

## NOTICE

This insurance is written on a Claims made and Reported Basis and applies only to Claims which first arise and are made against the Insured and reported to the Company while this insurance is in force, provided, that at the effective date of this policy, or at the effective date of an earlier dated policy issued by the Company of which this policy is a renewal or replacement, the Insured had no knowledge of or could not have reasonably foreseen any circumstances which might result in a Claim against the policy. No coverage exists for Claims first made against the Insured after the end of the policy term unless, and to the extent, an extension of coverage applies.

## INSURING AGREEMENT

In consideration of the payment of premium, and subject to the exclusions and other terms of the policy, the Company agrees as follows with the Insured named in Item 1 of the Declarations:

### 1. COVERAGE

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as Damages resulting from any Claim or Claims made against the Insured which first arise and are reported to the Company during the Policy Period: by reason of any negligent act, error or omission, by the Insured or by any person for whom the Insured is legally liable, in the rendering of Professional Services as designated in Item 6 of the Declarations.

PROVIDED ALWAYS THAT such act, error or omission occurs:

- a. during the Policy Period, or;
- b. on or after the Retroactive Date stated in item 5 of the Declarations, provided that prior to the effective date of this policy:
  1. the Insured did not give notice to any prior insurer of any such act, error or omission, and
  2. the Insured had no basis to believe that any such act, error or omission might reasonably be expected to give rise to a Claim, and
  3. there is no other policy which provides insurance for such liability or Claim.

### 2. DEFENSE, SETTLEMENT:

With respect to such insurance as is afforded by this policy, the Company shall pay, provided the Limit of Liability has not been exhausted, and in excess of the Insured's Deductible amount:

- a. Claim Expenses incurred in the defense of any Claim or suit against the Insured seeking damages to which this insurance applies even if such Claim or suit is groundless, false or fraudulent;
- b. premiums on bonds to release attachments and appeal bonds, limited to that portion of such bond that does not exceed the Limit of Liability of this policy, but without any obligation to apply for or furnish such bonds;
- c. costs taxed against the Insured in any suit and expenses incurred by the Company;
- d. interest accruing after the judgment, but only for that portion of the judgment which does not exceed the applicable Limit of Liability, until the Company has tendered or paid such part of such judgment as does not exceed the Company's Limit of Liability thereon;
- e. Reasonable expenses incurred by the Insured at the Company's request in assisting the investigation and defense of any Claim or suit, other than loss of earnings.

All of the foregoing costs, charges and expenses of investigation and Claim Expenses payable by the Company are included in the Company's applicable Limit of Liability stated in the Declarations. The Company's applicable Limit of Liability as stated shall be reduced or exhausted by such costs, charges or expenses of such investigation or Claim Expenses and in such even the Company shall not be liable for the costs of legal defense or for the amount of any judgment or settlement to the extent that such exceeds the Limits of Liability of the Policy. If there is a Deductible amount shown in the Declarations, any such costs incurred in the investigation or defense, including Claim Expenses, of any Claim will be applied against the Deductible amount.

The Company, in the Insured's name and behalf, shall have the right to investigate, defend and conduct settlement negotiations in any Claim or suit.

The Company shall not settle any Claim without the consent of the Insured. Should the Insured refuse to consent to any settlement recommended by the Company and elect to contest the Claim, or continue any legal proceedings in connection with such Claim, the Company's liability for the Claim shall not exceed the amount in excess of the Insured's Deductible for which the Claim could have been settled, or the applicable Limit of Liability, whichever is less, including costs and expenses, including Claim Expenses, incurred up to the date of such refusal.

The Insured shall not admit liability for, or make any voluntary settlement, or incur any costs or expenses in connection with any Claim involving payment by the Company except with the written consent of the Company.

The Company shall not be obligated to pay any Claim or judgment or Claim Expenses or to defend any suit after the applicable limit of the Company's liability has been exhausted by payment of judgments or settlement.

## DEFINITIONS

1. CLAIM, whenever used in this policy, means a demand received by the Insured for money including the service of suit or institution of arbitration proceedings against the Insured arising out of any act or omission by the Insured or by any person for whom the Insured is legally liable in the rendering of Professional Services.
2. CLAIM EXPENSES, whenever used in the policy, means:
  - a. fees charged by any lawyer designated by the Company;
  - b. all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by the Company.

However, "Claim Expenses" does not include salary charges of regular employees of the Company or any supervisory counsel retained by the Company.
3. DAMAGES, whenever used in this policy, means a monetary judgment, award or settlement and does not include:
  - a. fines, sanctions, statutory penalties or punitive or exemplary damages including those based upon legal fees whether imposed by law, court or otherwise, nor
  - b. the return, in whole or in part, of fees, costs and expenses, previously paid or retained, whether by way of restitution of specific funds, damages, or otherwise.
4. INCIDENTAL INTEREST IN PUBLICLY TRADED SECURITIES, whenever used in this policy means beneficial ownership of securities of a class registered under Section 12 of the Securities Exchange Act of 1934 or exempted from registration by Section 12(g)2(A) thereof, if, taking into account the beneficial ownership interest of each and every Insured and the beneficial ownership interest of their respective Related Individuals as a group, such group does not beneficially own more than 1% of the outstanding securities of such class.
5. INSURED, whenever used in this policy means:

- a. the Named Insured, defined as the partnership or corporation (hereinafter known as the Firm) or individual named in Item 1 of the Declarations;
  - b. any person who is not defined as Named Insured, but was, is now, or hereafter becomes an officer, director, partner, or employee of the Firm;
  - c. any former partner, officer, director or employee of the Firm or Predecessor Firm(s) but solely for those Professional Services rendered and completed on behalf of such Firm(s);
  - d. any partner, officer, director or employee of the Firm or predecessor Firm(s) who has retired, but only for those Professional Services rendered and completed prior to the date of retirement from the Insured Firm;
  - e. as respects the liability of each Insured as is otherwise covered herein, the heirs, executors, administrators, assigns and legal representatives of each Insured in the event of death, incapacity or bankruptcy.
6. PERSONAL INJURY, whenever used in this policy, means:
- a. humiliation, malicious prosecution, abuse of process, wrongful entry or eviction or other invasion of private occupancy;
  - b. the publication or utterance of a libel or slander or other defamatory or disparaging material, or a publication or an utterance in violation of an individual's right of privacy.
7. POLICY PERIOD, whenever used in this policy, means the period from the inception date of this policy to the policy expiration date as set forth in the Declarations or its earlier termination date, if any.
8. PREDECESSOR FIRM(S), whenever used in the policy, means any firm or corporation engaged in providing Professional Services to whose financial assets and liabilities the firm listed as "Named Insured" in the Declarations is the majority successor in interest.
9. PROFESSIONAL SERVICES, whenever used in this policy, means the services rendered or that should have been rendered for others solely in the conduct of the Insured's Profession as stated in ITEM 6 of the Declarations.
10. RELATED INDIVIDUAL, whenever used in this policy means the spouse, former spouse, children, grandchildren, parents and siblings of an Insured and any trust or estate of which any of them is a beneficiary. With respect to a professional corporation which is an Insured, "Related Individual" includes a Related Individual of each owner of such professional corporation.

### **LIMIT OF LIABILITY**

Regardless of the number of Insureds under this policy, the number of persons or organizations sustaining injury or damage or the number of Claims made, the Company's liability, including Claims Expenses is limited as follows:

- 1. EACH CLAIM - the most the Company will pay for all Damages and Claim Expenses arising out of the same act, omission - is the amount stated in the Declarations applicable to each Claim. All Claims arising out of the same, related and/or continuing act or omission will be deemed to have been made when the first of such Claims is made.
- 2. AGGREGATE - the most the Company will pay for all Damages and Claim Expenses during this Policy Period plus the Extended Reporting Period is the amount shown in the Declarations as Annual Aggregate.

### **LIMIT OF LIABILITY REINSTATEMENT**

However, in addition to the foregoing, in consideration of an additional premium, any reduction in the Limit of Liability may be reinstated, at the option of the Company, from the date that the Claim giving rise to such reduction was first made against the Insured.

All Claims arising out of the same act or omission or related acts or omissions covered hereunder shall be considered a single Claim. The Company's total liability in respect of all reinstatements during any one Policy Period shall not exceed the Limit of Liability as stated in the Declarations. The additional premium in respect of any reinstatement shall be determined by the Company at such time as the Insured requests reinstatement.

## EXCLUSIONS

THE COMPANY SHALL NOT BE OBLIGATED TO DEFEND OR INDEMNIFY ANY INSURED FOR, AND THIS INSURANCE DOES NOT APPLY:

- a. to any Claim based on or arising out of any criminal act, or omission committed by an Insured or any dishonest, fraudulent or malicious act(s), or omission(s) committed by an Insured with actual, dishonest or fraudulent purpose or intent or with malice. As used herein, "malice" means conduct which is intended by the Insured to cause injury or conduct which is carried on by the Insured with conscious disregard of the rights or safety of others;
- b. to any Claim made by an Insured or a present, former or prospective employer, partner, officer, director, owner, stockholder or employee or Related Individual of any Insured;
- c. to any Claim, or any portion of a Claim, for emotional distress, mental illness, humiliation, bodily injury, sickness, disease, or death of any person or injury to, conversion of, or destruction of, any tangible property or to the loss of use thereof;
- d. to any Claim arising out of any express warranties or guaranties or costs exceeding estimates made in connection with Professional Services;
- e. to any Claim arising as a result of the insolvency of any Insured;
- f. to any Claim brought about or contributed to by any inability or failure to pay or collect money;
- g. to any Claim brought by any employee or former employee, any independent contractor, independent agent or independent broker arising out of a contract of employment with the Insured and alleging breach thereof;
- h. to any Claim arising out of any injury or Damage which the Insured either expected or intended;
- i. to any Claim arising out of libel, slander, defamation of character, false arrest or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, or publications or utterances in violation of any individual's right of privacy, or malicious prosecution;
- j. to any Claim brought by or on behalf of an investor, shareholder, Related Individual or partner in any syndication, limited or general partnership real estate trust or venture in which any Insured has, or had a participating interest directly or indirectly in the profits or losses thereof;
- k. to any Claim arising out of services by any Insured which are subject to the Employee Retirement Income Security Act of 1974 as amended;
- l. to any Claim arising out of any violation of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or any State Blue Sky or Securities Law or similar state or federal statutes, unless endorsed hereon;

- m. to any Claim arising out of the conversion, misappropriation, commingling, or defalcation of funds of other property;
- n. to any Claim based upon, arising out of, or involving in any way, the actual or alleged intentional or negligent violation of any federal, state or local law or statute or common law pertaining to unfair labor practices, discrimination, equal employment opportunity, sexual harassment or wrongful termination of employment (which includes, but is not limited to, claims for breach of employment contract, tortious termination of employment and bad faith termination of employment) which results in alleged or actual defamation, humiliation, bodily injury, death, sickness, emotional distress, harassment or any other damages allegedly suffered by an employee, a former employee or by the spouse, child, parent, brother or other relative or dependent of any such employee or former employee;
- o. to any Claim arising out of liability assumed by any Insured under any indemnity, hold harmless or similar provisions or agreements, but this exclusion does not apply to liability the Insured would have in the absence of such agreements;
- p. to any Claim or suit seeking non-pecuniary relief;
- q. to any Claim for punitive or exemplary Damages or any cost related to a Claim for such Damages, including, but not limited to, investigation, legal or defense costs incurred as a result of a claim made against an Insured under the policy;
- r. to any Claim directly or indirectly, arising from, based upon or related to:
  - 1. asbestos or any asbestos-related injury or Damage; or
  - 2. any alleged act, error, omission or duty involving asbestos, its use, exposure, presence, existence, detection, removal, elimination or avoidance; or
  - 3. the use, exposure, presence, detection, removal, elimination or avoidance of asbestos in any environment building or structure;
- s. to any Claim proceeding or suit brought by any government or quasi-governmental regulatory agency partly or wholly seeking to impose disciplinary action, including but not limited to reprimand, suspension or disbarment, injunctive relief, criminal sanctions, statutory fines or incidental damages.
- t. to any Claim which arises out of, relates to, or is based upon, the dispersal, discharge, escape, release or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material irritant, contaminant or pollutant in or into the atmosphere, or on, onto, upon, in or into the surface or the subsurface of:
  - 1. soils;
  - 2. water or watercourses;
  - 3. objects;
  - 4. any tangible or intangible matter; whether sudden or not;
- u. to any Claim:

1. based upon, arising out of, or involving in any way, the unauthorized access to, or use of any electronic system;
  2. based upon, arising out of, or involving in any way, the guaranteeing of the availability of funds, or specified rate of return and/or interest;
  3. arising from the failure to advise, require or obtain any form of insurance, suretyship or bond;
  4. arising from any product(s) manufactured, sold or supplied by any Insured, or supplied by others under license from any Insured;
  5. arising from the ownership, maintenance or use of an aircraft, boat, automobile, truck, trailer or any other equipment;
  6. arising out of electronic data processing services performed for others by any Insured except such services which are incidental to and part of the Insured's professional activities;
- v. to any Claim arising from the performance of services not customary for the Insured's profession as stated in Item 6 of the Declarations.
- w. to any Claim made against or by any business enterprise (other than the Named Insured), not for profit organization (including a charity), or pension, welfare, profit sharing, mutual or investment plan or trust not named in the Declaration in which any Insured or Related Individual is a director, officer, employee, trustee, administrator, partner, manager or with respect to which any Insured or Related Individual has any ownership interest (whether through ownership of stock, partnership shares or otherwise), unless such interest consists solely of an Incidental Interest in Publicly Traded Securities.

## **GENERAL CONDITIONS**

1. **POLICY TERRITORY:** The insurance afforded applies worldwide provided Claim is made and suit is brought against the Insured within the United States of America, its territories or possessions, or Canada.
2. **DISCOVERY PERIOD:** If, during the Policy Period the Insured first becomes aware that an Insured has committed a specific act or omission in Professional Services for which coverage is provided hereunder, and if the Insured shall during the Policy Period give written notice to the Company of:
  - a. the specific act or omission; and
  - b. the injury or Damage which has resulted or may result from such act or omission; and
  - c. the circumstance by which the Insured first became aware of such act or omission,

then any Claim which may be subsequently made against the Insured arising out of such act or omission shall be deemed for the purpose of this insurance to have been made during the Policy Period. The Insured shall cooperate fully with the Company as provided in Condition Number 6 and any investigation conducted by the Company or its representatives shall be subject to the terms set forth in the policy.
3. **EXTENDED REPORTING PERIOD:** In case of cancellation or non-renewal of this policy by the Company for any reason other than nonpayment of all premiums and/or deductibles when due, the Named Insured shall have the right, upon payment of the additional premium set forth below and all outstanding deductibles, within thirty (30) days prior to the termination date, to have issued an endorsement providing a one year Extended Reporting period, as determined below, to report Claims first made during the Extended Reporting Period resulting from an act or

omission in professional Services rendered, occurring or alleged to have occurred prior to the termination date or otherwise covered by the policy. The additional premium shall be as follows:

- a. if the policy is terminated after the inception date of this policy, the Insured may purchase a 12 month Extended Reporting Period as set forth above for an additional premium equal to 150% of the full annual premium for this policy.

This coverage may be renewable annually at the expiration of the Extended Reporting Period at the option of the Company, upon payment of an additional premium to be determined by the Company.

4. **OPTIONAL EXTENDED REPORTING PERIOD:** The Insureds shall have the right, upon payment of an additional premium calculated at 10% of the annual premium, to an extension of the cover granted by this policy in respect of any claim or claims made against the Insureds during the period of thirty (30) days after the expiration date of the policy as set forth in Item 2 of the Declarations, but only in respect of any error or omission committed before such expiration date. Such right hereunder must be exercised by the Insured(s) by notice in writing prior to the expiration date of the policy and the additional premium due must be received prior to the expiration of the policy. If such notice is not given and/or the additional premium is not paid prior to the expiration of the policy, the Insureds shall not be able to exercise such right at a later date.
5. **DEDUCTIBLE:** The Insured's obligation to pay the Deductible amount as a result of any single Claim shall not exceed the amount stated in the Declarations as Deductible each Claim. The Company's obligation is to pay on behalf of the Insured Damages resulting from a Claim which is in excess of the Deductible amount stated in the Declarations.

The Company may pay any part of or all of the Deductible amount to effect settlement of any claim or suit. Upon notification of any action taken, the Named Insured shall promptly reimburse the Company for such part of or all of the Deductible amount as has been paid by the Company.

6. **INSURED'S DUTIES IN THE EVENT OF A CLAIM:**
  - a. the Insured shall, as soon as practicable after a Claim is made, give written notice thereof to the Company. Such written notice shall contain particulars sufficient to identify the Insured and also shall provide reasonably obtainable information with respect to the time, place and underlying circumstances of the claim.
  - b. the Insured shall not admit any liability, make any payment, assume any obligation, or incur any expense, related to such Claim, except with the prior written consent of the Company.
  - c. when Claim is made against the Insured, the Insured shall immediately forward to the Company every demand, notice, summons or other process received by him or his representative.
  - d. the Insured shall cooperate with the Company and upon the Company's request shall submit to examination and interrogation by a representative of the Company under oath if required. The Insured shall attend hearings, depositions and trials and shall assist in effecting settlement, securing and giving evidence and obtaining the attendance of witnesses and in the conduct of suits. The Insured shall also give a written statement or statements to the Company's representatives and shall meet with such representatives for the purpose of investigation and/or defense all without charge to the Company. The Insured shall further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity contribution or apportionment which the Insured may have.
  - e. the Insured shall not demand or agree to arbitration of any Claim made against the Insured without the written consent of the Company and such consent shall not be unreasonably withheld.
7. **SUBROGATION:** In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery against any person or organization and the Insured shall execute and deliver instruments

and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.

8. **CHANGES:** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed except by endorsement issued to form a part of this policy.
9. **ACTION AGAINST COMPANY:** No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay has been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement, shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Nothing in the policy shall give any person or organization any right to join the Company as a codefendant in any such action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative.

Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

10. **MERGERS AND ACQUISITIONS:** In the event of a merger or acquisition involving the Named Insured, it is a condition of this policy to the continuation of coverage that the Insured shall notify the Company within thirty (30) days of such merger or acquisition.

Should such merger or acquisition result in a material change in the business of the Named Insured, the Company shall be entitled to renegotiate the premium of this policy.

Failure of the Named Insured to notify the Company of any merger or acquisition could result in any merged and/or acquired firm being excluded from coverage provided by this policy.

11. **CANCELLATION OR NON RENEWAL:** This policy may be canceled by the Named Insured by surrender thereof to the Company at its address stated the Declarations or by mailing to the aforementioned written notice stating when thereafter such cancellation shall be effective. If canceled by the Insured the Company shall retain the customary short rate proportion of the premium. The policy may be canceled by the Company by mailing to the Insured at the Insured's address shown in the Declarations written notice stating when, not less than 60 days thereafter, such cancellation shall be effective, except for nonpayment of premium or deductible.

In the event of the failure of the Insured to pay the premium or deductible when due, this policy may be canceled by the Company by mailing to the Named Insured written notice stating when, not less than ten (10) days thereafter, such cancellation shall be effective.

In the event the Company refuses to renew this policy, the Company shall mail to the Named Insured, not less than sixty (60) days prior to the expiration of this policy, written notice of non-renewal. Such notice shall be conclusive on all Insureds.

The mailing of notice of cancellation or non-renewal as aforementioned shall be sufficient notice and the effective date of cancellation or non-renewal stated in any notice shall become the end of the Policy Period. Delivery of such written notice by the Named Insured or the Company shall be equivalent to mailing.

If canceled by the Company earned premium shall be computed pro-rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter.

12. CONFORMITY TO STATUTES: Any term of this policy which is in conflict with the statutes of the state wherein this policy is issued is hereby amended to conform to such statutes.
13. FIRST NAMED INSURED: If there is more than one Insured covered by this policy, the first Named Insured shall act for all Insureds. Notice of cancellation will be sent only to the first Named Insured and will serve as notice to all Insureds.
14. ASSIGNMENT: Assignment of interest under this Policy shall not bind the Company unless its consent is endorsed hereon.
15. OTHER INSURANCE: This insurance is excess over any other valid and collectible insurance available to the Insured.
16. AUTHORIZATION CLAUSE: By acceptance of this policy, the Insured agrees that the statements in the application are his/her agreements and representations, that they are deemed material and that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself / herself and the Company or any of its agents relating to this insurance.
17. LIABILITY COVERAGE DISPUTES - RESERVATION OF RIGHTS - REIMBURSEMENT OF CLAIMS EXPENSES: In the event a dispute or controversy exists between the Insured and the Company with respect to whether insurance coverage and a duty to defend exists with respect to a Claim submitted by the Insured under the Coverage sections of this policy, and the Company elects to provide a defense (either using its own counsel or independent counsel selected by the Insured) under a Reservation of Rights whereby the Company reserves its rights to deny and reject any Claim for indemnity by the Insured with respect to such Claim, and in the event it is finally established that the Company has no liability hereunder with respect to such Claim, the Insured shall repay to the Company upon demand, all sums and monies paid by the Company as Claims Expense in defending against such Claim.
18. FALSE OR FRAUDULENT CLAIMS: If any Insured shall commit fraud in presenting any Claim(s) as to amount or otherwise, this Insurance shall become void as to such Insured from the date such fraudulent Claim is presented.

**NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT  
(BROAD FORM)**

It is agreed that the policy does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction
- (a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
  - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.
- III. Under the Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material if
- (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
  - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.
- IV. As used in this endorsement:
- "hazardous properties" include radioactive, toxic or explosive properties;
- "nuclear material" means source material, special nuclear material or byproduct material;
- "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
- "waste" means any waste material:
- (1) containing byproduct 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
  - (2) 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 designed or 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 consist 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;
- "insured" means the persons and organizations set forth in Definitions Clause 1(a) and 1(b) of the policy to which this endorsement is attached;

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

Endorsement No. 1

### PENDING OR PRIOR LITIGATION AND PRIOR KNOWLEDGE EXCLUSION

It is understood and agreed that the Underwriter and/or the Company shall not be liable to make any Payment under this Policy or Certificate in connection with any claim(s) arising from:

- A. any claim or litigation against any Insured (s) occurring prior to, or pending as of the inception date of this Policy or Certificate including (but not limited to) claims, demands, causes of action, legal or quasi-legal proceedings, decree or judgments of which any Insured(s) had received notice or otherwise had knowledge as of such date;
- B. any act or omission occurring prior to the inception date of this Policy or Certificate if on or before the inception date of this Policy or Certificate, any Insured knew or could have reasonably foreseen that such an act or omission could lead to a claim or suit;
- C. any act or omission occurring during this Policy or Certificate term or during the Extended Reporting Period (if purchased by the Insured) which relates to an act or omission or is a continuation of a series of acts or omissions occurring prior to the inception date of this Policy or Certificate which the Insured knew or could have reasonably foreseen that such acts or omissions could lead to a claim or suit;
- D. any subsequent litigation or claim arising from, or based on substantially the same matters as alleged in the pleadings of such prior or pending litigation, or acts of omissions described in A., B., & C. above.
- E. any act or omission of any Insured(s) which gave rise to such prior or pending litigation or claims.

Endorsement No. 2 (9/96)

CERTIFICATE ISSUANCE AGREEMENT

All words or terms used in this Policy and in endorsements attached hereto, for which meanings are not specified or otherwise provided by the provisions hereof, shall, in so far as applicable, have meanings that accord with the best custom and usage in the insurance industry.

It is further understood and agreed that this Policy would not have been issued without the prior acceptance by the Insureds of the Policy wording and all endorsements attached hereto.

Endorsement No. 3