- (3) Because the Named Insured no longer has an insurable interest in the property or business operation that is the subject of this insurance; or
- (4) After the first year of a prepaid Coverage Part that was written for a term of more than one year.

If this Coverage Part is cancelled at the request of the first Named Insured for reasons other than (1) through (4) above, **we** will refund 90% of the pro-rata unearned premium. However, the refund will be less than 90% of the pro-rata unearned premium if the refund of such amount would reduce the premium retained by **us** to an amount less than the minimum premium due for the Coverage Part.

- e. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.
2. Non-renewal by **us**
- a. **We** are not required to renew this Coverage Part when it expires.
  - b. If **we** elect not to renew this Coverage Part, **we** will mail by first class or certified mail, to the Named Insured and the agent or broker of record, at their last address known to **us**, written notice stating the reason for non-renewal, at least sixty (60) days, but not more than one hundred and twenty (120) days before the effective date of non-renewal.
  - c. Notice of non-renewal will state the effective date of non-renewal. The **coverage period** will end on the date of non-renewal.
  - d. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.

#### **L. Separation of Insureds**

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

- 1. As if each Named Insured were the only Named Insured; and
- 2. Separately to each insured against whom a **claim** is made or **suit** is brought.

## M. Transfer of Rights of Recovery Against Others To Us

We will waive the right of recovery we would otherwise have had against another person or organization, for payments we have made under this Coverage Part, provided you have waived your rights of recovery against such person or organization in a contract or agreement that has been executed before such loss.

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

## V. EXTENDED REPORTING PERIODS

- A. We will provide an Extended Reporting Period as described below if this coverage is cancelled or non-renewed for any reason, or if we renew this coverage with insurance that has a retroactive date later than the date shown in the Declarations of this Coverage Part.

Within thirty (30) days after this Coverage Part is cancelled or nonrenewed, we will advise the first Named Insured and the agent or broker of record, in writing, of the availability of, the premium for, and the importance of purchasing, an Extended Reporting Period.

- B. Extended Reporting Periods do not extend the coverage period or change the scope of coverage provided. Once in effect, Extended Reporting Periods may not be cancelled.
- C. Extended Reporting Periods do not apply to claims that are covered under any subsequent insurance you purchase or that would be covered but for exhaustion of the amount of insurance applicable to such claims.
- D. All claims under Extended Reporting Periods must be reported to us in accordance with Conditions IV. E.
- E. Basic Extended Reporting Period
1. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts at the date of coverage termination or the end of the coverage period, whichever is earlier, and lasts for sixty (60) days.
  2. Claims made against you within sixty (60) days after coverage termination or the end of the coverage period, whichever is earlier, and which arise out of a wrongful act that was committed during the coverage period but not before the retroactive date, if any, stated in the Declarations, will be deemed to have been made on the last day of the coverage period.
  3. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
- F. A Supplemental Extended Reporting Period of 5 years is available by endorsement. This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends. You must give us a written request for the Supplemental Extended Reporting Period within sixty (60) days after the end of the coverage period or coverage termination date, whichever is earlier. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

**We** will determine the additional premium in accordance with **our** rules and rates. The additional premium will not exceed 200 percent of the annual premium for this coverage.

This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for **claims** first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

- G. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
- H. If the Supplemental Extended Reporting Period is in effect, **we** will provide the separate Aggregate Limits of Insurance described below, but only for **claims** first made against any insured during the Supplemental Extended Reporting Period.

The separate Aggregate Limits of Insurance will be equal to the Aggregate Limit of Insurance shown in the Declarations in effect at the end of the **coverage period**. The Supplemental Extended Reporting Period Aggregate Limit of Insurance is the most **we** will pay for **damages** covered by this Coverage Part under the Supplemental Extended Reporting Period. Any payment **we** make for **damages** will reduce or exhaust the Supplemental Extended Reporting Period Aggregate Limit of Insurance available for payment of **damages** arising out of any other **claim**.

Paragraph A of Section III. Limits of Insurance and Deductibles will be amended accordingly.

## VI. DEFINITIONS

- A. **Bodily injury** means bodily injury, sickness, death or disease, mental anguish, or emotional distress.
- B. **Claim** means a written or oral demand for **damages**
- C. **Claims expenses** means the following fees, costs, and expenses that result directly from the investigation, defense or appeal of a specific **claim** or **suit**:
  1. Fees, costs and expenses of attorneys;
  2. The costs of proceedings involved in the **claim**, including court reporter, arbitrator and mediator fees;
  3. Independent expert and special investigator fees, costs and expenses;
  4. Any premiums for appeal bonds for the covered part of the judgment provided however, **we** have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;
  5. Any premiums for bonds to release property that is being used to secure a legal obligation, but only for bond amounts within the available Limits of Insurance. **We** do not have to furnish such bonds;
  6. Post judgment interest;

7. Prejudgment interest awarded against **you** on that part of the judgment **we** pay, however, 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; and
8. All reasonable expenses incurred by **you** at **our** request to assist **us** in the investigation or defense of any **claim**, including actual loss of earnings because of time off work, up to \$500 per day.

**D. Coverage period** means the period of time from the inception date of this Coverage Part to the expiration date shown in the Declarations, or, if applicable, any earlier termination date. The **coverage period** does not include the Extended Reporting Period or Supplemental Extended Reporting Period, if any.

**E. Damages** means the following amounts, costs and expenses for which **you** are legally liable and which are covered by this Coverage Part:

1. For **loss of use**:
  - a. Income lost by the claimant due to a covered period of **loss of use**. Income means the net profit or loss before income taxes that would have been earned or incurred during the period of **loss of use**. Income includes continuing normal operating expenses incurred, including payroll, incurred during the period of **loss of use**. Income does not include any salvage or resale value of the property suffering the **loss of use**;
  - b. Costs and expenses paid by the claimant to reduce the **loss of use**, except for the cost of any replacements for **your products**, or **your work**, but only if the costs and expenses paid reduce the total **damages**; and
  - c. The amount by which the cost of any replacements for **your products** or **your work** exceeds the cost of **your products** or **your work**.

However, **loss of use** does not include **loss of use** of other property arising out of the sudden and accidental injury to **your product** or **your work** after it has been put to its intended purpose.

2. For **property damage**:
  - a. Costs to repair or replace the property of others which is on **your** premises for the purpose of having **your work** performed upon it by an insured, and which has been damaged as a result of **your work**.
3. But **damages** for **loss of use** and **property damage** do not include:
  - a. Refunds or penalties required to be paid to others under any contract or agreement;
  - b. Costs and expenses incurred by or on behalf of **you** to fulfill a warranty, representation, or promise provided with **your products** or **your work**;
  - c. Costs and expenses incurred by **you** or others to withdraw or recall **your products** or **your work**, or any part of such product or work, or any product or work into which **your products** or **your work** is incorporated, from the marketplace or from use by any person or organization; or
  - d. The cost of **your products** or **your work**.

- F. Executive officer** means a person holding any of the officer positions created by **your** charter, constitution, by-laws or any similar governing document.
- G. Impaired Property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because it incorporates **your product** or **your work** that is known to be defective, deficient, inadequate or dangerous if such property can be restored to use by the repair, replacement, adjustment or removal of **your product** or **your work**.
- H. Interrelated Wrongful Acts** means **wrongful acts** that arise out of, or flow from, either directly or indirectly, one or a series of the same, common, related or repeated facts, matters, events, circumstances, transactions, practices, statements, or decisions, whether such **wrongful acts** involve just **you** or others for whose acts **you** may be legally responsible, or the same or different claimants.
- I. Leased worker** means a person leased to **you** by a labor leasing firm under an agreement between **you** and a labor leasing firm, to perform duties related to the conduct of **your** business. A **leased worker** does not include a **temporary worker**.
- J. Loss of Use** means loss of use of tangible property that is not physically damaged.
- K. Personal and Advertising Injury** means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:
1. False arrest, detention or imprisonment;
  2. Malicious prosecution;
  3. 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;
  4. 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;
  5. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  6. The use of another's advertising idea in **your** advertisement; or
  7. Infringing upon another's copyright, trade dress or slogan in **your** advertisement.
- L. 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.
- M. Property Damage** means:
- Physical injury to tangible property not including the resulting **loss of use** of that property. 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.

**N. Retroactive date** means the earliest date a **wrongful act** may be committed and be covered under this coverage form. This date is shown in the Declarations. However, if no date is shown in the Declarations, **we** will consider the **retroactive date** to be the same as the inception date of this Coverage Part.

**O. Suit** means a civil proceeding in which **damages** are sought because of a **wrongful act**, to which this insurance applies are alleged. **Suit** includes:

1. An arbitration proceeding in which such **damages** are claimed and to which **you** must submit or do submit with **our** consent; or
2. Any other alternative dispute resolution proceeding in which such **damages** are claimed and to which **you** submit with **our** consent.

**P. Technology product or service** means:

1. Any telecommunication, computer, electronic, internet, network or website equipment, programs, systems, software, data or other electronic information; and
2. Any design, integration, maintenance, management, processing, programming, repair, analytical or systems support services in connection with any products in P.1. above.

**Q. Temporary worker** means a person who is furnished to **you** to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.

**R. Your products:**

1. Means:

- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (1) **You**;
  - (2) Others trading under **your** name; or
  - (3) A person or organization whose business or assets **you** have acquired; and
- b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

2. Including:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your products**; and
- b. The providing of or failure to provide warnings or instructions.

3. But not including:

- a. **Vending** machines or other property rented to or located for the use of others but not sold;
- b. Goods or products still in **your** actual physical possession;

**S. Your Work:**

1. Means:

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

**T. Wrongful Act(s)** means any actual or alleged negligent act, error or omission.

However, a **wrongful act** shall not include any actual or alleged infringement of the following rights or laws:

1. Copyright;
2. Patent;
3. Trade dress;
4. Trade name;
5. Trademark;
6. Trade secret;
7. Piracy or plagiarism; or
8. Any other intellectual property right or law.

*SERFF Tracking Number:*      *FFDC-125705618*                      *State:*                      *Arkansas*  
*First Filing Company:*      *American Automobile Insurance Company, ...*      *State Tracking Number:*      *EFT \$20*  
*Company Tracking Number:*      *NARGL0608-F*  
*TOI:*                      *17.1 Other Liability - Claims Made Only*      *Sub-TOI:*                      *17.1022 Other*  
*Product Name:*                      *Manufacturer's Reliability Insurance*  
*Project Name/Number:*              *Manufacturer's Reliability Insurance/NWGL0606*

## **Rate Information**

Rate data does NOT apply to filing.

SERFF Tracking Number: FFDC-125705618 State: Arkansas  
First Filing Company: American Automobile Insurance Company, ... State Tracking Number: EFT \$20  
Company Tracking Number: NARGL0608-F  
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1022 Other  
Product Name: Manufacturer's Reliability Insurance  
Project Name/Number: Manufacturer's Reliability Insurance/NWGL0606

## Supporting Document Schedules

<b>Satisfied -Name:</b> Uniform Transmittal Document-Property & Casualty	<b>Review Status:</b> Approved	08/08/2008
<b>Comments:</b>		
<b>Attachment:</b> AR NAIC P&C.pdf		
<b>Satisfied -Name:</b> Actuarial Memorandum	<b>Review Status:</b> Approved	08/08/2008
<b>Comments:</b>		
<b>Attachment:</b> Actuarial Memorandum CG 71 40 Final.pdf		
<b>Satisfied -Name:</b> Explanatory Memo	<b>Review Status:</b> Approved	08/08/2008
<b>Comments:</b>		
<b>Attachment:</b> MfgReliabilityExp Mem7140Final.pdf		
<b>Satisfied -Name:</b> Declaration Page	<b>Review Status:</b> Approved	08/08/2008
<b>Comments:</b>		
<b>Attachment:</b> MFTRRELIABILITYPLUSINSURANCEDEC.pdf		

### Property & Casualty Transmittal Document

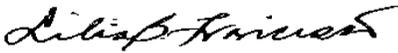
<b>1. Reserved for Insurance Dept. Use Only</b>	<b>2. Insurance Department Use only</b> a. Date the filing is received: b. Analyst: c. Disposition: d. Date of disposition of the filing: e. Effective date of filing: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">New Business</td> <td></td> </tr> <tr> <td>Renewal Business</td> <td></td> </tr> </table> f. State Filing #: g. SERFF Filing #: h. Subject Codes	New Business		Renewal Business	
New Business					
Renewal Business					

<b>3. Group Name</b>	<b>Group NAIC #</b>
Fireman's Fund Insurance Companies®	21873

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #
Fireman's Fund Insurance Company	CA	21873	94-1610280	
National Surety Corporation	IL	21881	36-2704643	
The American Insurance Company	NE	21857	22-0731810	
Associated Indemnity Corporation	CA	21865	22-1708002	
American Automobile Insurance Company	MO	21849	22-1608585	

<b>5. Company Tracking Number</b>	NARGL0608 - F
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**Contact Info of Filer(s) or Corporate Officer(s)** [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail
	Lilia B. Francisco	Regulatory Filings Analyst	415-899-4537	866-290-0671	lfranci1@ffic.com
7.	Signature of authorized filer				
8.	Please print name of authorized filer		Lilia B. Francisco		

**Filing information** (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)	17.2 Other Liability – Claims Made
10. Sub-Type of Insurance (Sub-TOI)	17.1022 Other
11. State Specific Product code(s)(if applicable)[See State Specific Requirements]	
12. Company Program Title (Marketing title)	
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14. Effective Date(s) Requested	New: 09-01-2008      Renewal: 09-01-2008
15. Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16. Reference Organization (if applicable)	
17. Reference Organization # & Title	
18. Company's Date of Filing	
19. Status of filing in domicile	<input checked="" type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

# Property & Casualty Transmittal Document—

<b>20. This filing transmittal is part of Company Tracking #</b>	NARGL0608-F
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<b>21. Filing Description</b> [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
--

Dear Sir or Madam:

Enclosed for your review and approval are revisions to our previously approved manufacturer's errors and omissions insurance.

CG 7140 provides essential coverage enhancement to the basic insurance provided under ISO Commercial General Liability coverages.

Refer to the enclosed Explanatory and Actuarial Memoranda for further details.

This is a rule/form filing. There will be no premium or rate impact due to the form change.

Enclosed in support of this filing are the following:

- Explanatory Memorandum;
- Manufacturer's Reliability Plus Insurance Actuarial Memorandum;
- Manufacturer's Reliability Plus Insurance – CG 71 40AR 05 08 (replaces Manufacturer's Broad Form Errors and Omission Liability Insurance, form CG 71 40 06 95 and Arkansas Amendatory Endorsement - CG 71 44 12 95; approved under Company filing number NWGL0975);
- Side by side comparison to the old form of Manufacturer's Reliability Plus Insurance;
- Manufacturer's Reliability Plus Insurance Declarations – 5951(C) MBF 05 08 (replaces 5951 (C) MBF 06-95 AR approved under company filing NWGL0795);
- Manual Rule pages of Manufacturer's Reliability Plus Insurance – CG-MFG-1.E-1&2
- Supplemental Extended Reporting Period – CG 71 47 05 08
- Property & Casualty Transmittal Document

Your approval of this filing with a proposed effective date of September 1, 2008 is appreciated.

Yours truly,

Lilia Francisco  
Regulatory Filings Analyst  
Fireman's Fund Insurance Company  
(415) 899-4537 (work)  
lfranci1@ffic.com

<b>2. Filing Fees</b> (Filer must provide check # and fee amount if applicable) [If a state requires you to show how you calculated your filing fees, place that calculation below]
--

**Check #: See EFT**  
**Amount: \$100.00**

**Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.**

**\*\*\*Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)**



**Actuarial Memorandum**  
**Manufacturer's Reliability Plus Insurance CG 71 40**  
Fireman's Fund Insurance Companies®

With this filing, we are proposing to replace Manufacturers' Broad Form Errors and Omissions Liability Insurance, CG 71 40 06 95 with the Manufacturer's Reliability Plus Insurance form, CG 71 40 05 08. While we have added additional deductible options and additional limit options to the form, the new form does not materially change the coverage or the rating components. Thus there will be no premium or rate impact due to the form change. As we have sold very few policies with this endorsement in the past, the new deductible options and limit options were developed using a comparative analysis. As we collect experience for this coverage, we will monitor its rate adequacy and will make the necessary adjustments to the rates, factors, and/or methodology as appropriate.



**Explanatory Memorandum**  
**Manufacturer's Reliability Plus Insurance – CG 71 40**  
Fireman's Fund Insurance Companies®

**Introduction**

Enclosed for your review and approval are revisions to our previously approved manufacturer's errors and omissions insurance.

CG 71 40 provides essential coverage enhancements to the basic insurance provided under the ISO Commercial General Liability coverages. The Commercial General Liability coverage form, CG 00 01, does not provide a manufacturer with any third party defense or coverage for their customers' expenses and financial losses from property that is impaired due to a design, manufacturing, sale or distribution error by the insured. This updated coverage part (formerly called Manufacturers' Broad Form Errors and Omissions Liability Insurance) allows the insured to buy coverage for suits from products that have not resulted in actual Bodily Injury or Property Damage but cause the product of another not to perform as expected. The attached coverage form provides the following option:

- Manufacturer's Reliability Plus Insurance CG 71 40 05 08 (or applicable state version) provides Claims-made coverage with defense in addition to the limits of liability

**Manufacturer's Reliability Plus Insurance – CG 71 40**

Manufacturer's Reliability Plus Insurance coverage pays for specified financial losses (loss of use) due to the insured's error or omission in the design or manufacturing of their product or work resulting in a defect, deficiency, inadequacy or dangerous condition in that product or work. The claim for the suit must be made and reported during the policy period, extended reporting period, or supplemental extended reporting period (if applicable) and after the retroactive date of coverage.

Just as in the 1995 form, covered expenses include:

- Defense costs – "claims expenses" (in addition to the Limits of Insurance for form CG 71 40);
- Loss of income (net profit or loss);
- Claimant's expenses to mitigate the period of "loss of use";
- The claimant's additional cost for replacements from other manufacturers for the errant product or work; and
- Costs to repair or replace customer's property that is damaged while on the insured's premises when the insured is performing work upon it.

Limits of liability apply separately to each wrongful act or related series of wrongful acts subject to an annual aggregate for all claims made. Factors are provided for Limits of Liability up to \$10,000,000 each claim with a \$10,000,000 annual aggregate offering more flexibility than the prior \$100,000/\$200,000 limits on the old forms. Basic pricing and rating methodology have not changed from the old form.

Deductibles apply on an "each claim" basis and range from \$1,000 to \$25,000. This offers a much wider range of options for insureds as compared to the old form where only a \$10,000 deductible was available.

**Summary of Coverage Changes**

Our updated coverage form provides the following changes:

- The form title is now "Manufacturer's Reliability Plus Insurance."
- Editorial changes have been made to the structure of the forms and the language to be more consistent with our other Professional Liability forms.
- The basic Insuring Agreement has been rewritten to clarify the intent of the coverage.

- The coverage territory has been expanded from products sold worldwide with suits brought in the United States to products sold worldwide and suits brought worldwide
- Technology Products and Services when provided by companies in the business of software development or the provision of “technology products or services” as described in the forms are now excluded
- The definition of “Your Product” reflects a broadening of coverage from the prior form’s definitions of “Your Manufactured Product.”

Refer to enclosed side by side comparison.

#### **Supplemental Extended Reporting Period form, CG 71 47**

This new form has been tracks with the wording of the new form and provide for the purchase of a Supplemental Extended Reporting Period as per the terms of the CG 71 40 form.

#### **Eligibility**

The Manufacturer’s Reliability Plus Insurance form may be attached to any manufacturer’s package policy with the Commercial General Liability Coverage part, CG 00 01.

#### **Rules**

In order to accommodate our additional coverages and options, we propose adding a rule for additional coverages, limits, and deductibles. Please refer to the enclosed Exception Page CG-MFG-1.E.

As little of this coverage has been sold in the past, we have limited loss experience and therefore, are not proposing any changes to the basic rating in place at this time. Our only rating changes are the additions of higher liability limit options and a variety of deductible options. With our classification and statistical controls in place, we will be able to monitor the experience for this product and revise our rates as needed.

#### **Declarations Page**

The revised Declarations page reflects the change in form title and version date but is otherwise unchanged from the 1995 versions.

MANUFACTURER'S RELIABILITY PLUS INSURANCE (5951(C)MBF 0508)

THESE DECLARATIONS ARE ISSUED IN CONJUNCTION WITH AND ARE  
PART OF COVERAGE FORM CG 71 40

DECLARATIONS

LIMITS OF INSURANCE

AGGREGATE	\$
EACH CLAIM	\$
DEDUCTIBLE	\$

RETROACTIVE DATE

NUMBERS OF POLICY COVER, FORMS, SCHEDULES AND  
ENDORSEMENTS FORMING PART OF THIS COVERAGE AND APPLICABLE  
POLICYHOLDER NOTICES:

*SERFF Tracking Number:* FFDC-125705618      *State:* Arkansas  
*First Filing Company:* American Automobile Insurance Company, ...      *State Tracking Number:* EFT \$20  
*Company Tracking Number:* NARGL0608-F  
*TOI:* 17.1 Other Liability - Claims Made Only      *Sub-TOI:* 17.1022 Other  
*Product Name:* Manufacturer's Reliability Insurance  
*Project Name/Number:* Manufacturer's Reliability Insurance/NWGL0606

## Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

<b>Original Date:</b>	<b>Schedule</b>	<b>Document Name</b>	<b>Replaced Date</b>	<b>Attach Document</b>
No original date	Form	Manufacturer's Reliability Plus Insurance	07/08/2008	CG7140 SideXSidefinal.pdf CG 71 40AR 05 08.pdf

**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
Fireman's Fund Insurance Companies®**

CG 71 40 06 95	CG 71 40 05 08	Comments
<p><b>Manufacturers' Broad Form Errors and Omissions Liability Insurance CG 71 40 06 95</b> Claims-Made Coverage Part</p> <p>Words and phrases that appear in <b>bold</b> print have special meaning and are defined in the Definitions section of this coverage part.</p> <p>Throughout this Coverage Part, the words, <b>you</b> and <b>your</b> refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this Coverage Part. The words, <b>we</b>, <b>us</b> and <b>our</b> refer to the Company providing this insurance.</p> <p>In addition to the Named Insured, other persons or organizations qualify as <b>insureds</b>. Those persons or organizations and the conditions under which they qualify are identified in Section 1 - Who Is Insured of this Coverage Part.</p> <p>Various provisions of this Coverage Part restrict coverage. Read the entire Coverage Part carefully to determine your rights, duties and what is and is not covered.</p>	<p><b>Manufacturer's Reliability Plus Insurance – CG 71 40 05 08</b> (Manufacturers' Errors and Omissions Liability Insurance)</p> <p><b>NOTICE – THIS IS A “CLAIMS MADE AND REPORTED” COVERAGE PART. CLAIM EXPENSES ARE NOT INCLUDED IN THE LIMITS OF INSURANCE. THIS MEANS THAT COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED DURING THE COVERAGE PERIOD OR, IF APPLICABLE, DURING THE EXTENDED REPORTING PERIOD AND THAT CLAIM EXPENSES ARE IN ADDITION TO THE LIMITS OF INSURANCE.</b></p> <p>Read this entire Coverage Part carefully to determine rights, duties and what is and is not covered. Various provisions in this Coverage Part restrict coverage.</p> <p>Throughout this Coverage Part the words <b>you</b> and <b>your</b> refer to the Named Insured shown in the Policy Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words <b>we</b>, <b>us</b> and <b>our</b> refer to the Company providing this insurance. The word “insured” means any person or organization qualifying as such under Section II – Who is an Insured. Some words in bold face have special meaning – Refer to Definitions.</p> <p>In consideration of the payment of the premium, <b>you</b> promise to pay the Deductible shown in the Declarations, and in reliance on all statements made and information <b>you</b> furnished to <b>us</b>, including the statements made in the Application and subject to the Limit of Insurance stated in the Declarations, and all of the terms and conditions of this Coverage Part, <b>we</b> and <b>you</b> agree as follows:</p>	<p>The 05 08 version has been completely reformatted to match our CG 70 96 05 08 style and language and other ISO and Fireman's Fund proprietary language and formatting.</p> <p>Notice of claims-made trigger has been added to the introduction.</p>

**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
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<p><b>Section 2 – Coverage</b></p> <p><i>Damages for Loss of Use</i>      Subject to Section 3 - Limits of Insurance, we will pay those sums the <b>insured</b> becomes legally obligated to pay as <b>damages for Loss of Use</b> caused by a defect, deficiency, inadequacy or dangerous condition in <b>your manufactured product or your work</b>.</p> <p>This insurance applies to <b>Loss of Use</b> only if:</p> <p>A. The defect, deficiency, inadequacy or dangerous condition in <b>your manufactured product or your work</b> that causes the <b>Loss of Use</b> arises out of a negligent act, error or omission your design, manufacturing, labeling, packaging, instructions or distribution of <b>your manufactured product or your work</b>.</p> <p>B. The <b>Loss of Use</b> happens in the <b>Coverage Territory</b>;</p> <p>C. The <b>Loss of Use</b> begins on or after the retroactive date, shown in the Declarations, and before the end of the policy period; and</p> <p>D. A claim for <b>damages</b> because of <b>Loss of Use</b> is first made against the <b>insured</b>, in accordance with Section 6 - Claims-Made of this Coverage Part.</p> <p><i>Damage to Customer's Property</i>      Subject to Section 3 - Limits of Insurance, we will pay those sums the <b>insured</b> becomes legally obligated to pay as <b>damages for Property Damage</b> to which this insurance applies.</p> <p>This insurance applies to <b>Property Damage</b> only if:</p>	<p><b>I. COVERAGES</b></p> <p><b>A. Insuring Agreement</b></p> <p>We will pay those sums <b>you</b> become legally obligated to pay as <b>damages</b> caused by a defect, deficiency, inadequacy or dangerous condition in <b>your product or your work</b> due to a <b>wrongful act</b> resulting in:</p> <ol style="list-style-type: none"> <li>1. <b>Loss of use of impaired property</b> or property that has not been physically injured: <ol style="list-style-type: none"> <li>a. Which occurs after <b>you</b> or others at <b>your</b> direction, complete any testing and inspection; and</li> <li>b. After <b>you</b> release <b>your product</b> into the stream of commerce; or</li> </ol> </li> <li>2. <b>Property damage</b> to the personal property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by an insured.</li> </ol> <p>This coverage applies to <b>wrongful act(s)</b> taking place in the coverage territory, provided that such <b>wrongful act(s)</b> took place:</p> <ol style="list-style-type: none"> <li>1. During the <b>coverage period</b>, but then only if the <b>claim</b> is first made against <b>you</b> and reported to <b>us</b> during the <b>coverage period</b> or during the Extended Reporting Period, if applicable, in accordance with Section V, Condition C; or</li> <li>2. Prior to the effective date of this Coverage Part, but after the <b>retroactive date</b>, if any, stated in the Declarations, provided that: <ol style="list-style-type: none"> <li>a. As of the effective date of this Coverage Part, <b>you</b> do not have actual or constructive knowledge of any circumstances or <b>wrongful acts</b> which could reasonably be expected to result in a <b>claim</b>;</li> <li>b. There is no other valid and collectible insurance available to <b>you</b> for any such prior <b>wrongful act</b>; and</li> <li>c. The <b>claim</b> is first made against <b>you</b> and reported during the <b>coverage period</b>, Extended Reporting Period, or Supplemental Extended Reporting Period, if applicable.</li> </ol> </li> </ol>	<p>The Insuring Agreement is restructured to provide one simplified Insuring Agreement for both Loss of Use (previously Damages for Loss of Use) and Property Damage (previously Damage to Customer's Property).</p> <p>The term Wrongful Act is introduced and defined in Section VI. DEFINITIONS.</p> <p>For Loss of Use, the term 'impaired property' and clauses 1.a and 1.b have been added to clarify coverage intent. Impaired Property is defined in Section VI. DEFINITIONS.</p>
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**Manufacturer's Reliability Plus Insurance (Manufacturers' Errors and Omissions Liability Insurance) – CG 71 40  
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<p>A. The <b>Property Damage</b> arises out of a negligent act, error or omission committed by you in the performance of <b>your work</b> while you are performing that work on the personal property of others that is on your premises for the purpose of having <b>your work</b> performed on it;</p> <p>B. The work that gives rise to <b>Property Damage</b> is performed at premises located in the <b>Coverage Territory</b>;</p> <p>C. The <b>Property Damage</b> occurs on or after the retroactive date, shown in the Declarations, and before the end of the policy period; and</p> <p>D. A claim for <b>damages</b> because of <b>Property Damage</b> is first made against the <b>insured</b>, in accordance with the claims-made reporting section of this Coverage Part.</p>		
<p><b>Section 5 - Investigation, Defense and Payment of Damages</b></p> <p>We will have the right and duty to defend any <b>insured</b> against a <b>suit</b> for <b>damages</b> or <b>loss of use</b>. However, we will have no duty to defend any <b>insured</b> against a <b>suit</b> seeking <b>damages</b> to which this insurance does not apply. We may at our discretion investigate and settle any claim or <b>suit</b> that may result.</p> <p>The amount we will pay for <b>damages</b> is limited as described in Section 3 – Limits of Insurance. 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 <b>loss of use</b> and <b>damages</b>.</p> <p>We have no further obligation or liability to pay sums or perform acts or services.</p>	<p><b>B. Defense, Investigation and Settlement of a Claim</b></p> <ol style="list-style-type: none"> <li>1. <b>We</b> have the right and duty to defend <b>you</b>, including the right to select counsel, against any <b>claim</b> brought against <b>you</b> for which coverage under this Coverage Part applies. However, <b>we</b> will have no duty to defend <b>you</b> against any <b>claim</b> for which there is no coverage under this Coverage Part. <b>We</b> have the right to conduct any investigation or negotiation and make any settlement of any <b>claim</b>.</li> <li>2. <b>We</b> will have the right, but not the duty, to appeal any judgment; and</li> <li>3. For any <b>claim</b> to which this Coverage Part applies: <ol style="list-style-type: none"> <li>a. <b>We</b> shall pay all <b>claims expenses</b> that <b>we</b> incur in any such <b>claim</b>;</li> <li>b. <b>Our</b> right and duty to defend <b>you</b> ends when the Limit of Insurance set forth in the Declarations is exhausted by payment of judgments and settlements;</li> <li>c. <b>You</b> may not incur any <b>claims expenses</b>, admit liability for, make payment for, or settle any <b>claim</b> without <b>our</b> prior written consent, which shall not be unreasonably withheld. <b>We</b> shall not be liable for any expense, settlement, assumed obligation or admission to which <b>we</b> have not consented; and</li> </ol> </li> </ol>	<p>Defense, Investigation and Settlement conditions have been renamed in the 05 08 version from the prior Section 5 Investigation, Defense and Payment of Damages. We have added wording that clarifies that Fireman's Fund has the right to select counsel. Other clarifying language has been added for the appeal of judgments. Also, clauses 3.c. and 3.d. have been added to track with our other Proprietary language in other</p>

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	<p>d. <b>You</b> agree to cooperate with <b>us</b> in the defense, investigation, and settlement of any <b>claim</b> and <b>you</b> agree, as a condition of coverage under this Coverage Part, to submit to <b>us</b> upon request, such information and documentation as <b>we</b> may require in the investigation and defense of any <b>claim</b>.</p>	<p>professional liability forms.</p>
<p><b>Section 7 - Coverage Territory</b></p> <p>This insurance applies to the United States of America, its territories and possessions, Puerto Rico and Canada; or all parts of the world if:</p> <p>The <b>loss of use</b> arises out of <b>your manufactured products</b> made or sold, or <b>your work</b> completed, within the territory described above; and the <b>insured's</b> responsibility to pay <b>damages</b> is determined in a <b>suit</b> on the merits in the territory described above, or in a settlement we agree to</p>	<p><b>C. Coverage Territory</b></p> <p>This coverage applies to a <b>wrongful act</b> taking place or a <b>claim</b> made anywhere in the world.</p> <p>In jurisdictions outside the United States of America, its territories and possessions, Puerto Rico and Canada, if <b>we</b> are prevented from investigating, defending, settling or paying a <b>claim</b>, <b>you</b> agree to make or cause to be made such investigation, defense, settlement or payment as may be reasonably necessary. However, settlement or payment requires <b>our</b> prior written authorization, which shall not be unreasonably withheld.</p> <p>If the preceding paragraph applies, <b>we</b> will reimburse <b>you</b> for the reasonable cost of any investigation and defense and for the amounts of such authorized settlements or payment.</p> <p>The amount <b>we</b> will reimburse is limited as described in Section III. LIMITS OF INSURANCE AND DEDUCTIBLES and <b>our</b> duty to reimburse <b>you</b> for the reasonable cost of any investigation and defense ends when the applicable Limit of Insurance is exhausted.</p> <p>If <b>we</b> make a reimbursement to <b>you</b> of costs and settlements, it will be paid in the currency of the United States. Payments of covered costs and settlements which are made by <b>you</b> in the currencies of other nations will be converted to the currency of the United States at the exchange rate prevailing at the date the reimbursement is processed</p> <p><b>D. Supplemental Payments</b></p> <p>In addition to the Limits of Insurance, <b>we</b> will pay:</p> <ol style="list-style-type: none"> <li>1. Any premium for appeal bonds for the covered part of the judgment, provided however, that <b>we</b> have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;</li> <li>2. Post judgment interest;</li> <li>3. Prejudgment interest awarded against <b>you</b> on that part of the judgment <b>we</b> pay. If <b>we</b> make an offer to pay the applicable Limit of Insurance, <b>we</b> will not pay any prejudgment interest based on that period of time after the offer;</li> <li>4. All costs awarded against <b>you</b> in a <b>suit</b>, but this does not include attorneys'</li> </ol>	<p>Coverage Territory has been expanded to both Wrongful Acts and Claims Made anywhere in the world regardless of where the suit is filed. Prior coverage required the suit to be brought in the United States.</p> <p>Section D. Supplemental Payments has been added to define payments that will be made in addition to the limits of insurance.</p>

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	<p>fees awarded to the person or entity bringing the <b>claim</b> or <b>suit</b>; and</p> <p>5. All <b>claims expenses</b> that <b>we</b> incur in any such <b>claim</b> to which this coverage applies.</p> <p>However, <b>we</b> have no obligation to make any Supplemental Payments once the Limits of Insurance shown in the Declarations are exhausted by payment of <b>damages</b>.</p>	
<p><b>Section 8 – Exclusions</b></p> <p><i>This insurance does not apply to <b>Damages for Loss of Use or Damage to Customer's Property</b>:</i></p> <p>A. that results from any dishonest, fraudulent, criminal, intentional or malicious act or omission of any <b>insured</b> or anyone for whose acts an <b>insured</b> is legally responsible.</p> <p>B. the <b>insured</b> is obligated to pay <b>damages</b> by reason of the assumption of liability in a contract or agreement.</p> <p>C. due to gradual deterioration or wear and tear.</p> <p>D. that would not have occurred in whole or part but for the actual, alleged, or threatened existence, presence, discharge, dispersal, seepage, migration, release or escape of <b>pollutants</b>; or any loss, cost or expense that arises out of any:</p> <p>1. Request, demand or order that any <b>insured</b> or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, <b>pollutants</b>; or</p> <p>2. Claim or <b>suit for Property Damage</b> because of testing, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to, or assessing the effects of, <b>pollutants</b>.</p>	<p><b>E. Exclusions</b></p> <p>This insurance does not apply to any <b>claim</b>:</p> <p>1. For <b>damages from loss of use</b>:</p> <p>a. Arising from, or in any way involving <b>your work</b> that has not been completed. <b>Your work</b> will be deemed to be completed at the earliest of the following times:</p> <p>(1) When all the work called for in <b>your</b> contract has been completed.</p> <p>(2) When all of the work to be done at the job site has been completed if <b>your</b> contract calls for work at more than one job site.</p> <p>(3) When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.</p> <p>Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.</p> <p>2. Involving <b>property damage</b>, other than damage to the property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by <b>you</b>.</p> <p>3. Based upon or arising out of any dishonest, fraudulent, criminal, malicious, intentional or willful <b>wrongful act</b> by <b>you</b> or anyone at <b>your</b> direction who knows or expects that such an act will reduce the quality or performance of <b>your products</b> or <b>your work</b> below the level expected or required by the buyers or users of <b>your products</b> or <b>your work</b>.</p> <p>This includes, but is not limited to <b>damages</b> that result from <b>your</b> decision to cease providing consultation, advice, repair services, maintenance services, replacement parts, or other similar support for <b>your products</b> or <b>your work</b>.</p> <p>4. Based upon, arising out of or in any way involving any <b>personal and</b></p>	<p>The Exclusions section of the 05 08 version has been restructured to form one unified set of exclusions rather than four separate listings of exclusions as in the 06 95 form.</p> <p>Exclusion 3 in the 05 08 version combines prior Exclusions A. of Damages for Loss of Use or Damage to Customer's Property and C. Damages for Loss of Use.</p> <p>Prior Exclusion C. of Damages for</p>

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<p>E. Claims or <b>suits</b> brought by any <b>insured</b> against any other <b>insured</b>.</p> <p><i>This insurance does not apply to <b>Damages for Loss of Use</b> caused by:</i></p> <p><b>A. Property Damage</b></p> <p>B. sudden, abrupt and accidental physical injury to <b>your manufactured product</b> or <b>your work</b> after it has been put to its intended use.</p> <p>C. an intentional act or omission committed by any <b>insured</b> that the <b>insured</b> knows will reduce the quality or performance of <b>your manufactured product</b> or <b>your work</b> below the level expected or required by the buyers or users of the product. This includes, but is not limited to <b>loss of use</b> that results from the decision of any <b>insured</b> to cease providing consultation, advice, repair services, maintenance services, replacement parts or other similar support for <b>your manufactured product</b> or <b>your work</b>.</p> <p><i>This insurance does not apply to <b>Damages for Loss of Use</b> that results from or arises out of:</i></p> <p>A. your failure to meet the terms of any cost guarantee or cost estimate.</p> <p>B. an actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws.</p> <p>C. an actual or alleged:</p> <ol style="list-style-type: none"> <li>1. Infringement of any copyright, patent, trademark, trade name; or</li> <li>2. Wrongful appropriation or disclosure of trade secrets; or</li> </ol>	<p><b>advertising injury, or bodily injury.</b></p> <ol style="list-style-type: none"> <li>5. Based upon, arising out of or in any way involving any cost guarantees, in excess of probable cost estimates or cost overruns.</li> <li>6. Based upon, arising out of, or in any way involving, costs to comply with <b>your</b> contracts or agreements.</li> <li>7. Based upon, arising out of or in any way involving costs or expenses incurred by any insured to comply with any warranty for <b>your products</b> or <b>your work</b>.</li> <li>8. Based upon, arising out of, or in any way involving any damage to property owned, rented, leased, or loaned to <b>you</b>.</li> <li>9. Based upon, arising out of or in any way involving any failure to begin <b>your work</b> as required by contract or agreement, or any delay or failure in the delivery of <b>your products</b>.</li> <li>10. Based upon, arising out of, or in any way involving any liability assumed under a contract or agreement. This exclusion does not apply to any liability <b>you</b> would have in absence of such contract or agreement.</li> <li>11. Based upon, arising out of or in any way involving the installation of <b>your product</b> by others, unless on <b>your</b> behalf. However, this exclusion does not apply to loss because of inadequate instructions provided by <b>you</b>.</li> <li>12. Based upon, arising out of or in any way involving the failure to perform professional services by <b>you</b> while acting as any of the following: <ol style="list-style-type: none"> <li>a. Architect, Surveyor, or civil or structural engineer; or</li> <li>b. <b>Technology product or service</b> provider or advisor. However, this exclusion does not apply if <b>you</b> are in a business other than that of a <b>technology product or service</b> provider or software developer.</li> </ol> </li> <li>13. Based upon any actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws including but not limited to demands or proceedings brought by: <ol style="list-style-type: none"> <li>a. The Federal Trade Commission;</li> <li>b. The Food and Drug Administration;</li> <li>c. The Occupational Safety and Health Administration; or</li> <li>d. The Federal Communications Commission, or any other federal, state, local or foreign government agency in its capacity as a regulator.</li> </ol> </li> <li>14. Based upon, arising out of, or in any way involving any <b>claim</b> made or brought by any insured against any other insured.</li> </ol>	<p>Loss of Use has been reworded as Exclusion 4 and the definition of Personal and Advertising Injury has been added to Section VI. DEFINITIONS.</p> <p>Exclusion 8 was previously within the definition of "Your manufactured product" in the 06 95 version.</p> <p>Exclusions 7, 11, 12, 14, 15, 16, 19, 20, 21 and 22 have been added for coverage clarification and consistency with other ISO and proprietary Liability forms.</p>
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<p>3. Violation of any other intellectual property right.</p> <p>D. a delay in the performance of any contract or agreement.</p> <p>E. <b>your work</b> that has not been completed. <b>Your work</b> shall be deemed to be completed at the earliest of the following times:</p> <ol style="list-style-type: none"> <li>1. When all the work called for in your contract has been completed;</li> <li>2. When all of the work to be done at the site has been completed if your contract calls for work at more than one site;</li> <li>3. When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.</li> </ol> <p>Work that may need service, maintenance, correction, repair or replacement, but is otherwise complete will be treated as completed.</p> <p><i>This insurance does not apply to <b>Damage</b> to Customer's Property:</i></p> <p>A. expected or intended from the standpoint of any <b>insured</b>.</p>	<ol style="list-style-type: none"> <li>15. Based upon, arising out of or in any way involving any credit or voluntary payment made or given by <b>you</b> for any reason.</li> <li>16. Based upon, arising out of or in any way involving any products for which <b>bodily injury</b> or <b>property damage</b> are excluded by endorsement under Coverage A – Bodily Injury and Property Damage Liability in the Commercial General Liability coverage part of this policy.</li> <li>17. Based upon, arising out of, or in any way involving gradual deterioration, wear and tear, age, obsolescence, or any structural or technological incompatibility.</li> <li>18. Based upon, arising out of, or in any way involving any actual, alleged, or threatened presence, discharge, dispersal, seepage, migration, release or escape of <b>pollutants</b>; or any loss, cost or expense that arises out of any:             <ol style="list-style-type: none"> <li>a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to, or assess the effects of, <b>pollutants</b>; or</li> <li>b. <b>Claim</b> 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, <b>pollutants</b>.</li> </ol> </li> <li>19. Based upon, arising out of or in any way including any nuclear reaction, radiation, radioactive contamination or radioactive substance, in any form, no matter how emitted.</li> <li>20. Based upon, arising out of, or in any way, either directly or indirectly, involving:             <ol style="list-style-type: none"> <li>a. War, including undeclared or civil war;</li> <li>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</li> <li>c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.</li> </ol> </li> <li>21. Based upon, arising out of, or in any way, either directly or indirectly, involving damages, loss, cost or expense from the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of <b>asbestos</b>.</li> </ol> <p>This coverage does not apply to any damages, loss, cost or expense arising</p>	
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	<p>out of, but not limited to, any:</p> <ul style="list-style-type: none"> <li>a. manufacture, sale, distribution, handling, use, installation, removal, abatement, containment, storage, transportation, disposal, existence, presence, emanation, emission, release, inhalation, ingestion, absorption, or transmission of or exposure to <b>asbestos</b>;</li> <li>b. supervision, instructions, recommendations, notices, warnings or advice given or which should have been given in connection with <b>asbestos</b>;</li> <li>c. request, demand, order or regulatory or statutory 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 <b>asbestos</b>; or</li> <li>d. <b>claim</b> or proceeding by or on behalf of a governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of <b>asbestos</b>.</li> </ul> <p><b>We</b> shall have no obligation of any kind, including, but not limited to, any obligation to investigate, defend, pay defense costs, settle, or pay settlements or judgments as to any <b>claim, suit</b> or proceeding involving or allegedly involving <b>asbestos</b>.</p> <p>As used in this exclusion, <b>asbestos</b> includes, but is not limited to the mineral <b>asbestos</b> in any form, whether or not the <b>asbestos</b> is:</p> <ul style="list-style-type: none"> <li>a. A fiber, particle, or dust;</li> <li>b. Contained in, or on, or incorporated into, products, goods, or materials; or</li> <li>c. Contained in any part of any building, structure, building material, product or any other real or personal property.</li> </ul> <p>22. Arising, in whole or in part, directly or indirectly out of, or which is in any way related to <b>silica</b>.</p> <p>As used in this exclusion, the term <b>silica</b> includes, but is not limited to, silicon dioxide, silica, silica products, silica fibers, silica dust, any other silica byproducts, and silica whether alone or in combination with any substance, product or material. Without limiting the foregoing, this exclusion applies to every loss, damage, cost or expense otherwise covered by this Coverage Part, if any.</p>	
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<p><b>Section 1 - Who Is Insured</b></p> <p><i>Sole Proprietorship</i> If you are designated in the Declarations as an individual, you and your spouse are <b>insureds</b>, but only for the conduct of a business of which you are the sole owner.</p> <p><i>Partnership or Joint Venture</i> If you are designated in the Declarations as a partnership or joint venture, you are an <b>insured</b>. Your members, your partners and their spouses are also <b>insureds</b>, but only with respect to the conduct of your business.</p> <p><i>Limited Liability Company</i> If you are designated in the Declarations as a limited liability company, you are an <b>insured</b>. Your members and managers are also <b>insureds</b>, but only with respect to the conduct of your business.</p> <p><i>Other Organizations</i> If you are designated in the Declarations as an organization other than a partnership or joint venture, you are an <b>insured</b>. Your executive officers and directors are also <b>insureds</b>, but only with respect to their duties as your officers or directors. Your stockholders are also <b>insureds</b>, but only with respect to their liability as your stockholders.</p> <p><i>Employees</i> Your employees, other than your executive officers, are also <b>insureds</b>, but only for acts or omissions within the scope of their employment by you.</p> <p><i>Newly Acquired or Formed Organizations</i> Any organization you newly acquire or form, other than a partnership or joint venture, 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.</p> <p>However, coverage under this provision is afforded only until the 90th day after you</p>	<p><b>II. WHO IS AN INSURED</b></p> <p>A. If <b>you</b> are designated in the Declarations as:</p> <ol style="list-style-type: none"> <li>1. An individual, <b>you</b> and <b>your</b> spouse are insureds, but only with respect to the conduct of a business of which <b>you</b> are the sole owner.</li> <li>2. A partnership or joint venture, <b>you</b> are an insured. <b>Your</b> members, <b>your</b> partners, and their spouses are also insureds, but only with respect to the conduct of <b>your</b> business.</li> <li>3. A limited liability company, <b>you</b> are an insured. <b>Your</b> members are also insureds, but only with respect to the conduct of <b>your</b> business. <b>Your</b> managers are insureds, but only with respect to their duties as <b>your</b> managers.</li> <li>4. An organization other than a partnership, joint venture or limited liability company, <b>you</b> are an insured. <b>Your</b> executive officers and directors are insureds, but only with respect to their duties as <b>your</b> officers and directors. <b>Your</b> stockholders are also insureds, but only with respect to their liability as stockholders.</li> <li>5. A trust, <b>you</b> are insured. <b>Your</b> trustees are also insureds, but only with respect to their duties as trustees.</li> </ol> <p>B. Each of the following is also an insured:</p> <ol style="list-style-type: none"> <li>1. <b>Your</b> employees, <b>leased workers</b> and <b>temporary workers</b> while performing duties related to the conduct of <b>your</b> business, other than either <b>your executive officers</b> (if <b>you</b> are an organization other than a partnership, joint venture or limited liability company) or <b>your</b> managers (if <b>you</b> are a limited liability company), but only for acts within the scope of their employment by <b>you</b> while performing duties related to the conduct of <b>your</b> business;</li> <li>2. An employee leasing firm who provides <b>leased workers</b> or <b>temporary workers</b> only while those workers are performing duties related to the conduct of <b>your</b> business; and</li> <li>3. Any legal representative of a deceased or mentally incompetent insured, but only for the deceased or mentally incompetent insured's right and duties under this agreement.</li> </ol> <p>C. Any organization <b>you</b> newly acquire or form, other than a partnership, joint venture or limited liability company, and over which <b>you</b> maintain ownership or majority interest, will qualify as a Named Insured if there is no similar insurance available to that organization. However:</p>	<p>The Who Is An Insured Section has been reformatted to reflect ISO wording and include coverage for leased/temporary workers and employee leasing firms who employ those leased or temporary workers.</p> <p>Wording has been added to the Newly Acquired Organization clause to remind insureds that they must add those new</p>
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<p><i>No Other Insureds</i></p> <p>acquire or form the organization or the end of the policy period, whichever is earlier; and</p> <p>Coverage does not apply to <b>Loss of Use or Property Damage</b> arising out of a negligent act, error or omission that first took place before you acquired or formed the organization.</p> <p>No person or organization is an <b>insured</b> with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.</p>	<ol style="list-style-type: none"> <li>1. Coverage under this provision is afforded only until the 90<sup>th</sup> day after <b>you</b> acquire or form the organization or the end of the <b>coverage period</b>, whichever is earlier. During this 90 day period <b>you</b> must add the new organization as a Named Insured to the policy to continue coverage; and</li> <li>2. Coverage does not apply to <b>wrongful acts</b> that occurred before <b>you</b> acquired or formed the organization.</li> </ol> <p>D. 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 or by endorsement.</p>	<p>organizations to the policy to continue coverage past 90 days.</p>
<p><b>Section 3 - Limits of Insurance</b></p> <p>The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:</p> <ul style="list-style-type: none"> <li>• <b>insureds</b>;</li> <li>• claims made or <b>suits</b> brought; or</li> <li>• persons or organizations making claims or bringing <b>suits</b>.</li> </ul> <p>The limits of this Coverage Part apply separately to each consecutive annual policy period and to any coverage period that is less than 12 months. However, if we agree to extend an annual coverage period for an additional period of less than 12 months, the additional period will be deemed to be part of the preceding annual policy period for the purpose of determining the limits that apply.</p> <p><i>Each Claim Limit</i></p> <p>The Each Claim Limit in the Declarations is the most we will pay for all <b>damages</b> that arise out of a single claim or <b>suit</b> for <b>Loss of Use or Property Damage</b> caused by <b>your manufactured products</b> or <b>your work</b>, in excess of the deductible stated in the Declarations.</p>	<p><b>III. LIMITS OF INSURANCE AND DEDUCTIBLES</b></p> <p>Regardless of the number of insureds, persons or organizations making <b>claims</b>, or <b>wrongful acts</b> committed, <b>our</b> liability is limited as follows:</p> <p><b>A. Limits of Insurance</b></p> <ol style="list-style-type: none"> <li>1. The Limit of Insurance shown in the Declarations for this Coverage Part as the EACH CLAIM Limit is the most <b>we</b> will pay for <b>damages</b> resulting from any one <b>claim</b> under this Coverage Part. Without regard to the number of <b>claims</b> or insureds against whom a <b>claim</b> has been made, all <b>damages</b> arising out of the same <b>wrongful act</b> or <b>interrelated wrongful acts</b> will be subject to the EACH CLAIM Limit of Insurance in effect when the first <b>claim</b> arising out of the <b>wrongful act</b> or <b>interrelated wrongful acts</b> was made.</li> <li>2. The AGGREGATE Limit is the most <b>we</b> will pay for <b>damages</b> under this Coverage Part during the <b>coverage period</b>.</li> </ol> <p><b>B. Deductibles</b></p> <ol style="list-style-type: none"> <li>1. <b>We</b> shall only be liable to pay <b>damages</b> in excess of the EACH CLAIM deductible shown in the Declarations, which deductible shall apply to each and every <b>claim</b>. The deductible does not increase the Limit of Insurance.</li> <li>2. If <b>we</b> pay all or part of any deductible amount, <b>we</b> will notify the Named Insured of <b>our</b> payment of the deductible, and request reimbursement. The Named Insured will pay <b>us</b> for the part of the deductible <b>we</b> paid within thirty (30) days of <b>our</b> request.</li> <li>3. The deductible may only be satisfied by an actual cash payment by <b>you</b> and may not be satisfied by the release of a <b>claim</b> or counterclaim. <b>You</b> agree that the deductible shall be uninsured.</li> </ol>	<p>Items in the Limits and Deductibles section of the 05 08 version have been reordered and reworded to be in a consistent format with other Liability forms. The description of the application of the EACH CLAIM limit has been expanded to include application of the limit to “interrelated wrongful acts”.</p> <p>Section 3 – Limits of Insurance, the clause beginning “The limits of this Coverage Part apply...” has been incorporated into Section V. EXTENDED REPORTING PERIODS.</p> <p>The Deductibles section has been</p>

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<p><i>Aggregate Limit</i></p> <p>Subject to the Each Claim Limit, the Aggregate limit in the Declarations is the most we will pay for all <b>damages</b> that arise out of all claims or <b>suits</b> for <b>Loss of Use</b> or <b>Property Damage</b> caused by <b>your manufactured products</b> or <b>your work</b>.</p> <p><b>Section 4 – Deductible</b></p> <p>Our obligation to pay <b>damages</b> arising out of a single claim or <b>suit</b> is excess of the Deductible amount in the Declarations, subject to:</p> <p>A. The terms of this Coverage Part, including those with respect to our right and duty to defend any claim or <b>suit</b> and your duties in the event of a claim or <b>suit</b>, apply irrespective of the application of the deductible amount.</p> <p>B. We may pay any part or all of the deductible amount as to effect settlement of any claim or <b>suit</b> and, on notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.</p>	<p><b>C. Reduction of Limits</b></p> <p>1. The EACH CLAIM and AGGREGATE limits of insurance shall be reduced by the sum of:</p> <p>a. The amounts <b>we</b> pay as <b>damages</b>; and</p> <p>b. The amounts <b>you</b> are required to pay as deductibles.</p> <p>When the EACH CLAIM limit of insurance is exhausted by payment of <b>damages</b> and deductibles, <b>we</b> shall have no further obligation to defend that <b>claim</b> or pay any <b>damages</b> or <b>claims expenses</b> including defense costs.</p> <p>When the AGGREGATE limit of insurance is exhausted by payment of <b>damages</b> and deductibles, <b>we</b> shall have no further obligation to defend any <b>claim</b> or pay any <b>damages</b> or <b>claims expenses</b>.</p> <p>When <b>our</b> right and duty to defend <b>claims</b> ends, <b>we</b> may withdraw and tender the defense to <b>you</b> as provided in Section III. D. Transfer of Duties When a Limit of Insurance Is Exhausted.</p>	<p>reorganized and reworded to match other current Professional Liability forms.</p> <p>The Reduction of Limits section has been added for clarity.</p>
	<p><b>D. Transfer of Duties When a Limit of Insurance Is Exhausted</b></p> <p>1. If <b>we</b> conclude, based upon the <b>claims</b> which have been reported to <b>us</b> and to which this insurance may apply, that the AGGREGATE limit or EACH CLAIM limit is likely to be exhausted by the payment of judgments or settlements, <b>we</b> will notify the first Named Insured in writing to that effect.</p> <p>2. When a limit of insurance described in paragraph 1, above, has actually been exhausted in the payment of judgments or settlements:</p> <p>a. <b>We</b> will notify the first Named Insured, in writing, as soon as practicable, that:</p> <p>(1) Such a limit has actually been exhausted; and</p> <p>(2) <b>Our</b> duty to defend <b>claims</b> seeking <b>damages</b> subject to that limit has also ended.</p> <p>b. <b>We</b> will initiate, and cooperate in, the transfer of control, to any</p>	<p>Section D. "Transfer of Duties When a Limit of Insurance Is Exhausted" in the 05 08 version of the form is new and has been added for clarity.</p>

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	<p>appropriate insured, of all <b>claims</b> seeking <b>damages</b> subject to that limit, which are reported to <b>us</b> before that limit is exhausted. That insured must cooperate in the transfer of control of such <b>claims</b>.</p> <p><b>We</b> agree to take such steps, as <b>we</b> deem appropriate, to avoid a default in, or continue the defense of such <b>claims</b> until the transfer is completed, provided the appropriate insured is cooperating.</p> <p><b>We</b> will take no action whatsoever with respect to any <b>claim</b> seeking <b>damages</b> that would have been subject to that limit, had it not been exhausted, if the <b>claim</b> is reported to <b>us</b> after the limit of insurance has been exhausted.</p> <p>c. The first Named Insured, and any other insured involved in a <b>claim</b> seeking <b>damages</b> subject to that limit, must arrange for the defense of such <b>claim</b> within a time period agreed to by the appropriate insured and <b>us</b>. Absent any such agreement, arrangements for the defense of a <b>claim</b> must be made as soon as practicable.</p> <p>3. The first Named Insured will reimburse <b>us</b> for expenses <b>we</b> incur in taking those steps <b>we</b> deem appropriate in accordance with paragraph 2.b. above. The duty of the first Named Insured to reimburse <b>us</b> will begin on:</p> <p>a. The date on which the applicable limit of insurance is exhausted, if <b>we</b> sent notice in accordance with paragraph 1. above; or</p> <p>b. The date on which <b>we</b> sent notice in accordance with paragraph 2.a. above, if <b>we</b> did not send notice in accordance with paragraph 1. above.</p> <p>4. The exhaustion of any limit of insurance by the payment of judgments or settlements, and the resulting end of <b>our</b> duty to defend, will not be affected by <b>our</b> failure to comply with any of the provisions of this Condition.</p>	
	<p><b>IV. CONDITIONS</b></p> <p><b>A. Authorization Clause/Notices</b></p> <p>By acceptance of this Coverage Part by payment of the premium, <b>you</b> agree that the first Named Insured shall act on <b>your</b> behalf with respect to giving and receiving of notices of any cancellation or non-renewal, the payment of premiums, the receiving of any return premiums that may accrue under this Coverage Part, or any other notices regarding this insurance.</p>	<p>This is a new condition added to the 05 08 version to conform with ISO and other proprietary liability forms.</p>
<p><b>Section 9 - Conditions</b> <i>Bankruptcy</i></p> <p>Bankruptcy or insolvency of the <b>insured</b> or of the <b>insured's</b> estate will not relieve us of our obligations under this Coverage Part.</p>	<p><b>B. Bankruptcy</b></p> <p>Bankruptcy or insolvency of <b>you</b> or of <b>your</b> estate will not relieve <b>us</b> of <b>our</b> obligations under this Coverage Part.</p>	<p>Unchanged</p>

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	<p><b>C. Changes</b></p> <p>The terms of this Coverage Part shall not be waived or changed, except by endorsement issued by <b>us</b> to form a part of this Coverage Part. Notice to any agent or broker or knowledge possessed by any agent or broker or by any other person shall not effect a waiver or change in any part of this Coverage Part or stop <b>us</b> from asserting any right under the terms of this Coverage Part.</p> <p><b>D. Conformance with Statutes</b></p> <p>Terms of this Coverage Part that are in conflict with the statutes of the state or province in which this Coverage Part is issued are hereby amended to conform to such statutes.</p>	<p>Conditions B. and C. are new conditions added to the 05 08 version to conform with ISO and other proprietary liability forms.</p>
<p><b>Section 6 - Claims-Made</b></p> <p>A claim by a person or organization seeking <b>damages</b> will be deemed to have been made when notice of such claim is received and recorded by any <b>insured</b> or by us, whichever comes first.</p> <p>All claims or <b>suits</b> caused by any one manufacturing error, or series of related manufacturing errors, will be deemed to have been made at the time the first of these claims is made against any <b>insured</b> and shall constitute a single claims under Section 3 - Limits of Insurance section.</p> <p><b>Section 9 - Conditions</b> <i>Duties in the Event of A Negligent Act, Error, Omission, Claim or Suit</i></p> <p>A. You must notify us, in writing, as soon as practicable when you learn of a negligent act, error or omission that may result in a claim or <b>suit</b> for <b>Loss of Use or Property Damage</b> . To the extent possible, notice should include:</p> <ol style="list-style-type: none"> <li>1. A description of the act, error or omission that is alleged to have caused the claim;</li> <li>2. How, when and where the <b>Loss of</b></li> </ol>	<p><b>E. Duties Related to Potential or Actual Claims</b></p> <ol style="list-style-type: none"> <li>1. <b>Duties related to Potential Claims</b> <p>If during the <b>coverage period</b> or within ninety (90) days after the end of the <b>coverage period</b>, <b>you</b> first become aware of a <b>wrongful act</b> which might reasonably be expected to give rise to a <b>claim</b> covered by this insurance, and <b>you</b> give written notice to <b>us</b> of such <b>wrongful act</b> as required below, then any <b>claim</b> subsequently made against <b>you</b> by reason of such <b>wrongful act</b> shall be deemed to have been first made during the <b>coverage period</b>.</p> <p>Written report of a potential claim must include:</p> <ol style="list-style-type: none"> <li>a. The specific facts and circumstances which constitute the <b>wrongful act</b> including the date(s) thereof, and the names of all parties and insureds involved;</li> <li>b. The date and circumstances by which <b>you</b> became aware of such <b>wrongful acts</b>; and</li> <li>c. The damages that may reasonably result.</li> </ol> </li> <li>2. <b>Duties Related to Actual Claims</b> <ol style="list-style-type: none"> <li>a. <b>You</b> shall provide notice to <b>us</b> as soon as practicable after a <b>claim</b> is first made against <b>you</b>. This notice shall be deemed to be sent to <b>us</b> only if it is received by <b>us</b> via facsimile or electronic mail or sent by <b>you</b> by prepaid registered or return-receipt-requested mail properly</li> </ol> </li> </ol>	<p>Condition E. "Duties Related to Potential or Actual Claims" (previously Sections 6 – "Claims-Made") has been completely rewritten in the 05 08 version for consistency with our other Professional Liability forms and to incorporate the new terms "coverage period", "wrongful act" and "claim" vs. "suits". This section now also incorporates prior Section 9 – "Conditions – Duties in the Event of A Negligent Act, Error, Omission, Claim or Suit."</p> <p>Duties have been divided between Potential Claims, Actual Claims and those that apply to both types of claims.</p>

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<p><b>Use or Property Damage</b> is alleged to have occurred;</p> <p>3. The names and addresses of parties claiming <b>Loss of Use or Property Damage</b> ; and</p> <p>4. The nature and extent of the <b>loss of use or property damage</b>.</p> <p>B. You must take all reasonable steps to correct any negligent acts, errors or omissions and to prevent shipment of any of <b>your manufactured products or your work</b> that may contain any defect, deficiency, inadequacy or dangerous condition or any property of others that has been damaged by <b>your work</b> performed on it.</p> <p>C. If a claim is made or <b>suit</b> is brought for <b>loss of use</b> or for <b>Property Damage</b> that may be covered by this insurance, you, or any other involved <b>insured</b>, must:</p> <ol style="list-style-type: none"> <li>1. Immediately record the specifics of the claim and the date received; and</li> <li>2. Notify us as soon as practicable. You must see that we receive written notice of the claim as soon as practicable.</li> </ol> <p>D. You and any other involved <b>insured</b> must:</p> <ol style="list-style-type: none"> <li>1. Immediately send us copies of any demands, notices, summons or legal papers in connection with the claim or <b>suit</b>;</li> <li>2. Authorize us to obtain records and other information;</li> <li>3. Cooperate with us in the investigation, defense and settlement of any claim or <b>suit</b>; and</li> </ol>	<p>addressed to <b>us</b> at the address shown in or attached to this Policy;</p> <ol style="list-style-type: none"> <li>b. <b>You</b> must immediately send <b>us</b> copies of any demands, notices, summonses, or legal papers in connection with the <b>claim</b> or <b>suit</b>;</li> <li>c. <b>You</b> must authorize <b>us</b> to obtain records and other information;</li> <li>d. <b>You</b> must cooperate with <b>us</b> in the investigation, defense and settlement of any <b>claim</b>; and</li> <li>e. <b>You</b> must assist <b>us</b>, upon <b>our</b> request, in the enforcement of any rights against any person or organization which may be liable to <b>you</b> because of <b>loss of use</b> or <b>property damage</b> to which this insurance may also apply.</li> </ol> <p>3. Duties Related to Potential and Actual <b>Claims</b></p> <p><b>You</b> must take all reasonable steps to correct any <b>wrongful acts</b> and to prevent shipment of any of <b>your products or your work</b> which may contain any defect, deficiency, inadequacy, or dangerous condition or any property of others which has been damaged by <b>your work</b> performed upon it.</p>	
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<p>4. Assist us, on our request, in the enforcement of any rights against any person or organization that may be liable to the <b>insured</b> because of <b>loss of use</b> or <b>Property Damage</b> to which this insurance may also apply.</p> <p>E. No <b>insureds</b> will, except at their own cost, voluntarily make a payment, assume any obligation or incur expense without our consent. We will not reimburse any <b>insured</b> for any amounts they may pay as <b>damages</b> or defense costs without our permission.</p> <p>F. If any claim or <b>suit</b> we are defending is submitted for decision to a finder of fact (including, but not limited to, a judge, jury, arbitrator, or arbitration panel) either you or we may request that the finder of facts make special written findings on each issue of fact submitted to it.</p> <p>If we ask you to, you must instruct your attorney to request that the finder of the facts make special written findings on each issue of fact submitted to it.</p> <p>If you fail to do so, we have no further obligation to defend that <b>suit</b> or to pay <b>damages</b> for any claims that gave rise to that <b>suit</b>.</p>		
<p><i>Legal Action Against Us</i></p> <p>No person or organization has a right under this Coverage Part:</p> <ul style="list-style-type: none"> <li>• To join us as a party or otherwise bring us into a <b>suit</b> asking for <b>damages</b></li> <li>• from any <b>insured</b>; or</li> <li>• To sue us on this Coverage Part unless all of its terms have been fully complied with,</li> </ul> <p>but we will not be liable for <b>damages</b> that</p>	<p><b>F. Legal Action Against Us</b></p> <p>No person or organization has a right under this Coverage Part:</p> <ol style="list-style-type: none"> <li>1. To join <b>us</b> as a party or otherwise bring <b>us</b> into a <b>suit</b> asking for <b>damages</b> from an insured; or</li> <li>2. To sue <b>us</b> under this Coverage Part unless all or its terms have been fully complied with.</li> </ol>	<p>No changes.</p>

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<p>are not payable under the terms of this Coverage Part or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by us, the <b>insured</b> and either the claimant or the claimant's legal representative.</p>	<p>A person or organization may sue <b>us</b> to recover on an agreed settlement or on a final judgment against <b>you</b>; but <b>we</b> will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable Limits of Insurance. An agreed settlement means a settlement and release of liability signed by <b>us, you,</b> and the claimant or the claimant's legal representative.</p>	
	<p><b>G. Liberalization</b></p> <p>If <b>we</b> adopt a change in <b>our</b> forms or rules during the term of this Coverage Part that would broaden the coverage provided by any form that is part of this Coverage Part without an extra premium, the broader coverage will apply to this Coverage Part. This extension is effective upon approval of such broader coverage in the Insured's state.</p>	<p>A new condition which expands coverage to automatically broaden coverage if subsequent changes in this form broaden coverage.</p>
<p><i>Other Insurance</i></p> <p>If other valid and collectible insurance is available to any <b>insured</b> for a loss we cover, our obligations are limited as follows:</p> <p>A. This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, except for insurance that:</p> <ol style="list-style-type: none"> <li>1. Is purchased by the <b>insured</b> to apply specifically in excess of this insurance; and</li> <li>2. Specifically states that it applies in excess of the limits of insurance shown in the Declarations of this coverage part.</li> </ol> <p>B. Because this insurance is excess, the following conditions apply:</p> <ol style="list-style-type: none"> <li>1. We will have no duty to defend any claim or <b>suit</b> that any other insurer has a duty to defend. If no other insurer defends and we have an obligation to do so, then: <ol style="list-style-type: none"> <li>a. We will undertake the defense; and</li> </ol> </li> </ol>	<p><b>H. Other Insurance</b></p> <p>If other valid and collectible insurance or any bond is available to any insured for a loss <b>we</b> cover under this Coverage Part, <b>our</b> obligations are limited as follows:</p> <ol style="list-style-type: none"> <li>1. This insurance is excess over any of the other insurance and any bond, whether primary, excess, contingent or on any other basis, except for insurance which: <ol style="list-style-type: none"> <li>a. Is purchased by <b>you</b> to apply specifically in excess of this insurance; and</li> <li>b. Specifically states that it applies in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.</li> </ol> </li> <li>2. Because this insurance is excess, the following conditions apply: <ol style="list-style-type: none"> <li>a. <b>We</b> will have no duty to defend any <b>claim</b> or <b>suit</b> that any other insurer has a duty to defend. If no other insurer defends and <b>we</b> have an obligation to do so, then: <ol style="list-style-type: none"> <li>(1) <b>We</b> will undertake the defense; and</li> <li>(2) <b>We</b> will be entitled to enforce <b>your</b> rights against all other insurers.</li> </ol> </li> <li>b. <b>We</b> will pay only <b>our</b> share of the amount of loss, if any, that exceeds the sum of: <ol style="list-style-type: none"> <li>(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and</li> <li>(2) The total of all deductible and self-insured amounts under all that</li> </ol> </li> </ol> </li> </ol>	<p>The "Other Insurance" clause is substantially the same in the new 05 08 version of the form except for the following changes:</p> <ul style="list-style-type: none"> <li>✓ The words "or any bond" have been added to the first paragraph and the words "and any bond" have been added to paragraph 1.</li> <li>✓ Paragraph 3 Method of Sharing has been reworded from prior paragraph B. 2. to clarify methods of sharing.</li> </ul>

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<p>b. We will be entitled to enforce the <b>insured's</b> rights against all other insurers.</p> <p>2. We will pay only our share of the amount of loss, if any, that exceeds:</p> <p>a. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and</p> <p>b. The total of all deductible and self-insured amounts under all that other insurance.</p>	<p>other insurance.</p> <p>3. Method of Sharing</p> <p>If all of the other insurance and bonds permit contribution by equal shares, <b>we</b> will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.</p> <p>If any of the other insurance does not permit contribution by equal shares, <b>we</b> will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.</p>	
<p><i>Premium Audit</i></p> <p>We will compute all premiums for this Coverage Part in accordance with our rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the First Named Insured. If the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the First Named Insured. 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.</p> <p><i>Representations</i></p> <p>By accepting this coverage part, you agree:</p> <ul style="list-style-type: none"> <li>• The statements in the Declarations are accurate and complete;</li> <li>• The statements are based on representations you made to us; and</li> <li>• We have issued this coverage part in reliance on your representations.</li> </ul>	<p><b>I. Premium Audit</b></p> <p><b>We</b> will compute all premiums for this Coverage Part in accordance with <b>our</b> rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period <b>we</b> will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the coverage term is greater than the earned premium, <b>we</b> will return the excess to the first Named Insured. The first Named Insured must keep records of the information <b>we</b> need for premium computation, and send <b>us</b> copies at such times as <b>we</b> may request.</p> <p><b>J. Representations</b></p> <p>By accepting this insurance, <b>you</b> agree:</p> <ol style="list-style-type: none"> <li>1. The statements in the Declarations are <b>accurate</b> and complete;</li> <li>2. Those statements are based upon representations <b>you</b> made to <b>us</b>; and</li> <li>3. <b>We</b> have issued this Coverage Part in reliance upon <b>your</b> representations.</li> </ol>	<p>No changes</p>
<p><i>When We Do Not Renew</i></p> <p>If we decide not to renew this Coverage Part, we will mail or deliver to the First Named Insured shown in the Declarations written notice of non-renewal not less than 30 days before the expiration date. If</p>	<p><b>K. Cancellation and Nonrenewal</b></p> <ol style="list-style-type: none"> <li>1. Cancellation             <ol style="list-style-type: none"> <li>a. The first Named Insured may cancel this Coverage Part by mailing or delivering to <b>us</b> advance written notice of cancellation. The <b>coverage</b></li> </ol> </li> </ol>	<p>Condition K Cancellation and Nonrenewal in the 05 08 version has been completely</p>

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<p>notice is mailed, proof of mailing will be sufficient proof of notice.</p>	<p><b>period</b> will end on the effective date requested.</p> <p>b. <b>We</b> may cancel this Coverage Part only in the event of non-payment of premium. If <b>we</b> cancel for non-payment of premium, <b>we</b> will mail by first class or certified mail, to the first Named Insured and the agent or broker of record, at their last address known to <b>us</b>, written notice stating the reason for cancellation at least ten (10) days before the effective date of the cancellation.</p> <p>c. Notice of cancellation will state the effective date of cancellation. The <b>coverage period</b> will end on the date of cancellation.</p> <p>d. If this Coverage Part is cancelled, <b>we</b> will send the first Named Insured any premium refund due. If <b>we</b> cancel, the refund will be the pro-rata unearned premium. If the first Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if <b>we</b> have not made or offered a refund.</p> <p>e. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.</p> <p>2. Non-renewal by <b>us</b></p> <p>a. <b>We</b> are not required to renew this Coverage Part when it expires.</p> <p>b. If <b>we</b> elect not to renew this Coverage Part, <b>we</b> will mail by first class or certified mail, to the Named Insured and the agent or broker of record, at their last address known to <b>us</b>, written notice stating the reason for non-renewal, at least sixty (60) days, but not more than one hundred and twenty (120) days before the effective date of non-renewal.</p> <p>c. Notice of non-renewal will state the effective date of non-renewal. The <b>coverage period</b> will end on the date of non-renewal.</p> <p>d. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.</p>	<p>rewritten from the prior Condition "When We Do Not Renew" in the 06 95 version. The new version addresses conditions for both cancellation as well as nonrenewal. State specific versions address state specific requirements.</p>
<p><i>Separation of Insureds</i></p> <p>Except with respect to the limits of insurance and any rights or duties specifically assigned to the first Named Insured, this insurance applies:</p> <ul style="list-style-type: none"> <li>• As if each Named Insured were the only Named Insured; and</li> <li>• Separately to each <b>insured</b> against whom claim is made or <b>suit</b> is brought.</li> </ul>	<p><b>L. Separation of Insureds</b></p> <p>Except with respect to the Limits of Insurance and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:</p> <ol style="list-style-type: none"> <li>1. As if each Named Insured were the only Named Insured; and</li> <li>2. Separately to each insured against whom a <b>claim</b> is made or <b>suit</b> is brought.</li> </ol>	<p>No changes.</p>

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<p><i>Transfer of Rights of Recovery</i> If the <b>insured</b> has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The <b>insured</b> must do nothing after loss to impair them. At our request, the <b>insured</b> will bring <b>suit</b> or transfer those rights to us and help us enforce them.</p>	<p><b>M. Transfer of Rights of Recovery Against Others To Us</b></p> <p><b>We</b> will waive the right of recovery <b>we</b> would otherwise have had against another person or organization, for payments <b>we</b> have made under this Coverage Part, provided <b>you</b> have waived <b>your</b> rights of recovery against such person or organization in a contract or agreement that has been executed before such loss.</p> <p>If <b>you</b> have rights to recover all or part of any payment <b>we</b> have made under this Coverage Part, those rights are transferred to <b>us</b>. You must do nothing after a loss to impair them. At <b>our</b> request, you will bring <b>suit</b> or transfer those rights to <b>us</b> and help <b>us</b> enforce them.</p>	<p>Condition M "Transfer of Rights of Recovery Against Others To Us" has been expanded in the 05 08 form to honor Waiver of Subrogation agreements that are part of contracts between our insured and their subcontractors or customers.</p>
<p><i>Your Right to Information</i> We will provide the first Named Insured shown in the Declarations the following information relating to this and any preceding Manufacturing Errors and Omissions Liability claims-made Coverage Part we have issued to you during the previous three years:</p> <ul style="list-style-type: none"> <li>• An existing list or other record in our possession of each negligent act, error or omission, not previously reported to any other insurer, of which we were notified in accordance with your duties in this Section. We will include the date and a brief description of the negligent act, error or omission, if that information was in the notice we received.</li> <li>• A summary, by policy year, of payments made and claims reserves, stated separately, under any applicable aggregate limit.</li> </ul> <p>You must not disclose this information to a claimant, or any claimant's representative, without our consent.</p> <p>If we cancel, or elect not to renew this</p>		<p>The section "Your Right to Information" in the 06 95 version has been deleted in the new 05 08 Nation wide version. Where state law requires this language, a state specific version of this Coverage Part has been created which includes this condition with the appropriate state wording.</p>

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<p>Coverage Part, we will provide this information no later than 30 days before the date of policy termination. In other circumstances, we will provide this information only if we receive a written request from the first Named Insured within 60 days after the end of the policy period. In this case, we will provide this information within a reasonable time.</p>		
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<p><i>Extended Reporting Periods</i> We will provide the following Extended Reporting Period options if we cancel or non renew this Coverage Part. The options will also be provided if we renew or replace this Coverage Part with insurance that has a Retroactive Date later than the date shown in the Declarations of this Coverage Part or if the replacement insurance does not apply to <b>Loss of Use or Property Damage</b> on a claims-made basis.</p> <p>A. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for <b>Loss of Use or Property Damage</b> that happen before the end of the policy period but not before the Retroactive Date shown in the Declarations. Once in effect, Extended Reporting Periods may not be canceled.</p> <p>B. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:</p> <p>Five years for claims arising out of an incident reported to us no later than 60 days after the end of the policy period, in accordance with the Conditions - <b>Loss of Use</b> section; or sixty days for all other claims.</p> <p>The Basic Extended Reporting Period does not apply to claims covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.</p> <p>C. A Supplemental Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.</p>	<p><b>V. EXTENDED REPORTING PERIODS</b></p> <p>A. <b>We</b> will provide an Extended Reporting Period as described below if this coverage is cancelled or non-renewed for any reason other than non-payment of premium, or if <b>we</b> renew this coverage with insurance that has a <b>retroactive date</b> later than the date shown in the Declarations of this Coverage Part.</p> <p>B. Extended Reporting Periods do not extend the <b>coverage period</b> or change the scope of coverage provided. Once in effect, Extended Reporting Periods may not be cancelled.</p> <p>C. Extended Reporting Periods do not apply to <b>claims</b> that are covered under any subsequent insurance <b>you</b> purchase or that would be covered but for exhaustion of the amount of insurance applicable to such <b>claims</b>.</p> <p>D. All <b>claims</b> under Extended Reporting Periods must be reported to <b>us</b> in accordance with Conditions IV. E.</p> <p>E. Basic Extended Reporting Period</p> <ol style="list-style-type: none"> <li>1. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts at the date of coverage termination or the end of the <b>coverage period</b>, whichever is earlier, and lasts for ninety (90) days.</li> <li>2. <b>Claims</b> made against <b>you</b> within ninety (90) days after coverage termination or the end of the <b>coverage period</b>, whichever is earlier, and which arise out of a <b>wrongful act</b> that was committed during the <b>coverage period</b> but not before the <b>retroactive date</b>, if any, stated in the Declarations, will be deemed to have been made on the last day of the <b>coverage period</b>.</li> <li>3. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</li> </ol> <p>F. A Supplemental Extended Reporting Period of 5 years is available by endorsement. This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends.</p> <p><b>You</b> must give <b>us</b> a written request for the Supplemental Extended Reporting Period within ninety (90) days after the end of the <b>coverage period</b> or coverage termination date, whichever is earlier. The Supplemental Extended Reporting Period will not go into effect unless <b>you</b> pay the additional premium promptly when due.</p> <p><b>We</b> will determine the additional premium in accordance with <b>our</b> rules and rates. The additional premium will not exceed 200 percent of the annual</p>	<p>Section V EXTENDED REPORTING PERIODS has been completely rewritten in the 05 08 version to align with language used in our current Professional Liability Claims-Made forms. Changes are as follows:</p> <ul style="list-style-type: none"> <li>✓ Provision A in the 05 08 form allows the insured to purchase a reporting period regardless of who initiates the cancellation.</li> <li>✓ The Basic Extended Reporting Period is amended in the 05 08 form to 90 days vs. 60 days in the 06 95 version. The clause beginning "Five years for claims..." under paragraph B. has been removed for clarity.</li> <li>✓ State specific versions address state specific requirements re: ERPs.</li> </ul>
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<p>This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends.</p> <p>You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.</p> <p>We will determine the additional premium in accordance with our rules and rates. The additional premium will not exceed 200% of the annual premium for this Coverage Part.</p> <p>This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.</p> <p>D. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</p> <p>E. If the Supplemental Extended Reporting Period is in effect, we will provide the separate aggregate limits of insurance described below, but only for claims first received and recorded during the Supplemental Extended Reporting Period.</p> <p>The separate aggregate limits of insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period. Section 3 - Limits of Insurance will be amended accordingly.</p>	<p>premium for this coverage.</p> <p>This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for <b>claims</b> first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.</p> <p>G. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.</p> <p>H. If the Supplemental Extended Reporting Period is in effect, <b>we</b> will provide the separate Aggregate Limits of Insurance described below, but only for <b>claims</b> first received and recorded during the Supplemental Extended Reporting Period.</p> <p>The separate Aggregate Limits of Insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the <b>coverage period</b>.</p> <p>Paragraph A of Section III. Limits of Insurance and Deductibles will be amended accordingly.</p>	
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	<p><b>VI. DEFINITIONS</b></p> <p><b>A. Bodily injury</b> means bodily injury, sickness, death or disease, mental anguish, or emotional distress.</p> <p><b>B. Claim</b> means a written or oral demand for <b>damage</b></p>	<p>Section VI. DEFINITIONS – Definitions for “Bodily Injury” and “Claim” have been added. These definitions align with current ISO and proprietary liability form language.</p>
	<p><b>C. Claims expenses</b> means the following fees, costs, and expenses that result directly from the investigation, defense or appeal of a specific <b>claim</b> or <b>suit</b>:</p> <ol style="list-style-type: none"> <li>1. Fees, costs and expenses of attorneys;</li> <li>2. The costs of proceedings involved in the <b>claim</b>, including court reporter, arbitrator and mediator fees;</li> <li>3. Independent expert and special investigator fees, costs and expenses;</li> <li>4. Any premiums for appeal bonds for the covered part of the judgment provided however, <b>we</b> have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;</li> <li>5. Any premiums for bonds to release property that is being used to secure a legal obligation, but only for bond amounts within the available Limits of Insurance. <b>We</b> do not have to furnish such bonds;</li> <li>6. Post judgment interest;</li> <li>7. Prejudgment interest awarded against <b>you</b> on that part of the judgment <b>we</b> pay, however, if <b>we</b> make an offer to pay the applicable Limit of Insurance, <b>we</b> will not pay any prejudgment interest based on that period of time after the offer; and</li> <li>8. All reasonable expenses incurred by <b>you</b> at <b>our</b> request to assist <b>us</b> in the investigation or defense of any <b>claim</b>, including actual loss of earnings because of time off work, up to \$500 per day.</li> </ol>	<p>Definition C. “Claims Expenses” in the 05 08 version is new for this form and specifically defines what claims settlement expenses Fireman’s Fund will pay. The prior 06 95 form did not address what defense or claims expenses would be covered – only that we would defend a claim covered by the Coverage Part.</p>
	<p><b>D. Coverage period</b> means the period of time from the inception date of this Coverage Part to the expiration date shown in the Declarations, or, if applicable, any earlier termination date. The <b>coverage period</b> does not include the Extended Reporting Period or Supplemental Extended Reporting Period, if any.</p>	<p>New definition added to 05 08 version.</p>
<p><b>Section 10 - Definitions</b> <i>When used with respect to insurance under this coverage part:</i></p>	<p><b>E. Damages</b> means the following amounts, costs and expenses for which <b>you</b> are legally liable and which are covered by this Coverage Part:</p>	<p>Definition E in the 05 08 form reflects the combination of</p>

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<p><i>Damages</i></p>	<p><b>Damages</b> means the following amounts, costs and expenses for which the <b>insured</b> is legally liable and are covered by this Coverage Part:</p> <p>Under <b>Loss of Use</b> Coverage:</p> <p>A. Income lost by the claimant during a <b>Loss of Use</b>. Income means the net profit before income taxes that would have been earned or incurred during the period of <b>Loss of Use</b>. Income includes continuing normal operating expenses, including payroll, incurred during the period of <b>Loss of Use</b>. Income does not include any salvage or resale value of the property suffering the <b>Loss of Use</b>;</p> <p>B. Costs and expenses paid by the claimant to reduce the <b>Loss of Use</b>, except for the cost of any replacements for <b>your manufactured product</b> or <b>your work</b>, but only if the costs and expenses paid reduce the total <b>damages</b>; and</p> <p>C. The amount by which the cost of any replacements for <b>your manufactured product</b> or <b>your work</b> exceeds the cost of <b>your manufactured product</b> or <b>your work</b>.</p> <p>Under Damage to Customer's Property:</p> <p>Costs to repair or replace the property of others that has been damaged as a result of your operations performed on it. But <b>Damages</b> under this Coverage Part does not include:</p> <p>A. Refunds or penalties required to be paid to others under any contract or agreement;</p> <p>B. Cost and expenses incurred by or on behalf of any <b>insured</b> to fulfill a warranty, representation or promise provided with</p>	<ol style="list-style-type: none"> <li>1. For <b>loss of use</b>:             <ol style="list-style-type: none"> <li>a. Income lost by the claimant due to a covered period of <b>loss of use</b>. Income means the net profit or loss before income taxes that would have been earned or incurred during the period of <b>loss of use</b>. Income includes continuing normal operating expenses incurred, including payroll, incurred during the period of <b>loss of use</b>. Income does not include any salvage or resale value of the property suffering the <b>loss of use</b>;</li> <li>b. Costs and expenses paid by the claimant to reduce the <b>loss of use</b>, except for the cost of any replacements for <b>your products</b>, or <b>your work</b>, but only if the costs and expenses paid reduce the total <b>damages</b>; and</li> <li>c. The amount by which the cost of any replacements for <b>your products</b> or <b>your work</b> exceeds the cost of <b>your products</b> or <b>your work</b>.</li> </ol> <p>However, <b>loss of use</b> does not include <b>loss of use</b> of other property arising out of the sudden and accidental injury to <b>your product</b> or <b>your work</b> after it has been put to its intended purpose.</p> </li> <li>2. For <b>property damage</b>:             <ol style="list-style-type: none"> <li>a. Costs to repair or replace the property of others which is on <b>your</b> premises for the purpose of having <b>your work</b> performed upon it by an insured, and which has been damaged as a result of <b>your work</b>.</li> </ol> </li> <li>3. But <b>damages for loss of use</b> and <b>property damage</b> do not include:             <ol style="list-style-type: none"> <li>a. Refunds or penalties required to be paid to others under any contract or agreement;</li> <li>b. Costs and expenses incurred by or on behalf of <b>you</b> to fulfill a warranty, representation, or promise provided with <b>your products</b> or <b>your work</b>;</li> <li>c. Costs and expenses incurred by <b>you</b> or others to withdraw or recall <b>your products</b> or <b>your work</b>, or any part of such product or work, or any product or work into which <b>your products</b> or <b>your work</b> is incorporated, from the marketplace or from use by any person or organization; or</li> <li>d. The cost of <b>your products</b> or <b>your work</b>.</li> </ol> </li> </ol>	<p>the 06 95 Coverage "Loss of Use" and "Damage to Customer's Property" as discussed in the Insuring Agreement comments above. The is no change in the Damages covered but the term "your manufactured product" in the 06 95 form has been replaced with the broader wording "your product" in the 05 08 form. See the definitions of "your manufactured product" and "your product" below.</p>
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<p><b>your manufactured product or your work;</b></p> <p>C. Costs and expenses incurred by you or others to withdraw or recall <b>your manufactured product or your work</b>, or any part of such product or work, or any product or work in which <b>your manufactured product or your work</b> is incorporated, from the marketplace or from use by any person or organization; or</p> <p>D. The cost of <b>your manufactured product or your work</b>.</p>		
	<p><b>F. Executive officer</b> means a person holding any of the officer positions created by <b>your</b> charter, constitution, by-laws or any similar governing document.</p> <p><b>G. Impaired Property</b> means tangible property, other than <b>your product or your work</b>, that cannot be used or is less useful because it incorporates <b>your product or your work</b> that is known to be defective, deficient, inadequate or dangerous if such property can be restored to use by the repair, replacement, adjustment or removal of <b>your product or your work</b>.</p> <p><b>H. Interrelated Wrongful Acts</b> means <b>wrongful acts</b> that arise out of, or flow from, either directly or indirectly, one or a series of the same, common, related or repeated facts, matters, events, circumstances, transactions, practices, statements, or decisions, whether such <b>wrongful acts</b> involve just <b>you</b> or others for whose acts <b>you</b> may be legally responsible, or the same or different claimants.</p> <p><b>I. Leased worker</b> means a person leased to <b>you</b> by a labor leasing firm under an agreement between <b>you</b> and a labor leasing firm, to perform duties related to the conduct of <b>your</b> business. A <b>leased worker</b> does not include a <b>temporary worker</b>.</p>	<p>Definitions F, G, H, and I in the 05 08 form are new.</p>
<p><i>Loss of Use</i></p>	<p><b>J. Loss of Use</b> means loss of use of tangible property that is not physically injured.</p>	<p>No change</p>
	<p><b>K. Personal and Advertising Injury</b> means injury, including consequential <b>bodily injury</b>, arising out of one or more of the following offenses:</p> <ol style="list-style-type: none"> <li>1. False arrest, detention or imprisonment;</li> <li>2. Malicious prosecution;</li> <li>3. 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;</li> </ol>	<p>Definition K in the 05 08 form is new.</p>

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	<ol style="list-style-type: none"> <li>4. 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;</li> <li>5. Oral or written publication, in any manner, of material that violates a person’s right of privacy;</li> <li>6. The use of another’s advertising idea in <b>your</b> advertisement; or</li> <li>7. Infringing upon another’s copyright, trade dress or slogan in <b>your</b> advertisement.</li> </ol>	
<p><i>Pollutants</i></p>	<p><b>Pollutants</b> means any solid, liquid, gaseous or thermal irritant or contaminant. It includes, but is not limited to, smoke vapors, soot, fumes, acids, alkalis, chemical elements, minerals, chemicals and waste. <b>Waste</b> includes materials to be recycled, reconditioned or reclaimed.</p>	<p><b>L. Pollutants</b> 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.</p> <p>Minor change to “Pollution” definition in 05 08 form – removing phrase “but is not limited to”.</p>
<p><i>Property Damage</i></p>	<p><b>Property Damage</b> means physical injury to tangible personal property. <b>Property Damage</b> does not include any resulting <b>Loss of Use</b> of that property.</p>	<p><b>M. Property Damage</b> means:  Physical injury to tangible property not including the resulting <b>loss of use</b> of that property. 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.</p> <p>The “Property Damage” definition has been amended in the 05 08 version to specifically exclude electronic data from the definition of Property Damage as has been done in current ISO contract language.</p>
	<p><b>N. Retroactive date</b> means the earliest date a <b>wrongful act</b> may be committed and be covered under this coverage form. This date is shown in the Declarations. However, if no date is shown in the Declarations, <b>we</b> will consider the <b>retroactive date</b> to be the same as the inception date of this Coverage Part.</p>	<p>This is a new definition in the 05 08 version of the form. The term “retroactive date” was used in the 06 95 form but never fully defined.</p>
<p><i>Suit</i></p>	<p><b>Suit</b> means a civil proceeding in which <b>damages</b> to which this insurance applies are alleged. It includes alternative dispute resolution proceedings such as an arbitration or mediation to which you must submit or do submit with our consent.</p>	<p><b>O. Suit</b> means a civil proceeding in which <b>damages</b> are sought because of a <b>wrongful act</b>, to which this insurance applies are alleged. <b>Suit</b> includes:</p> <ol style="list-style-type: none"> <li>1. An arbitration proceeding in which such <b>damages</b> are claimed and to which <b>you</b> must submit or do submit with <b>our</b> consent; or</li> <li>2. Any other alternative dispute resolution proceeding in which such</li> </ol> <p>The definition of “suit” remains the same in both forms but the 05 08 version incorporates the term “wrongful act” and is</p>

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	<p align="center"><b>damages</b> are claimed and to which <b>you</b> submit with <b>our</b> consent.</p>	<p>formatted to be consistent with ISO and other proprietary liability forms.</p>
	<p><b>P. Technology product or service</b> means:</p> <ol style="list-style-type: none"> <li>1. Any telecommunication, computer, electronic, internet, network or website equipment, programs, systems, software, data or other electronic information; and</li> <li>2. Any design, integration, maintenance, management, processing, programming, repair, analytical or systems support services in connection with any products in P.1. above.</li> </ol> <p><b>Q. Temporary worker</b> means a person who is furnished to <b>you</b> to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.</p>	<p>The terms "Technology product or service" and "Temporary worker" are new in the 05 08 version.</p>
<p><i>Your Manufactured Product</i> <b>Your manufactured product</b> means:</p> <ol style="list-style-type: none"> <li>A. Any goods or products that have been manufactured, by or for you, or others using your name with your written approval or authorization, or others whose business or assets you have acquired;</li> <li>B. Containers, materials, parts or equipment you provide in connection with such goods or products;</li> <li>C. Warranties or representations made at any time about the fitness, quality, durability, performance or use of <b>your manufactured product</b>; and</li> <li>D. The providing of or failure to provide warnings or instructions.</li> </ol> <p><i>Your Manufactured Product</i> <b>Your manufactured product</b> does not include:</p> <ol style="list-style-type: none"> <li>A. Goods or products that are still in your actual physical possession;</li> <li>B. Containers that are part of a vehicle; and</li> </ol>	<p><b>R. Your products:</b></p> <ol style="list-style-type: none"> <li>1. Means:             <ol style="list-style-type: none"> <li>a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:                 <ol style="list-style-type: none"> <li>(1) <b>You</b>;</li> <li>(2) Others trading under <b>your</b> name; or</li> <li>(3) A person or organization whose business or assets <b>you</b> have acquired; and</li> </ol> </li> <li>b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.</li> </ol> </li> <li>2. Including:             <ol style="list-style-type: none"> <li>a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of <b>your products</b>; and</li> <li>b. The providing of or failure to provide warnings or instructions.</li> </ol> </li> <li>3. But not including:             <ol style="list-style-type: none"> <li>a. Vending machines or other property rented to or located for the use of others but not sold;</li> <li>b. Goods or products still in <b>your</b> actual physical possession;</li> </ol> </li> </ol>	<p>The term "Your products" in the 05 08 version replaces the older term "Your manufactured product" in the 06 95 form. This represents an expansion of coverage as the 05 08 version also covers goods that are handled, distributed and disposed of by the insured vs. just those goods manufactured by the insured.</p> <p>The exclusion of vending machines from the definition of "Your Products" is consistent with ISO wording. The limitation in paragraph C. of "Your</p>

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<p>C. Goods or products that you have not sold but you allow others to use, such as property loaned, leased or rented to others.</p>		<p>Manufactured Product” in the 06 95 version has been moved to Section E. Exclusion 8 in the 05 08 version.</p>
<p><i>Your Work</i></p> <p><b>Your work</b> means:</p> <p>A. Work or operations performed by you or on your behalf;</p> <p>B. Materials, parts or equipment furnished in connection with such work or operations;</p> <p>C. Warranties or representations made at any time about the fitness, quality, durability, performance or use of <b>your work</b>; and</p> <p>D. The providing of or failure to provide warnings or instructions.</p>	<p><b>S. Your Work:</b></p> <p>1. Means:</p> <p>a. Work or operations performed by <b>you</b> or on <b>your</b> behalf; and</p> <p>b. Materials, parts, or equipment furnished in connection with such work or operations.</p> <p>2. Includes:</p> <p>a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of <b>your work</b>, and:</p> <p>b. The providing of or failure to provide warnings or instructions.</p>	<p>Minor formatting changes only to the definition of “Your Work”.</p>
	<p><b>T. Wrongful Act(s)</b> means any actual or alleged negligent act, error or omission. However, a <b>wrongful act</b> shall not include any actual or alleged infringement of the following rights or laws:</p> <ol style="list-style-type: none"> <li>1. Copyright;</li> <li>2. Patent;</li> <li>3. Trade dress;</li> <li>4. Trade name;</li> <li>5. Trademark;</li> <li>6. Trade secret;</li> <li>7. Piracy or plagiarism; or</li> <li>8. Any other intellectual property right or law.</li> </ol>	<p>“Wrongful Act” is a new term used in the 05 08 version.</p>
<p><i>Insured</i></p> <p><b>Insured</b> means any person or organization qualifying as an insured under the Who Is Insured provision and against whom claim is made or suit is brought.</p>		<p>“Insured” is defined in the introductory paragraph of the 05 08 form</p>

**Manufacturer's Reliability Plus Insurance – CG 71 40AR 05 08  
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**NOTICE – THIS IS A “CLAIMS MADE AND REPORTED” COVERAGE PART.  
CLAIM EXPENSES ARE NOT INCLUDED IN THE LIMITS OF INSURANCE.**

**THIS MEANS THAT COVERAGE APPLIES ONLY TO CLAIMS FIRST MADE  
AGAINST THE INSURED AND REPORTED DURING THE COVERAGE PERIOD  
OR, IF APPLICABLE, DURING THE EXTENDED REPORTING PERIOD AND THAT  
CLAIM EXPENSES ARE IN ADDITION TO THE LIMITS OF INSURANCE.**

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

Throughout this Coverage Part the words **you** and **your** refer to the Named Insured shown in the Policy Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words **we**, **us** and **our** refer to the Company providing this insurance. The word “insured” means any person or organization qualifying as such under Section II – Who is an Insured. Some words in bold face have special meaning – Refer to Definitions.

In consideration of the payment of the premium, **you** promise to pay the Deductible shown in the Declarations, and in reliance on all statements made and information **you** furnished to **us**, including the statements made in the Application and subject to the Limit of Insurance stated in the Declarations, and all of the terms and conditions of this Coverage Part, **we** and **you** agree as follows:

**I. COVERAGES**

**A. Insuring Agreement**

**We** will pay those sums **you** become legally obligated to pay as **damages** caused by a defect, deficiency, inadequacy or dangerous condition in **your product** or **your work** due to a **wrongful act** resulting in:

1. **Loss of use of impaired property** or property that has not been physically injured:
  - a. Which occurs after **you** or others at **your** direction, complete any testing and inspection; and
  - b. After **you** release **your product** into the stream of commerce; or
2. **Property damage** to the personal property of others which is on **your** premises for the purpose of having **your work** performed upon it by an insured.

This Form must be attached to Change Endorsement when issued after the policy is written.  
One of the **Fireman's Fund Insurance Companies** as named in the policy



Secretary



President

This coverage applies to **wrongful act(s)** taking place in the coverage territory, provided that such **wrongful act(s)** took place:

1. During the **coverage period**, but then only if the **claim** is first made against **you** and reported to **us** during the **coverage period** or during the Extended Reporting Period, if applicable, in accordance with Section V, Condition C; or
2. Prior to the effective date of this Coverage Part, but after the **retroactive date**, if any, stated in the Declarations, provided that:
  - a. As of the effective date of this Coverage Part, **you** do not have actual or constructive knowledge of any circumstances or **wrongful acts** which could reasonably be expected to result in a **claim**;
  - b. There is no other valid and collectible insurance available to **you** for any such prior **wrongful act**; and
  - c. The **claim** is first made against **you** and reported during the **coverage period**, Extended Reporting Period, or Supplemental Extended Reporting Period, if applicable.

#### **B. Defense, Investigation and Settlement of a Claim**

1. **We** have the right and duty to defend **you**, including the right to select counsel, against any **claim** brought against **you** for which coverage under this Coverage Part applies. However, **we** will have no duty to defend **you** against any **claim** for which there is no coverage under this Coverage Part. **We** have the right to conduct any investigation or negotiation and make any settlement of any **claim**.
2. **We** will have the right, but not the duty, to appeal any judgment; and
3. For any **claim** to which this Coverage Part applies:
  - a. **We** shall pay all **claims expenses** that **we** incur in any such **claim**;
  - b. **Our** right and duty to defend **you** ends when the Limit of Insurance set forth in the Declarations is exhausted by payment of judgments and settlements;
  - c. **You** may not incur any **claims expenses**, admit liability for, make payment for, or settle any **claim** without **our** prior written consent, which shall not be unreasonably withheld. **We** shall not be liable for any expense, settlement, assumed obligation or admission to which **we** have not consented; and
  - d. **You** agree to cooperate with **us** in the defense, investigation, and settlement of any **claim** and **you** agree, as a condition of coverage under this Coverage Part, to submit to **us** upon request, such information and documentation as **we** may require in the investigation and defense of any **claim**.

#### **C. Coverage Territory**

This coverage applies to a **wrongful act** taking place or a **claim** made anywhere in the world.

In jurisdictions outside the United States of America, its territories and possessions, Puerto Rico and Canada, if **we** are prevented from investigating, defending, settling or paying a **claim**, **you** agree to make or cause to be made such investigation, defense, settlement or

payment as may be reasonably necessary. However, settlement or payment requires **our** prior written authorization, which shall not be unreasonably withheld.

If the preceding paragraph applies, **we** will reimburse **you** for the reasonable cost of any investigation and defense and for the amounts of such authorized settlements or payment.

The amount **we** will reimburse is limited as described in Section III. LIMITS OF INSURANCE AND DEDUCTIBLES and **our** duty to reimburse **you** for the reasonable cost of any investigation and defense ends when the applicable Limit of Insurance is exhausted.

If **we** make a reimbursement to **you** of costs and settlements, it will be paid in the currency of the United States. Payments of covered costs and settlements which are made by **you** in the currencies of other nations will be converted to the currency of the United States at the exchange rate prevailing at the date the reimbursement is processed

#### **D. Supplemental Payments**

In addition to the Limits of Insurance, **we** will pay:

1. Any premium for appeal bonds for the covered part of the judgment, provided however, that **we** have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;
2. Post judgment interest;
3. Prejudgment interest awarded against **you** 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;
4. All costs awarded against **you** in a **suit**, but this does not include attorneys' fees awarded to the person or entity bringing the **claim** or **suit**; and
5. All **claims expenses** that **we** incur in any such **claim** to which this coverage applies.

However, **we** have no obligation to make any Supplemental Payments once the Limits of Insurance shown in the Declarations are exhausted by payment of **damages**.

#### **E. Exclusions**

This insurance does not apply to any **claim**:

1. For **damages** from **loss of use**:
  - a. Arising from, or in any way involving **your work** that has not been completed. **Your work** will be deemed to be completed at the earliest of the following times:
    - (1) When all the work called for in **your** contract has been completed.
    - (2) 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.
    - (3) When that part of the work to be done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

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

2. Involving **property damage**, other than damage to the property of others which is on **your** premises for the purpose of having **your work** performed upon it by **you**.
3. Based upon or arising out of any dishonest, fraudulent, criminal, malicious, intentional or willful **wrongful act** by **you** or anyone at **your** direction who knows or expects that such an act will reduce the quality or performance of **your products** or **your work** below the level expected or required by the buyers or users of **your products** or **your work**.

This includes, but is not limited to **damages** that result from **your** decision to cease providing consultation, advice, repair services, maintenance services, replacement parts, or other similar support for **your products** or **your work**.
4. Based upon, arising out of or in any way involving any **personal and advertising injury**, or **bodily injury**.
5. Based upon, arising out of or in any way involving any cost guarantees, in excess of probable cost estimates or cost overruns.
6. Based upon, arising out of, or in any way involving, costs to comply with **your** contracts or agreements.
7. Based upon, arising out of or in any way involving costs or expenses incurred by any insured to comply with any warranty for **your products** or **your work**.
8. Based upon, arising out of, or in any way involving any damage to property owned, rented, leased, or loaned to **you**.
9. Based upon, arising out of or in any way involving any failure to begin **your work** as required by contract or agreement, or any delay or failure in the delivery of **your products**.
10. Based upon, arising out of, or in any way involving any liability assumed under a contract or agreement. This exclusion does not apply to any liability **you** would have in absence of such contract or agreement.
11. Based upon, arising out of or in any way involving the installation of **your product** by others, unless on **your** behalf. However, this exclusion does not apply to loss because of inadequate instructions provided by **you**.
12. Based upon, arising out of or in any way involving the failure to perform professional services by **you** while acting as any of the following:
  - a. Architect, Surveyor, or civil or structural engineer; or
  - b. **Technology product or service** provider or advisor. However, this exclusion does not apply if **you** are in a business other than that of a **technology product or service** provider or software developer.
13. Based upon any actual or alleged violation of any securities, anti-trust, restraint of trade, unfair trade practices or consumer protection laws including but not limited to demands or proceedings brought by:
  - a. The Federal Trade Commission;
  - b. The Food and Drug Administration;

- c. The Occupational Safety and Health Administration; or
  - d. The Federal Communications Commission, or any other federal, state, local or foreign government agency in its capacity as a regulator.
14. Based upon, arising out of, or in any way involving any **claim** made or brought by any insured against any other insured.
  15. Based upon, arising out of or in any way involving any credit or voluntary payment made or given by **you** for any reason.
  16. Based upon, arising out of or in any way involving any products for which **bodily injury** or **property damage** are excluded by endorsement under Coverage A – Bodily Injury and Property Damage Liability in the Commercial General Liability coverage part of this policy.
  17. Based upon, arising out of, or in any way involving gradual deterioration, wear and tear, age, obsolescence, or any structural or technological incompatibility.
  18. Based upon, arising out of, or in any way involving any actual, alleged, or threatened presence, discharge, dispersal, seepage, migration, release or escape of **pollutants**; or any loss, cost or expense that arises 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, neutralize, or in any way respond to, or assess the effects of, **pollutants**; or
    - b. **Claim** 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**.
  19. Based upon, arising out of or in any way including any nuclear reaction, radiation, radioactive contamination or radioactive substance, in any form, no matter how emitted.
  20. Based upon, arising out of, or in any way, either directly or indirectly, involving:
    - 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.
  21. Based upon, arising out of, or in any way, either directly or indirectly, involving damages, loss, cost or expense from the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of **asbestos**.

This coverage does not apply to any damages, loss, cost or expense arising out of, but not limited to, any:

- a. manufacture, sale, distribution, handling, use, installation, removal, abatement, containment, storage, transportation, disposal, existence, presence, emanation, emission, release, inhalation, ingestion, absorption, or transmission of or exposure to **asbestos**;
- b. supervision, instructions, recommendations, notices, warnings or advice given or which should have been given in connection with **asbestos**;
- c. request, demand, order or regulatory or statutory 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 **asbestos**; or
- d. **claim** or proceeding by or on behalf of a governmental authority or others for any damages, loss, cost or expense because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **asbestos**.

**We** shall have no obligation of any kind, including, but not limited to, any obligation to investigate, defend, pay defense costs, settle, or pay settlements or judgments as to any **claim, suit** or proceeding involving or allegedly involving **asbestos**.

As used in this exclusion, **asbestos** includes, but is not limited to the mineral **asbestos** in any form, whether or not the **asbestos** is:

- a. A fiber, particle, or dust;
  - b. Contained in, or on, or incorporated into, products, goods, or materials; or
  - c. Contained in any part of any building, structure, building material, product or any other real or personal property.
22. Arising, in whole or in part, directly or indirectly out of, or which is in any way related to **silica**.

As used in this exclusion, the term **silica** includes, but is not limited to, silicon dioxide, silica, silica products, silica fibers, silica dust, any other silica byproducts, and silica whether alone or in combination with any substance, product or material. Without limiting the foregoing, this exclusion applies to every loss, damage, cost or expense otherwise covered by this Coverage Part, if any.

## II. WHO IS AN INSURED

### A. If **you** are designated in the Declarations as:

1. 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.
2. A partnership or joint venture, **you** are an insured. **Your** members, **your** partners, and their spouses are also insureds, but only with respect to the conduct of **your** business.
3. 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.
4. 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 and directors. **Your** stockholders are also insureds, but only with respect to their liability as stockholders.
5. A trust, **you** are insured. **Your** trustees are also insureds, but only with respect to their duties as trustees.

### B. Each of the following is also an insured:

1. **Your** employees, **leased workers** and **temporary workers** while performing duties related to the conduct of **your** business, 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** while performing duties related to the conduct of **your** business;
2. An employee leasing firm who provides **leased workers** or **temporary workers** only while those workers are performing duties related to the conduct of **your** business; and
3. Any legal representative of a deceased or mentally incompetent insured, but only for the deceased or mentally incompetent insured's right and duties under this agreement.

### C. 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 similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until the 90<sup>th</sup> day after **you** acquire or form the organization or the end of the **coverage period**, whichever is earlier. During this 90 day period **you** must add the new organization as a Named Insured to the policy to continue coverage; and
2. Coverage does not apply to **wrongful acts** that occurred before **you** acquired or formed the organization.

- D. 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 or by endorsement.

### III. LIMITS OF INSURANCE AND DEDUCTIBLES

Regardless of the number of insureds, persons or organizations making **claims**, or **wrongful acts** committed, **our** liability is limited as follows:

#### A. Limits of Insurance

1. The Limit of Insurance shown in the Declarations for this Coverage Part as the EACH CLAIM Limit is the most **we** will pay for **damages** resulting from any one **claim** under this Coverage Part. Without regard to the number of **claims** or insureds against whom a **claim** has been made, all **damages** arising out of the same **wrongful act** or **interrelated wrongful acts** will be subject to the EACH CLAIM Limit of Insurance in effect when the first **claim** arising out of the **wrongful act** or **interrelated wrongful acts** was made.
2. The AGGREGATE Limit is the most **we** will pay for **damages** under this Coverage Part during the **coverage period**.

#### B. Deductibles

1. **We** shall only be liable to pay **damages** in excess of the EACH CLAIM deductible shown in the Declarations, which deductible shall apply to each and every **claim**. The deductible does not increase the Limit of Insurance.
2. If **we** pay all or part of any deductible amount, **we** will notify the Named Insured of **our** payment of the deductible, and request reimbursement. The Named Insured will pay **us** for the part of the deductible **we** paid within thirty (30) days of **our** request.
3. The deductible may only be satisfied by an actual cash payment by **you** and may not be satisfied by the release of a **claim** or counterclaim. **You** agree that the deductible shall be uninsured.

#### C. Reduction of Limits

1. The EACH CLAIM and AGGREGATE limits of insurance shall be reduced by the sum of:
  - a. The amounts **we** pay as **damages**; and
  - b. The amounts **you** are required to pay as deductibles.

When the EACH CLAIM limit of insurance is exhausted by payment of **damages** and deductibles, **we** shall have no further obligation to defend that **claim** or pay any **damages** or **claims expenses** including defense costs.

When the AGGREGATE limit of insurance is exhausted by payment of **damages** and deductibles, **we** shall have no further obligation to defend any **claim** or pay any **damages** or **claims expenses**.

When **our** right and duty to defend **claims** ends, **we** may withdraw and tender the defense to **you** as provided in Section III. D. Transfer of Duties When a Limit of Insurance Is Exhausted.

#### **D. Transfer of Duties When a Limit of Insurance Is Exhausted**

1. If **we** conclude, based upon the **claims** which have been reported to **us** and to which this insurance may apply, that the AGGREGATE limit or EACH CLAIM limit is likely to be exhausted by the payment of judgments or settlements, **we** will notify the first Named Insured in writing to that effect.
2. When a limit of insurance described in paragraph 1, above, has actually been exhausted in the payment of judgments or settlements:
  - a. **We** will notify the first Named Insured, in writing, as soon as practicable, that:
    - (1) Such a limit has actually been exhausted; and
    - (2) **Our** duty to defend **claims** seeking **damages** subject to that limit has also ended.
  - b. **We** will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all **claims** seeking **damages** subject to that limit, which are reported to **us** before that limit is exhausted. That insured must cooperate in the transfer of control of such **claims**.

**We** agree to take such steps, as **we** deem appropriate, to avoid a default in, or continue the defense of such **claims** until the transfer is completed, provided the appropriate insured is cooperating.

**We** will take no action whatsoever with respect to any **claim** seeking **damages** that would have been subject to that limit, had it not been exhausted, if the **claim** is reported to **us** after the limit of insurance has been exhausted.
  - c. The first Named Insured, and any other insured involved in a **claim** seeking **damages** subject to that limit, must arrange for the defense of such **claim** within a time period agreed to by the appropriate insured and **us**. Absent any such agreement, arrangements for the defense of a **claim** must be made as soon as practicable.
3. The first Named Insured will reimburse **us** for expenses **we** incur in taking those steps **we** deem appropriate in accordance with paragraph 2.b. above. The duty of the first Named Insured to reimburse **us** will begin on:
  - a. The date on which the applicable limit of insurance is exhausted, if **we** sent notice in accordance with paragraph 1. above; or
  - b. The date on which **we** sent notice in accordance with paragraph 2.a. above, if **we** did not send notice in accordance with paragraph 1. above.
4. The exhaustion of any limit of insurance by the payment of judgments or settlements, and the resulting end of **our** duty to defend, will not be affected by **our** failure to comply with any of the provisions of this Condition.

#### **IV. CONDITIONS**

##### **A. Authorization Clause/Notices**

By acceptance of this Coverage Part by payment of the premium, **you** agree that the first Named Insured shall act on **your** behalf with respect to giving and receiving of notices of any

cancellation or non-renewal, the payment of premiums, the receiving of any return premiums that may accrue under this Coverage Part, or any other notices regarding this insurance.

## **B. Bankruptcy**

Bankruptcy or insolvency of **you** or of **your** estate will not relieve **us** of **our** obligations under this Coverage Part.

## **C. Changes**

The terms of this Coverage Part shall not be waived or changed, except by endorsement issued by **us** to form a part of this Coverage Part. Notice to any agent or broker or knowledge possessed by any agent or broker or by any other person shall not effect a waiver or change in any part of this Coverage Part or stop **us** from asserting any right under the terms of this Coverage Part.

## **D. Conformance with Statutes**

Terms of this Coverage Part that are in conflict with the statutes of the state or province in which this Coverage Part is issued are hereby amended to conform to such statutes.

## **E. Duties Related to Potential or Actual Claims**

### **1. Duties related to Potential Claims**

If during the **coverage period** or within ninety (90) days after the end of the **coverage period**, **you** first become aware of a **wrongful act** which might reasonably be expected to give rise to a **claim** covered by this insurance, and **you** give written notice to **us** of such **wrongful act** as required below, then any **claim** subsequently made against **you** by reason of such **wrongful act** shall be deemed to have been first made during the **coverage period**.

Written report of a potential **claim** must include:

- a. The specific facts and circumstances which constitute the **wrongful act** including the date(s) thereof, and the names of all parties and insureds involved;
- b. The date and circumstances by which **you** became aware of such **wrongful acts**; and
- c. The **damages** that may reasonably result.

### **2. Duties Related to Actual Claims**

- a. **You** shall provide notice to **us** as soon as practicable after a **claim** is first made against **you**. This notice shall be deemed to be sent to **us** only if it is received by **us** via facsimile or electronic mail or sent by **you** by prepaid registered or return-receipt-requested mail properly addressed to **us** at the address shown in or attached to this Policy;
- b. **You** must immediately send **us** copies of any demands, notices, summonses, or legal papers in connection with the **claim** or **suit**;
- c. **You** must authorize **us** to obtain records and other information;
- d. **You** must cooperate with **us** in the investigation, defense and settlement of any **claim**; and

- e. **You** must assist **us**, upon **our** request, in the enforcement of any rights against any person or organization which may be liable to **you** because of **loss of use** or **property damage** to which this insurance may also apply.
3. **Duties Related to Potential and Actual Claims**

**You** must take all reasonable steps to correct any **wrongful acts** and to prevent shipment of any of **your products** or **your work** which may contain any defect, deficiency, inadequacy, or dangerous condition or any property of others which has been damaged by **your work** performed upon it.

#### **F. Legal Action Against Us**

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

1. To join **us** as a party or otherwise bring **us** into a **suit** asking for **damages** from an insured; or
2. To sue **us** under this Coverage Part unless all or its terms have been fully complied with.

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

#### **G. Liberalization**

If **we** adopt a change in **our** forms or rules during the term of this Coverage Part that would broaden the coverage provided by any form that is part of this Coverage Part without an extra premium, the broader coverage will apply to this Coverage Part. This extension is effective upon approval of such broader coverage in the Insured's state.

#### **H. Other Insurance**

If other valid and collectible insurance or any bond is available to any insured for a loss **we** cover under this Coverage Part, **our** obligations are limited as follows:

1. This insurance is excess over any of the other insurance and any bond, whether primary, excess, contingent or on any other basis, except for insurance which:
  - a. Is purchased by **you** to apply specifically in excess of this insurance; and
  - b. Specifically states that it applies in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.
2. Because this insurance is excess, the following conditions apply:
  - a. **We** will have no duty to defend any **claim** or **suit** that any other insurer has a duty to defend. If no other insurer defends and **we** have an obligation to do so, then:
    - (1) **We** will undertake the defense; and
    - (2) **We** will be entitled to enforce **your** rights against all other insurers.
  - b. **We** will pay only **our** share of the amount of loss, if any, that exceeds the sum of:

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

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

### 3. Method of Sharing

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

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

## I. Premium Audit

**We** will compute all premiums for this Coverage Part in accordance with **our** rules and rates. Premium shown in this Coverage Part is a deposit premium only. At the close of each audit period **we** will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the coverage term is greater than the earned premium, **we** will return the excess to the first Named Insured. 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.

## J. Representations

By accepting this insurance, **you** agree:

1. The statements in the Declarations are **accurate** and complete;
2. Those statements are based upon representations **you** made to **us**; and
3. **We** have issued this Coverage Part in reliance upon **your** representations.

## K. Cancellation and Nonrenewal

### 1. Cancellation

- a. The first Named Insured may cancel this Coverage Part by mailing or delivering to **us** advance written notice of cancellation. The **coverage period** will end on the effective date requested.
- b. **We** may cancel this Coverage Part only in the event of non-payment of premium. If **we** cancel for non-payment of premium, **we** will mail by first class or certified mail, to the first Named Insured and the agent or broker of record, at their last address known to **us**, written notice stating the reason for cancellation at least ten (10) days before the effective date of the cancellation.
- c. Notice of cancellation will state the effective date of cancellation. The **coverage period** will end on the date of cancellation.

- d. If this Coverage Part is cancelled, **we** will send the first Named Insured any premium refund due. If **we** cancel, the refund will be the pro-rata unearned premium. If the first Named Insured cancels, the refund may be less than pro-rata. The cancellation will be effective even if **we** have not made or offered a refund.

**We** will refund the pro-rata unearned premium if this Coverage Part is cancelled:

- (1) By **us** at **our** request;
- (2) Rewritten with **us** or in **our** company group;
- (3) Because the Named Insured no longer has an insurable interest in the property or business operation that is the subject of this insurance; or
- (4) After the first year of a prepaid Coverage Part that was written for a term of more than one year.

If this Coverage Part is cancelled at the request of the first Named Insured for reasons other than (1) through (4) above, **we** will refund 90% of the pro-rata unearned premium. However, the refund will be less than 90% of the pro-rata unearned premium if the refund of such amount would reduce the premium retained by **us** to an amount less than the minimum premium due for the Coverage Part.

- e. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.

## 2. Non-renewal by **us**

- a. **We** are not required to renew this Coverage Part when it expires.
- b. If **we** elect not to renew this Coverage Part, **we** will mail by first class or certified mail, to the Named Insured and the agent or broker of record, at their last address known to **us**, written notice stating the reason for non-renewal, at least sixty (60) days, but not more than one hundred and twenty (120) days before the effective date of non-renewal.
- c. Notice of non-renewal will state the effective date of non-renewal. The **coverage period** will end on the date of non-renewal.
- d. A post office certificate of mailing or certified mail receipt will be sufficient proof of mailing of notice.

## L. Separation of Insureds

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

1. As if each Named Insured were the only Named Insured; and
2. Separately to each insured against whom a **claim** is made or **suit** is brought.

## M. Transfer of Rights of Recovery Against Others To Us

**We** will waive the right of recovery **we** would otherwise have had against another person or organization, for payments **we** have made under this Coverage Part, provided **you** have

waived **your** rights of recovery against such person or organization in a contract or agreement that has been executed before such loss.

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

## V. EXTENDED REPORTING PERIODS

- A. **We** will provide an Extended Reporting Period as described below if this coverage is cancelled or non-renewed for any reason, or if **we** renew this coverage with insurance that has a **retroactive date** later than the date shown in the Declarations of this Coverage Part.

Within thirty (30) days after this Coverage Part is cancelled or nonrenewed, **we** will advise the first Named Insured and the agent or broker of record, in writing, of the availability of, the premium for, and the importance of purchasing, an Extended Reporting Period.

- B. Extended Reporting Periods do not extend the **coverage period** or change the scope of coverage provided. Once in effect, Extended Reporting Periods may not be cancelled.

- C. Extended Reporting Periods do not apply to **claims** that are covered under any subsequent insurance **you** purchase or that would be covered but for exhaustion of the amount of insurance applicable to such **claims**.

- D. All **claims** under Extended Reporting Periods must be reported to **us** in accordance with Conditions IV. E.

- E. Basic Extended Reporting Period

1. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts at the date of coverage termination or the end of the **coverage period**, whichever is earlier, and lasts for ninety (90) days.

2. **Claims** made against **you** within ninety (90) days after coverage termination or the end of the **coverage period**, whichever is earlier, and which arise out of a **wrongful act** that was committed during the **coverage period** but not before the **retroactive date**, if any, stated in the Declarations, will be deemed to have been made on the last day of the **coverage period**.

3. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.

- F. A Supplemental Extended Reporting Period of 5 years is available by endorsement. This supplemental period starts when the Basic Extended Reporting Period, as stated above, ends.

**You** must give **us** a written request for the Supplemental Extended Reporting Period within ninety (90) days after the end of the **coverage period** or coverage termination date, whichever is earlier. The Supplemental Extended Reporting Period will not go into effect unless **you** pay the additional premium promptly when due.

**We** will determine the additional premium in accordance with **our** rules and rates. The additional premium will not exceed 200 percent of the annual premium for this coverage.

This endorsement shall set forth the terms, not inconsistent with this section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for **claims** first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

- G. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
- H. If the Supplemental Extended Reporting Period is in effect, **we** will provide the separate Aggregate Limits of Insurance described below, but only for **claims** first made against any insured during the Supplemental Extended Reporting Period.

The separate Aggregate Limits of Insurance will be equal to the Aggregate Limit of Insurance shown in the Declarations in effect at the end of the **coverage period**. The Supplemental Extended Reporting Period Aggregate Limit of Insurance is the most **we** will pay for **damages** covered by this Coverage Part under the Supplemental Extended Reporting Period. Any payment **we** make for **damages** will reduce or exhaust the Supplemental Extended Reporting Period Aggregate Limit of Insurance available for payment of **damages** arising out of any other **claim**.

Paragraph A of Section III. Limits of Insurance and Deductibles will be amended accordingly.

## VI. DEFINITIONS

- A. **Bodily injury** means bodily injury, sickness, death or disease, mental anguish, or emotional distress.
- B. **Claim** means a written or oral demand for **damages**
- C. **Claims expenses** means the following fees, costs, and expenses that result directly from the investigation, defense or appeal of a specific **claim** or **suit**:
  1. Fees, costs and expenses of attorneys;
  2. The costs of proceedings involved in the **claim**, including court reporter, arbitrator and mediator fees;
  3. Independent expert and special investigator fees, costs and expenses;
  4. Any premiums for appeal bonds for the covered part of the judgment provided however, **we** have no obligation to apply for, furnish, or have any court approve such bonds, or provide any collateral for such bonds;
  5. Any premiums for bonds to release property that is being used to secure a legal obligation, but only for bond amounts within the available Limits of Insurance. **We** do not have to furnish such bonds;
  6. Post judgment interest;
  7. Prejudgment interest awarded against **you** on that part of the judgment **we** pay, however, 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; and

8. All reasonable expenses incurred by **you** at **our** request to assist **us** in the investigation or defense of any **claim**, including actual loss of earnings because of time off work, up to \$500 per day.

**D. Coverage period** means the period of time from the inception date of this Coverage Part to the expiration date shown in the Declarations, or, if applicable, any earlier termination date. The **coverage period** does not include the Extended Reporting Period or Supplemental Extended Reporting Period, if any.

**E. Damages** means the following amounts, costs and expenses for which **you** are legally liable and which are covered by this Coverage Part:

1. For **loss of use**:

- a. Income lost by the claimant due to a covered period of **loss of use**. Income means the net profit or loss before income taxes that would have been earned or incurred during the period of **loss of use**. Income includes continuing normal operating expenses incurred, including payroll, incurred during the period of **loss of use**. Income does not include any salvage or resale value of the property suffering the **loss of use**;
- b. Costs and expenses paid by the claimant to reduce the **loss of use**, except for the cost of any replacements for **your products**, or **your work**, but only if the costs and expenses paid reduce the total **damages**; and
- c. The amount by which the cost of any replacements for **your products** or **your work** exceeds the cost of **your products** or **your work**.

However, **loss of use** does not include **loss of use** of other property arising out of the sudden and accidental injury to **your product** or **your work** after it has been put to its intended purpose.

2. For **property damage**:

- a. Costs to repair or replace the property of others which is on **your** premises for the purpose of having **your work** performed upon it by an insured, and which has been damaged as a result of **your work**.

3. But **damages** for **loss of use** and **property damage** do not include:

- a. Refunds or penalties required to be paid to others under any contract or agreement;
- b. Costs and expenses incurred by or on behalf of **you** to fulfill a warranty, representation, or promise provided with **your products** or **your work**;
- c. Costs and expenses incurred by **you** or others to withdraw or recall **your products** or **your work**, or any part of such product or work, or any product or work into which **your products** or **your work** is incorporated, from the marketplace or from use by any person or organization; or
- d. The cost of **your products** or **your work**.

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

**G. Impaired Property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because it incorporates **your product** or **your work** that is known to be defective, deficient, inadequate or dangerous if such property can be restored to use by the repair, replacement, adjustment or removal of **your product** or **your work**.

**H. Interrelated Wrongful Acts** means **wrongful acts** that arise out of, or flow from, either directly or indirectly, one or a series of the same, common, related or repeated facts, matters, events, circumstances, transactions, practices, statements, or decisions, whether such **wrongful acts** involve just **you** or others for whose acts **you** may be legally responsible, or the same or different claimants.

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

**J. Loss of Use** means loss of use of tangible property that is not physically damaged.

**K. Personal and Advertising Injury** means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. 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;
4. 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;
5. Oral or written publication, in any manner, of material that violates a person's right of privacy;
6. The use of another's advertising idea in **your** advertisement; or
7. Infringing upon another's copyright, trade dress or slogan in **your** advertisement.

**L. 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.

**M. Property Damage** means:

Physical injury to tangible property not including the resulting **loss of use** of that property. 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.

**N. Retroactive date** means the earliest date a **wrongful act** may be committed and be covered under this coverage form. This date is shown in the Declarations. However, if no date is shown in the Declarations, **we** will consider the **retroactive date** to be the same as the inception date of this Coverage Part.

**O. Suit** means a civil proceeding in which **damages** are sought because of a **wrongful act**, to which this insurance applies are alleged. **Suit** includes:

1. An arbitration proceeding in which such **damages** are claimed and to which **you** must submit or do submit with **our** consent; or
2. Any other alternative dispute resolution proceeding in which such **damages** are claimed and to which **you** submit with **our** consent.

**P. Technology product or service** means:

1. Any telecommunication, computer, electronic, internet, network or website equipment, programs, systems, software, data or other electronic information; and
2. Any design, integration, maintenance, management, processing, programming, repair, analytical or systems support services in connection with any products in P.1. above.

**Q. Temporary worker** means a person who is furnished to **you** to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.

**R. Your products:**

1. Means:
  - a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
    - (1) **You**;
    - (2) Others trading under **your** name; or
    - (3) A person or organization whose business or assets **you** have acquired; and
  - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
2. Including:
  - a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your products**; and
  - b. The providing of or failure to provide warnings or instructions.
3. But not including:
  - a. **Vending** machines or other property rented to or located for the use of others but not sold;
  - b. Goods or products still in **your** actual physical possession;

**S. Your Work:**

1. Means:

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

**T. Wrongful Act(s)** means any actual or alleged negligent act, error or omission.

However, a **wrongful act** shall not include any actual or alleged infringement of the following rights or laws:

1. Copyright;
2. Patent;
3. Trade dress;
4. Trade name;
5. Trademark;
6. Trade secret;
7. Piracy or plagiarism; or
8. Any other intellectual property right or law.