



# AMERICAN EQUITY

INSURANCE COMPANY

Scottsdale, Arizona

THIS IS A "CLAIMS  
MADE" POLICY.  
READ YOUR POLICY  
CAREFULLY.

Architects, Engineers And Construction Managers  
Professional Liability Insurance Policy  
(Claims Made Basis)

## DECLARATIONS

Renewal of \_\_\_\_\_

Item 1.- Named Insured:

Item 2.- Mailing Address:

Item 3.- Policy Period From: \_\_\_\_\_ To: \_\_\_\_\_  
(12:01 A.M. Standard Time at the address of the Named Insured as indicated herein.)

Item 4.- Named Insured's Professional Services:

Item 5.- Named Insured Is:  Individual  Partnership  Corporation  Joint Venture

Item 6.- Limit of Liability and Deductible:

The liability of the Company for "each Claim" which is first made during the Policy Period shall not exceed ..... \$ \_\_\_\_\_

and, subject to that limit for "each Claim", the total of the Company's liability for all Claims first made during the Policy Period shall not exceed in the "aggregate" \$ \_\_\_\_\_

The limit of liability afforded under the Policy shall be subject to the deductible amount (set forth below) which shall be applicable to "each Claim" and shall be inclusive of "Costs, Charges and Expenses" ..... \$ \_\_\_\_\_

Item 7.- Total Premium: ..... \$ \_\_\_\_\_

Item 8.- Retroactive Date:

Item 9.- Endorsements:

Item 10.- Except to such extent as may be provided otherwise herein, this Insurance is limited to liability for only those claims that are first made against the insured during the Policy Period. Please see Insuring Agreements II, IV, V and VI and also please review this Policy carefully and discuss the coverage hereunder with your insurance agent, broker or representative.

Countersigned

### IMPORTANT NOTICE

The Limit of Liability available to pay judgements or settlements shall be reduced by the amounts incurred for loss adjustment expenses and legal defense and shall be inclusive of "costs, charges and expenses." Please further note that the amounts incurred for adjustment and defense shall be applied against the deductible (or retention amount). Please review this coverage with your insurance agent, broker or representative.

SPECIMEN

\_\_\_\_\_  
Duly Authorized Officer or Representative

**ARCHITECTS, ENGINEERS AND CONSTRUCTION MANAGERS  
PROFESSIONAL LIABILITY INSURANCE**

**(Claims Made Basis)**

**The Company designated on the Declarations Page  
(A stock insurance company, herein called the Company)**

In consideration of the payment of the premium, the undertaking of the Insured to pay the deductible as described herein, and in reliance upon the statements in the application attached hereto and made part hereof, and subject to the Limits of Liability of this insurance as set forth in the Declarations and the Exclusions, Conditions and other terms of this Policy the Company agrees with the Named Insured as follows: (Throughout this Policy, words and phrases that appear in bold have special meaning. Refer to **INSURING AGREEMENTS III. DEFINITIONS**)

**INSURING AGREEMENTS**

**I. COVERAGE - PROFESSIONAL LIABILITY:**

To pay on behalf of the **Insured** all sums in excess of the deductible which the **Insured** shall become legally obligated to pay as **Damages** by reason of liability arising out of any **Wrongful Act** whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the **Insured** is legally responsible.

**II. TERRITORY, POLICY PERIOD AND CLAIMS MADE PROVISIONS:**

This insurance applies only to **Wrongful Acts** which are committed or alleged to have been committed and result in **Damages** or alleged to have resulted in **Damage** anywhere in the world, provided always that the **Wrongful Act** :

- (a) Was committed or alleged to have been committed during the **Policy Period** and **Claim** is first made or suit is brought for such **Claim** during the **Policy Period**;
- (b) Was committed or alleged to have been committed prior to the inception date of the Policy but after any **Retroactive Date** shown in Item 8 of the Declarations, and such **Claim** is first made during the **Policy Period** provided:
  - (i) The **Insured** had no knowledge of any such actual or alleged **Wrongful Act** on the effective date of this insurance, and
  - (ii) No other valid and collectible insurance is available to the **Insured** for any actual or alleged **Wrongful Act**.

The Company's obligation as set forth above applies only to **Claims** first made within the United States of America, its Territories or Possessions, or Canada. The Company, however, may elect at any time to investigate, settle or defend such **Claims** that are brought anywhere other than in the United States, its Territories or Possessions, or Canada.

If the Company does not make such an election, then the **Insured** agrees with the written consent of the Company, to make or cause to be made such investigation and defense as is reasonably necessary, and subject to written authorization by the Company, the **Insured** may effect settlement. The Company in such event shall also reimburse the **Insured** for reasonable costs of such investigation, or defense as the Company in its sole discretion deems appropriate and settlement as previously authorized by the Company.

**III. DEFINITIONS:**

- (a) **Named Insured** shall mean the person or entity specified in Item 1 of the Declarations;
- (b) **Insured** shall mean:
  - (i) If the **Named Insured** is designated in the Declarations as a partnership or joint venture, the partnership or joint venture so designated and any past or present partner or member thereof but only while acting within the scope of his/her duties as a partner or member of the **Named Insured** and only with respect to his/her liability as such;

- (ii) If the **Named Insured** is designated in the Declarations as a Corporation, the Corporation so designated, and any past or present officer or director but only while acting within the scope of his/her duties as an officer or director of the **Named Insured**;
  - (iii) If the **Named Insured** is designated in the Declarations as a joint venture, the joint venture so designated, and any past or present partner or member thereof, but only while acting within the scope of his/her duties as a partner or a member of the **Named Insured** and only with respect to their liability as such;
  - (iv) Any employee of the **Named Insured** but only while acting within the scope of his/her duties as an employee of the **Named Insured**.
- (c) **Claim**, wherever used in this Policy, means a demand received by the **Insured** for money or services and alleging a **Wrongful Act** including the service of suit or institution of arbitration proceedings against the **Insured**.
  - (d) **Damages** shall mean a monetary loss, a monetary judgement, a monetary settlement for which the **Insured** is legally obligated to pay as a result of a **Wrongful Act and Costs, Charges and Expenses**, provided always that such subject of **Damages** shall not include fines, penalties, or the return, withdrawal or reduction of professional fees. The term **Damages** shall include an award of punitive damages but only to the extent that applicable law of the jurisdiction of the **Named Insured** so permits.
  - (e) **Policy Period**, wherever used in this Policy shall mean the period from the effective date of this Policy to the expiration date or earlier termination date, if any, of this Policy.
  - (f) **Costs, Charges and Expenses** shall mean fees and disbursements charged by an attorney designated by the Company, all reasonable and necessary fees, costs and expenses resulting from the adjustment, defense and appeal of a **Claim**, if incurred by the designated attorney, by the Company, or by the **Insured** with the written consent of the Company and premiums on appeal bonds, attachment bonds or any similar bonds; however, the Company shall not be obligated to apply for or furnish any such bonds. **Costs, Charges and Expenses** shall not include the cost of investigation and adjustment of **Claims** by salaried employees of the Company.
  - (g) **Personal Injury** means bodily injury, including sickness, disease, death, mental anguish and emotional distress; false arrest, detention or imprisonment; wrongful entry or eviction or other invasion of private occupancy; malicious prosecution; humiliation; libel, slander, or other disparaging comments or materials in violation of an individual's right of privacy.
  - (h) **Professional Services** means those services identified in Item 4 of the Declarations or by endorsement.
  - (i) **Single Claim** means one or more **Claims** arising out of a single **Wrongful Act** or out of **Related Wrongful Acts**.
  - (j) **Related Wrongful Acts** means all **Wrongful Acts** that are logically or causally connected by any common fact, circumstance, situation, transaction, event, advice or decision.
  - (k) **Wrongful Act**, whenever used in this Policy shall mean any actual or alleged act, error, mistake or omission in rendering or failure to render **Professional Services** for others of the type described in the Declarations or by endorsement whether committed or alleged to have been committed by the **Insured** or any person employed by the **Insured** or by others for whom the **Insured** is legally responsible. A **Wrongful Act** does not include an act that is dishonest, fraudulent, malicious, or criminal.

#### IV. LIMITS OF LIABILITY:

The liability of the Company for **Damages and Costs, Charges and Expenses** resulting from each **Claim** which is first made during the **Policy Period** shall not exceed the amount stated in the Declarations for "each **Claim**", and subject to that limit for each **Claim**, the total limit of the Company's liability for **Damages and Costs, Charges and Expenses** resulting from all **Claims** which are first made during the **Policy Period**, as covered hereunder, shall not exceed the amount stated in the Declarations as "aggregate". The inclusion herein of more than one **Insured** or the making of **Claims** or the bringing of suits by more than one person or organization, shall operate not to increase the limit of the Company's liability for "each **Claim**" and in the "aggregate".

The liability of the Company for "each **Claim**" which is first made during the **Policy Period** and the total of the Company's liability for all claims first made during the **Policy Period** in the "aggregate" as set forth in the Declarations

will apply to any sum or sums paid by the Company as **Damages** inclusive of **Costs, Charges and Expenses**, whether or not loss payment is made. The Company shall not be obligated to pay any **Claim** or judgment or defend any suit or **Claim** after the Company's liability has been exhausted by payment of **Damages** or **Costs, Charges and Expenses**. **Costs, Charges and Expenses** are subject to and included within the applicable limit of liability.

All claims constituting a **Single Claim**, whenever made, will be considered first made during the **Policy Period** in which the earliest **Claim** or reported circumstance was made to the Company in writing in accordance with the provisions of Insuring Agreement VI. All such **Claims** or reported circumstances will be subject to the Limit of Liability for the **Policy Period** in which the earliest **Claim** or circumstance was made to the Company in writing.

#### V. DEDUCTIBLE:

The deductible amount stated in the Declarations is applicable to each **Claim** or **Single Claim** which is first made during the **Policy Period** and will apply to any sum or sums paid by the Company as **Damages** inclusive of **Costs, Charges and Expenses**, whether or not loss payment is made. The **Named Insured** agrees to pay to the Company that portion of the deductible which shall have been expended by the Company for payment of **Damages** within 10 business days upon receipt of written notice of such sums being due.

If the Company pays any part or all of the deductible amount to effect payment of any **Damages**, the **Named Insured** shall within 10 business days reimburse the Company therefor as soon as written notice of such settlement has been conveyed to the **Named Insured**. However, either singly or combined, the total payments requested from the **Named Insured** in respect of each **Claim** shall not exceed the deductible amount stated in the Declarations.

The determination by the Company as to the reasonableness of the **Costs, Charges and Expenses** shall be conclusive on the **Named Insured**.

#### VI. AWARENESS PROVISION:

If during the **Policy Period**, the **Insured** shall become aware of any circumstances which may subsequently give rise to a **Claim** against the **Insured** by reason of any alleged or actual **Wrongful Act** for which coverage would be afforded hereunder and if the **Insured** shall during the **Policy Period** herein given written notice to the Company of such circumstances, any **Claim** which is made against the **Insured** arising out of such alleged or actual **Wrongful Act** shall be deemed for the purpose of this insurance to have been first made during the **Policy Period** stated in the Declarations. The **Insured** shall cooperate fully with the Company as provided in Condition I, and any investigation conducted by the Company or its representatives shall be subject to the terms set forth in this Policy.

#### VII. DEFENSE, SETTLEMENT, COOPERATION:

- (a) The Company shall defend any **Claim** against the **Insured** seeking **Damages** to which this insurance applies, even if any of the allegations of suit are groundless, false or fraudulent. It is agreed that the Company may make such investigation and settlement of any **Claim** or suit as it deems expedient, but the Company shall not be obligated to pay any **Damages** resulting from a **Claim** or to defend any **Claim** or suit after the limit of the Company's liability has been exhausted by payment of **Damages**.
- (b) The Company shall not settle any **Claim** without the consent of the **Insured**. If, however, the **Insured** shall refuse to consent to any settlement recommended by the Company and shall elect to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then the Company's liability for the **Claim** shall not exceed the amount for which the **Claim** could have settled plus **Costs, Charges and Expenses** incurred up to the date of such refusal. Such amounts are subject to the provisions of Insuring Agreements IV and V.

The **Insured** will not, except at the **Insured's** own cost, make any payment, assume any liability or incur any **Costs, Charges and Expenses**, or any other expenses without the Company's written consent.

### EXCLUSIONS

#### I. The Insuring Agreements and all other provisions of this insurance shall not apply to **Claims, Damages, or Costs, Charges and Expenses** for or arising out of:

- (a) Liability of others assumed by the **Insured** by agreement under any contract whether oral or in writing, unless such liability would have attached to the **Insured** in the absence of such agreement. This exclusion shall not apply to the liability of others assumed by the **Insured** under a written contract but only to the extent such

liability is enforceable under the laws of the governing jurisdiction and provided such liability of others results from any **Wrongful Act**;

- (b) Liability of any kind based upon, involving or arising out of the conduct by an individual, corporation, partnership or joint venture of which the **Insured** is a partner, officer, member or employee, operates, manages or controls, which is not designated in the Declarations as a **Named Insured** or specifically endorsed hereon or which operates, manages or wholly or partly owns the **Named Insured** or in which the **Named Insured** has a legal or beneficial interest in excess of 49%;
- (c) Bodily injury, personal injury, sickness, disease or death to any employee of the **Insured** arising out of and in the course of employment by the **Insured**, or any obligation for which the **Insured**, or any carrier as his/her Insurer, may be liable under any Workers' Compensation, Unemployment Compensation, Employers' Liability, Disability Benefits Law, or under any similar law;
- (d) The insolvency or bankruptcy of any **Insured**, or any other person, firm or organization;
- (e) The advising or requiring of, or failure to advise or require, or failure to maintain, procure or otherwise provide any form of insurance, suretyship or bond, either with respect to the **Insured** or any other person.;
- (f) The ownership, rental, leasing, operation, maintenance, use or repair of any real or personal property, including property damage to property owned by, occupied by, rented or leased to the **Insured**;
- (g) The ownership, maintenance, operation or use, including loading and unloading, by or on behalf of the **Insured**, or at the direction of the **Insured**, of watercraft, automobiles, motor vehicles, aircraft or mobile vehicles of any kind;
- (h) Express warranties or guarantees;
- (i) Any loss caused intentionally by or at the direction of any **Insured**;
- (j) **Claims:**
  - (i) By a business enterprise (or its subrogees or assignees) that wholly or partly owns, operates or manages the **Named Insured** or is wholly or partly owned, operated, or managed by the **Named Insured**, or any contractor or subcontractor thereof;
  - (ii) By an employee, his executor, administrator or next of kin (or his subrogees or assignees) of such business enterprise;
- (k) Any **Claim** brought by one **Insured** against another **Insured**;
- (l) Actual or alleged discrimination, humiliation, harassment, defamation, libel, or misconduct including but limited to that which is based upon race, religion, color, gender, sexual preference, or orientation, national origin, age, disability or marital status, failure to hire or promote;
- (m) Any dishonest, fraudulent, intentional, criminal or malicious act or omission committed by, or at, the direction of the **Insured**;
- (n) Any facts or circumstances known to the **Insured** prior to the inception of the Policy Period which facts or circumstances would cause a reasonable person to believe that a **Claim** alleging a **Wrongful Act** might be made;
- (o) Any **Claim** based upon, arising out of, or attributable to any fact, circumstance or situation which has been the subject of any written or oral notice given under any policy of which this Policy is a renewal or replacement.

II. The Insuring Agreements and all other provisions of this insurance shall not apply to **Claims, Damages or Costs, Charges and Expenses** for or arising out of:

- (a) Specification or installation of a product, material or process containing asbestos, or
- (b) The transportation, storage or disposal of a product or material containing asbestos, by or on behalf of the **Insured**.

It is further agreed that the coverage provided by this policy shall not apply to any **Claim, or Costs, Charges and Expenses** alleging or resulting in **Personal Injury** caused or alleged to have been caused, in whole or in part, by exposure to asbestos, or a product, material or process containing asbestos.

- (c) Nuclear reaction, radiation, or contamination within or originating from a site where a nuclear reactor is located or where nuclear material or waste is disposed.

III. The Insuring Agreements and all other provisions of this insurance shall not apply to **Claims, Damages or Costs, Charges and Expenses** for or arising out of:

- (a) The actual, alleged or threatened discharge, dispersal, release or escape of pollutants, such as solid, liquid, gaseous, or thermal irritants or contaminants, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste (waste includes materials to be recycled, reconditioned or reclaimed); or
- (b) Any governmental or regulatory directive or request that the **Insured**, or anyone acting under its direction or control, test for, monitor, cleanup, remove, contain, treat, detoxify or neutralize said pollutants, providing always that this exclusion shall not apply to any **Claim or Costs, Charges and Expenses** arising out of **Professional Services** described in the Declarations and performed by the **Insured** in the planning and design of:
  - (i) Domestic sewage systems, including those receiving industrial waste, but only if such industrial waste is pre-treated in accordance with applicable governmental or regulatory standards; or
  - (ii) Potable water systems; or
  - (iii) Storm water systems, being water from rain, hail, snow or sleet; or
  - (iv) Electrical systems; or
  - (v) Heating, ventilating or air conditioning systems, except for systems designed solely for the control of **Pollutants**.

Additional Definitions:

**Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot fumes, acids, alkalis, chemicals, and waste. Waste includes material to be recycled, reconditioned or reclaimed.

**Pollutants** does not mean heat, smoke, vapor, soot, or fumes from a **Hostile Fire** or explosion.

**Hostile Fire** means one which becomes uncontrollable or breaks out from where it was intended to be.

These exclusions apply to any **Claim** by whomever or whatsoever made, including, but not limited to any public, private or governmental person, concern, body, entity, agent, office or corporation.

## CONDITIONS

I. **INSURED'S DUTIES IN THE EVENT OF A CLAIM:** It is a condition precedent to the application of all insurance afforded herein that the **Insured** shall:

- (a) Give written notice containing particulars sufficient to identify the **Insured** and claimant and full information with respect to the time, place and circumstances of any **Claim** or any event complained of, and the names and addresses of the claimants and of available witnesses, to the Company, or to any of its authorized representatives as soon as practicable;
- (b) Immediately forward to the Company every document, demand, notice, summons or other process received by the **Insured** or the **Insured's** representative, if **Claim** is made against the **Insured**;
- (c) Cooperate with the Company and upon the Company's request, shall submit to examination and interrogation by a representative of the Company, under oath if required, and shall attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits, as well as in the giving of a written statement or statements to the Company's representatives and meetings with such representatives for the purpose of investigation and/or defense, and all without charge to the Company;
- (d) Obtain the Company's written consent to exercising any right the **Insured** may have under a professional services contract to reject or demand arbitration or other alternative dispute resolution process.

## II. INSUREDS DUTIES IN THE EVENT OF A CIRCUMSTANCE:

If during the **Policy Period** the **Insured** becomes aware of a circumstance that may reasonably be expected to be the basis of a **Claim**, and if the **Insured** during the **Policy Period** provides the Company with written notice containing:

- (a) The nature of any possible **Damage and Claim**;
- (b) The **Professional Services** the **Insured** provided;
- (c) When and how the **Insured** became aware of the Circumstance;

Then any **Claim** that is subsequently made against the **Insured** arising out of such circumstance will be deemed to have been made on the date the Company received the written notice of the circumstance.

## III. INNOCENT INSUREDS:

If coverage under the Policy would not apply because of Exclusion "n", or because of non-compliance of Condition II, such exclusion or condition will not apply to any **Insured** who did not commit, participate in or have knowledge of any of the acts described in Exclusion "n" or Condition II. This provision shall not apply to the **Named Insured**.

## IV. CANCELLATIONS:

This Policy may be cancelled by the **Named Insured** by surrender thereof to the Company or any of its authorized representatives, or by mailing to the Company written notice stating when thereafter the cancellation shall become effective. This Policy may be cancelled by the Company by mailing to the **Named Insured** at the address shown in the Declarations a written notice stating when, not less than thirty (30) days thereafter, such cancellation shall become effective. The time of the surrender or the effective date and hour of cancellation stated in the notice shall terminate the **Policy Period**. The mailing of such notice as aforesaid, whether by ordinary mail or certified mail, shall be sufficient proof of such notice. Delivery of such written notice, whether by the **Named Insured**, or by the Company, shall be equivalent to mailing. If the **Named Insured** cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro-rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable thereafter, but payment or tender of unearned premium is not a condition of cancellation by the Company.

A renewal quotation by the Company incorporating a different premium or limit of liability or deductible amount with respect to the coverage afforded by the Policy shall not be deemed to constitute a cancellation or refusal to renew by the Company.

## V. SUBROGATION:

In the event of any **Claim** under this Policy, the Company shall be subrogated to all of the **Insured's** rights of recovery therefore against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights.

## VI. AUDIT:

The Company may examine and audit the **Insured's** books and records at any time during the **Policy Period** and extensions thereof and within three years after the final termination of this Policy, as far as they relate to the subject matter of this insurance.

## VII. ACTION AGAINST THE COMPANY:

No action shall be maintained against the Company by the **Insured** to recover for any loss under this insurance Policy, unless, as a condition precedent thereto, the **Insured** shall have fully complied with all the terms and conditions of this insurance Policy, nor until the amount of such loss has been fixed or rendered certain either by final judgement against the **Insured** after trial of the issues and the time to appeal therefrom has expired without an appeal having been taken, or, if an appeal has been taken, then until after the appeal has been determined or by agreement between the two parties with the written consent of the Company. In no event shall any action be maintained against the Company by the **Insured** or any other persons unless brought within twelve months after the right of action accrues hereon.

Nothing contained in the Policy shall give any person or organization any right to join the Company as a defendant, or co-

defendant or other party in any action against the **Insured** to determine the **Insured's** liability.

**VIII. OTHER INSURANCE:**

This insurance shall be excess over any other valid and collectible insurance (including without limitation any Policy in which the **Insured** is an additional **Insured**), self-insurance or indemnification agreement available to the **Insured**.

Nothing contained in the Policy shall give any person or organization any right to join the Company as a defendant, or co-defendant or other party in any action against the **Insured** to determine the **Insured's** liability.

**IX. ASSIGNMENT:**

This Policy shall be void if assigned or transferred without the written consent of the Company. However, if the **Insured** shall die or be judged incompetent, this Policy shall cover the **Insured's** legal representatives as the **Insured** with respect to liability previously incurred and covered under this Policy.

**X. APPLICATION:**

By acceptance of this Policy, all **Insureds** agree that the statements in the application are their agreements, representations and warranties, that this Policy embodies all agreements existing between themselves and the Company, or any of its representatives relating to this insurance.

**XI. NOTICE OF CLAIM:**

The **Insured**, upon notice of any **claim** or of an incident or circumstance likely to give rise to a **Claim** hereunder, shall give immediate written notice thereof to the Company care of Professional Underwriters Agency, Inc., Two Trans Am Plaza Drive, Suite 300, Oakbrook Terrace, IL 60181-4291.

**XII. FALSE OR FRAUDULENT CLAIMS:**

If the **Insured** shall proffer any **Claims** knowing same to be false or fraudulent as regards amount or otherwise, this Policy shall become void and all insurance hereunder shall be forfeited.

**XIII. CHANGES:**

Notice to any Agent or Representative or knowledge possessed by any agent representative or other person acting on behalf of the Company shall not effect a waiver or a change in any part of this Policy, or estop the Company from asserting any right under the terms of the Policy; nor shall the terms of the Policy be waived or changed, except by endorsement issued to form a part of this Policy.

**XIV. SERVICE OF SUIT CLAUSE:**

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or their successor or successors in office, as Company's true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the **Insured** or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the following individual as the person to whom said officer is authorized to mail process or a true copy thereof.

It is further agreed that service of process in such suit may be made upon the Chief Claims Officer of the Company at 7676 E. Pinnacle Peak Road, Scottsdale, AZ 85255.

IN WITNESS WHEREOF, the Company has caused this Policy to be signed by its President and Corporate Secretary, but this Policy shall not be valid unless countersigned on the Declaration page by a duly authorized representative of the Company.

*E. J. Keating*  
President

*Barbara D. Sutherland*  
Secretary

**NUCLEAR ENERGY LIABILITY ENDORSEMENT  
(Broad Form)**

This Policy shall not apply:

- I. Under any Liability Coverage, to injury, sickness disease, death or destruction:
- (a) with respect to which an **Insured** under the Policy is also an **Insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an **Insured** under any such Policy but for its termination upon exhaustion of its limit of liability; or
  - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **Insured** is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America or any agency thereof, with any person or organization.
- II. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
- (a) the nuclear material (1) is at any nuclear facility owned by or operated by, or on behalf of, an **Insured**, or (2) has been discharged or dispersed therefrom;
  - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **Insured**; or
  - (c) the injury, sickness, disease, death, or destruction arises out of the furnishing by an **Insured** of services, materials, parts, or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories, or possessions, or Canada, this exclusion (c) applies only to injury or destruction of property at such nuclear facility.

III. As used in this Policy:

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

**Nuclear Materials** means source material, special nuclear material or by-product material;

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

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

**Waste** means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

**Nuclear Facility** means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used by (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233, or any combination thereof, or more than 250 grams of uranium 235.
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

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

With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.