

1 **DAILY ALJIAN LLP**

2 Reed Aljian (State Bar No. 211010)

3 *ra@dallp.com*

4 Debra Garfinkle (State Bar No. 153539)

5 *dg@dallp.com*

6 100 Bayview Circle, Suite 5500

7 Newport Beach, CA 92660

8 Telephone: 949.861.2524

9 Facsimile: 949.269.6364

10 Attorneys for Plaintiff

11 SUPERIOR PAVING COMPANY, INC.

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF IMPERIAL**

14 SUPERIOR PAVING COMPANY,
15 INC., dba UNITED PAVING CO, a
16 California corporation, on behalf of
17 itself and as an assignee of the claims of
18 VALLEY FORGE INSURANCE
19 COMPANY, a Pennsylvania
20 Association,

21 Plaintiff,

22 v.

23 VERDIN CONCRETE, INC., a
24 California corporation, and
25 LANDMARK AMERICAN
26 INSURANCE COMPANY, a Georgia
27 Corporation, and DOES 1-20.

28 Defendants.

ENDORSED
AUG 16 2019

SUPERIOR COURT
COUNTY OF IMPERIAL
MARIA RHINEHART, CLERK
BY JOSELYN MARTINEZ, DEPUTY

CASE NO.: ECU000911

**PLAINTIFF SUPERIOR PAVING
COMPANY, INC.'S FIRST AMENDED
COMPLAINT AGAINST DEFENDANTS
VERDIN CONCRETE, INC. AND
LANDMARK AMERICAN INSURANCE
COMPANY**

JURY TRIAL REQUESTED

Action filed: May 24, 2019

Trial Date: None set

1 Plaintiff SUPERIOR PAVING COMPANY, INC. (“Superior” or “Plaintiff”), on
2 its own behalf and as the assignee of the claims of Valley Forge Insurance Company
3 (“CNA”), hereby complains against Defendants VERDIN CONCRETE, INC. (“Verdin”),
4 LANDMARK AMERICAN INSURANCE COMPANY (“Landmark”), and DOES 1
5 through 20, as follows:

6 **NATURE OF ACTION**

7 1. Superior files this lawsuit to enforce its rights to indemnity and defense
8 under a commercial general liability policy issued by Landmark and under a written
9 contract with Verdin, as well as by operation of law. Superior, on its own behalf and as
10 assignee of claims of CNA, seeks reimbursement for the costs incurred defending and
11 settling the property damage claims brought by Bear Valley 2005, LLC (“Bear Valley”)
12 against Superior for construction work that was performed by Verdin.

13 2. The total amount incurred by Superior in defense of Bear Valley’s claims,
14 including indemnity payments, was over \$1.5 million. Superior has repeatedly requested
15 coverage and reimbursement from both Landmark and Verdin. Both the policy with
16 Landmark and the contract with Verdin clearly require them to defend and indemnify
17 Superior. Notwithstanding, both Landmark and Verdin failed to either accept or deny
18 coverage. For its own part, Landmark acted unreasonably in its refusal to accept the
19 defense of the action, to pay policy benefits, and to conduct a full, fair, prompt and
20 thorough investigation of the claim. Superior seeks, among other things, recovery of the
21 \$1.5 million in indemnity and defense payments wrongfully withheld.

22 **PARTIES**

23 3. Superior is a corporation organized under the laws of the State of California,
24 with its principal place of business in Corona, California.

25 4. CNA is organized under the laws of the State of Pennsylvania, with its
26 principal place of business in Chicago, Illinois. It is authorized to do business in the State
27 of California.

1 5. Verdin is a corporation organized under the laws of California, with its
2 principal place of business in Riverside, California.

3 6. Plaintiff is informed, believes and on that basis alleges that Landmark is a
4 corporation organized under the laws of the State of Georgia with its principal place of
5 business in Atlanta, Georgia. Landmark is approved to transact insurance in the State of
6 California.

7 **ALTER EGO ALLEGATIONS AND DOE DEFENDANTS**

8 7. The true names or capacities of defendants named and sued as DOES 1-20
9 are unknown to Superior. Superior is informed, believes and on that basis alleges that each
10 of these fictitiously named defendants is liable to Superior on the causes of action stated
11 below because there exists a unity of interest and ownership between the DOE defendant
12 and the named defendant and there will be an inequitable result if the named defendant is
13 treated as the sole actor. Superior will amend this complaint or seek to amend any
14 judgment as permitted by law when the true names of said fictitiously named alter ego
15 defendants are ascertained.

16 **JURISDICTION AND VENUE**

17 8. This Court has jurisdiction over the defendants because they are either
18 individuals residing in the State of California, corporations or associations organized
19 under the laws of the State of California, corporations or associations authorized to do
20 business in California, corporations or associations approved to transact insurance in
21 California, or they do sufficient business in California, have sufficient minimum contacts
22 with California or otherwise intentionally avail themselves of the laws and markets of
23 California, through the promotion, sale, marketing and distribution of their products in
24 California, to render the exercise of jurisdiction by the California courts permissible.
25 Verdin is a California corporation with its principal place of business in Riverside,
26 California. Further, pursuant to a Service of Suit endorsement in the Landmark policy,
27 Landmark submits to jurisdiction to all California courts.

9. Venue is proper in this Court because, among other reasons, the work was performed in Imperial County and the tolling agreement between Superior and Verdin provides that all disputes shall be heard in state court in Imperial County.

FACTS COMMON TO ALL CAUSES OF ACTION

A. The Annual Agreement

10. Superior is a paving contractor.

11. Verdin is a concrete contractor. Over the course of time, Superior has engaged Verdin as a subcontractor on projects where concrete work was involved.

12. Over the past decade, Superior and Verdin have entered annual agreements providing the terms and conditions under which Verdin would operate as a subcontractor to Superior on projects during the year. A copy of the annual agreement for the year 2015 (the "Annual Agreement") is attached as Exhibit A and incorporated by reference.

13. Paragraph 1 of the Annual Agreement states, in relevant part, as follows:

[Verdin] agrees to defend, indemnify, and hold [Superior] harmless if requested by [Superior], their consultants, agents and employees or any of them from and against any and all claims, suits, losses or liability, including attorneys' fees and litigation expenses, for or on account of...damage to...property...caused, in whole or in part, by any act or omission, or alleged act or omission, of [Verdin], it employees or agents, whether caused in part by [Superior].

14. Paragraph 3 of the Annual Agreement requires Verdin to add Superior as an additional insured on Verdin's general liability policy, verified by a certificate of insurance.

B. The Landmark Policy and AI Certificate

15. Verdin acquired the certificate of insurance naming Superior as an additional insured on its general liability insurance policy (the "AI Certificate"). A copy of the AI Certificate is attached as Exhibit B and incorporated by reference. According to the certificate, Landmark is the insurer. The policy number is LHA138115 (the "Policy"). The policy period is February 25, 2015 through February 25, 2016. A copy of the Policy is attached as Exhibit C and incorporated by reference.

1 16. The Policy includes an additional insured endorsement, entitled “Additional
2 Insured Blanket – Primary and Your Work.” It is endorsement No. RSG 15017 1207 (the
3 “Additional Insured Endorsement”). The Additional Insured Endorsement amends the
4 definition of the parties covered under the policy as follows: “Any person or organization
5 to whom or to which you are obligated by virtue of a written contract...to provide
6 insurance such as is afforded by this policy.”

7 17. The Policy is a commercial general liability policy. It offers liability
8 coverage of up to \$1,000,000 per occurrence and \$2,000,000 in the aggregate during the
9 policy period.

10 18. The Policy requires Landmark to “pay those sums that the insured becomes
11 legally obligated to pay as damages because of... ‘property damages’ to which [the Policy]
12 applies.” The Policy further requires Landmark “to defend the insured against any ‘suit’
13 seeking damages for...property damage to which [the Policy] applies.”

14 19. Under the Policy, “property damage” means and includes (1) “physical
15 injury to tangible property, including all resulting loss of use of that property...” and (2)
16 “loss of use of tangible property that is not physically injured....”

17 20. Under the Policy, “suit” means and includes a “civil proceeding in which
18 damages because of ... ‘property damage’ ...to which insurance applies are alleged.”

19 **C. The Bear Valley Property Damage Claims**

20 21. On February 24, 2015, Superior entered into an agreement with Bear Valley.
21 Bear Valley owned commercial property located at 2050 North Imperial Avenue, El
22 Centro, California 92243 (the “Property”). The scope of work under the agreement
23 included construction of concrete curbs, gutters, drive approaches, and light pole bases at
24 the Property. Superior subcontracted all of the concrete work to Verdin.

25 22. Verdin performed construction services on the Property from on or about
26 March 2015 through June 2015. The work included construction of concrete curbs,
27 gutters, drive approaches, and light pole bases on the Property.

23. Bear Valley refused to pay Superior for any of the work performed on the Property, including any of the work performed by Verdin.

24. On November 12, 2015, Superior filed a complaint against Bear Valley to collect for services rendered on the Property, including for the work performed by Verdin.

25. On December 7, 2015, Bear Valley filed a cross-complaint naming Superior and Verdin as cross-defendants. The cross-complaint alleged, among other things, that Verdin was negligent and that this negligence caused Bear Valley damages (the “Bear Valley Property Damage Claims”).

26. On March 21, 2016, Bear Valley entered into a settlement agreement with Verdin. According to the settlement, Bear Valley agreed to pay Verdin a fraction of the amount Verdin had invoiced Superior for the work Verdin had performed on the Property, agreed to dismiss Verdin from the cross-complaint, and agreed to release its claims against Verdin. In exchange, Verdin agreed to release its claims against Bear Valley. However, both Bear Valley and Verdin expressly reserved their claims against Superior. This included Bear Valley’s right to seek recovery of damages against Superior relating to the work performed by Verdin on the Property. Neither party moved for a good faith settlement determination.

27. Bear Valley’s lawsuit against Superior did not resolve for another three years. During the entire course of the lawsuit, Bear Valley maintained that the work performed by Verdin caused damage to Bear Valley’s property. The damages included damage to work performed by other contractors on the Property. Bear Valley claimed that, as a result of the claimed damage, Bear Valley had to demolish and replace the work of other contractors. Bear Valley sought damages for alleged loss of use of that property. Bear Valley expressed these contentions in written discovery, fact depositions, and expert depositions, including during the deposition of Bear Valley’s person most qualified, all of which were available to Landmark. Bear Valley expressly sought recovery of these damages – alleged damages by Verdin – against Superior.

D. Tender of Defense and Indemnity of the Bear Valley Property Damage Claims

28. In March 2016, Superior tendered to CNA its claims for defense and indemnity of the Bear Valley Property Damage Claims. On April 1, 2016, CNA accepted the defense of the action.

29. On June 30, 2016, Superior tendered its claims for defense and indemnity to Verdin (pursuant to the Annual Agreement) and to Landmark (pursuant to the AI Certificate and Policy). Verdin never formally responded to the request and, therefore, never agreed to accept the tender. By letter dated July 7, 2016, and on behalf of Landmark, an entity called RSUI Group, Inc. ("RSUI") acknowledged receipt of the tender. Plaintiff is informed and believes that RSUI is Landmark's parent company. RSUI's letter neither accepted nor rejected Superior's tender.

30. Over the course of the next three years, Superior repeated its request to Landmark and Verdin to defend and indemnify. Neither Landmark nor Verdin ever accepted the tenders.

E. Defense and Settlement of the Bear Valley Property Damage Claims

31. In defense of the Bear Valley Property Damage Claims, CNA paid \$1,254,856.16 on behalf of Superior in attorneys' fees, expert fees, costs, and expenses (the "Defense Payments").

32. Ultimately, on October 12, 2018, Superior and Bear Valley settled. To resolve the claims, CNA paid Bear Valley \$300,000 in settlement on behalf of Superior (the "Indemnity Payment"). On February 5, 2019, Bear Valley dismissed its lawsuit against Superior.

33. Superior has not released any of its claims against Verdin or Landmark.

34. On May 31, 2017, United and Verdin entered into the first of four tolling agreements, which tolled the statute of limitations periods on all claims between the parties relating to the Bear Valley Property Damage Claims, including the claims alleged

1 in this complaint. Pursuant to these agreements, the tolling period ends on the earlier of
2 May 31, 2019 or the filing of a lawsuit between the parties.

3 **F. The Assignment of Claims By CNA to Superior**

4 35. On September 12, 2018, CNA and Superior entered into an Assignment of
5 Claims and Recovery Agreement (the "Assignment"). Under the terms of the Assignment,
6 CNA assigned all of its claims relating to its defense of Superior in the Action, including
7 all Defense Payments and Indemnity Payment made to or on behalf of Superior, including
8 but not limited to its rights to seek contribution from Landmark and Verdin.

9 36. CNA and Superior entered into an Amended and Restated Assignment of
10 Claims and Recovery Agreement effective August 1, 2019 ("the "Amended
11 Assignment"). The Amended Assignment states, in relevant part,: "...Assignor [CNA]
12 hereby unconditionally and irrevocably assigns and transfers to Assignee [Superior] all of
13 Assignor's rights, claims, and causes of action that Assignor has related to and/or arising
14 out of the payments made by Assignor on behalf of Assignee with respect to the defense
15 and settlement of the Action, including but not limited to all rights of contribution,
16 subrogation, breach of contract, and/or bad faith against Verdin Concrete, Inc. ("Verdin")
17 and Verdin's insurance carrier(s)." A copy of the Amended Assignment is attached hereto
18 as Exhibit D and incorporated by reference.

19 **FIRST CAUSE OF ACTION**

20 **Breach of Contract**

21 **(Against Verdin and DOES 1-10)**

22 37. Plaintiff realleges and incorporates by reference all of the preceding
23 paragraphs.

24 38. Each year from 2011 through the present, Superior and Verdin entered into
25 annual agreements governing the terms and conditions of their contractor / subcontractor
26 relationship, including the Annual Agreement executed in 2015. Under the Annual
27
28

1 Agreement, Verdin agreed to defend, indemnify, and hold Superior harmless. A copy of
2 the Annual Agreement for year 2015 is attached hereto as Exhibit A.

3 39. Superior performed all of material terms and obligations under the Annual
4 Agreement or was otherwise excused from performance.

5 40. All conditions required under the Annual Agreement for Verdin's
6 performance have occurred.

7 41. Superior tendered to Verdin the defense and indemnity of the Bear Valley
8 Property Damage Claims.

9 42. Verdin failed to defend and indemnify Superior from and against the claims
10 asserted in the Bear Valley Property Damage Claims, failed to reimburse Superior for the
11 amounts incurred in defense of the Bear Valley Property Damage Claims, and did not
12 contribute any amounts toward Superior's defense or the settlement of the matter, thereby
13 breaching the Annual Agreement.

14 43. As a result of Verdin's failure to defend and indemnify, CNA and Superior
15 have been damaged, in an amount to be proven at trial.

16 44. CNA assigned its claims against Verdin to Superior.

17 45. Verdin's failure to defend and indemnify was a substantial factor in the
18 damages caused.

19 **SECOND CAUSE OF ACTION**

20 **Equitable Indemnity**

21 **(Against Verdin and DOES 1-10)**

22 46. Plaintiff realleges and incorporates by reference all of the preceding
23 paragraphs.

24 47. The Bear Valley Property Damage Claims contend that Verdin caused or
25 contributed to the damages to Bear Valley's Property.

26 48. Superior denies that it either caused or contributed to the damages.
27
28

3 50. CNA paid \$1,254,856.16 in fees, costs, and expenses in defending Superior
4 in the Bear Valley Property Damage Claims and paid Bear Valley another \$300,000 to
5 settle the claims.

6 51. CNA assigned its claims to Superior.

7 52. As a matter of equity, Superior seeks payment, in whole or in part, from
8 Verdin towards the amounts paid by CNA in defense of Bear Valley's claim.

9 || THIRD CAUSE OF ACTION

| 10 | Contribution |
|----|--------------|
|----|--------------|

11 (Against Verdin and DOES 1-10)

12 53. Plaintiff realleges and incorporates by reference all of the preceding
13 paragraphs.

14 54. CNA paid \$1,254,856.16 in fees, costs, and expenses in defending Superior
15 in the Bear Valley Property Damage Claims and paid Bear Valley another \$300,000 in
16 indemnifying Superior in the Bear Valley Property Damage Claims.

17 55. Verdin shares responsibility, in whole or in part, for the loss associated with
18 the Bear Valley Property Damage Claims.

19 56. Superior tendered to Verdin the defense and indemnity of the Bear Valley
20 Property Damage Claims.

57. Verdin failed to defend and indemnify Superior from and against the claims asserted in the Bear Valley Property Damage Claims, failed to reimburse Superior for the amounts incurred in defense of the Bear Valley Property Damage Claims, and did not contribute any amounts toward Superior's defense or the settlement of the matter.

25 58. CNA assigned its claims to Superior.

1 59. Substantial justice would be accomplished by holding Verdin responsible, in
2 whole or in part, for the amounts CNA paid to defend and indemnify Superior in the Bear
3 Valley Property Damage Claims.

4 **FOURTH CAUSE OF ACTION**

5 **Subrogation**

6 **(Against Verdin and DOES 1-10)**

7 60. Plaintiff realleges and incorporates by reference all of the preceding
8 paragraphs.

9 61. Superior has suffered a loss for which Verdin is liable, in whole or part,
10 because Verdin is legally responsible for the loss claimed in Bear Valley Property
11 Damage Claims.

12 62. CNA has provided Superior a defense in the matter for which Verdin is
13 liable.

14 63. Superior has an existing, assignable cause of action against Verdin, which
15 Superior could have asserted for his own benefit had it not been compensated for its loss
16 by CNA.

17 64. CNA has suffered damages caused by Verdin's failure to defend and
18 indemnify Superior for Bear Valley Property Damage Claims.

19 65. CNA's damages are \$1,554,856.16, the amount CNA has paid in defense
20 and indemnity of Bear Valley Property Damage Claims on behalf of Superior.

21 66. The amount paid by CNA on behalf of Superior in defense and indemnity of
22 Bear Valley Property Damage Claims was not voluntary and, given the facts and
23 circumstances of the litigation involved in that action, was reasonable.

24 67. CNA assigned its rights to Superior.

25 68. Justice requires that CNA's loss be shifted to Verdin.

FIFTH CAUSE OF ACTION

Breach of Contract

(Against Landmark and DOES 11-20)

69. Plaintiff realleges and incorporates by reference all of the preceding paragraphs.

70. Superior and Landmark are parties to a contract, the Policy. The Policy includes an additional insured endorsement, entitled “Additional Insured Blanket – Primary and Your Work.” It is endorsement No. RSG 15017 1207 (the “Additional Insured Endorsement”). The Additional Insured Endorsement amends the definition of the parties covered under the policy as follows: “Any person or organization to whom or to which you are obligated by virtue of a written contract...to provide insurance such as is afforded by this policy.” The Annual Agreement is a written contract between Verdin and Superior. Paragraph 3 of the Annual Agreement requires Verdin to add Superior as an additional insured on Verdin’s general liability policy. The Policy is Verdin’s general liability policy. The AI Certificate further reflects that Superior is an additional insured under the Policy.

71. Superior performed all material terms and obligations under the Policy and Annual Agreement or was otherwise excused from performance.

72. The Policy entitled Superior to defense and indemnity in Bear Valley’s Bear Valley Property Damage Claims.

73. All the conditions required by the Policy for Landmark’s performance have occurred.

74. Plaintiff tendered a claim for defense and indemnification of the Bear Valley Property Damage Claims to Landmark and repeated the tender on multiple occasions.

75. Landmark breached the Policy by failing to agree to defend and indemnify Superior.

1 76. CNA defended and indemnified Superior with respect to the Bear Valley
2 Property Damage Claims.

3 77. As a result, CNA was harmed.

4 78. CNA assigned its right to Superior.

5 79. As a result of Landmark's failure to defend and indemnify, CNA was
6 damaged, in an amount to be proven at trial, but in an amount to exceed \$1.5 million.

7 80. Landmark's failure to defend and indemnify was a substantial factor in the
8 damages caused.

9 **SIXTH CAUSE OF ACTION**

10 **Contribution**

11 **(Against Landmark and DOES 11-20)**

12 81. Plaintiff realleges and incorporates by reference all of the preceding
13 paragraphs.

14 82. CNA paid \$1,254,856.16 in fees, costs, and expenses in defending Superior
15 in the Bear Valley Property Damage Claims and paid Bear Valley another \$300,000 in
16 indemnifying Superior in the Bear Valley Property Damage Claims.

17 83. Under the terms of the Policy, Landmark shares the same risk and same
18 level of obligation as CNA for the loss associated with the Bear Valley Property Damage
19 Claims.

20 84. Superior tendered to Landmark the defense and indemnity of the Bear
21 Valley Property Damage Claims.

22 85. Landmark failed to defend and indemnify Superior from and against the
23 claims asserted in the Bear Valley Property Damage Claims, failed to reimburse
24 CNA/Superior for the amounts incurred in defense of the Bear Valley Property Damage
25 Claims, and did not contribute any amounts toward Superior's defense or the settlement of
26 the matter.

27 86. CNA assigned its claims to Superior.

1 87. Substantial justice would be accomplished by holding Landmark
2 responsible, in whole or in part, for the amounts CNA paid to defend and indemnify
3 Superior in the Bear Valley Property Damage Claims.

4 **SEVENTH CAUSE OF ACTION**

5 **Subrogation**

6 **(Against Landmark and DOES 11-20)**

7 88. Superior realleges and incorporates by reference all of the preceding
8 paragraphs.

9 89. Superior has suffered a loss for which Landmark is liable because Landmark
10 is legally responsible to Superior for the loss caused by the wrongdoer.

11 90. CNA defended Superior for the loss for which Landmark is liable, in whole
12 or in part.

13 91. Superior has an existing, assignable cause of action against Landmark,
14 which Superior could have asserted for its own benefit had it not been compensated for its
15 loss by CNA.

16 92. CNA has suffered damages caused by Landmark's failure to defend and
17 indemnify Superior for the Bear Valley Property Damage Claims.

18 93. Justice requires that the loss should be shifted from CNA to Landmark, in
19 whole or in part.

20 94. CNA's damages are \$1,554,856.16, the amount CNA has paid in defense
21 and indemnity of Bear Valley Property Damage Claims.

22 95. The amount paid by CNA on behalf of Superior in defense and indemnity of
23 Bear Valley Property Damage Claims was not voluntary and, given the facts and
24 circumstances of the litigation involved in that action, was reasonable.

25 96. CNA assigned its rights to Superior.

26 97. Justice requires that CNA's loss be shifted to Landmark, in whole or in part.

EIGHTH CAUSE OF ACTION

Declaratory Relief

(Against All Defendants)

98. Superior re-alleges and incorporates by reference all of the preceding paragraphs.

99. Superior is entitled to indemnification and defense of the Bear Valley Property Damage Claim under the Annual Agreement and the Policy.

100. Superior tendered the claim to Landmark and Verdin on multiple occasions and repeated the demand to defend and indemnify.

101. Landmark and Verdin failed to accept the tender on every occasion.

102. An actual controversy has arisen and now exists among the parties relating to the Bear Valley Property Damage Claims.

103. Declaratory relief is necessary and appropriate to ascertain the rights of the parties under the Annual Agreement and the Policy as they relate to the Bear Valley Property Damage Claims.

///

///

///

PRAYER FOR RELIEF

WHEREFORE, Superior prays for judgment as follows:

1. A judicial determination, either by contract or in equity, that Superior is entitled to contribution from defendants for the amounts incurred in the defense and settlement of the Bear Valley Property Damage Claims;

2. For compensatory damages against all Defendants in an amount to be proven at trial, but in excess of \$1,554,851.00; and

3. For any and all further relief that this Court may deem just and proper.

Dated: August 15, 2019

DAILY ALJIAN LLP

By: 

Reed Aljian
Attorneys for Plaintiffs
SUPERIOR PAVING COMPANY,
INC.

JURY TRIAL DEMANDED

Plaintiff requests a trial by jury.

Dated: August 15, 2019

DAILY ALJIAN LLP

By: 

Reed Aljian
Attorneys for Plaintiff
SUPERIOR PAVING COMPANY,
INC.

EXHIBIT A

-ANNUAL AGREEMENT IS BETWEEN-

CONTRACTOR

Superior Paving Company, Inc
DBA: United Paving Company
1880 N. Delilah Street
Corona, CA 92879
License No. 865828

-AND-

SUBCONTRACTOR

Name: VERON CONCRETE, INC.
Address: 5487 SUNSET CLOVE DR.
RIVERSIDE, CA 92509
License #: 780587

1. Subcontractor agrees to defend, indemnify, and hold Contractor harmless if requested by contractor the Owner, their consultants, agents and employees of any of them, from and against any and all claims, suits, losses or liability, including attorneys' fees and litigation expenses, for or on account of injury to or death of persons, including subcontractor's employees, subcontractor's subcontractors or their employees, or damage to or destruction of property, or any bond obtained for same, caused, in whole or in part, by any act or omission, or alleged act or omission, of Subcontractor, its employees or agents, whether caused in part by a party indemnified hereunder.
2. Subcontractor's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Laws.
3. Subcontractor shall provide a Certificate of Insurance prior to starting work. United Paving Co., shall be added as an Additional Insured on each subcontractor GL policy, verified by a Certificate of Insurance and receipt of the Additional Insured form. Limits on the Subcontractor's General Liability for Premises/Operations and Products/Completed Operations shall be equal to or greater than the Contractor's limits of \$1,000,000. Per occurrence and \$2,000,000. Aggregate. Worker's Compensation and Employer's Liability Insurance as required by any applicable law, regulation or statute. Worker's Compensation and Employer's Liability Insurance shall be provided with limits not less than \$1,000,000. Automobile Liability Insurance shall be provided with limits not less than \$1,000,000
4. Subcontractor acknowledges and represents that he has made an on-site inspection of the Premises and the work area so as to be familiar with all conditions, which may affect the safety and health of its employees as well as those of its Subcontractors. Subcontractor and all of its employees shall follow all applicable safety and health laws and requirements pertaining to its work and the conduct thereof, but not limited to, compliance with all applicable laws, ordinances, rules, regulations, and orders issued by a public authority, whether federal, state or local, including OSHA and any safety measures required by Contractor. Contractor reserves the right, but not the obligation, to inspect the safety work performance of Subcontractors to ascertain their compliance with these applicable safety provisions. Notwithstanding the foregoing, Subcontractor, as an independent contractor, is solely responsible for controlling the manner and means by which it performs the Work pursuant to this Agreement. Unless otherwise agreed to by the parties in writing, Subcontractor shall provide all safety equipment, materials, tools and personal protection equipment necessary to perform the work in a safe, healthful and workmanlike manner. Subcontractor shall immediately report to Contractor all accidents, occupational injuries, and illness involving its employees or those of its Subcontractors, relating to the Work or which cause any injury to a third party or which cause damage to the property of Owner, Contractor or a third party. Subcontractor shall promptly furnish to Contractor copies of any worker's compensation report of injury or illness forms filed by any of its employees or those of its Subcontractors and when requested, assist Contractor in any investigation it may conduct of any such accident, injury or illness.

Contractor: _____

Subcontractor: VERON CONCRETE, INC.
Print Company Name

By: Sabas Trujillo, President 1/15/15
Name/Title Date

By: [Signature] 1/15/15
Name/Title Date

Signature must be made by an officer/owner of the company

EXHIBIT B



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/1/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER Central City Insurance Agency, Inc. 1040 Nevada Street Suite 304 Redlands CA 92374 | CONTACT NAME: Monika H. Ray, AAI, CPIW PHONE (A/C No. Ext): (909) 307-6076 FAX (A/C No.): (909) 798-4107 E-MAIL ADDRESS: mray@centralcityinsurance.com | | | | | | | | | | | | | | |
|--|---|-------------------------------|--------|---|-------|--------------------------------|-------|---------------------------------------|-------|---------------------------------|-------|------------|--|------------|--|
| INSURED Verdin Concrete, Inc. 5487 Sunset Ridge Drive Jurupa Valley CA 92509 | <table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: Landmark American Insurance Co</td><td>33138</td></tr><tr><td>INSURER B: Mercury Casualty Co</td><td>11908</td></tr><tr><td>INSURER C: NorGuard Insurance Company</td><td>31470</td></tr><tr><td>INSURER D: Hartford Fire Ins Co</td><td>19682</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table> | INSURER(S) AFFORDING COVERAGE | NAIC # | INSURER A: Landmark American Insurance Co | 33138 | INSURER B: Mercury Casualty Co | 11908 | INSURER C: NorGuard Insurance Company | 31470 | INSURER D: Hartford Fire Ins Co | 19682 | INSURER E: | | INSURER F: | |
| INSURER(S) AFFORDING COVERAGE | NAIC # | | | | | | | | | | | | | | |
| INSURER A: Landmark American Insurance Co | 33138 | | | | | | | | | | | | | | |
| INSURER B: Mercury Casualty Co | 11908 | | | | | | | | | | | | | | |
| INSURER C: NorGuard Insurance Company | 31470 | | | | | | | | | | | | | | |
| INSURER D: Hartford Fire Ins Co | 19682 | | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | |

COVERAGES **CERTIFICATE NUMBER:** 2015-2016 Certs R **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADOL SUBR INSR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|--|---------------|-------------------------|-------------------------|--|
| A | GENERAL LIABILITY | | | | | |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | | | | | EACH OCCURRENCE \$ 1,000,000 |
| | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | <input checked="" type="checkbox"/> | LHA138115 | 02/25/2015 | 02/25/2016 | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 |
| | <input checked="" type="checkbox"/> \$2500 Ded. Per Occurr. | | | | | MED EXP (Any one person) \$ 5,000 |
| | <input checked="" type="checkbox"/> All Losses | | | | | PERSONAL & ADV INJURY \$ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | GENERAL AGGREGATE \$ 2,000,000 |
| | <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC | | | | | PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| B | AUTOMOBILE LIABILITY | | | | | |
| | <input checked="" type="checkbox"/> ANY AUTO | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 |
| | <input type="checkbox"/> ALL OWNED AUTOS | <input type="checkbox"/> SCHEDULED AUTOS | CCA0000854 | 09/20/2015 | 09/20/2016 | BODILY INJURY (Per person) \$ |
| | <input type="checkbox"/> HIRED AUTOS | <input type="checkbox"/> NON-OWNED AUTOS | | | | BODILY INJURY (Per accident) \$ |
| | | | | | | PROPERTY DAMAGE (Per accident) \$ |
| | UMBRELLA LIAB | <input type="checkbox"/> OCCUR | | | | Additional Insured \$ |
| | EXCESS LIAB | <input type="checkbox"/> CLAIMS-MADE | | | | EACH OCCURRENCE \$ |
| | DED | RETENTION \$ | | | | AGGREGATE \$ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | <input checked="" type="checkbox"/> Y/N | VEWC662852 | 09/01/2015 | 09/01/2016 | <input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | | | E.L. EACH ACCIDENT \$ 1,000,000 |
| | | | | | | E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 |
| D | Inland Marine | | 72MSJO6440 | 11/02/2015 | 11/02/2016 | E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |
| | | | | | | Cont. Equipment \$565,921 RC \$100,000 unscheduled \$1,000 Special Form \$2,500 ded. |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
United Paving Co. is named as Additional Insureds as per coverage provided by the above General Liability Policy per attached endorsement form RSG 15017 1207.

| | |
|---|---|
| CERTIFICATE HOLDER (714) 739-2400 United Paving Co 1880 North Delilah Street Corona,, CA 92879 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Monika Ray/MHR <i>Monika H. Ray</i> |
|---|---|

COMMENTS/REMARKS

30 DAY WRITTENNOTICE APPLIES FOR POLICY(S) CANCELLATION

EXHIBIT C



Commercial Insurance Protection

CLAIM OFFICE:

Mail claims to:
945 E. Paces Ferry Rd., St. 1800
Atlanta, GA 30326-1160

Fax claims to:
(404) 260-3934
(Attn: Claims Department)

Email claims to:
reportclaims@rsui.com
(Attn: Claims Department)

Your policy has been signed on our behalf by our President and by our Secretary and Treasurer. However, your policy will not be binding on us unless it is also countersigned by one of our duly authorized agents.



President

RSUI Indemnity Company
Landmark American Insurance Company
Covington Specialty Insurance Company



Secretary

RSUI Indemnity Company
Landmark American Insurance Company
Covington Specialty Insurance Company



A member of Alleghany Insurance Holdings LLC

COMMON POLICY DECLARATIONS

THIS POLICY IS ISSUED BY THE COMPANY NAMED BELOW

COMPANY NAME: Landmark American Insurance CompanyBRANCH ADDRESS: EXECUTIVE OFFICES:945 EAST PACES FERRY ROAD, SUITE 1800, ATLANTA, GA 30326-1160POLICY NO. LHA138115RENEWAL OF LHA137433

NAMED INSURED AND MAILING ADDRESS:

VERDIN CONCRETE, INC.
5487 SUNSET RIDGE DR
JURUPA VALLEY, CA 92509

PRODUCER:

POLICY PERIOD: From 2/25/2015 to 2/25/2016 12:01 A.M. Standard Time at your Mailing Address above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

| COVERAGE PARTS | | PREMIUM |
|--|--|--|
| <input checked="" type="checkbox"/> Commercial General Liability | | \$ 34,475.00 |
| <input type="checkbox"/> Commercial Farm | | \$ |
| <input checked="" type="checkbox"/> Employee Benefits Liability | | \$ INCLUDED |
| Audit Period: Annual | | |
| | | |
| | | Deposit Premium \$ 34,475.00 |
| | | Minimum Premium \$ 31,028.00 |
| | | TOTAL Policy Premium \$ 34,475.00 |

FORMS APPLICABLE TO ALL COVERAGE PARTS:

SEE SCHEDULE OF POLICY ATTACHMENTS AND FORMS

BUSINESS DESCRIPTION: CEMENT CONTRACTOR WILL DO CURBS, SIDEWALK AND GUTTERS

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE FORM(S) AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE CONTRACT OF INSURANCE.

Countersigned: _____

Date March 06, 2015

By: Philip Coletti

Authorized Representative



COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

☒ OCCURRENCE ☐ CLAIMS MADE

1. POLICY NO. LHA138115 EFFECTIVE DATE 2/25/2015
2. NAMED INSURED VERDIN CONCRETE, INC. RENEWAL OF LHA137433

3. LIMITS OF INSURANCE

| | | | |
|--|----|-----------|----------------|
| General Aggregate Limit (Other Than Products - Completed Operations) | \$ | 2,000,000 | |
| Products Completed Operations Aggregate Limit | \$ | 2,000,000 | |
| Personal & Advertising Injury Limit | \$ | 1,000,000 | |
| Each Occurrence Limit | \$ | 1,000,000 | |
| Fire Damage Limit | \$ | 50,000 | Any One Fire |
| Medical Expense Limit | \$ | 5,000 | Any One Person |

RETROACTIVE DATE (CG 00 02 ONLY)
Retroactive Date: (Enter Date or "None" if no Retroactive Date applies.)
LOCATION OF ALL PREMISES YOU OWN, RENT OR OCCUPY
ON FILE WITH COMPANY

| CLASSIFICATION | CODE NO. | PREMIUM BASIS | RATE | ADVANCE PREMIUM | |
|--------------------------------|----------|---------------|------|-----------------|-----------|
| | | | | PR/CO | ALL OTHER |
| All Operations rated as: | | | | | |
| | | | | | |
| See Composite Rate - RSG 14008 | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| | | |
|--|--|--------------|
| 4. FORMS / ENDORSEMENTS APPLICABLE: SEE SCHEDULE OF POLICY ATTACHMENTS AND FORMS ▶ | Deposit Premium | \$ 34,475.00 |
| | TOTAL ADVANCE PREMIUM FOR THIS COVERAGE PART | \$ 34,475.00 |

5. FORM OF BUSINESS: ☐ Individual ☐ Joint Venture ☐ Partnership ☒ Corporation ☐ Other

THESE DECLARATIONS, WHEN COMBINED WITH THE COMMON POLICY DECLARATIONS, THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF COMPLETE THE CONTRACT OF INSURANCE.

LANDMARK AMERICAN INSURANCE COMPANY

Policy Number: LHA138115
Insurer: Landmark American Insurance Company
Named Insured: VERDIN CONCRETE, INC.

NOTICE - DISCLOSURE OF TERRORISM PREMIUM

This Coverage Part/Policy covers certain losses caused by terrorism. In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to the coverage for terrorist acts certified under the Terrorism Risk Insurance Act.

DISCLOSURE OF PREMIUM

The portion of your premium for the policy term attributable to coverage for terrorist acts certified under the Act is

\$ 0 .

In any case, if the insured rejects terrorism coverage in any scheduled underlying policy, this policy is written to exclude terrorism.

DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

The United States Government, Department of Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention.

However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

IMPORTANT NOTICE

NOTICE TO POLICYHOLDERS INSURANCE REQUIREMENT SPECIAL POLICY CONDITION

Special policy conditions apply to this policy. Please read the following endorsement contained in this policy:

- ☐ Insurance Requirement - Primary/Excess For All Work Performed on Behalf of Insured Including an Indemnity Co-Insurance Provision With Payment Cap – RSG 14072
- ☐ Insurance Requirement – Owners Interest For All Work Performed on Behalf of Insured Including an Indemnity Co-Insurance Provision With Payment Cap – RSG 14073
- ☒ Insurance Requirement - For All Work Performed on Behalf of Insured Including an Indemnity Co-Insurance Provision With Payment Cap – RSG 14074

SCHEDULE OF POLICY ATTACHMENTS AND FORMS

| <u>Form Number</u> | <u>Form Title</u> | <u>Comment</u> |
|---------------------------|--|-----------------------|
| RSG 19002 0608 | Notice to Policyholders Insurance Requirement - Special Policy Condition | |
| RSG 99019 0711 | California Surplus Lines Disclosure Notice | |
| RSG 99022 0313 | State Fraud Statement | |
| CG 0001 0413 | Commercial General Liability Coverage Form | |
| IL 0017 1198 | Common Policy Conditions | |
| CG 2503 1185 | Amendment - Aggregate Limits of Insurance (Per Project) | |
| CG 3234 0105 | California Changes | |
| IL 0270 0908 | California Changes - Cancellation and Nonrenewal | |
| CG 0300 0196 | Deductible Liability Insurance | |
| CG 0435 1207 | Employee Benefits Liability Coverage | |
| CG 2106 0514 | Exclusion - Access or Disclosure of Confidential or Personal Information and Data - Related Liability - with Limited Bodily Injury Exception | |
| CG 2234 0413 | Exclusion - Construction Management E and O | |
| CG 2279 0413 | Exclusion - Contractors - Professional Liability | |
| CG 2147 1207 | Exclusion - Employment Related Practices | |
| CG 2167 1204 | Fungi or Bacteria Exclusion | |
| IL 0021 0702 | Nuclear Energy Liability Exclusion Endorsement | |
| CG 2001 0413 | Primary and Noncontributory - Other Insurance Condition | |
| CG 2155 0999 | Total Pollution Exclusion with a Hostile Fire Exception | |
| RSG 15017 1207 | Additional Insured - Blanket - Primary And Your Work | |
| RSG 16039 0708 | Amendment - Pre-Existing Damage Or Injury | |
| RSG 14004 0903 | Basis of Premium | |
| RSG 92062 0111 | California - Service Of Suit | |
| RSG 14008 0709 | Composite Rate | |
| RSG 16004 0903 | Exclusion - Absolute Asbestos | |
| RSG 16014 0604 | Exclusion - Cross Suits | |
| RSG 16021 0212 | Exclusion - EIFS | |
| RSG 16103 0509 | Exclusion - Imported Building Materials | |
| RSG 16032 0903 | Exclusion - Lead | |

SCHEDULE OF POLICY ATTACHMENTS AND FORMS

| <u>Form Number</u> | <u>Form Title</u> | <u>Comment</u> |
|---------------------------|--|-----------------------|
| RSG 16057 0903 | Exclusion - New York | |
| RSG 16075 1108 | Exclusion - Residential Work Except Remodel- Repair | |
| RSG 16080 0304 | Exclusion - Silica or Mixed Dust | |
| RSG 16083 0206 | Exclusion - Welding Environmental Hazards | |
| RSG 16054 0903 | Exclusion - Wrap Up | |
| RSG 14074 0611 | Insurance Requirement For All Work Performed On Behalf Of Insured Including Indemnity Coinsurance Provision with Payment Cap | |
| RSG 14067 0709 | Minimum Premium and Minimum Retained Premium-Amended | |
| RSG 14046 0714 | Non - Accumulation of Limits | |
| RSG 14048 1008 | Waiver Of Transfer Of Rights Of Recovery | |

IMPORTANT NOTICE

CALIFORNIA SURPLUS LINES DISCLOSURE NOTICE

- 1. THE INSURANCE POLICY THAT YOU HAVE PURCHASED IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.**
- 2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT THAT APPLY TO CALIFORNIA LICENSED INSURERS.**
- 3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.**
- 4. THE INSURER SHOULD BE LICENSED EITHER AS A FOREIGN INSURER IN ANOTHER STATE IN THE UNITED STATES OR AS A NON-UNITED STATES (ALIEN) INSURER. YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: 1-800-927-4357. ASK WHETHER OR NOT THE INSURER IS LICENSED AS A FOREIGN OR NON-UNITED STATES (ALIEN) INSURER AND FOR ADDITIONAL INFORMATION ABOUT THE INSURER. YOU MAY ALSO CONTACT THE NAIC'S INTERNET WEB SITE AT WWW.NAIC.ORG.**
- 5. FOREIGN INSURERS SHOULD BE LICENSED BY A STATE IN THE UNITED STATES AND YOU MAY CONTACT THAT STATE'S DEPARTMENT OF INSURANCE TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.**
- 6. FOR NON-UNITED STATES (ALIEN) INSURERS, THE INSURER SHOULD BE LICENSED BY A COUNTRY OUTSIDE OF THE UNITED STATES AND SHOULD BE ON THE NAIC'S INTERNATIONAL INSURERS DEPARTMENT (IID) LISTING OF APPROVED NONADMITTED NON-UNITED STATES INSURERS. ASK YOUR AGENT, BROKER, OR "SURPLUS LINE" BROKER TO OBTAIN MORE INFORMATION ABOUT THAT INSURER.**

- 7. CALIFORNIA MAINTAINS A LIST OF APPROVED SURPLUS LINE INSURERS. ASK YOUR AGENT OR BROKER IF THE INSURER IS ON THAT LIST, OR VIEW THAT LIST AT THE INTERNET WEB SITE OF THE CALIFORNIA DEPARTMENT OF INSURANCE: WWW.INSURANCE.CA.GOV.**
- 8. IF YOU, AS THE APPLICANT, REQUIRED THAT THE INSURANCE POLICY YOU HAVE PURCHASED BE BOUND IMMEDIATELY, EITHER BECAUSE EXISTING COVERAGE WAS GOING TO LAPSE WITHIN TWO BUSINESS DAYS OR BECAUSE YOU WERE REQUIRED TO HAVE COVERAGE WITHIN TWO BUSINESS DAYS, AND YOU DID NOT RECEIVE THIS DISCLOSURE FORM AND A REQUEST FOR YOUR SIGNATURE UNTIL AFTER COVERAGE BECAME EFFECTIVE, YOU HAVE THE RIGHT TO CANCEL THIS POLICY WITHIN FIVE DAYS OF RECEIVING THIS DISCLOSURE. IF YOU CANCEL COVERAGE, THE PREMIUM WILL BE PRORATED AND ANY BROKER'S FEE CHARGED FOR THIS INSURANCE WILL BE RETURNED TO YOU.**

**State Fraud Statements
Fraud Statements – Signature Required for New York Only**

ARKANSAS, LOUISIANA, RHODE ISLAND, TEXAS AND WEST VIRGINIA FRAUD STATEMENT

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

ALASKA FRAUD STATEMENT

A person who knowingly and with intent to injure, defraud, or deceive an insurance company files a claim containing false, incomplete, or misleading information may be prosecuted under state law.

ALABAMA FRAUD STATEMENT

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison, or any combination thereof.

ARIZONA FRAUD STATEMENT

For your protection Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties.

CALIFORNIA FRAUD STATEMENT

For your protection, California law requires that you be made aware of the following: Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

COLORADO FRAUD STATEMENT

It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

DISTRICT OF COLUMBIA FRAUD STATEMENT

WARNING: It is a crime to provide false, or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

FLORIDA FRAUD STATEMENT

Any person who knowingly and with intent to injure, defraud or deceive any insurer, files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

HAWAII FRAUD STATEMENT

For your protection, Hawaii law requires you to be informed that any person who presents a fraudulent claim for payment of a loss or benefit is guilty of a crime punishable by fines or imprisonment, or both.

IDAHO FRAUD STATEMENT

Any person who knowingly, and with intent to defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony.

INDIANA FRAUD STATEMENT

Any person who knowingly and with intent to defraud an insurer files a statement of claim containing any false, incomplete, or misleading information commits a felony.

KANSAS FRAUD STATEMENT

Any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act.

KENTUCKY FRAUD STATEMENT

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

MAINE FRAUD STATEMENT

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits.

MARYLAND FRAUD STATEMENT

Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

MINNESOTA FRAUD STATEMENT

Any person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

NEW HAMPSHIRE FRAUD STATEMENT

Any person who, with a purpose to injure, defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is subject to prosecution and punishment for insurance fraud, as provided in RSA 638:20.

NEW JERSEY FRAUD STATEMENT

Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.

NEW MEXICO FRAUD STATEMENT

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

OHIO FRAUD STATEMENT

Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

OKLAHOMA FRAUD STATEMENT

WARNING: Any person who knowingly and with intent to injure, defraud, or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

OREGON FRAUD STATEMENT

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents materially false information in an application for insurance may be guilty of a crime and may be subject to fines and confinement in prison.

PENNSYLVANIA FRAUD STATEMENT

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

TENNESSEE, VIRGINIA, AND WASHINGTON FRAUD STATEMENT

It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

SIGNATURE REQUIRED

NEW YORK FRAUD STATEMENT

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

Insured/Applicant/Claimant

By (Authorized Representative)

Title

Date

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

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

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

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

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

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

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

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

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

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

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

f. Pollution

- (1)** "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a)** At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii)** "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b)** At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c)** Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i)** Any insured; or
 - (ii)** Any person or organization for whom you may be legally responsible; or
- (d)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii)** "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

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

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

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

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

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

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

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

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

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

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

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

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

n. Recall Of Products, Work Or Impaired Property

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

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

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

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

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

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

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

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

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

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

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

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

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

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

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

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

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

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

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

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2.** If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

 - a.** The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b.** This insurance applies to such liability assumed by the insured;
 - c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d.** The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f.** The indemnitee:

 - (1)** Agrees in writing to:

 - (a)** Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c)** Notify any other insurer whose coverage is available to the indemnitee; and
 - (d)** Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2)** Provides us with written authorization to:

 - (a)** Obtain records and other information related to the "suit"; and
 - (b)** Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1.** If you are designated in the Declarations as:

 - a.** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b.** 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.
 - c.** A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d.** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage **C**;
- b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage **B**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C**
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

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

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

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

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

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

- c. You and any other involved insured must:

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

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

3. Legal Action Against Us

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

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of 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 an insured; 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 limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

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

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

- (2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) The total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits 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.

5. Premium Audit

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

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. 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:

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

8. Transfer Of Rights Of Recovery Against Others To Us

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

9. When We Do Not Renew

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 the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b.** A sidetrack agreement;
- c.** Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d.** An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e.** An elevator maintenance agreement;
- f.** That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

- (1)** That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2)** That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a)** Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b)** Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3)** Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

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

11. "Loading or unloading" means the handling of property:

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

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

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

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

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

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

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

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a.** False arrest, detention or imprisonment;
- b.** Malicious prosecution;
- c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d.** Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e.** Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f.** The use of another's advertising idea in your "advertisement"; or
- g.** Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "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.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1)** Products that are still in your physical possession; or
- (2)** Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a)** When all of the work called for in your contract has been completed.
 - (b)** When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c)** When that part of the work done at 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.

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

- (1)** The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2)** The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3)** Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

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

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.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "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.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

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

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2)** The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. 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.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
AMENDMENT – AGGREGATE LIMITS OF INSURANCE
(PER PROJECT)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (SECTION III) applies separately to each of your projects away from premises owned by or rented to you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCT WITHDRAWAL COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

The term "spouse" is replaced by the following:

Spouse or registered domestic partner under California law.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALIFORNIA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
 COMMERCIAL AUTOMOBILE COVERAGE PART
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 COMMERCIAL INLAND MARINE COVERAGE PART
 COMMERCIAL PROPERTY COVERAGE PART
 CRIME AND FIDELITY COVERAGE PART
 EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
 EQUIPMENT BREAKDOWN COVERAGE PART
 FARM COVERAGE PART
 LIQUOR LIABILITY COVERAGE PART
 MEDICAL PROFESSIONAL LIABILITY COVERAGE PART
 POLLUTION LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Paragraphs 2. and 3. of the **Cancellation Common Policy Condition are replaced by the following:**

2. All Policies In Effect For 60 Days Or Less

If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured at the mailing address shown in the policy and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:

- a.** 10 days before the effective date of cancellation if we cancel for:
 - (1)** Nonpayment of premium; or
 - (2)** Discovery of fraud by:
 - (a)** Any insured or his or her representative in obtaining this insurance; or
 - (b)** You or your representative in pursuing a claim under this policy.
- b.** 30 days before the effective date of cancellation if we cancel for any other reason.

3. All Policies In Effect For More Than 60 Days

- a.** If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following:
 - (1)** Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.
 - (2)** Discovery of fraud or material misrepresentation by:
 - (a)** Any insured or his or her representative in obtaining this insurance; or
 - (b)** You or your representative in pursuing a claim under this policy.
 - (3)** A judgment by a court or an administrative tribunal that you have violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against.

- (4) Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.
 - (5) Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.
 - (6) A determination by the Commissioner of Insurance that the:
 - (a) Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
 - (b) Continuation of the policy coverage would:
 - (i) Place us in violation of California law or the laws of the state where we are domiciled; or
 - (ii) Threaten our solvency.
 - (7) A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.
- b.** We will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, at least:
- (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium or discovery of fraud; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason listed in Paragraph **3.a.**
- B.** The following provision is added to the **Cancellation** Common Policy Condition:
- 7. Residential Property**
- This provision applies to coverage on real property which is used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household personal property in a residential unit, if such coverage is written under one of the following:
- Commercial Property Coverage Part
Farm Coverage Part – Farm Property – Farm Dwellings, Appurtenant Structures And Household Personal Property Coverage Form
- a.** If such coverage has been in effect for 60 days or less, and is not a renewal of coverage we previously issued, we may cancel this coverage for any reason, except as provided in **b.** and **c.** below.
 - b.** We may not cancel this policy solely because the first Named Insured has:
 - (1) Accepted an offer of earthquake coverage; or
 - (2) Cancelled or did not renew a policy issued by the California Earthquake Authority (CEA) that included an earthquake policy premium surcharge.

However, we shall cancel this policy if the first Named Insured has accepted a new or renewal policy issued by the CEA that includes an earthquake policy premium surcharge but fails to pay the earthquake policy premium surcharge authorized by the CEA.
 - c.** We may not cancel such coverage solely because corrosive soil conditions exist on the premises. This Restriction (**c.**) applies only if coverage is subject to one of the following, which exclude loss or damage caused by or resulting from corrosive soil conditions:
 - (1) Capital Assets Program Coverage Form (Output Policy);
 - (2) Commercial Property Coverage Part – Causes Of Loss – Special Form; or
 - (3) Farm Coverage Part – Causes Of Loss Form – Farm Property, Paragraph **D.** Covered Causes Of Loss – Special.

- C. The following is added and supersedes any provisions to the contrary:

NONRENEWAL

1. Subject to the provisions of Paragraphs **C.2.** and **C.3.** below, if we elect not to renew this policy, we will mail or deliver written notice stating the reason for nonrenewal to the first Named Insured shown in the Declarations and to the producer of record, at least 60 days, but not more than 120 days, before the expiration or anniversary date.

We will mail or deliver our notice to the first Named Insured, and to the producer of record, at the mailing address shown in the policy.

2. Residential Property

This provision applies to coverage on real property used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household property contained in a residential unit, if such coverage is written under one of the following:

Capital Assets Program (Output Policy) Coverage Part

Commercial Property Coverage Part

Farm Coverage Part – Farm Property – Farm Dwellings, Appurtenant Structures And Household Personal Property Coverage Form

- a. We may elect not to renew such coverage for any reason, except as provided in **b.**, **c.** and **d.** below:
- b. We will not refuse to renew such coverage solely because the first Named Insured has accepted an offer of earthquake coverage.

However, the following applies only to insurers who are associate participating insurers as established by Cal. Ins. Code Section 10089.16. We may elect not to renew such coverage after the first Named Insured has accepted an offer of earthquake coverage, if one or more of the following reasons applies:

- (1) The nonrenewal is based on sound underwriting principles that relate to the coverages provided by this policy and that are consistent with the approved rating plan and related documents filed with the Department of Insurance as required by existing law;

- (2) The Commissioner of Insurance finds that the exposure to potential losses will threaten our solvency or place us in a hazardous condition. A hazardous condition includes, but is not limited to, a condition in which we make claims payments for losses resulting from an earthquake that occurred within the preceding two years and that required a reduction in policyholder surplus of at least 25% for payment of those claims; or

- (3) We have:

- (a) Lost or experienced a substantial reduction in the availability or scope of reinsurance coverage; or
- (b) Experienced a substantial increase in the premium charged for reinsurance coverage of our residential property insurance policies; and

the Commissioner has approved a plan for the nonrenewals that is fair and equitable, and that is responsive to the changes in our reinsurance position.

- c. We will not refuse to renew such coverage solely because the first Named Insured has cancelled or did not renew a policy, issued by the California Earthquake Authority that included an earthquake policy premium surcharge.

- d. We will not refuse to renew such coverage solely because corrosive soil conditions exist on the premises. This Restriction (**d.**) applies only if coverage is subject to one of the following, which exclude loss or damage caused by or resulting from corrosive soil conditions:

- (1) Capital Assets Program Coverage Form (Output Policy);
- (2) Commercial Property Coverage Part – Causes Of Loss – Special Form; or
- (3) Farm Coverage Part – Causes Of Loss Form – Farm Property, Paragraph **D.** Covered Causes Of Loss – Special.

3. We are not required to send notice of nonrenewal in the following situations:

- a. If the transfer or renewal of a policy, without any changes in terms, conditions, or rates, is between us and a member of our insurance group.

- b.** If the policy has been extended for 90 days or less, provided that notice has been given in accordance with Paragraph **C.1**.
- c.** If you have obtained replacement coverage, or if the first Named Insured has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.
- d.** If the policy is for a period of no more than 60 days and you are notified at the time of issuance that it will not be renewed.
- e.** If the first Named Insured requests a change in the terms or conditions or risks covered by the policy within 60 days of the end of the policy period.
- f.** If we have made a written offer to the first Named Insured, in accordance with the timeframes shown in Paragraph **C.1**., to renew the policy under changed terms or conditions or at an increased premium rate, when the increase exceeds 25%.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

| Coverage | SCHEDULE | |
|--|---|----------------------|
| | Amount and Basis of Deductible PER CLAIM | or PER OCCURRENCE |
| Bodily Injury Liability OR | \$ | \$ |
| Property Damage Liability OR | \$ | \$ |
| Bodily Injury Liability and/or Property Damage Liability Combined | \$ | \$2,500 |

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

APPLICATION OF ENDORSEMENT (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):

- A.** Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages.
- B.** You may select a deductible amount on either a per claim or a per "occurrence" basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the Schedule above. The deductible amount stated in the Schedule above applies as follows:
- 1. PER CLAIM BASIS.** If the deductible amount indicated in the Schedule above is on a per claim basis, that deductible applies as follows:
 - a.** Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";
 - b.** Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or
 - c.** Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:
 - (1)** "Bodily injury";
 - (2)** "Property damage"; or
 - (3)** "Bodily injury" and "property damage" combined
 as the result of any one "occurrence".
- If damages are claimed for care, loss of services or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.
- With respect to "property damage", person includes an organization.

2. PER OCCURRENCE BASIS. If the deductible amount indicated in the Schedule above is on a "per occurrence" basis, that deductible amount applies as follows:

- a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c. Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages because of:
 - (1) "Bodily injury";
 - (2) "Property damage"; or
 - (3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

C. The terms of this insurance, including those with respect to:

- 1. Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2. Your duties in the event of an "occurrence", claim, or "suit"

apply irrespective of the application of the deductible amount.

D. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
EMPLOYEE BENEFITS LIABILITY COVERAGE****THIS ENDORSEMENT PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE ENDORSEMENT CAREFULLY.**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

| Coverage | Limit Of Insurance | | Each Employee Deductible | Premium |
|--|--------------------|---------------|--------------------------|-------------|
| Employee Benefits Programs | \$ 1,000,000 | each employee | \$ 2,500 | \$ Included |
| | \$ 1,000,000 | aggregate | | |
| Retroactive Date: | 02/25/2012 | | | |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | | | | |

A. The following is added to Section I – Coverages:**COVERAGE – EMPLOYEE BENEFITS
LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph **D.** (Section **III** – Limits Of Insurance); and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

b. This insurance applies to damages only if:

- (1) The act, error or omission, is negligently committed in the "administration" of your "employee benefit program";
- (2) The act, error or omission, did not take place before the Retroactive Date, if any, shown in the Schedule nor after the end of the policy period; and
- (3) A "claim" for damages, because of an act, error or omission, is first made against any insured, in accordance with Paragraph **c.** below, during the policy period or an Extended Reporting Period we provide under Paragraph **F.** of this endorsement.

c. A "claim" seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such "claim" is received and recorded by any insured or by us, whichever comes first; or

- (2) When we make settlement in accordance with Paragraph **a.** above.

A "claim" received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the claim.

- d. All "claims" for damages made by an "employee" because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such "employee's" dependents and beneficiaries, will be deemed to have been made at the time the first of those "claims" is made against any insured.

2. Exclusions

This insurance does not apply to:

a. Dishonest, Fraudulent, Criminal Or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Bodily Injury, Property Damage, Or Personal And Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

c. Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

d. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

e. Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any "claim" based upon:

- (1) Failure of any investment to perform;
- (2) Errors in providing information on past performance of investment vehicles; or
- (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

f. Workers' Compensation And Similar Laws

Any "claim" arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

h. Available Benefits

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

i. Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

j. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

B. For the purposes of the coverage provided by this endorsement:

1. All references to Supplementary Payments – Coverages **A** and **B** are replaced by Supplementary Payments – Coverages **A**, **B** and **Employee Benefits Liability**.
2. Paragraphs **1.b.** and **2.** of the Supplementary Payments provision do not apply.

C. For the purposes of the coverage provided by this endorsement, Paragraphs **2. and **3.** of **Section II – Who Is An Insured** are replaced by the following:**

2. Each of the following is also an insured:

- a. Each of your "employees" who is or was authorized to administer your "employee benefit program".
- b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.

- c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.
- 3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
 - b. Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.
- D. For the purposes of the coverage provided by this endorsement, **Section III – Limits Of Insurance** is replaced by the following:

1. Limits Of Insurance

- a. The Limits of Insurance shown in the Schedule and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) "Claims" made or "suits" brought;
 - (3) Persons or organizations making "claims" or bringing "suits";
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your "employee benefit program".
- b. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- c. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
 - (1) An act, error or omission; or
 - (2) A series of related acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

2. Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Schedule as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in the Schedule applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- c. The terms of this insurance, including those with respect to:
 - (1) Our right and duty to defend any "suits" seeking those damages; and
 - (2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or "claim"

apply irrespective of the application of the deductible amount.
- d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.
- E. For the purposes of the coverage provided by this endorsement, Conditions 2. and 4. of **Section IV – Commercial General Liability Conditions** are replaced by the following:

2. Duties In The Event Of An Act, Error Or Omission, Or "Claim" Or "Suit"

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim". To the extent possible, notice should include:
 - (1) What the act, error or omission was and when it occurred; and

- (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

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

- (1) Immediately record the specifics of the "claim" or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

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

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

- (1) This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Schedule of this insurance and that applies to an act, error or omission on other than a claims-made basis, if:

(a) No Retroactive Date is shown in the Schedule of this insurance; or

(b) The other insurance has a policy period which continues after the Retroactive Date shown in the Schedule of this insurance.

- (2) When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of the total amount that all such other insurance would pay for the loss in absence of this insurance; and the total of all deductible and self-insured amounts under all that other insurance.

- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Schedule of this endorsement.

c. Method Of Sharing

If all of the other insurance permits 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 limits of insurance to the total applicable limits of insurance of all insurers.

- F. For the purposes of the coverage provided by this endorsement, the following Extended Reporting Period provisions are added, or, if this endorsement is attached to a claims-made Coverage Part, replaces any similar Section in that Coverage Part:

EXTENDED REPORTING PERIOD

1. You will have the right to purchase an Extended Reporting Period, as described below, if:
 - a. This endorsement is canceled or not renewed; or
 - b. We renew or replace this endorsement with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Schedule of this endorsement; or
 - (2) Does not apply to an act, error or omission on a claims-made basis.
2. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to "claims" for acts, errors or omissions that were first committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Schedule. Once in effect, the Extended Reporting Period may not be canceled.
3. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The 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. In doing so, we may take into account the following:

- a. The "employee benefit programs" insured;
- b. Previous types and amounts of insurance;
- c. Limits of insurance available under this endorsement for future payment of damages; and
- d. Other related factors.

The additional premium will not exceed 100% of the annual premium for this endorsement.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the 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 Extended Reporting Period starts.

4. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the dollar amount shown in the Schedule of this endorsement under Limits of Insurance.

Paragraph **D.1.b.** of this endorsement will be amended accordingly. The Each Employee Limit shown in the Schedule will then continue to apply as set forth in Paragraph **D.1.c.**

- G. For the purposes of the coverage provided by this endorsement, the following definitions are added to the **Definitions** Section:

1. "Administration" means:
 - a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
 - b. Handling records in connection with the "employee benefit program"; or
 - c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include handling payroll deductions.

2. "Cafeteria plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.
3. "Claim" means any demand, or "suit", made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.

4. "Employee benefit program" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
 - a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
 - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - e. Any other similar benefits designated in the Schedule or added thereto by endorsement.
- H. For the purposes of the coverage provided by this endorsement, Definitions 5. and 18. in the **Definitions** Section are replaced by the following:
 5. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
 18. "Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:
 - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ACCESS OR DISCLOSURE OF
CONFIDENTIAL OR PERSONAL INFORMATION AND
DATA-RELATED LIABILITY – WITH
LIMITED BODILY INJURY EXCEPTION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Exclusion 2.p. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:**

2. Exclusions

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

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

- B. The following is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CONSTRUCTION MANAGEMENT ERRORS AND OMISSIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph **2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph **2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project on which you serve as construction manager; or
2. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph **1.** or **2.**

This exclusion does not apply to "bodily injury" or "property damage" due to construction or demolition work done by you, your "employees" or your subcontractors.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CONTRACTORS – PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2. **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
 - a. Providing engineering, architectural or surveying services to others in your capacity as an engineer, architect or surveyor; and
 - b. Providing, or hiring independent professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.
2. Subject to Paragraph 3. below, professional services include:
 - a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
 - b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
3. Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or failure to render any professional services by you or on your behalf with respect to the operations described above.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART**A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

"Bodily injury" to:

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

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

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

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a.** "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b.** Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

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

- B. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a.** "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b.** Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

- C. The following definition is added to the Definitions Section:**

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION

ENDORSEMENT

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:
 - A. Under any Liability Coverage, to "bodily injury" or "property damage":
 - (1) 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, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
 - C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) 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
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" 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 **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"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.

"Property damage" includes all forms of radioactive contamination of property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
TOTAL POLLUTION EXCLUSION
WITH A HOSTILE FIRE EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion f. under Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

f. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

This exclusion does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:

- (a) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or
- (b) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

This Endorsement Changes The Policy. Please Read It Carefully.

ADDITIONAL INSURED BLANKET – PRIMARY AND YOUR WORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

| SCHEDULE | |
|--|--|
| Name of Person or Organization: | Any person or organization to whom or to which you are obligated by virtue of a written contract or by the issuance or existence of a written permit, to provide insurance such as is afforded by this policy. |

- A. SECTION II - WHO IS AN INSURED** is amended to include as an additional insured the person(s) or organization(s) shown in the SCHEDULE, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations; and/or "your work" defined for the additional insured(s) designated above included in the "products-completed operations hazard".
- B.** If you are required by a written contract to provide primary insurance, this policy shall be primary and **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance** does not apply, but only with respect to coverage provided by this policy.

This endorsement effective 2/25/2015
 forms part of Policy Number LHA138115
 issued to VERDIN CONCRETE, INC.
 by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

AMENDMENT - PRE-EXISTING DAMAGE OR INJURY

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM**

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, section **1. Insuring Agreement**, sub-sections **b.**, **c.**, **d.**, and **e.** are deleted in their entirety and replaced by the following:

- b.** This insurance applies to "bodily injury" and "property damage" only if:
- (1)** The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2)** The outset of the "bodily injury" or "property damage" takes place during the policy period;
 - (3)** Such "bodily injury" or "property damage" did not result in damages which are the subject of any "suit", settlement or adjustment prior to the inception date of this insurance (or the retroactive date of this policy, if any, whichever is earlier); and
 - (4)** In the event the "bodily injury" or "property damage" results from continuous or repeated exposure to substantially the same general harmful conditions, then the
 - (a)** Outset of the "bodily injury" or "property damage" was on or after the inception date of this insurance (or the retroactive date of this insurance, if any, whichever is earlier); and
 - (b)** "Bodily injury" or "property damage" was not actually, or alleged to have been, in progress prior to the inception date of this insurance (or the retroactive date of this insurance, if any, whichever is earlier), even if the "bodily injury" or "property damage" continues during this policy period.
- These conditions **(1)**, **(2)**, **(3)** and **(4)** shall apply whether or not the "bodily injury" or "property damage" is known to any insured.
- c.** If the outset of any "bodily injury" or "property damage" takes place during this policy period then it shall include any continuation of that "bodily injury" or "property damage" after the end of the policy period.
- d.** Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

BASIS OF PREMIUM

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

The words and phrases that appear in the Declarations related to the calculation of premium have special meaning and are defined below:

1. "Admissions" means the total number of persons, other than employees of the named insured, admitted to the event(s) insured or to the event(s) conducted on the premises whether on paid admissions, tickets, complimentary tickets or passes.
2. "Area" means the total number of square feet of floor space at the insured premises.
3. "Each". This basis of premium involves units of exposure, and the quantity comprising each unit of exposure is indicated in the premium classification footnotes, such as "each person".
4. "Gross Sales" means the gross amount charged by the named insured, concessionaires of the named insured or by others trading under the insured's name for:
 - a. All goods or products, sold or distributed;
 - b. Operations performed during the policy period, including operations performed for the insured by independent contractors;
 - c. Rentals; and
 - d. Dues or fees.

"Gross Sales" does not include sales or excise taxes which are collected and submitted to a governmental division.

5. "Payroll" means the total payroll earned during the policy period by proprietors and by all "employees", "leased workers" and "temporary workers" of the Named Insured and includes commissions, bonuses, extra pay for overtime work and pay for holidays, vacations or period of sickness.
6. "Field Payroll" means the total payroll earned during the policy period by proprietors and by all "employees", "leased workers" and "temporary workers" of the Named Insured and includes commissions, bonuses, extra pay for overtime work and pay for holidays, vacations or period of sickness. "Field Payroll" does not include payroll earned by sales and clerical "employees".
7. "Sub Cost" means the total cost of all work sublet to independent contractors including:
 - a. The independent contractors' costs of all labor, materials and equipment used in the execution of the work; and
 - b. All fees, bonuses or commissions paid or due to independent contractors.
8. "Total Cost" means the total cost of all work let or sublet including:
 - a. The cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work; and
 - b. All fees, bonuses or commissions made, paid or due.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

9. "Units" means a single room or group of rooms intended for occupancy as separate living quarters by a family, by a group of unrelated persons living together, or by a person living alone.

This Endorsement Changes The Policy. Please Read It Carefully.

SERVICE OF SUIT (CALIFORNIA)

This endorsement modifies insurance provided under the following:

ALL COVERAGE FORMS

In the event of our failure to pay any amount claimed to be due, we, at your request, will submit to the jurisdiction of any court of competent jurisdiction within the United States of America. Nothing in this condition constitutes or should be understood to constitute a waiver of our rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court or seek a transfer of a case to another Court as permitted by the laws of the United States or of any state in the United States, moreover, this endorsement is not an agreement that the law of a particular jurisdiction applies to any dispute under the policy.

Service of process in such suit may be made upon C T Corporation System, 818 West 7th Street, Los Angeles, California 90017. In any suit instituted against it upon this contract, we will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above named is authorized and directed to accept service of process on our behalf in any such suit and/or upon your request to give a written undertaking to you that we will enter a general appearance upon our 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 of America, which makes provision therefore, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for the purpose in the statute, or his successor or successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by you or on your behalf or any beneficiary hereunder arising out of this contract of insurance, and we hereby designate the above named as the person to whom the above named is authorized to mail such process or a true copy thereof.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

Endorsement No.:

This Endorsement Changes The Policy. Please Read It Carefully.

COMPOSITE RATE

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This endorsement applies to the 02/25/2015 to 02/25/2016 policy term.

Subject otherwise to the terms and conditions of this policy, it is agreed that:

1. Payment of premium is subject to adjustment at expiration of policy based on a rate of \$ 9.85 per 1,000.

(Estimated Gross Sales at policy inception: \$ 3,500,000.00)

2. The estimated policy premium shall be paid as follows:

Deposit premium \$34,475.00 due at the inception of the policy, and nothing herein contained shall be held to vary, alter, waive, or extend any of the terms, conditions, or limitations of the policy to which this endorsement is attached other than as above stated.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION - ABSOLUTE ASBESTOS

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM**

In consideration of the premium charged, it is agreed that the insurance provided by this policy shall not apply to any loss, claim or expense caused by, resulting from or arising out of asbestos, exposure to asbestos, or any product containing asbestos.

It is further agreed that we shall have no duty or obligation to provide or pay for the investigation or defense of any loss, cost, expense, claim or "suit" excluded herein.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION – CROSS SUITS

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM**

This insurance does not apply to:

“Bodily injury”, “property damage”, or “personal and advertising injury”, initiated, alleged or caused to be brought about by a named insured covered by this policy against any other named insured covered by this policy.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION - EIFS

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" included in the "products-completed operations hazard" and arising out of "your work" or "your product" shown in the SCHEDULE.

SCHEDULE

Description of "your work":

1. The design, manufacture, construction, fabrication, preparation, installation, application, maintenance or repair, including remodeling, service, correction, or replacement of an "exterior insulation and finish system" (EIFS) commonly referred to as synthetic stucco or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such system.
2. Any work or operations with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system" is used in any part of that structure.

For the purpose of this endorsement, an "exterior insulation and finish system" means an exterior cladding or finish system used on any part of any structure, and consisting of any or all of the following:

- a. A rigid or semi-rigid insulation board made of expanded polystyrene or other materials,
- b. The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate,
- c. A reinforced base coat,
- d. A finish coat providing surface texture and color.

We shall have no duty to defend any insured against any loss, claim, "suit", or other proceeding alleging damages arising out of or related to "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement applies.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION-IMPORTED BUILDING MATERIALS

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury," "property damage", or "personal and advertising injury" arising out of, caused by, related or attributable to, in whole or in part, drywall, plasterboard, sheetrock, gypsum board, or any materials used in the manufacture of drywall, plasterboard, sheetrock, gypsum board or any type of wallboard, that were manufactured in, originated or exported from China or incorporated any component parts or materials made in, originated or exported from China.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION - LEAD

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM**

This insurance does not apply to any loss, claim or expense caused by, resulting from or arising out of lead, paint containing lead, or any other material or substance containing lead.

We shall have no duty or obligation to provide or pay for the investigation or defense of any loss, cost, expense, claim or "suit" excluded by this endorsement.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION – NEW YORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SECTION V – DEFINITIONS, item **4. a.** is replaced by the following:

4. “Coverage territory” means:

- a.** The United States of America (including its territories and possessions, but excluding the state of New York), Puerto Rico and Canada.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION - RESIDENTIAL WORK EXCEPT REMODEL/REPAIR

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of your operations or "your work" on any "residential project".

"Residential project" shall mean apartments, single and multi-family dwellings, townhouses, duplexes, condominiums or cooperatives (including any project converted for individual or collective resident ownership), "mixed-use buildings", timeshares, or any other place of domicile, and shall include appurtenant structures and common areas.

"Mixed-use buildings" shall mean structures and improvements thereto, which contain both residential units and commercial space.

However, this exclusion shall not apply to your operations or "your work":

1. That is on or in commercial space in "mixed-use buildings"; or
2. On a single family dwelling, townhouse, condominium, or apartment (including those in "mixed-use buildings") after they have been sold and certified for occupancy, and your operations or "your work" for repair/remodel is contracted directly with an individual unit owner, individual home owner, apartment owner, apartment manager or contractor working under direct contract with same.

We shall have no duty or obligation to provide or pay for the investigation or defense of any loss, cost, expense, claim or "suit" excluded by this endorsement.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION-SILICA OR MIXED DUST

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
LIQUOR LIABILITY COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of or in any way related to the actual, alleged or threatened discharge, dispersal, emission, release, escape, handling, contact with, exposure to or inhalation or respiration of "mixed dust", silica or products or substances containing silica. This includes, but is not limited to:

- a. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
- b. Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

This exclusion applies to all such "bodily injury" or "property damage" whether or not the "bodily injury" or "property damage" is included in the "products-completed operations hazard."

As used in this exclusion:

"Mixed dust" means inorganic or organic dusts that have harmful effects on human beings.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION – WELDING ENVIRONMENTAL HAZARDS

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This insurance does not apply to any request, demand, claim, cost, loss, liability or obligation caused by, resulting from, arising out of or related to, in whole or in part, threatened or alleged exposure to, inhalation of, presence of, ingestion of, or absorption of fumes, vapors, dust, residue, smoke, soot, gases, chemicals, radiation or radioactive material, particles, or particulate arising from:

- a.** Welding operations, including but not limited to welding, brazing, soldering, thermal spraying or cutting;
- b.** Welding or cutting equipment, including but not limited to rods, electrodes, wire or similar product, welding consumables, base metals and any coating present on the base material; or
- c.** Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with a. or b. above.

The addition of this endorsement does not imply that other policy provisions, including but not limited to any pollution exclusion, do not also exclude coverage for such “bodily injury”, “property damage”, “personal and advertising injury”, expense, cost, loss, liability or legal obligation.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

EXCLUSION – WRAP UP

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or medical expenses arising out of any project for which you are, or ever were, included as an insured under any owner-controlled, wrap-up or similar insurance program providing liability insurance.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

INSURANCE REQUIREMENT FOR ALL WORK PERFORMED ON BEHALF OF INSURED INCLUDING AN INDEMNITY CO-INSURANCE PROVISION WITH PAYMENT CAP

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
OWNERS CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM
PRODUCTS COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

1. You, as a condition of this insurance, will require by written contract that any subcontractors working on your behalf maintain primary insurance and name you as an additional insured for such insurance for limits of liability equal to or greater than those shown in the schedule below:

SCHEDULE:

COMMERCIAL GENERAL LIABILITY coverage written on an "occurrence" basis with a current policy period for limits of at least:

| | |
|-------------|---|
| \$1,000,000 | each occurrence |
| \$1,000,000 | general aggregate |
| \$1,000,000 | products – completed operations aggregate |

As defined by the terms of this policy, if a project is a "residential project" and otherwise not excluded by this policy, the subcontractors' policy shall provide coverage for the "residential project"; and as is required by your contract, include you as an additional insured.

2. This policy will be excess over, and will not contribute with, any insurance provided by a subcontractor.
3. Indemnity Co-Insurance Provision: You agree that for any claim or "suit" where you have failed to comply with Paragraph 1. above, in addition to any deductible amount for which you are responsible, you will be liable for the lesser of
 - a. ten percent (10%) or
 - b. \$25,000

of any such indemnity payment based on the failure to comply with the requirements of this endorsement.

Our right and duty to defend you against any suits seeking damages and your duties in the event of an "occurrence", claim or "suit" apply irrespective of the application of this Indemnity Co-Insurance Provision and your indemnity payment responsibility.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

MINIMUM PREMIUM AND MINIMUM RETAINED PREMIUM - AMENDED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

1. **SECTION IV – CONDITIONS, 5., Premium Audit** is deleted and replaced by the following:

5. Premium Audit

Premium designated in the COMMON POLICY DECLARATIONS as Deposit Premium shall be credited to the amount of the earned premium due at the end of the policy period. At the close of each period (or part thereof terminating with the end of policy period), the earned premium shall be computed for such period and, upon notice thereof to the first Named Insured, shall become due and payable.

If the total computed earned premium for the policy period is less than the premium previously paid, then we shall receive and retain no less than the minimum premium(s) listed in the COMMON POLICY DECLARATIONS as Minimum Premium. If the policy is cancelled, any refund due will be based upon either the actual earned premium or the earned Deposit Premium, whichever is higher.

Should it become necessary to institute collection activities, including litigation, in order to collect an earned premium, then, in addition to the earned premium, you shall be responsible for a collection fee of 33%, and 100% of any and all other collection expenses, fees, and costs that we incur, plus interest as provided by law.

You shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to us at the end of the policy period and at such times during the policy period as we may direct.

All premiums for this policy shall be computed in accordance with our rules, rates, rating plans, premiums and minimum premiums applicable to the Insurance afforded herein.

2. Under the **COMMON POLICY CONDITIONS, A. Cancellation**, item **5.** is amended to read as follows:

5. If the policy is cancelled, we will send the first Named Insured any premium refund due. The refund will be based upon either the actual earned premium or the earned Deposit Premium, whichever is higher.

If we cancel, the refund will be calculated on a pro rata basis. If the actual earned premium is less than the Minimum Earned Premium of \$ 8,618.75, you will pay whichever is higher.

If the first Named Insured cancels, the refund may be less than pro rata.

In no event shall we retain less than 25% of the Deposit Premium shown in the COMMON POLICY DECLARATIONS.

3. Under the **Common Policy Declarations** and **Commercial General Liability Coverage Part Declarations**, the **Minimum** and **Deposit Premium** are amended to read as follows:

Deposit Premium: \$34,475.00

Minimum Premium: \$31,027.00

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

NON-ACCUMULATION OF LIMITS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following is added as an item to **SECTION III – LIMITS OF INSURANCE**:

If this policy and any other Commercial General Liability policy issued to you by this Company or any of its affiliated Companies applies to the same "occurrence", the combined maximum Limit of Insurance under all of the policies shall not exceed the amount stated in the Declaration of the policy with the highest Each Occurrence Limit of Insurance.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

This Endorsement Changes The Policy. Please Read It Carefully.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM**

SCHEDULE

Name of Person or Organization:

Any Person or Organization As Required By Written Contract

The following is added to **SECTION IV – CONDITIONS, 8. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US:**

We waive any right of recovery we may have against the person or organization shown in the SCHEDULE above because of payment we make for injury or damage arising out of your ongoing operations, "your product" or "your work" done under a written contract with that person or organization and included in the "product-completed operations hazard". This waiver applies only to the person or organization shown in the SCHEDULE above.

This endorsement effective 2/25/2015
forms part of Policy Number LHA138115
issued to VERDIN CONCRETE, INC.
by Landmark American Insurance Company

EXHIBIT D

**AMENDED AND RESTATED
ASSIGNMENT AND RECOVERY AGREEMENT**

This amended and restated assignment and recovery agreement (the “Amended Assignment”), effective August 1, 2019 (the “Effective Date”), is entered into between Valley Forge Insurance Company (“Assignor”) and Superior Paving Company, Inc., dba United Paving Co. (“Assignee”) with respect to Assignor’s claims against any other individuals, entities, or insurer(s) regarding payments made on behalf of Assignee in defense and indemnity of Assignee in connection with the civil action against Assignee entitled *Superior Paving Company, Inc., dba United Paving Co. v. Bear Valley 2005, LLC*, Case No. ECU08984 (the “Action”) and, by agreement of the parties, is deemed an amendment and complete restatement of the original Assignment and Recovery Agreement entered into between the parties with an effective date of September 12, 2018. Assignor and Assignee are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, in December 2015, Bear Valley 2005, LLC filed a cross-complaint against Assignee in the action entitled *Superior Paving Company, Inc., dba United Paving Co. v. Bear Valley 2005, LLC*, Case No. ECU08984 (the “Action”);

WHEREAS, Assignee made a claim with Assignor for defense and indemnity relating to the Action;

WHEREAS, Assignor responded by stating it would provide a defense to Assignee in the Action with a reservation of rights and appointing Daily Aljian LLP (“DALLP”) as independent / *Cumis* counsel for Assignee;

WHEREAS, Assignor paid fees and costs toward the defense of the Action, including payment of amounts to DALLP in its capacity as independent counsel;

WHEREAS, in September 2018, Bear Valley and Assignee entered into a settlement agreement relating to the claims asserted in the Action (the “Settlement”);

WHEREAS, under the terms of the Settlement, Assignor contributed funds toward the settlement of the Action; and

WHEREAS, the Parties wish to pursue claims for contribution regarding payments made by Assignor and Assignee in defense and indemnity of Assignee in the Action.

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the foregoing facts, and the mutual covenants, terms and conditions set forth herein, the Parties mutually covenant, declare and agree as follows:

AGREEMENT

- 1. Incorporation of Recitals.** The above Recitals are incorporated herein by

this reference.

2. Assignment. In exchange for the rights reserved hereunder, including but not limited to the right of recovery under Paragraph 3, Assignor hereby unconditionally and irrevocably assigns and transfers to Assignee all of Assignor's rights, claims, and causes of action that Assignor has related to and/or arising out of the payments made by Assignor on behalf of Assignee with respect to the defense and settlement of the Action, including but not limited to all rights of contribution, subrogation, breach of contract, and/or bad faith against Verdin Concrete, Inc. ("Verdin") and Verdin's insurance carrier(s). Throughout this Amended Assignment, the rights, title and interest described above will be referred to as "Assigned Claims."

3. No Right To Joinder Of Assignor. In pursuing the Assigned Claims, Assignee agrees not to join Assignor as a party, or otherwise name Assignor as a party, to the litigation of the Assigned Claims; however, Assignor may be identified in the pleadings or discovery as having assigned its rights to Assignee. Assignee hereby represents that it will pursue the same claims with respect to the Assigned Claims in connection with the Action including, without limitation, attorneys' fees, expert fees, and third-party vendor costs incurred by or on behalf of the Assignee in the Action. Assignee does not guarantee to take, file or continue any particular legal action in regard to the Assigned Claims.

4. Right To Recovery.

a. **Assignee Recovery.** Assignee agrees to pay Assignor 50% of the Net Recovery. "Net Recovery" shall be calculated by deducting from the gross recovery (1) all costs incurred prosecuting the Assigned Claims, including but not limited to filing fees, expert fees, deposition costs, copies, and research and (2) attorneys' fees due and payable pursuant to the terms of the engagement agreement by and between Assignee and its counsel of record.

b. **Assignor Recovery.** Assignee shall be entitled to recovery of 50% of the Net Recovery.

5. Accounting. Assignee agrees to provide Assignor with an accounting of all fees and costs deducted from the gross recovery per Paragraphs 3 herein.

6. Coverage Positions. Assignee and Assignor agree that the insurance coverage position(s) taken by Assignee with regard to the Action, the Assigned Claims or any other action, represent the position of Assignee and do not necessarily represent the positions of Assignors. Assignors agree and acknowledge that counsel for Assignee in connection with the Assigned Claims is not counsel for the Assignor nor acting in any way on behalf of Assignor and at no time will Assignee's counsel represent Assignor in connection with the Assigned Claims. Assignee represents that it will not assert any insurance coverage position as being on behalf of the Assignors. Assignee and its counsel agree to provide Assignor with copies of all pleadings filed by any party in any litigation resulting from the pursuit of the Assigned Claims, with copies of any settlement offers, and

copies of any settlement agreements, and related payments within a reasonable time.

7. Agreement To Cooperate. To the extent necessary and reasonable for the prosecution and/or settlement of the Assigned Claims, Assignor agrees to fully cooperate with Assignee, including but not limited to providing all documentation requested to prosecute the Action, including but not limited to production of all documents regarding all payments made in the Action.

8. Decision Making Authority. Assignor acknowledges and agrees that Assignee has full decision-making authority with respect to the prosecution and/or settlement of the Assigned Claims, provided that Assignee at all times acts in good faith toward, and deals fairly with, Assignor with respect to Assignor's interest in any recovery on the Assigned Claims. Assignor hereby acknowledges and agrees that neither Assignee, its attorneys, nor any other person acting on behalf of Assignee has made any warranties, representations or promises with respect to the amount of the expected or anticipated recovery on the Assigned Claims, if any.

9. Miscellaneous.

a. Assignee and Assignor fully warrant that they have full rights and authority to enter into this Amended Assignment and that the rights and benefits assigned hereunder are free and clear of any lien, encumbrance, adverse claim or interest by any third party.

b. This Amended Assignment shall be binding upon and inure to the benefit of the parties to this Amended Assignment, and their successors and assignees.

c. The signatories to this Amended Assignment represent that they have the power and authority to enter into this Amended Assignment and bind their respective entities.

d. This Amended Assignment shall be construed without regard to who drafted it and shall be construed as though all parties hereto participated equally in the drafting of this Amended Assignment.

e. Whenever possible, each provision of this Amended Assignment shall be interpreted in such a manner as to be valid under applicable law; but, if any provisions of this Amended Assignment shall be invalid or prohibited there under, such provision shall be ineffective to the extent of such prohibition, without invalidating the remainder of such provision or the remaining provisions of this Amended Assignment. This Amended Assignment shall be construed and governed in accordance with California law.

f. This Amended Assignment is governed by the laws of the State of California, and any action or proceeding arising from this Amended Assignment may be filed and maintained only in the state or Federal Courts located in Orange County,

Execution Version

g. This Amended Assignment may be executed in counterparts and a facsimile or photocopy of the signatures of the Parties shall have the same force and effect as the original.

VALLEY FORGE INSURANCE COMPANY

Dated: August 14, 2019

By: 

Title: Claims Director

Print Name: John Silva

**SUPERIOR PAVING COMPANY, INC. dba
UNITED PAVING CO.**

Dated: 8/14/2019

By: 

Title: President

Print Name: Sabas Trujillo

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF IMPERIAL

Case Name: *SUPERIOR PAVING COMPANY, INC., dba UNITED PAVING CO. v. VERDIN CONCRETE, INC., et al.*

I am employed in the City of Newport Beach, County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 100 Bayview Circle, Suite 5500, Newport Beach, California 92660. On **August 16, 2019**, I caused the foregoing document(s) to be served:

PLAINTIFF SUPERIOR PAVING COMPANY, INC.'S FIRST AMENDED COMPLAINT AGAINST DEFENDANTS VERDIN CONCRETE, INC. AND LANDMARK AMERICAN INSURANCE COMPANY; JURY TRIAL REQUESTED

on the following parties:

Jose Luis Verdin
5487 Sunset Ridge
Riverside, CA 92509
*Agent for Service of Process for
Defendant, Verdin Concrete, Inc.*

Joseph P. Potocki
Balestreri Potocki & Holmes
401 "B" Street, Suite 1470
San Diego, CA 92101
*Attorneys for Defendant, Verdin
Concrete, Inc.*
Courtesy copy by electronic mail

Stephen L. Cope
Musick, Peeler & Garrett LLP
624 South Grand Avenue, Suite 2000
Los Angeles, CA 90017-3383
*Attorneys for Defendant, Landmark
American Insurance Company*
Courtesy copy by electronic mail

[X] (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Newport Beach, California. I am readily familiar with the practice of DAILY ALJIAN LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Executed on **August 16, 2019**, at Newport Beach, California.

/s/ Kenia Galeana
Kenia Galeana