

DECLARATIONS PAGE FOR PEMBROKE SYNDICATE 4000
OIL and GAS ENGINEERS and CONSULTANTS PROFESSIONAL LIABILITY
CLAIMS MADE AND REPORTED INSURANCE POLICY

POLICY NO:

Item 1. Named Assured and Mailing Address:

Item 2. Policy Period:

FROM INCEPTION:

TO EXPIRATION:

(Both dates at 12.01 a.m. Local Standard Time at the Mailing Address)

Item 3. Limit of Liability:

The Limit of Liability of the Underwriters, including Damages and Claims Expenses, for Claims first made against the Assured and reported in writing to the Underwriters during the Policy Period shall not exceed:

USD each Claim (inclusive of Claims Expenses)

USD in the Aggregate (inclusive of Claims Expenses)

Item 4. Self-Insured Retention:

The Self-Insured Retention amount shall be separately applicable to each Claim first made during the Policy Period and shall apply to Damages and Claims Expenses

USD

Item 5. Premium:

USD

Item 6. Retroactive Date:

Coverage shall apply only to those Claims or those matters reported pursuant to the terms and conditions of the Policy arising out of Professional Services and performed subsequent to:

Item 7. Service of Suit upon the Underwriters pursuant to Condition 15. may be made upon:

Mendes & Mount LLP

750 Seventh Avenue

New York

NY 10019-6829

Item 8. Recipient of Notice of Assured's Cancellation (via broker or other agent):

Lloyd's Syndicate 4000

2nd Floor South, 3 Minster Court

Mincing Lane, London EC3R 7DD

Item 9. Recipient of Notice of Assured's Claims or Circumstances as per Conditions 1 and 2 of the Policy (via broker or other agent):

Director of Claims

Lloyd's Syndicate 4000

2nd Floor South, 3 Minster Court

Mincing Lane, London EC3R 7DD

Item 10. Choice of Law: New York Law

Item 11. Assured's Professional Services: To be completed as per the ASSUREDS specific PROFESSIONAL SERVICES to be covered under this Policy

PEMBROKE SYNDICATE 4000

OIL and GAS ENGINEERS and CONSULTANTS PROFESSIONAL LIABILITY

CLAIMS MADE AND REPORTED INSURANCE POLICY

NOTICE

This is a claims made and reported Policy. Unless stated otherwise, coverage afforded under this insurance is limited to claims that:

- (a) are first made against the ASSURED during the POLICY PERIOD and reported in writing to the Underwriters either during the POLICY PERIOD, or within sixty (60) days after the expiration of the POLICY PERIOD and;
- (b) arise from PROFESSIONAL SERVICES rendered subsequent to the Retroactive Date stated in item 6 of the Declarations.

The limit of liability available to pay DAMAGES shall be reduced and may be completely exhausted by the payment of CLAIMS EXPENSES. DAMAGES and CLAIMS EXPENSES shall be applied against the Self-Insured Retention.

Please review this Policy carefully with your insurance agent, broker or representative.

The Underwriters, in consideration of the payment of the premium, and the ASSURED, undertaking to promptly pay the Self-Insured Retention as described in Item 4 of the Declarations, and in reliance upon the statements and representations in the application and any supplemental materials submitted therewith, which are made as part hereof and attached hereto, and subject to all the terms and conditions of this Policy, agree with the ASSURED as follows:

I. INSURING AGREEMENT - PROFESSIONAL LIABILITY

To pay on behalf of the ASSURED those sums which the ASSURED shall become legally obligated to pay as DAMAGES and CLAIMS EXPENSES by reason of a CLAIM first made against the ASSURED during the POLICY PERIOD and reported in writing to the Underwriters either during the POLICY PERIOD, or within sixty (60) days after the expiration of the POLICY PERIOD, arising out of any negligent act, error or omission in rendering or failure to render PROFESSIONAL SERVICES on or after the Retroactive Date stated in Item 6 of the Declarations by the ASSURED or by any person for whose negligent act, error or omission the ASSURED is legally responsible.

II. DEFINITIONS

As used throughout this Policy, whether expressed in singular or plural:

1. ASSURED shall mean:
 - a) the NAMED ASSURED designated in Item 1 of the Declarations;
 - b) a present principal, partner, director or officer of the NAMED ASSURED but only while acting in his capacity as such on behalf of the NAMED ASSURED;
 - c) a current employee of the NAMED ASSURED but only while acting in his capacity as such on behalf of the NAMED ASSURED;
 - d) a former principal, partner, director, officer or employee (and estate of any such former principal, partner, director, officer or employee) of the NAMED ASSURED, but only while acting in his capacity as such on behalf of the NAMED ASSURED during the period of such service with the NAMED ASSURED; provided always that any such ASSURED must have been performing those PROFESSIONAL SERVICES.
 - e) the legal heir, executor, administrator or legal representative of the ASSURED in the event of the ASSURED's death, incapacity or bankruptcy, but only with respect to the ASSURED'S performance of PROFESSIONAL SERVICES;
2. CIRCUMSTANCE shall mean any fact, event, or situation that could reasonably be the basis for a CLAIM
3. CLAIM shall mean: (a) the ASSURED'S receipt of a written demand for money or services or a request for arbitration; or, (b) the ASSURED'S receipt of a suit seeking relief against it, which is covered under the terms of the Policy.

Two or more CLAIMS arising from a single or related series of negligent acts, errors or omissions or from any continuing acts, errors or omissions shall be considered as a single CLAIM, irrespective of the number of claimants, ASSUREDS, and/or negligent acts, errors or omissions involved in the CLAIM. All such CLAIMS shall be deemed to have been made at the time of the first CLAIM.

4. CLAIMS EXPENSES shall mean those fees, costs and expenses incurred by an attorney consented to by the Underwriters to represent the ASSURED and all other costs, charges and expenses incurred for the investigation, adjustment, settlement, arbitration, defense or appeal of a CLAIM which is covered under the terms of the Policy.

CLAIMS EXPENSES do not include salaries of the ASSURED'S or Underwriters' employees, representatives or officials, or fees and expenses of independent adjusters or supervisory counsel.

5. DAMAGES shall mean any compensatory sum and includes a judgment, award or settlement, including any interest thereon.

The term DAMAGES shall not include sanctions, fines, penalties, punitive damages, exemplary damages, liquidated damages, multiple damages, or statutory damages; taxes; return, reduction, or withdrawal of fees; the costs of the ASSURED to comply with orders granting injunctive or equitable relief; or any matters uninsurable under the law under which this Policy shall be construed.

6. NAMED ASSURED shall mean only those persons, partnerships, corporations or entities specified in Item 1 of the Declarations. The term NAMED ASSURED shall not include any partnerships, corporations or entities formed or acquired by the NAMED ASSURED subsequent to the inception date of this Policy unless specifically endorsed hereon.
7. POLICY PERIOD shall mean that period between the inception and expiration dates specified in Item 2 of the Declarations subject to any earlier termination date.
8. PROFESSIONAL SERVICES shall mean only those services, professional in nature, provided by the ASSURED acting in the capacity of an engineer, testing consultant, geologist, geophysicist, or as otherwise specifically defined in Item 11. of the Declarations.

III. DEFENSE AND SETTLEMENT

- 1) The Underwriters shall have the right and duty to defend, subject to the limit of liability, a CLAIM against the ASSURED seeking DAMAGES which are payable under the terms of this insurance, even if any of the allegations of the CLAIM are groundless, false or fraudulent.
- 2) It is agreed that the limit of liability available to pay DAMAGES shall be reduced and may be completely exhausted by payment of CLAIMS EXPENSES. DAMAGES and CLAIMS EXPENSES shall be applied against the Self-Insured Retention.

- 3) The Underwriters shall have the right to make any investigation they deem necessary with respect to coverage, including, without limitation, any investigation with respect to the application, statements made in the application and any supplemental materials submitted therewith. The ASSURED shall submit for examination by a representative of the Underwriters, under oath if requested, in connection with all matters relating to this Policy.
- 4) If the NAMED ASSURED shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the claimant and elects to contest the CLAIM, Underwriters' liability for any DAMAGES and CLAIMS EXPENSES shall not exceed the amount for which the CLAIM could have been settled including the CLAIMS EXPENSES incurred up to the time of such refusal, or the applicable limit of liability, whichever is less and the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the NAMED ASSURED.
- 5) It is further provided that the Underwriters shall not be obligated to pay any DAMAGES or CLAIMS EXPENSES or to undertake or continue defense of a CLAIM after the applicable limit of liability has been exhausted by payment of DAMAGES or CLAIMS EXPENSES, and that upon such payment, the Underwriters shall have the right to withdraw from the further defense thereof by tendering control of said defense to the NAMED ASSURED.

IV. SUPPLEMENTARY PAYMENTS

All payments made under this Clause are not subject to the Self-Insured Retention and are payable by the Underwriters in addition to the Limits of Liability.

1) Defendants' Reimbursement

Upon the Underwriter's request, or as required, the ASSURED shall attend mediation meetings, arbitration proceedings, hearings, depositions and trials relative to the defense of a CLAIM that is covered under this Policy. After the first three (3) days' attendance required for each CLAIM, the Underwriters shall reimburse the ASSURED, upon written request, for actual loss of earnings and reasonable expenses due to such attendance up to USD 400 for each day in the aggregate for all ASSURED subject to a maximum amount of USD 7,500 for each CLAIM.

2) ADA, OSHA Regulatory / Administrative Actions Reimbursement

Underwriters will reimburse the ASSURED, upon written request, for legal fees and expenses up to USD 25,000 in the aggregate for the POLICY PERIOD, incurred by the ASSURED with the prior written consent of the Underwriters, in responding to a regulatory or administrative action brought directly against the ASSURED during the POLICY PERIOD by a government agency under the Americans with Disabilities Act of 1990 (ADA) or the Occupational Safety and Health Act (OSHA) provided that the regulatory or administrative action:

- a) arises out of the rendering of or failure to render PROFESSIONAL SERVICES; and

b) is reported in writing to the Underwriters during the POLICY PERIOD.

After the Underwriters have paid USD 25,000 under this Clause, the Underwriters shall not be obligated to pay any further legal fees and expenses, under this Clause.

3) Disciplinary Proceedings Reimbursement

Underwriters will reimburse the ASSURED, upon written request, for legal fees and expenses up to USD 7,500 in the aggregate for the POLICY PERIOD, incurred by the ASSURED with the prior written consent of the Underwriters, in responding to a disciplinary proceeding brought directly against the ASSURED during the POLICY PERIOD provided that the disciplinary proceeding:

a) arises out of the rendering of or failure to render PROFESSIONAL SERVICES; and

b) is reported in writing to the Underwriters during the POLICY PERIOD.

After the Underwriters have paid USD 7,500 under this Clause, the Underwriters shall not be obligated to pay any further legal fees and expense, under this Clause.

It is a condition precedent to any payments under this Supplementary Payments Clause that

1. The ASSURED has no knowledge of any potential regulatory or administrative action or disciplinary proceeding prior to the commencement of the POLICY PERIOD arising out of the PROFESSIONAL SERVICES that are the subject of the actual regulatory or administrative action or disciplinary proceeding for which reimbursement is sought, or
2. That the regulatory or administrative action or disciplinary proceeding for which reimbursement is sought does not relate to any CLAIM made against the ASSURED prior to the commence of the POLICY PERIOD, or
3. That the regulatory or administrative action or disciplinary proceeding for which reimbursement is sought does not relate to any matter notified to any Insurer prior to the commencement of the POLICY PERIOD as a either a CLAIM or a circumstance that might lead to a CLAIM.

V. LIMIT OF LIABILITY

The Limit of Liability of the Underwriters for each CLAIM covered under the terms of the Policy shall not exceed the amount of the Limit of Liability stated in Item 3 of the Declarations as “each Claim.” The Limit of Liability of the Underwriters for all CLAIMS covered under the terms of the Policy, regardless of the number of CLAIMS, shall not exceed the amount of the Limit of Liability stated in Item 3 of the Declarations as “in the Aggregate.” Neither the inclusion herein of more than one ASSURED, nor the making of CLAIMS by more than one person or entity, shall increase the Limit of Liability.

VI. SELF-INSURED RETENTION

The Self-Insured Retention amount stated in Item 4 of the Declarations shall apply separately to each and every CLAIM and shall apply to DAMAGES and CLAIMS EXPENSES, separately or in combination. Subject to the Limit of Liability stated in Item 3 of the Declarations, the obligation of the Underwriters to pay on behalf of the ASSURED for DAMAGES and CLAIMS EXPENSES, separately or in combination, shall only be in excess of the Self-Insured Retention amount, and only after the ASSURED has fully paid the Self-Insured Retention.

The Self-Insured Retention shall not apply to those Supplementary Payments detailed in Section IV.

VII. TERRITORY

The insurance afforded herein applies worldwide.

VIII. EXCLUSIONS

A. This Policy shall not apply to CLAIMS or CLAIMS EXPENSES arising out of or resulting from:

- 1) Any facts or circumstances in respect of which any ASSURED, prior to the commencement of this Policy, has given notice to any insurer on any other insurance;
- 2) Any facts or circumstances known to any ASSURED prior to commencement of this Policy which a reasonably prudent person, if aware of said facts or circumstances, might expect to give rise to a CLAIM against any ASSURED;
- 3) Related or continuing acts, errors or omissions where the first such act, error or omission was committed or arose prior to the Retroactive Date set forth in Item 6 of the Declarations;
- 4) Any fraudulent, criminal, malicious or knowingly or intentionally wrongful or dishonest acts, errors or omissions of any ASSURED. However, nothing contained in the foregoing shall exclude coverage to the NAMED ASSURED or to any other ASSURED who neither committed nor had knowledge of such acts, errors or omissions as described above except that this Policy shall then only pay in excess of the full extent of the assets of the NAMED ASSURED or any ASSURED who committed such acts, errors or omissions as described above, and any other personal assets of such ASSURED recovered by the NAMED ASSURED shall inure, to the extent of the amount paid by this Policy, to the benefit of Underwriters;
- 5) Any liability of one or more ASSUREDS under this Policy to any other one or more ASSUREDS under this Policy;
- 6) Any project where project-specific professional liability insurance has been purchased and is in force, unless specifically endorsed hereon;
- 7) The advising or requiring of, or failure to advise or require, or failure to maintain any form of insurance, suretyship or bond, either with respect to any ASSURED or any other person;

- 8) Personal injury, bodily injury, sickness, disease or death to any employee of any ASSURED arising out of and in the course of employment by any ASSURED; or any obligation which any ASSURED or any carrier as insurer may be liable under any worker's compensation, unemployment compensation, employers liability, disability benefits law or under any similar law;
- 9)
 - a) breach of any express warranty or representation except for an agreement to perform within a reasonable standard of care or skill consistent with applicable professional and industry standards; or
 - b) breach of guarantee or any promises of cost savings, profits, or return on investment.
- 10) Any liability assumed by any ASSURED under any contract or agreement either oral or written, including any hold harmless or indemnity agreements, except to the extent the ASSURED would have been liable in the absence of such contract or agreement;
- 11) The cost to repair or replace any faulty workmanship performed in whole or in part by any ASSURED on any construction, erection, fabrication, installation, assembly, manufacture or remediation, including any materials, parts, labor or equipment furnished in connection with such repair or replacement;
- 12) The design or manufacture of any goods or products which are sold or supplied by any ASSURED or by others under license from any ASSURED, except that this exclusion will not apply to software sold or supplied by any ASSURED to its customer or client in connection with the ASSURED'S provision of Professional Services for such customer or client;
- 13) Professional Services performed for any entity which:
 - a) is operated, managed or controlled by any ASSURED or in which any ASSURED has an ownership interest in excess of 10%; or in which any ASSURED is an officer or director; or
 - b) wholly or partly owns, operates, controls or manages any ASSURED;
- 14) The operation or existence of any joint venture or consortia in which any ASSURED have an interest, unless the Underwriters' written agreement to any ASSURED'S participation in such venture or consortia has been first obtained and an endorsement added to this Policy;
- 15) Directly or indirectly, or resulting from or in consequence of, or in any way involving, either in whole or in part, asbestos, or any materials containing asbestos in whatever form or quantity;
- 16) Any claim or claims directly or indirectly brought about by, arising out of or attributable to any actual or alleged violation of the Racketeer Influenced and Corrupt Organizations Act, 18 USC Sections 1961 et seq., or any comparable state law, and any amendments thereto, or any rules or regulations promulgated thereunder;

- 17) Any claim or claims directly or indirectly brought about by, arising out of or attributable to or based upon the Employment Retirement Income Security Act of 1974 and any amendment thereto, or any rules or regulations promulgated thereunder;
- 18) Any claim or claims directly or indirectly brought about by, arising out of or attributable to any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State law or any common law relating thereto;
- 19) The actual or alleged infringement or misuse of copyright, patent, registered design, trademark, or any other intellectual property rights;
- 20) Any ASSURED handling any funds for others, including but not limited to, the failure of any ASSURED to pay any amounts when due, account for funds held, conversion of funds, or breach of any fiduciary duty with respect to the maintenance of funds held for others;
- 21) Any actual or alleged bodily injury or property damage. This exclusion does not apply in respect of any DAMAGES or CLAIMS EXPENSES resulting from a CLAIM arising directly from any negligent act, negligent error, or negligent omission by any ASSURED solely in the provision of PROFESSIONAL SERVICES;
- 22) The ownership, maintenance, operation, possession or use by or on behalf of any ASSURED of any aircraft, watercraft, vessel, automobile, motor vehicle, or any mechanically propelled vehicle;
- 23) The failure to meet contractual requirements relating to efficiency, output or durability unless such failure relates to an unintentional error or omission in connection with detailed design and/or detailed specification of the works;
- 24) The qualitative and quantitative analysis or estimates and/or the extraction of any mineral or fuel deposit;
- 25) Any ASSURED'S ownership, rental, leasing, operation, maintenance, use or repair of any real or personal property, including property damage to property owned, occupied, rented, or allocated by or to any ASSURED;
- 26) The insolvency, bankruptcy, receivership, administration or liquidation or other financial failure of any ASSURED or of any other entity including but not limited to the failure, inability, or unwillingness to pay Claims, losses, or benefits due to the insolvency, bankruptcy, receivership, administration or liquidation or other financial failure of any such individual or entity;
- 27) Trading losses or liabilities or debts incurred by any business managed by or carried on by any ASSURED (in whatever capacity);

- 28) Depreciation or loss of investments when such depreciation or loss is a result of normal or abnormal fluctuations in any financial stock or commodity or other markets which are outside the influence or control of any ASSURED;
- 29) The actual or alleged payment of fees, commissions or other remunerations by or to any ASSURED or the permission of, aiding or abetting, or participation in the payment of fees, commissions or other remunerations to any other entity;
- 30) The exceeding of project budgets or timescales or estimates of construction or other costs but this Exclusion shall not apply to any legal liability for DAMAGES or CLAIMS EXPENSES arising out of the normal activities and duties undertaken by Quantity Surveyors, Cost Engineers or Estimators;
- 31) Any actual, alleged or threatened discharge, dispersal, seepage, migration, release, growth, infestation, spread or escape of fungus including, but not limited to mold, mushrooms, mildew, rust, yeast or smut or their spores, scent or byproducts, or any materials, goods or products containing, harboring, or nurturing any such fungus.

B. U.S.A. Nuclear Incident Exclusion Clause – Liability – Direct (Broad) 17/3/60 NMA1256

This Policy * does not apply:

1. 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.

2. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

3. 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 to or destruction of property at such nuclear facility.

4. As used in this endorsement:

"HAZARDOUS PROPERTIES" include radioactive, toxic or explosive properties; "NUCLEAR MATERIAL" means source material, special nuclear material or byproduct material; "SOURCE MATERIAL", "SPECIAL NUCLEAR MATERIAL", and "BYPRODUCT MATERIAL" have the meanings given them in the Atomic Energy Act 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 byproduct 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 for [1] separating the isotopes of uranium or plutonium, [2] processing or utilizing spent fuel, or [3] handling, processing or packaging waste,
- c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- d) any structure, basin, excavation, 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.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

*NOTE:- As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

C. Radioactive Contamination Exclusion Clause - Liability-Direct U.S.A. 13/2/64 NMA1477

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

D. War and Terrorism Exclusion - NMA2918

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss;

1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
2. any act of terrorism.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to 1 and/or 2 above.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the ASSURED.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

IX. CONDITIONS

1. NOTICE OF CLAIMS

If any CLAIM is made against the ASSURED, whether or not the alleged DAMAGES fall within or in excess of the Self-Insured Retention, the ASSURED shall have the duty, as a condition precedent to coverage, to immediately give written notice to the Underwriters' representatives.

Such written notice must contain complete details of the CLAIM, the exact date the CLAIM was first made, the location, the circumstances giving rise to such CLAIM, the identity of all claimants and a full description of the nature and scope of the alleged DAMAGES. The ASSURED must immediately forward every demand, notice, summons or other process received by it or its representative, upon receipt thereof, to Underwriters' representatives, as per item 9 of the Declarations. Noticed shall be deemed reported on the date and at the time of receipt by the Underwriters.

2. NOTICE OF CIRCUMSTANCES

If the ASSURED becomes aware of any specific negligent act, error or omission which may reasonably be expected to give rise to a CLAIM, the ASSURED shall as a condition precedent to liability, during the POLICY PERIOD, give written notice to Underwriters of:

- a) the specific act, error or omission;
- b) the injury or damage which has or may result from such act, error or omission; and
- c) the circumstance by which the ASSURED first became aware of such act, error or omission.

Then if the ASSURED complies with the foregoing notice requirements (a), (b) and (c), any CLAIM subsequently made against the ASSURED arising out of such act, error or omission shall be treated as a CLAIM first made on the date on which such written notice was received by Underwriters.

Notice shall be given to the Underwriters' representatives as per item 9 of the Declarations. Noticed shall be deemed reported on the date and at the time of receipt by the Underwriters.

3. COOPERATION AND ASSISTANCE OF THE ASSURED

The ASSURED shall have the duty to cooperate fully with and assist the Underwriters and their representatives with respect to the investigation, settlement or defense of any CLAIM or potential CLAIM.

It is expressly understood however that in no event shall the ASSURED be reimbursed for loss of earnings or fees, or for internal expenses or costs incurred in cooperating with or assisting the Underwriters in investigating or settling any CLAIM at the direction of the Underwriters or in the ASSURED'S defense of any CLAIM, nor shall any such loss of earnings or fees or costs or expenses apply to the ASSURED'S responsibility to pay the Self-Insured Retention.

4. ADMISSION OF LIABILITY

The ASSURED shall not, without the prior written consent of the Underwriters, incur any expenses, including but not limited to forgoing or reducing any compensation due or alleged to be due, or make any other payment, assume any obligation, make any settlement, attempt any remedial measure or in any way admit or acknowledge liability in connection with any CLAIM or potential CLAIM.

5. NO ACTION AGAINST UNDERWRITERS

No action shall lie against the Underwriters or their representatives unless, as a condition precedent thereto, the ASSURED shall have fully complied with all the terms and conditions of this Policy, or until the amount of any DAMAGES has been finally determined either by operation of law or by written agreement of the ASSURED, the claimant and the Underwriters.

Nothing contained in this Policy shall give any person or organisation any right to join Underwriters as a defendant or co-defendant or other party in any action against the ASSURED to determine the ASSURED'S liability.

6. OTHER INSURANCE

The coverage afforded by this Policy shall be excess of all other applicable professional liability insurance, whether or not valid or collectible, including any Self-Insured Retention portion thereof.

7. CHANGES

None of the Insuring Agreements, Exclusions, Definitions or Conditions or other terms of this Policy shall be amended, waived or otherwise changed except by endorsement hereto signed by the Underwriters.

8. NAMED ASSURED AS AGENT

The NAMED ASSURED specified in Item 1 of the Declarations shall be considered the agent of all ASSUREDS with respect to the giving of or receipt of all notices pertaining to this Policy and shall be responsible for the payment to the Underwriters of all premiums and for payment of the Self-Insured Retention.

9. PREMIUM

The premium for this Policy shall be the amount specified in Item 5 of the Declarations. In the absence of a specific written agreement to the contrary, this Policy can be voided with effect from inception by the Underwriters in the event that the Underwriters do not receive full payment of premium within sixty (60) days of inception.

10. SUBROGATION

In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the ASSUREDS' rights of recovery therefore against any person or organization, and the ASSURED shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The ASSURED shall do nothing to prejudice such rights, as a condition precedent to coverage under this Policy. The Underwriters agree to waive their rights of recovery against any client of the ASSURED for a CLAIM which is covered pursuant to Insuring Agreements of this Policy to the extent the ASSURED had, prior to such CLAIM, a written agreement to waive such rights. Any recoveries shall be applied first to subrogation expenses, second to DAMAGES and CLAIMS EXPENSES paid by the Underwriters, and third to the Self-Insured Retention. Any additional amounts recovered shall be paid to the Named Assured.

11. ASSIGNMENT

No assignment or transfer of any ASSURED'S rights under this Policy shall bind the Underwriters.

12. APPLICATION

By acceptance of this Policy, all ASSUREDS agree that the statements contained in the application and any supplemental materials submitted therewith are their agreements and representations, that this Policy is issued in reliance upon the truth thereof, and that this Policy embodies all agreements existing between themselves and the Underwriters. The application and any supplemental materials submitted therewith or a copy thereof is attached to and is specifically made a part of this Policy and is the basis upon which this Policy is issued.

13. CANCELLATION

The NAMED ASSURED may cancel this Policy by mailing, registered mail, to the person named in Item 8 of the Declarations written notice stating when thereafter such cancellation shall be effective.

The Underwriters may cancel this Policy by mailing to the NAMED ASSURED, at the mailing address specified in Item 1 of the Declarations, written notice stating when not less than thirty (30) days thereafter such cancellation shall be effective.

The mailing of notice as aforesaid shall be sufficient proof of the intent to cancel. The date and hour of cancellation specified in such notice shall represent the time of termination of this Policy. Delivery of such notice shall be equivalent to mailing.

If the NAMED ASSURED cancels, thirty percent of the premium shall be deemed earned upon inception of the Policy and the remaining earned premium shall be computed in accordance with the customary short rate. If the Underwriters cancel, the earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effective or as soon as practicable thereafter, but payment or tender of unearned premium or the return of this Policy shall not be a condition of cancellation.

If the Limit of Liability stated in Item 3 of the Declarations has been exhausted by payment of CLAIMS, the premium shall be deemed earned and Underwriters shall not be liable for return of any premium paid.

14. FORFEITURE

Any (a) action or failure to act by the ASSURED with the intent to defraud the Underwriters or (b) material misrepresentation or non-disclosure of any material fact by the ASSURED in the application or in any supplemental materials submitted therewith shall render this Policy null and void, and all coverage hereunder shall be forfeited.

15. SERVICE OF SUIT

It is agreed that in the event of the failure of Underwriters hereon to pay any amount claimed to be due under this Policy, Underwriters hereon, at the request of the ASSURED, will submit to the jurisdiction of a court of competent jurisdiction within the United States. This Condition does not constitute and should not be understood to constitute an agreement by Underwriters that an action is properly maintained in a specific forum, nor may it be construed as a waiver of Underwriters' rights to commence an action in a court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any State of the United States, all of which rights Underwriters expressly reserve. It is further agreed that service of process in such suit may be made upon the Underwriters' representatives specified for that purpose in Item 7 of the Declarations.

The Underwriters' representatives are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the ASSURED to give written undertaking to the ASSURED that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted. Further, pursuant to any statute of any state, territory or district of the United States which makes provision thereof, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceedings instituted by or on behalf of the ASSURED or any legal representative of the ASSURED arising out of this contract of insurance, and hereby designate the Underwriters' representatives as the persons to whom the said officer is authorized to mail such process or a true copy thereof.

16. CHOICE OF LAW CLAUSE

In consideration of the premium charged for this Policy, it is hereby understood and agreed by both the ASSURED and the Underwriters that any dispute concerning the interpretation of this Policy shall be governed by the laws of New York.

17. SEVERAL LIABILITY NOTICE

The subscribing insurers' obligations under policies to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not

responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

18. ARBITRATION

- A. As a condition precedent to any right of action hereunder, any dispute arising out of the interpretation, performance or breach of this Policy, including the formation or validity thereof, shall be submitted for decision to a panel of three arbitrators. Notice requesting arbitration will be in writing and sent certified or registered mail, return receipt requested.
- B. One arbitrator shall be chosen by each party and the two arbitrators shall, before instituting the hearing, choose an impartial third arbitrator who shall preside at the hearing. If either party fails to appoint its arbitrator within 30 days after being requested to do so by the other party, the latter, after 10 days notice by certified or registered mail of its intention to do so, may appoint the second arbitrator.
- C. If the two arbitrators are unable to agree upon the third arbitrator within 30 days of their appointment, the third arbitrator shall be selected from a list of six individuals (three named by each arbitrator) by a judge of the federal district court having jurisdiction over the geographical area in which the arbitration is to take place, or if the federal court declines to act, the state court having general jurisdiction in such area.
- D. All arbitrators shall be disinterested active or former representatives of insurance or reinsurance companies or Underwriters at Lloyd's, London.
- E. Within 30 days after notice of appointment of all arbitrators, the panel shall meet and determine timely periods for briefs, discovery procedures and schedules for hearings.
- F. The panel shall be relieved of all judicial formality and shall not be bound by the strict rules of procedure and evidence. Unless the panel agrees otherwise, arbitration shall take place in New Orleans, Louisiana, but the venue may be changed when deemed by the panel to be in the best interest of the arbitration proceeding. Insofar as the arbitration panel looks to substantive law, it shall consider the law of the state indicated in Item 10 of the Declarations. The decision of any two arbitrators when rendered in writing shall be final and binding. The panel is empowered to grant interim relief as it may deem appropriate.
- G. The panel shall interpret this Policy as an honorable engagement rather than as merely a legal obligation and shall make its decision considering the custom and practice of the applicable insurance and reinsurance business as promptly as possible following the termination of the hearings. Judgment upon the award may be entered in any court having jurisdiction thereof.
- H. Each party shall bear the expense of its own arbitrator and shall jointly and equally bear with the other party the cost of the third arbitrator. The remaining costs of the arbitration shall be allocated by the panel. The panel may, at its discretion, award such further costs and expenses as it considers appropriate, including but not limited to attorneys fees, to the extent permitted by law.

19. MERGERS AND ACQUISITIONS

- a) During the POLICY PERIOD, if the NAMED ASSURED acquires another entity whose annual revenues are more than ten percent (10%) of the NAMED ASSURED's total annual revenues as set forth in the most recent application; then no ASSURED shall have coverage under this Policy for any CLAIM that arises out of any act, error or omission, whether committed or arising either before or after such acquisition:
1. by the acquired entity or any person employed by the acquired entity; or
 2. involving or relating to the assets, liabilities of the acquired entity.

The foregoing provision shall not apply if the NAMED ASSURED gives the Underwriters written notice within sixty (60) days after the effective date of the acquisition, obtains the written consent of the Underwriters to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by the Underwriters.

- b) If during the POLICY PERIOD the NAMED ASSURED consolidates or merges with another entity such that the NAMED ASSURED is not the surviving entity, is acquired by another entity, or sells substantially all of its assets to any other entity, then coverage under this Policy shall not apply to acts, errors or omissions committed or arising subsequent to such consolidation, merger or acquisition and Underwriters shall retain the total premium for this Policy, such total premium to be deemed earned at the date of such consolidation, merger or acquisition. The NAMED ASSURED shall provide written notice of such consolidation, merger or acquisition to the Underwriters as soon as practicable, together with such information as the Underwriters may require.
- c) All notices and premium payments made under this section shall be directed to the Underwriters through the entity named in Item 8. of the Declarations.

20. MATERIAL CHANGE

The NAMED ASSURED shall immediately notify the Underwriters of any material change in the facts and circumstances disclosed to the Underwriters in the application and any supplemental materials which may increase the risk accepted by the Underwriters under this Policy. Where the Underwriters are given such notice, the Underwriters may elect to terminate this Policy or to offer the ASSURED a continuation of cover on such revised terms and conditions as the Underwriters in their sole discretion shall specify. If the ASSURED breaches this condition by not giving the required notice, the Underwriters may elect (in their sole discretion) to terminate this Policy in its entirety and in which case this Policy shall be of no effect whatsoever from the date of the breach.

21. SHORT RATE CANCELLATION TABLE

Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this Insurance is written it is agreed that in the event of cancellation thereof by the ASSURED the Earned Premium shall be computed as follows:

SHORT RATE CANCELLATION TABLE

A. For insurances written for one year:

Days Insurance in Force	Per cent. of One Year Premium	Days Insurance in Force	Per cent. of One Year Premium
1 - 73	30	206 - 209	66
74 - 76	31	210 - 214 (7 months)	67
77 - 80	32	215 - 218	68
81 - 83	33	219 - 223	69
84 - 87	34	224 - 228	70
88 - 91 (3 months)	35	229 - 232	71
92 - 94	36	233 - 237	72
95 - 98	37	238 - 241	73
99 - 102	38	242 - 246 (8 months)	74
103 - 105	39	247 - 250	75
106 - 109	40	251 - 255	76
110 - 113	41	256 - 260	77
114 - 116	42	261 - 264	78
117 - 120	43	265 - 269	79
121 - 124 (4 months)	44	270 - 273 (9 months)	80
125 - 127	45	274 - 278	81
128 - 131	46	279 - 282	82
132 - 135	47	283 - 287	83
136 - 138	48	288 - 291	84

139 - 142	.....	49	292 - 296	.....	85
143 - 146	.....	50	297 - 301	.....	86
147 - 149	.....	51	302 - 305	(10 months).....	87
150 - 153	(5 months)	52	306 - 310	.....	88
154 - 156	.....	53	311 - 314	.....	89
157 - 160	.....	54	315 - 319	.....	90
161 - 164	.....	55	320 - 323	.....	91
165 - 167	.....	56	324 - 328	.....	92
168 - 171	.....	57	329 - 332	.....	93
172 - 175	.....	58	333 - 337	(11 months).....	94
176 - 178	.....	59	338 - 342	.....	95
179 - 182	(6 months)	60	343 - 346	.....	96
183 - 187	.....	61	347 - 351	.....	97
188 - 191	.....	62	352 - 355	.....	98
192 - 196	.....	63	356 - 360	.....	99
197 - 200	.....	64	361 - 365	(12 months).....	100
201 - 205	.....	65			

B. For Insurances written for more or less than one year:

1. If insurance has been in force for 12 months or less, apply the standard short rate table for annual insurances to the full annual premium determined as for an insurance written for a term of one year.
2. If insurance has been in force for more than 12 months:
 - a) Determine full annual premium as for an insurance written for a term of one year.
 - b) Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata Earned Premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the insurance was originally written.

- c) Add premium produced in accordance with items (a) and (b) to obtain Earned Premium during full period insurance has been in force.

Furthermore and notwithstanding the foregoing, Underwriters shall retain the total premium for this Policy, such total premium to be deemed earned upon inception of the Policy if any CLAIM or any circumstance that could reasonably be the basis for a CLAIM is reported to Underwriters under this Policy on or before such date of cancellation.