

UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

THIS FORM PROVIDES CLAIMS-MADE COVERAGE.
PLEASE READ THE ENTIRE FORM CAREFULLY.

COVERAGE A OF THIS POLICY PROVIDES BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE ON A CLAIMS-MADE BASIS. COVERAGE B OF THIS POLICY PROVIDES CORRECTIVE ACTION COSTS COVERAGE ON AN INCIDENT-REPORTED BASIS.

THIS POLICY PROVIDES PAYMENTS FOR DEFENSE EXPENSE WHICH ARE LIMITED UNDER THE PROVISIONS OF DEFENSE EXPENSE PAYMENTS (PARAGRAPH 2. OF SECTION III).

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. The phrase "first Named Insured" means the first person or organization listed as a Named Insured in the Declarations.

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

SECTION I – UNDERGROUND STORAGE TANK COVERAGE

1. Insuring Agreement

a. Coverage A – Bodily Injury And Property Damage Liability

- (1) We will pay those sums that the insured becomes legally obligated to pay as compensatory damages because of "bodily injury" or "property damage" to which this insurance applies.
- (2) This insurance applies to "bodily injury" and "property damage" only if:
 - (a) The "bodily injury" or "property damage" is caused by an "underground storage tank incident" that commences on or after the Retroactive Date shown in the Declarations of this policy and before the end of the policy period;
 - (b) The insured's responsibility to pay damages because of "bodily injury" or "property damage" is determined in a "suit" on the merits in the "coverage territory" or in a settlement we agree to; and

- (c) A claim for damages because of the "bodily injury" or "property damage" is first made against any insured, in writing, in accordance with Paragraph (3) below, during the policy period or any Extended Reporting Period we provide under Section V – Extended Reporting Periods.
- (3) A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - (a) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or
 - (b) When we make a settlement in accordance with Paragraph 3. below.All claims for damages because of "bodily injury" to the same person, including damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury", will be deemed to have been made at the time the first of those claims is made against any insured.
All claims for damages because of "property damage" causing loss to the same person or organization as a result of an "underground storage tank incident" will be deemed to have been made at the time the first of those claims is made against any insured.
- (4) The amount we will pay for damages because of "bodily injury" or "property damage" or for "corrective action costs" (Coverage B) is limited as described in Paragraph 1. of Section III – Limits Of Insurance.

b. Coverage B – Corrective Action Costs

- (1) We will pay those sums the insured becomes legally obligated to pay for "corrective action costs" to which this insurance applies as a result of an "underground storage tank incident".
- (2) This insurance applies only if:
 - (a) An "underground storage tank incident" commences on or after the Retroactive Date shown in the Declarations of this policy and before the end of the policy period; and
 - (b) Such "underground storage tank incident" is reported in writing, in accordance with Paragraph (3) below, during the policy period or any Extended Reporting Period we provide under Section V – Extended Reporting Periods.
- (3) An "underground storage tank incident" will be considered reported at the earliest time:
 - (a) You report to us, in writing, an "underground storage tank incident";
 - (b) You report to an "implementing agency", in writing, an "underground storage tank incident"; or
 - (c) You receive a written notice from an "implementing agency" which requests or demands that you take action due to an "underground storage tank incident".
- (4) The amount we will pay for damages because of "bodily injury" or "property damage" (Coverage A) or for "corrective action costs" is limited as described in Paragraph 1. of Section III – Limits Of Insurance.

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.
- 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 that the insured would have in the absence of the contract or agreement.
- c. Workers' Compensation And Similar Laws**
Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.
- d. 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:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

e. 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; or
- (4) Personal property in the care, custody or control of the insured.

f. Failure To Comply With Environmental Laws

"Bodily injury", "property damage" or "corrective action costs" arising out of an "underground storage tank incident" which results from or is directly or indirectly attributable to failure to comply with any applicable statute, regulation, ordinance, directive or order relating to the protection of the environment and promulgated by any governmental body, provided that failure to comply is a willful or deliberate act or omission of:

- (1) The insured; or
- (2) You or any of your members, managers, partners or "executive officers".

g. Corrective Actions

"Corrective action costs" or any other expenses:

- (1) Resulting from any "underground storage tank incident" which is intended from the standpoint of the insured;
- (2) Resulting from actions taken to report, investigate or confirm a "release";
- (3) To repair, replace or upgrade any "insured tank";
- (4) Which are fines or penalties imposed by a federal, state or local governmental authority;
- (5) To replace the contents of an "insured tank"; or

- (6) Which are part of your restoration, enhancement or routine maintenance of any "insured tank" or of the site where any "insured tank" is located.

h. 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.

i. 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.

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.

3. Our Right And Duty To Defend

We will have the right and duty to defend the insured against any "suit" seeking damages because of "bodily injury" or "property damage" to which this insurance applies, or seeking the payment of "corrective action costs" to which this insurance applies, and to pay or reimburse for "defense expense" as provided under Paragraph 2. of Section III – Limits Of Insurance and Defense Expense Amount and Paragraph 4. – Defense Expense Payments below.

However, we will have no duty to defend the insured against, or to pay or reimburse for "defense expense" for, "suits" seeking damages, or seeking the payment of "corrective action costs", not covered by this policy.

We may at our discretion investigate any "underground storage tank incident" and settle any "suit" or claim for "bodily injury", "property damage" or "corrective action costs" that may result.

Our duty to defend and to pay or reimburse for "defense expense" is limited as described in Paragraph 2. of Section III – Limits Of Insurance and Defense Expense Amount and Paragraph 4. – Defense Expense Payments below and ends at the earlier of the following times:

- a. When we have used up the applicable limit of insurance in the payment of judgments or settlements, or payments or reimbursements for "corrective action costs"; or

- b. When we have used up the Defense Expense Amount in payments or reimbursements of "defense expense".

This applies both to claims or "suits" pending at that time and those filed thereafter.

4. Defense Expense Payments

"Defense expense" payments or reimbursements are subject to the Defense Expense Amount shown in the Declarations of this policy. This applies even if, by mutual agreement or court order, the insured assumes control of the defense of a "suit" before the Limit Of Insurance or the Defense Expense Amount is used up. If no Defense Expense Amount is shown in the Declarations of this policy, the Defense Expense Amount shall be equal to the Aggregate Limit shown in the Declarations of this policy. If the insured assumes control of the defense before the Defense Expense Amount is used up, we will reimburse the insured, or pay, for reasonable "defense expense", but only up to the remaining Defense Expense Amount then available.

5. Supplementary Payments

We will pay, with respect to any claim we investigate or settle or any "suit" against an insured we defend, or any claim or "suit" to which this insurance applies and for which an applicable limit of insurance is available for payment of damages or "corrective action costs":

- a. 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.
- b. Expenses incurred by the insured for first aid administered to others at the time of an "underground storage tank incident" for "bodily injury" to which this insurance applies.
- c. 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.

These amounts will not reduce the Limits Of Insurance or Defense Expense Amount as provided under Section III. 6. No Other Obligation Or Liability No other obligation or liability to pay sums or to perform acts or services is covered unless explicitly provided for in this policy.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations of this policy 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.
2. Each of the following is also an insured:
- a. 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" is an insured for:
 - (1) "Bodily 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), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above; or
 - (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 Paragraphs (1)(a) or (b) above.
 - (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", 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 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.

- 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 policy.

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 of this policy.

SECTION III—LIMITS OF INSURANCE AND DEFENSE EXPENSE AMOUNT

1. Limits Of Insurance

- a. The Limits Of Insurance shown in the Declarations of this policy and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) Persons or organizations making claims or bringing "suits";
 - (3) Claims made or "suits" brought; or
 - (4) Requests or demands made by "implementing agencies" seeking "corrective action costs" or requiring action by you.
- b. The Aggregate Limit is the most we will pay for the sum of:
 - (1) All damages because of all "bodily injury" and "property damage"; and
 - (2) All "corrective action costs".
- c. We will pay damages and "corrective action costs" only for the amount of damages or "corrective action costs" which are in excess of the deductible amount, if any, shown in the Declarations. Subject to the Aggregate Limit above, the most we will pay in any one "underground storage tank incident" for the sum of:
 - (1) All damages because of all "bodily injury" and "property damage"; and
 - (2) All "corrective action costs" will be the lesser of the each "Underground Storage Tank Incident" Limit or the sum of those damages and "corrective action costs".

If the sum of damages and "corrective action costs" is less than the "Underground Storage Tank Incident" Limit, we will pay all of any deductible amount, if applicable, to effect settlement of any claim or "suit". Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid. Each payment we make for damages or for "corrective action costs" reduces both the "Underground Storage Tank Incident" Limit and the Aggregate Limit.

The Limits Of Insurance of this policy 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.

2. Defense Expense Amount

- a. The Defense Expense Amount as described in Paragraph 4. of Section I – Defense Expense Payments is the most we are obligated to pay for "defense expense", regardless of the number of:
- (1) Insureds;
 - (2) Persons or organizations making claims or bringing "suits";
 - (3) Claims made or "suits" brought; or
 - (4) "Underground storage tank incidents".
- b. Each payment or reimbursement we make for "defense expense" reduces the Defense Expense Amount but will not reduce the Limits Of Insurance.
- c. The Defense Expense Amount is not subject to a deductible, if applicable.
- d. The Defense Expense Amount applies 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 Defense Expense Amount.

SECTION IV – CONDITIONS

1. Bankruptcy

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

2. Duties In The Event Of An Underground Storage Tank Incident

- a. You must see to it that we are notified promptly of an "underground storage tank incident" which may result in a claim, request, demand or proceeding to impose an obligation on the insured for damages because of "bodily injury" or "property damage" or for "corrective action costs". Notice should include:
- (1) How, when and where the "underground storage tank incident" took place;

- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury, damage or "release".

Notice of an "underground storage tank incident" is not notice of a claim under Coverage A (Section I). Notice of an "underground storage tank incident" is not a report of an "underground storage tank incident" under Coverage B (Section I) unless such notice meets the reporting requirement provided in Paragraph 1.b.(3) under Coverage B (Section I).

- b. If a claim is made or "suit" is brought against any insured, or if a request or demand is received from an "implementing agency" requiring action by you, because of an "underground storage tank incident", you must see to it that we receive prompt written notice of such claim, "suit", request or demand.
- c. In connection with an "underground storage tank incident", you and any other involved insured must:
 - (1) Immediately send us copies of any requests, 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", request or demand; 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. With respect to Coverage A, 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 policy:

- 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 under this policy 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 or for "corrective action costs" that are not payable under the terms of this policy 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 this policy, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. When 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 **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 Declarations of this policy and applies to "bodily injury" or "property damage" on other than a claims-made basis or "corrective action costs" on other than an incident-reported basis, if:

- (a) No Retroactive Date is shown in the Declarations of this policy; or
- (b) The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this policy.

(2) When this insurance is excess, we will have no duty under Section I – Underground Storage Tank Coverage 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 and the Defense Expense Amount under this policy has not been used up, we will undertake to provide a defense in accordance with the provisions of Paragraph 3. of Section I – Underground Storage Tank Coverage. However, 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 policy.

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 policy in accordance with our rules and rates.
- b. Premium shown in this policy 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 of this policy 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, the Defense Expense Amount, and any rights or duties specifically assigned in this policy 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 policy, 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. Policy Issued To Comply With Law Or Regulation

When requested, we agree to furnish to the director of the "implementing agency" a signed duplicate original of this policy and all endorsements issued with this policy.

10. Cancellation

- a. The first Named Insured may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by sending by certified mail, or delivering, to you a written notice at your last mailing address known to us. Cancellation will be effective:
 - (1) 10 days after you receive notice of cancellation if we cancel for nonpayment of premium or misrepresentation by you; or
 - (2) 60 days after you receive notice of cancellation if we cancel for any other reason,unless we specify a later date in our notice as the effective date of cancellation.
- c. 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.

11. Nonrenewal

If we decide not to renew this policy, we will send written notice of nonrenewal to you at least 60 days before the end of the policy period. We will send our nonrenewal notice by certified mail, or deliver it, to you at your last mailing address known to us.

12. Financial Responsibility And Reimbursement

If this policy is issued to certify your compliance with the Federal Environmental Protection Agency financial responsibility requirements imposed on you as an owner or operator of an "insured tank", we will comply with such financial responsibility requirements. You agree to reimburse us for any payment made by us on your behalf which we would not have been obligated to make under the terms of this policy but for the agreement contained in the first sentence of this condition.

13. 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.

14. Inspections And Surveys

- a. We have the right, but are not obligated, to:
 - (1) Make inspections and surveys at any time;
 - (2) Give you reports on the conditions we find; and
 - (3) Recommend changes.

- b. Any inspections, surveys, reports or recommendations 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:

- (1) Are safe or healthful; or
- (2) Comply with laws, regulations, codes or standards.

- c. This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

15. Premiums

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premium we pay.

16. If You Are Permitted To Retain Defense Counsel

If by mutual agreement or court order the insured is given the right to retain defense counsel and neither the Limit Of Insurance nor the Defense Expense Amount has been used up, the following provisions apply:

- a. We retain the right, at our discretion, to:
 - (1) Settle, approve or disapprove the settlement of any claim or "suit"; and
 - (2) Appeal any judgment, award or ruling at our expense.
- b. You and any other involved insured must:
 - (1) Continue to comply with the Duties In The Event Of An Underground Storage Tank Incident Condition (Paragraph 2. of this section) as well as the other provisions of this policy; and
 - (2) Direct defense counsel of the insured to:
 - (a) Furnish us with the information we may request to evaluate "suits" under this policy for those "suits"; and
 - (b) Cooperate with any counsel we may select to monitor or associate in the defense of those "suits".

17. Transfer Of Duties When A Limit Of Insurance Or The Defense Expense Amount Is Used Up

- a. If we conclude that, based on "underground storage tank incidents", claims or "suits" which have been reported to us and to which this insurance may apply:
 - (1) A limit of insurance is likely to be used up in the payment of judgments or settlements for damages or in the payment of "corrective action costs"; or

- (2) The Defense Expense Amount is likely to be used up in the payment or reimbursement of "defense expenses", we will notify the first Named Insured, in writing, to that effect.
- b. When either of the following has occurred:
- (1) A limit of insurance has actually been used up in the payment of judgments or settlements for damages or in the payment of "corrective action costs"; or
 - (2) The Defense Expense Amount has actually been used up in the payment or reimbursement of "defense expenses", we will:
 - (a) Notify the first Named Insured in writing, as soon as practicable, that:
 - (i) Such a limit has actually been used up and that our duty to defend the insured against "suits" seeking damages subject to that limit has also ended; or
 - (ii) The Defense Expense Amount has actually been used up and that our duty to defend the insured against any "suit" seeking damages has ended,
 whichever is applicable.
 - (b) Initiate, and cooperate in, the transfer of control, to any appropriate insured, of all:
 - (i) Claims; and
 - (ii) "Suits" for which the duty to defend has ended for the reason described in **b.(1)** or **b.(2)** above and which are reported to us before that duty to defend ended.
 - (c) Take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.
- c. When either **b.(1)** or **b.(2)** above has occurred, the first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must:
- (1) Cooperate in the transfer of control of claims and "suits"; and
 - (2) Arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.
- d. We will take no action with respect to defense for any claim or "suit" if such claim or "suit" is reported to us after:

- (1) The applicable limit of insurance has been used up, even if the Defense Expense Amount has not been used up; or
- (2) The Defense Expense Amount has been used up, even if the limit of insurance has not been used up.

When either **d.(1)** or **d.(2)** above has occurred, it becomes the responsibility of the first Named Insured, and any other insured involved in such a claim or "suit", to arrange defense for such claim or "suit".

The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph **b.** above.

The duty of the first Named Insured to reimburse us will begin on:

- (1) The date on which the applicable limit of insurance is used up, if we sent notice in accordance with Paragraph **a.** above; or
 - (2) The date on which we sent notice in accordance with Paragraph **b.** above, if we did not send notice in accordance with Paragraph **a.** above.
- f. If a limit of insurance is available for payment of damages or "corrective action costs", and if our duty to defend the insured against "suits" and to pay "defense expenses" has ended because we have used up the Defense Expense Amount and we have transferred the control of defense of "suits" to you, the following provisions apply:
- (1) We retain the right, at our discretion, to appeal any judgment, award or ruling at our expense.
 - (2) You and any other involved insured must:
 - (a) Continue to comply with the Duties In The Event Of An Underground Storage Tank Incident Condition as well as the other provisions of this policy; and
 - (b) Direct defense counsel of the insured to:
 - (i) Furnish us with the information we may request to evaluate "suits" and coverage under this policy for those "suits"; and
 - (ii) Cooperate with any counsel we may select to monitor or associate in defense of those "suits".
 - (3) You have the right to settle any outstanding or additional claims or "suits". However, our obligation to pay for such a settlement is limited to the amount within or up to the available limit of insurance.
- g. The exhaustion of:
- (1) Any limit of insurance by the payment of:
 - (a) Judgments or settlements for damages; or
 - (b) "Corrective action costs"; or

- (2) The Defense Expense Amount by the payment or reimbursement of "defense expenses", and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

SECTION V – EXTENDED REPORTING PERIODS

1. We will provide one or more Extended Reporting Periods, as described below, if:
 - a. This policy is cancelled or not renewed; or
 - b. We renew or replace this policy with insurance that:
 - (1) Has a Retroactive Date later than the date shown in the Declarations of this policy; or
 - (2) Does not apply to "bodily injury" or "property damage" on a claims-made basis or "corrective actions costs" on an incident-reported basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for:
 - a. "Bodily injury" or "property damage" caused by; and
 - b. "Corrective action costs" which result from an "underground storage tank incident" that commenced before the end of the policy period, but not before the Retroactive Date, if any, shown in the Declarations.

Once in effect, Extended Reporting Periods may not be cancelled.
3. A Basic Extended Reporting Period is automatically provided, unless you choose to purchase a Supplemental Extended Reporting Period. When provided, there is no additional charge for the Basic Extended Reporting Period. The Basic Extended Reporting Period starts with the end of the policy period and lasts for six months. This period does not apply to claims for "bodily injury" or "property damage" or for "corrective action costs" that:
 - a. Are covered under any subsequent insurance you purchase; or
 - b. Would be covered but for the exhaustion of the applicable amount of either the limits of that subsequent insurance or the subsequent defense expense amount.

The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance or the Defense Expense Amount or extend the policy period.

4. **Optional Supplemental Extended Reporting Period Endorsement**
 - a. A Supplemental Extended Reporting Period of two years is available as an option, but only by an endorsement and for an additional charge. This supplemental period starts with the end of the policy period. If the Supplemental Extended Reporting Period is purchased, the Basic Extended Reporting Period does not apply.

- b. You must notify us in writing of your intent to purchase the Supplemental Extended Reporting Period:
 - (1) Prior to either the end of the policy period or the date of termination, whichever comes first, if we cancel or nonrenew this policy for a reason for which we give less than 60 days' notice.
 - (2) No less than 30 days prior to either the end of the policy period or the date of termination, whichever comes first, if we cancel or nonrenew this policy for a reason for which we give 60 days' or more notice.
 - (3) At the same time that you notify us of your intent to cancel or nonrenew the policy, if you cancel or nonrenew this policy.

The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.
- c. The insurance provided under the Supplemental Extended Reporting Period Endorsement will be excess over any other valid and collectible insurance available to the insured, whether primary, excess, contingent or on any other basis, whose policy period begins or continues after the endorsement takes effect. Paragraph 4.b. of Other Insurance in Section IV – Conditions will be amended accordingly.
- d. If the Supplemental Extended Reporting Period is in effect, we will provide the Supplemental Aggregate Limit and a Supplemental Defense Expense Amount as described below, but only for claims first received and recorded under Coverage A and incidents reported under Coverage B during the Supplemental Extended Reporting Period.

The Supplemental Aggregate Limit Of Insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for the Aggregate Limit. The Supplemental Defense Expense Amount will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for the Defense Expense Amount. Paragraphs 1.b. and 2. of Section III – Limits Of Insurance And Defense Expense Amount will be amended accordingly.

SECTION VI – DEFINITIONS

1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
2. "Corrective action costs" means reasonable and necessary expenses incurred by you in response to a confirmed "underground storage tank incident" for corrective action as specified in 40 CFR Sections 280.60-280.67 and 40 CFR Section 280.72 promulgated by the Federal Environmental Protection Agency (EPA).

3. "Coverage territory" means the United States of America (including its territories or possessions), Puerto Rico and Canada.
4. "Defense expense" means payments allocated to a specific claim or "suit" we investigate, settle or defend, for its investigation, settlement or defense, including:
- Fees and salaries of attorneys and paralegals we retain, including attorneys and paralegals who are our "employees".
 - Fees of attorneys the insured retains when by mutual agreement or court order the insured is given the right to retain defense counsel to defend a "suit".
 - All other litigation expenses.
 - 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.
 - Costs taxed against the insured in the "suit". "Defense expense" does not include salaries and expenses of our "employees" or the insured's "employees" (other than those described in a. and d. above) and does not include fees and expenses of independent adjusters we hire.
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, by-laws or any other similar governing document.
7. "Implementing agency" means the Federal Environmental Protection Agency (EPA), or, in the case of a state with a program approved under section 6991c of the Hazardous and Solid Waste Amendments of 1984, as amended (or pursuant to a memorandum of agreement with the EPA) the designated state or local agency responsible for carrying out an approved underground storage tank program.
8. "Insured tank" means any petroleum underground storage tank not excluded or exempted from the definition of underground storage tank under section 6991 of the Hazardous and Solid Waste Amendments of 1984, including any attached underground pumps and piping, if such tank is owned or operated by you and is listed in the Declarations of this policy.
"Insured tank" does not include any tank which has been replaced by you during the policy period or the Extended Reporting Period, if such replacement is done without our agreement in writing.
9. "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".
10. "Property damage" means:
- Physical injury to, destruction of or contamination of 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, destruction or contamination that caused it; or
 - Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of an "underground storage tank incident". All such loss of use shall be deemed to occur at the time of the "underground storage tank incident" 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 discs, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
11. "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of petroleum from an underground storage tank into ground water, surface water or subsurface soils.
12. "Suit" means:
- A civil proceeding in which damages because of "bodily injury" or "property damage" to which this insurance applies are alleged, including:
 - An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
 - A civil proceeding or an administrative hearing in which payment of "corrective action costs" is sought.
13. "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.
14. "Underground storage tank incident" means a "release" from an "insured tank". The entirety of continuous or repeated "releases" from the same "insured tank" shall be deemed to be one "underground storage tank incident".