

B 10 Modified (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT DISTRICT OF DELAWARE		PROOF OF CLAIM	
<p style="text-align: center; font-size: small;">Indicate Debtor against which you assert a claim by checking the appropriate box below. <b>(Check only one Debtor per claim form.)</b></p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Blitz U.S.A., Inc. (Case No. 11-13603)           <input type="checkbox"/> MiamiOK LLC (f/k/a F3 Brands LLC) (Case No. 11-13604)           <input type="checkbox"/> Blitz Acquisition, LLC (Case No. 11-13606)         </div> <div> <input type="checkbox"/> Blitz Acquisition Holdings, Inc. (Case No. 11-13602)           <input type="checkbox"/> LAM 2011 Holdings, LLC (Case No. 11-13605)           <input checked="" type="checkbox"/> Blitz RE Holdings, LLC (Case No. 11-13607)         </div> </div>			
<p style="font-size: x-small;">NOTE: Other than claims asserting administrative priority (1) under 11 U.S.C. § 503(b)(9) or (2) arising from or relating to the rejection of executory contracts or unexpired leases, pursuant to section 365 of the Bankruptcy Code for otherwise related to such rejected agreements, this form should not be used to make a claim for administrative expenses arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503(a).</p>			
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>ACE American Insurance Company</b>		<input type="checkbox"/> Check this box if this claim amends a previously filed claim.  <b>Court Claim Number:</b> _____ (If known)  Filed on: _____  <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.  <b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.</b>  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507(a)(5). <input type="checkbox"/> Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507(a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507(a)(____).	
Name and address where notices should be sent: <input type="checkbox"/> Check this box if the address differs from the address on the envelope sent to you by the court.  <b>c/o Margery N. Reed, Esquire *and to Claimant per attached</b> <b>and Wendy M. Simkulak, Esquire</b> <b>Duane Morris LLP</b> <b>30 South 17th Street</b> <b>Philadelphia, PA 19103-4196</b>  Telephone number: (215) 979-1000 email: wmsimkulak@duanemorris.com			
Name and address where payment should be sent (if different from above):   Telephone number: _____ email: _____			
<b>1. Amount of Claim as of Date Case Filed: \$ See Attached</b> If all or part of the claim is secured, complete item 4. <b>**Claimant may also assert an administrative expense claim (See attached)</b> If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.			
<b>2. Basis for Claim: Insurance policies and related agreements (see attached)</b> (See instruction #2)		Amount entitled to priority:  \$ _____  * Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment	
<b>3. Last four digits of any number by which creditor identifies debtor: N/A</b>	<b>3a. Debtor may have scheduled account as:</b> (See instruction #3a)		<b>3b. Uniform Claim Identifier (optional):</b> (See instruction #3b)
<b>4. Secured Claim (See instruction #4)</b> Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. <b>Nature of property or right of setoff:</b> <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other <b>Describe:</b> <b>Value of Property: \$</b> _____ <b>Annual Interest Rate</b> _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable (when case was filed) <b>Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$</b> _____ <b>Basis for perfection:</b> _____ <b>Amount of Secured Claim: \$</b> _____ <b>Amount Unsecured: \$</b> _____			
<b>6. Claim Pursuant to 11 U.S.C. § 503(b)(9):</b> Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before January 11, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim. \$ _____			
<b>7. Credits.</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #7)			
<b>8. Documents:</b> Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b> If the documents are not available, please explain: See Attached			
<b>9. Signature:</b> (See instruction #8) Check the appropriate box. <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> I am the creditor.           <input checked="" type="checkbox"/> I am the creditor's authorized agent.            (Attach copy of power of attorney, if any.)         </div> <div> <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent.            (See FRBP 3004.)         </div> <div> <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor.            (See FRBP 3005.)         </div> </div> I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <u>Darlene Schneider</u> Title: <u>Senior Legal Assistant</u> Company: <u>ACE American Insurance Company</u> (Signature) <u>Darlene Schneider</u> (Date) <u>6/29/12</u> Address and telephone number (if different from notice address above): <u>436 Walnut Street, P.O. Box 1000, WA021, Philadelphia, PA 19106</u> Please see contact information above Telephone number: _____ Email: _____			

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

- ☒ Date Stamped Copy Returned
- ☐ No self addressed stamped envelope
- ☐ No copy to return



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COURT USE ONLY

RECEIVED

JUL 09 2012

KURTZMAN CARSON CONSULTANTS

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CHERRY HILL  
BOCA RATON  
LAKE TAHOE  
  
MEXICO CITY  
ALLIANCE WITH  
MIRANDA & ESTAVILLO

July 6, 2012

VIA FEDEX

Blitz Claims Processing Center  
c/o Kurtzman Carson Consultants LLC  
2335 Alaska Ave.  
El Segundo, CA 90245

**Re: In re: Blitz U.S.A., Inc., et al.;**  
**Case No. 11-13603**

Dear Sir or Madam:

Enclosed for filing please find an original and one (1) copy of six (6) Proofs of Claim (collectively, the "Claims") of ACE American Insurance Company. As set forth thereon, one Claim is to be filed in each of the six (6) bankruptcy cases listed on the attached list (collectively, the "Cases"). Please file each Claim in the corresponding Case. Kindly acknowledge your receipt of the Claims by returning one (1) stamped copy of each in the enclosed return Federal Express envelope.

Please feel free to contact me with any questions. Thank you for your attention to this matter.

Sincerely,



Catherine E. Beideman

CEB:tgs  
Enclosures

Blitz Claims Processing Center  
July 6, 2012  
Page 2

**Duane Morris**

	<b>Debtor Name</b>	<b>Case No.</b>
1.	Blitz Acquisition Holdings, Inc.	11-13602
2.	Blitz U.S.A., Inc.	11-13603
3.	MiamiOK LLC (f/k/a F3 Brands LLC)	11-13604
4.	LAM 2011 Holdings, LLC (Blitz Holdings, LLC)	11-13605
5.	Blitz Acquisition, LLC	11-13606
6.	Blitz RE Holdings, LLC	11-13607

**ADDENDUM TO PROOF OF CLAIM OF  
ACE AMERICAN INSURANCE COMPANY**

1. This Addendum is attached to and a part of the proof of claim (the "Proof of Claim") filed by ACE American Insurance Company ("Claimant" and together with its affiliates, the "ACE Companies") against Blitz U.S.A, Inc. and the other entities set forth on Exhibit "A" attached hereto (collectively, the "Debtors") in their respective bankruptcy cases.

2. On November 9, 2011 (the "Petition Date"), the Debtors filed their respective voluntary petitions for bankruptcy relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court").

3. Prior to the Petition Date, the ACE Companies issued certain insurance policies (as renewed, amended, modified, endorsed or supplemented from time to time, collectively and together with any agreements related thereto, the "Policies") to certain Debtors as named insureds.

4. Pursuant to the Policies, the ACE Companies provide, *inter alia*, certain international commercial risk and certain other insurance for specified policy periods subject to certain limits, deductibles, retentions, exclusions, terms and conditions, as more particularly described therein; and the insureds, including one or more of the Debtors, are required to pay to the ACE Companies certain amounts including, but not limited to, insurance premiums, deductibles, expenses, taxes, assessments and surcharges, as more particularly described in the Policies (the "Obligations").

5. To the extent that a Debtor is an insured under the Policies and has in the past or the present received, or in the future receives, any benefit under the Policies related to any claim made by or related to such Debtor under the Policies, including but not limited to any payment

by any of the ACE Companies to or on behalf of the Debtor with respect to a claim made under the Policies, then the Debtor is jointly and severally liable with other insureds for the Obligations arising with respect to such claim under the Policies.

6. As of the date hereof, the Debtors are liable to the ACE Companies for contingent and unliquidated amounts (the "Claim") for the Obligations.

7. The Claim is currently contingent, unliquidated and subject to further and future adjustments and estimations by the Claimant, from time to time, in accordance with the terms of the Policies including, without limitation, additional amounts that may become due for premium, deductibles, expenses, taxes, assessments and surcharges.

8. The Claim is based upon, among other things, ultimate developed losses under the Policies.

9. The Claim is evidenced by the Policies, including, without limitation, those Policies listed on Exhibit "B" hereto. The Policies are attached hereto as Exhibit "C."

10. A portion of the Claim is or may be secured by letters of credit, cash collateral, paid loss deposit funds, or other amounts and/or entitled to administrative expense priority under 11 U.S.C. §§ 503(b) and 507(a)(2).

11. The Claimant reserves and preserves the right: (a) to file and seek payment of additional claims for (i) administrative expenses; (ii) attorneys' fees and costs and (iii) cure amounts or rejection damages; (b) to estimate contingent claims and assert additional claims if contingent claims are estimated or liquidated; and (c) to assert any other claims the Claimant may have against the Debtors relating to or incidental to the Obligations and the documents referenced herein. The Claimant reserves and preserves all rights to assert any and all defense,

setoff and/or recoupment against the Debtors. The Claimant reserves the right to amend and/or further supplement this Claim.

12. The filing of this Claim is not intended, and should not be construed as (a) an election of remedies; (b) a waiver of any past, present or future default or event of default; (c) a waiver or limitation of the Claimant's rights or defenses; (d) a waiver of the Claimant's claims against the Debtors or any of the Debtors' subsidiaries or affiliates; (e) a waiver of the Claimant's right to draw on any collateral or security; (f) a waiver of the Claimant's claims against any other parties liable to it (whether under the Policies or otherwise); (g) a determination as to coverage or entitlements to benefits as to coverage under the Policies; or (h) a waiver of the ACE Companies' rights under the Policies, including the right to require arbitration.

13. All notices to the Claimant relating to this Proof of Claim should be sent to the Claimant as follows:

c/o ACE USA  
436 Walnut Street  
Philadelphia, PA 19106  
Attention: Collateral Manager

With a copy to counsel for the Claimant:

Margery N. Reed, Esquire  
Wendy M. Simkulak, Esquire  
DUANE MORRIS LLP  
30 S. 17<sup>th</sup> Street  
Philadelphia, PA 19103

14. This Proof of Claim is filed as a separate claim from other claims that may be filed by or on behalf of the Claimant or any of its affiliates against the Debtors or the other insureds, and does not replace or supersede such other claims.

**EXHIBIT A**

**DEBTOR NAMES**

<b>Debtor Name</b>	<b>Case No.</b>
Blitz Acquisition Holdings, Inc.	11-13602
Blitz U.S.A., Inc.	11-13603
MiamiOK LLC (f/k/a F3 Brands LLC)	11-13604
LAM 2011 Holdings, LLC (Blitz Holdings, LLC)	11-13605
Blitz Acquisition, LLC	11-13606
Blitz RE Holdings, LLC	11-13607

## **EXHIBIT B**

The ACE Companies' Claim is evidenced by, without limitation, the Policies and includes, without limitation, the following and all other documents, instruments, agreements or policies, and any and all endorsements, addenda, amendments, renewals, supplements and modifications to any of the following:

**Policies include, but are not limited to:**

<b>Policy Number</b>	<b>Policy Period</b>	<b>Insurer</b>	<b>Type of Coverage</b>
PHF053908	1/11/2001 – 1/11/2002	ACE American Insurance Company	International Commercial Risk
PHF053908	1/11/2000– 1/11/2001	ACE American Insurance Company	International Commercial Risk
PHF053908	1/11/1999 – 1/11//2000	ACE American Insurance Company	International Commercial Risk

**Reservation of Rights**

The brief summary of the Policies contained herein is for descriptive purposes only and is not intended to be binding on the ACE Companies or constitute their position with respect to the proper interpretation and meaning thereof. For a complete and accurate explanation of the terms and conditions of the Policies, reference should be made to the actual Policies.



**EXHIBIT C**

# Cancellation Notice

ACE USA



## ACE American Insurance Company

(Insert Name of Issuing Company)

1 Beaver Valley Rd., Wilmington, DE 19850

(Address)

INSURED **Blitz U.S.A., Inc.**  
**404 26th Avenue**  
**Miami, OK 74354**

AGENT **Lamb, Little & Co. Insurance**  
**309 West Washington Street**  
**Chicago, IL 60606**

LOSS  
PAYEE  
#1

LOSS  
PAYEE  
#2

IT-2X83 (MS-6B80a) Ptd. in U.S.A.

You are notified that we are herewith cancelling your policy indicated below, in accordance with its terms, and all liability thereunder will terminate, effective as stated below. Unearned premium, if any (if not tendered), will be refunded on demand.

<b>POLICY NUMBER</b>
<b>PHF 053908</b>
<b>LOCATION</b> (If different from Insured's address)
<b>CANCELLATION EFFECTIVE</b> THE <u>11</u> DAY OF <u>January</u> , 2001 AT THE HOUR STATED IN THE POLICY FOR THE INCEPTION OF THE POLICY.
<b>OFFICE OR AGENCY PREPARING THIS NOTICE</b>
<b>ACE USA International Advantage</b>

Authorized Signature

<b>POLICY PERIOD</b> from: <u>01/11/01</u> to: <u>01/11/02</u>	<b>CANC. FACTOR</b>	<b>RETURN PREMIUM</b>
<b>CANCELLATION BASIS</b> <input type="checkbox"/> PRO RATA <input checked="" type="checkbox"/> FLAT <input type="checkbox"/> FLAT AS OF _____ INSTALL.		<b>- \$0 R/P - January 11, 2001 cb</b>



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 6

EFFECTIVE DATE: January 11, 2001

POLICY PERIOD FROM: January 11, 2001

TO: January 11, 2002

Company Name: ACE American Insurance Company

Premium:	\$3,000	Due When Coverage Begins
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### INTERNATIONAL ADVANTAGE COMMERCIAL INSURANCE RENEWAL DECLARATION

LINE OF COVERAGE	LIMITS		PREMIUM
COMMERCIAL GENERAL LIABILITY COVERAGE	\$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000 \$10,000	each "occurrence" products/completed operations aggregate personal & advertising injury aggregate premises damage limit (each "occurrence") medical expense limit (each one person)	\$2,000
CONTINGENT AUTOMOBILE LIABILITY COVERAGE	\$1,000,000	each "accident"	INCLUDED
HIRED AUTO PHYSICAL DAMAGE	\$1,000 \$10,000	each one "accident" each one Policy Period	INCLUDED
EMPLOYEE BENEFITS LIABILITY ENDORSEMENT	\$1,000,000 \$1,000,000	each claim annual aggregate	INCLUDED
EMPLOYERS RESPONSIBILITY			
I. BENEFITS FOR VOLUNTARY COMPENSATION			
North Americans:	STATE OF HIRE		
Third Country Nationals:	NOT COVERED		
Local Nationals:	NOT COVERED		
II. EXECUTIVE ASSISTANCE SERVICES			
	\$250,000	policy limit for Medical Assistance Services	\$500
EMPLOYERS LIABILITY			
Bodily Injury by Accident	\$1,000,000	each accident	
Bodily Injury by Disease	\$1,000,000	each employee	
including by "endemic disease"			
Bodily Injury by Disease	\$1,000,000	policy limit	
including by "endemic disease"			
AD&D		SEE ATTACHED	\$500
COMMERCIAL PROPERTY		NOT COVERED	
CARGO	NOT COVERED	"personal property" in transit	
K&E	NOT COVERED	per cause of loss	
<b>TOTAL PREMIUM</b>			<b>\$3,000</b>
<b>Total Minimum Earned Premium:</b>			<b>\$0</b>
<b>PREMIUM AUDIT DOES NOT APPLY.</b>			

All other terms and conditions remain unchanged.

Not valid unless countersigned by a duly authorized representative

Producer Name Lamb, Little & Co. Insurance  
309 West Washington Street  
Chicago, IL 60606

Authorized Representative

October 31, 2000

CLP



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

**ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGE DECLARATIONS**

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Effective: January 11, 2001

Insurance applies only to those coverages for which a Principal Sum is shown.

**Accidental Death and Dismemberment**

**Coverage A**

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Principal Sum NOT COVERED Spouse: NOT COVERED Child: NOT COVERED

**Accidental Death and Dismemberment - Medical Coverage**

**Coverage A**

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Principal Sum \$100,000 Spouse: NOT COVERED Child: NOT COVERED

**Coverage B**

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Principal Sum \$10,000 Spouse: NOT COVERED Child: NOT COVERED

**Accidental Death and Dismemberment - Educational Services**

**Coverage A**

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Principal Sum NOT COVERED



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 5

EFFECTIVE DATE: January 11, 2000

POLICY PERIOD FROM: January 11, 2000 TO: January 11, 2001

Company Name: ACE American Insurance Company

Premium:	\$3,000 Due When Coverage Begins
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### INTERNATIONAL ADVANTAGE COMMERCIAL INSURANCE RENEWAL DECLARATION

LINE OF COVERAGE	LIMITS		PREMIUM
COMMERCIAL GENERAL LIABILITY COVERAGE	\$1,000,000 \$1,000,000 \$1,000,000 \$1,000,000 \$10,000	each "occurrence" products/completed operations aggregate personal & advertising injury aggregate premises damage limit (each "occurrence") medical expense limit (each one person)	\$2,000
CONTINGENT AUTOMOBILE LIABILITY COVERAGE	\$1,000,000	each "accident"	INCLUDED
HIRED AUTO PHYSICAL DAMAGE	\$1,000 \$10,000	each one "accident" each one Policy Period	INCLUDED
EMPLOYEE BENEFITS LIABILITY ENDORSEMENT	\$1,000,000 \$1,000,000	each claim annual aggregate	INCLUDED
EMPLOYERS RESPONSIBILITY			
I. BENEFITS FOR VOLUNTARY COMPENSATION			
North Americans:	STATE OF HIRE		
Third Country Nationals:	NOT COVERED		
Local Nationals:	NOT COVERED		
II. EXECUTIVE ASSISTANCE SERVICES			
	\$250,000	policy limit for Medical Assistance Services	\$500
EMPLOYERS LIABILITY			
Bodily Injury by Accident	\$1,000,000	each accident	
Bodily Injury by Disease	\$1,000,000	each employee	
including by "endemic disease"			
Bodily Injury by Disease	\$1,000,000	policy limit	
including by "endemic disease"			
AD&D		SEE ATTACHED	\$500
COMMERCIAL PROPERTY		NOT COVERED	
CARGO	NOT COVERED	"personal property" in transit	
K&E	NOT COVERED	per cause of loss	

TOTAL PREMIUM	\$3,000
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Total Minimum Earned Premium:	\$0
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PREMIUM AUDIT DOES NOT APPLY.

All other terms and conditions remain unchanged.

Not valid unless countersigned by a duly authorized representative

Producer Name Lamb, Little & Co. Insurance  
309 West Washington Street  
Chicago, IL 60606

Authorized Representative

November 10, 1999

BJH



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

**ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGE DECLARATIONS**

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Effective: January 11, 2000

Insurance applies only to those coverages for which a Principal Sum is shown.

**Accidental Death and Dismemberment**

**Coverage A**

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Principal Sum NOT COVERED Spouse: NOT COVERED Child: NOT COVERED

**Accidental Death and Dismemberment - Medical Coverage**

**Coverage A**

---

Principal Sum \$100,000 Spouse: NOT COVERED Child: NOT COVERED

**Coverage B**

---

Principal Sum \$10,000 Spouse: NOT COVERED Child: NOT COVERED

**Accidental Death and Dismemberment - Educational Services**

**Coverage A**

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Principal Sum NOT COVERED

Name Insured: Blitz U.S.A., Inc.

Policy Number: PHF 053908



CIGNA International

Effective Date: 8/1/99

Endorsement No.: A

Policy Period From: 01/11/1999 to 01/11/2000

Company Name: CIGNA Insurance Company

Premium: ☒ Included ☐ \_\_\_\_\_ Due When Coverage Begins

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**LIBERALIZATION**

This endorsement modifies insurance provided under the following:

**Employers Responsibility Coverages with Executive Assistance**

In accordance with the Liberalization paragraph of Form IT-1X72, Employers Responsibility Coverages with Executive Assistance form UW 601658a (8/93) is deleted and replaced by Employers Responsibility Coverage with Executive Assistance form UW 601658c (7/99).

**All other terms and conditions remain unchanged.**

Lamb, Little & Co. Insurance  
309 West Washington Street  
Chicago IL 60606

Authorized Representative

**INTERNATIONAL ADVANTAGE COMMERCIAL INSURANCE POLICY**

Company Name: CIGNA Insurance Company

**GENERAL DECLARATIONS****NAMED INSURED AND MAILING ADDRESS:**

**Blitz U.S.A., Inc.**  
404 26th Avenue  
Miami, OK 74354

**POLICY NUMBER: PHF 053908**  
**RENEWED OR IN PLACE OF: NEW**  
**PRODUCER NUMBER/OFFICE: IT7583 551**

**NAMED INSURED IS: Corporation****OTHER INTEREST: None****POLICY PERIOD:**

when coverage begins: January 11, 1999  
when coverage ends: January 11, 2000

**DECLARATIONS EFFECTIVE: January 11, 1999****PREMIUM AUDIT DOES NOT APPLY.**

<b>Premium:</b>	<b>\$3,000 Due When Coverage Begins</b>
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These Declarations apply for the Policy Period shown above from the Declarations Effective date. Together with the policy sections for Coverages, Common Policy Conditions and Endorsements, these Declarations complete your policy. For renewal Policy Periods, all Endorsements for the expiring Policy Period are continued in full force and effect unless specifically deleted.

If the General Declarations indicate that the insurance is subject to audit or a reporting option, the premium stated is an estimate and subject to adjustment.

**Name and Mailing Address of Producer:**

**Lamb, Little & Co. Insurance**  
309 West Washington Street  
Chicago, IL 60606

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**Authorized Representative**





Named Insured: Blitz U.S.A., Inc.

Policy: PHF 053908

**LIABILITY COVERAGES DECLARATIONS**

Declarations Effective: January 11, 1999

Insurance applies only to those coverages for which a Limit of Insurance is shown. PREMIUM AUDIT DOES NOT APPLY.

**LIMITS OF INSURANCE COVERAGES**

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**COMMERCIAL GENERAL LIABILITY COVERAGE**

\$1,000,000	each "occurrence"
\$1,000,000	products/completed operations aggregate
\$1,000,000	personal & advertising injury aggregate
\$1,000,000	premises damage limit (each "occurrence")
\$10,000	medical expense limit (any one person)

**CONTINGENT AUTOMOBILE LIABILITY COVERAGE**

\$1,000,000	each "accident"
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**EMPLOYEE BENEFITS LIABILITY ENDORSEMENT**

\$1,000,000	each claim
\$1,000,000	annual aggregate

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**COVERAGE TERRITORY FOR LIABILITY COVERAGES**

The Coverage Territory for COMMERCIAL GENERAL LIABILITY COVERAGE, CONTINGENT AUTO LIABILITY COVERAGE, and EMPLOYEE BENEFITS LIABILITY ENDORSEMENT means:

ANYWHERE IN THE WORLD but excludes:

1. the United States of America (including its territories and possessions) and Puerto Rico;
2. any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America.

In jurisdictions where we may be prevented by law or otherwise from paying on behalf of or defending the insured, we will:

1. indemnify the insured for those sums that the "insured" becomes legally obligated to pay as damages to which this insurance applies and
  2. pay the cost of defense and aid and manage the insured's defense.
-



Named Insured: Blitz U.S.A., Inc.

Policy: PHF 053908

**EMPLOYERS RESPONSIBILITY COVERAGES DECLARATIONS**

Declarations Effective: January 11, 1999

**I. BENEFITS FOR VOLUNTARY COMPENSATION**

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North Americans : STATE OF HIRE  
 Third Country Nationals: NOT COVERED  
 Local Nationals : NOT COVERED

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**II. EXECUTIVE ASSISTANCE SERVICES**

\$250,000 policy limit for Medical Assistance Services

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**III. EMPLOYERS LIABILITY**

Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	
including by "endemic disease"	\$1,000,000 each employee
Bodily Injury by Disease	
including by "endemic disease"	\$1,000,000 policy limit

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In jurisdictions where we may be prevented by law or otherwise from paying on your behalf or defending you, we will:

1. indemnify you for those sums you become legally obligated to pay as damages to which this insurance applies; and
2. pay the cost of your defense and aid and manage such defense.

**Coverage Territory for Employers Responsibility Coverages**

This insurance applies

1. to claims you make for "voluntary compensation" and repatriation for employees of your workplaces included below;
2. to claims or suits for damages for employers liability brought against you by employees of your workplaces included below;
3. to assistance rendered to employees of your workplaces included below, when traveling 100 miles or more from home, and to "expatriate employees" without limitation of travel distance:

ANYWHERE IN THE WORLD but excluding:

1. the United States of America (including its territories and possessions) and Puerto Rico;
2. any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America.



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 1

EFFECTIVE DATE: January 11, 1999

POLICY PERIOD FROM: January 11, 1999

TO: January 11, 2000

Company Name: CIGNA Insurance Company

Premium: ☒ Included ☐

Due When Coverage Begins

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ABSOLUTE POLLUTION EXCLUSION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Any exclusion in the policy relating to the actual, alleged, or threatened discharge, dispersal, release or escape of pollutants and any loss, costs, or expense arising therefrom is replaced by the following:

"bodily injury" or "property damage" arising out of or in any way related to the actual, alleged or threatened discharge, dispersal, release or escape of pollutants by whomever caused, including, but not limited to, into or upon land, the atmosphere or any watercourse or body of water, including underground water or water table supplies.

This insurance also does not apply to any cost or expense arising out of any demand or request that an insured test for, assess, monitor, clean-up, remove, contain, treat, detoxify, or neutralize any pollutants. This includes demands, directives, complaints, suits, or requests brought by any governmental entity or by any person or group of persons.

We shall not have the duty to defend any claim or suit seeking to impose such costs, expenses, liability for damages, or any other relief.

Pollutant means any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to smoke, vapors, soot, fumes, acids, alkalis, chemicals and wastes, including materials to be recycled, reconditioned, or reclaimed.

All other terms and conditions remain unchanged.

\_\_\_\_\_  
Authorized Representative

Coverage Declarations Issued on

January 21, 1999

PAC



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 2

EFFECTIVE DATE: January 11, 1999

POLICY PERIOD FROM: January 11, 1999

TO: January 11, 2000

Company Name: CIGNA Insurance Company

Premium:	<input checked="" type="checkbox"/> Included <input type="checkbox"/>	Due When Coverage Begins
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ACCIDENTAL DEATH AND DISMEMBERMENT & MEDICAL COVERAGE**

This endorsement changes the policy. Please read it carefully.

### **PART I - INSURING AGREEMENTS**

TO INSURE those persons described in Schedule I, each herein called the covered person(s), and subject to all of the Exclusions, Provisions and other terms of this policy, against loss resulting from accidental bodily injuries which arise out of the hazards described in Schedule II and are sustained by the covered person(s) during the term of this policy, herein called "such injuries," to the extent provided herein.

Forms attached to and forming part of this policy on its date of issue are:

Title \_\_\_\_\_

Schedule I: Covered Persons - Amounts of Insurance

Schedule II: Description of Hazards

Schedule III: Medical Expense Amendatory Rider

#### **Coverage A - Death, Dismemberment or Loss of Sight**

If within one year from the date of accident such injuries shall result in death of the covered person(s), dismemberment or loss of sight, the Company will pay for:

Loss of Life or Two or more members .....	The Principal Sum;
Loss of Speech and Hearing .....	The Principal Sum;
Loss of Speech or Hearing .....	One-half the Principal Sum;
Loss of One Member .....	One-half the Principal Sum;
Thumb and Index Finger From The Same Hand .....	One-fourth the Principal Sum;

Such payment shall be in addition to any other indemnity payable as of the date of loss, but only one amount, the larger applicable amount, shall be payable for all such losses resulting from one accident.

The "Principal Sum" is the amount specified as such in Schedule I. "Member" shall mean a hand, foot, or eye. "Loss" shall mean, with respect to hands and feet, actual severance through or above wrist or ankle joints; with respect to eyes, entire and irrecoverable loss of sight. Loss of a thumb and index finger means complete severance through or above the metacarpophalangeal joints, (the joints between the fingers and the hand).

#### **Coverage B - Medical Expense**

If on account of such injuries the covered person(s) shall require treatment by a legally qualified physician or surgeon, confinement in a legally constituted hospital, employment of a trained nurse, x-ray examination or the use of an ambulance, the Company will pay the actual expense incurred therefor within 52 weeks from the date of accident which is in excess of the deductible amount (if any) specified in Schedule I, but not more than the maximum amount specified in Schedule I.

### **PART II - EXCLUSIONS**

This policy does not cover loss caused by or resulting from any one or more of the following:

- A. Intentionally self-inflicted injuries, suicide or any attempt thereat, while sane, or insane;
- B. Declared or undeclared war or any act thereof, riot, civil commotion, or police action;
- C. Accident occurring while the covered person(s) is serving full-time active duty in the Armed Forces of any country or international authority (any premium paid to be returned by the Company pro-rata for any such period of full-time active duty);
- D. Illness, disease, pregnancy, childbirth, miscarriage, or any bacterial infection other than bacterial infection occurring in consequence of any accidental cut or wound;
- E. Travel or flight in any vehicle or device for (1) navigation beyond the earth's atmosphere, or (2) aerial navigation; except to the extent such travel or flight is provided in Schedule II.

### **SCHEDULE I**

#### **COVERED PERSON(S) - AMOUNTS OF INSURANCE**

The insurance under this policy applies only to the group of covered persons described and only with respect to those coverages for which an amount is specified. The amount so specified shall apply to each covered person per accident, subject to all terms of the policy having reference thereto.

**Covered Person(s)** (includes all persons coming within the scope of such descriptions at any time during the policy term):

- 1. North Americans, meaning "employees" who are citizens or legal permanent residents of the United States (including its territories and possessions.)
- 2. Third Country Nationals, meaning "employees" who are not citizens of the country of their workplace and who are not described in 1. above.
- 3. Local Nationals - NOT COVERED

"Employee" means anyone under the age of 70 employed by the Insured including any voluntary worker. At your option, "employee" may include individuals who are independent contractors with whom you have a written contract in which you agree to provide them benefits.

	Principal Sum	Family Coverage
Coverage A	\$100,000	spouse: NOT COVERED child: NOT COVERED
Coverage B \$50.00 deductible per occurrence	\$10,000	spouse: NOT COVERED child: NOT COVERED

<p>Aggregate Limit of Liability \$1,500,000. CIGNA policies combined per occurrence</p> <p>The company shall not be liable for any amount in excess of the above stated aggregate limit of liability.</p> <p>If the aggregate amount of all indemnities otherwise payable by reason of coverage provided under this policy exceeds such aggregate limit of liability, the Company shall not be liable as respects each covered person(s) for a greater proportion of the indemnity otherwise payable than the aggregate limit of liability bears to the aggregate amount of all such indemnities.</p>	<p>Attached to and forming a part of Policy #:</p> <p>PHF 053908</p> <p>Effective date of this Schedule is:</p> <p>January 11, 1999</p>
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## SCHEDULE II

The hazards against which insurance is granted under this policy are:

### 24 HOUR ACCIDENT PROTECTION

#### Excluding Insured Owned or Leased Aircraft

- A. Injury sustained by a covered person(s) within the "coverage territory" while on the business of the Insured and during the course of any bonafide trip made by the covered person(s).

Such trip shall be deemed to have commenced when the covered person(s) leaves the United States of America (including its territories and possessions) for the purpose of going on such trip, and shall continue until such time as the covered person(s) returns to the United States of America (including its territories and possessions).

Such insurance includes injury sustained during such trip while the covered person(s) is riding as a passenger (but not as a pilot, operator or member of the crew, or cabin attendant) in or on, boarding or alighting from:

- (1) any civilian aircraft having a current and valid standard category airworthiness certificate, and operated by a pilot holding a current and valid medical certificate and pilot certificate with appropriate ratings authorizing him to pilot such aircraft; or
- (2) any transport type aircraft operated by the Military Airlift Command (MAC) of the United States, or by the service of any duly constituted governmental authority of any other recognized country;

provided that, this Hazard shall not apply while riding in or on, or boarding or alighting from, any civilian or military aircraft other than expressly described herein, unless previously consented to in writing by the company.

It is understood and agreed that the term while on the business of the Insured includes Sojourn.

Sojourn means personal trips taken by the covered person on vacation days, holidays, weekend days or business days:

- a) while on the business of the Insured; and
- b) not exceeding a total of fourteen days.

### **ADDITIONAL EXCLUSIONS**

Such insurance as is afforded a covered person(s) does not apply to any loss caused by, contributed to or resulting from injury sustained while in or on, boarding or alighting from:

- (1) any aircraft being used for or in connection with aerial photography, or any test or experimental purpose, unless previously consented to in writing by the Company;
- (2) any aircraft when a special permit or waiver is required from the authority having jurisdiction over civil aviation, even though granted, unless previously consented to in writing by the Company;
- (3) any aircraft owned, or under lease, and operated by the Insured (or an employee of the Insured) or a covered person(s) (or an employee or member of his household), unless previously consented to in writing by the Company.

### **DEFINITIONS**

The term while on the business of the Insured shall mean while on assignment by or at the direction of the Insured for the purpose of furthering the business of the Insured, and while outside the United States, its territories and possessions.

The term "coverage territory" means:

ANYWHERE IN THE WORLD but excludes:

- 1. The United States of America (including its territories and possessions);
- 2. any country or jurisdiction which is the subject of trade or economic sanctions imposed by the laws or regulations of the United States of America;

The "coverage" territory also includes international waters or airspace, provided the injury does not occur in the course of travel from one place to another when both places are within the United States of America (including its territories and possessions).

### **SCHEDULE III**

### **MEDICAL EXPENSE AMENDATORY RIDER**

In consideration of the premium charged, it is hereby agreed that:

- 1. Exclusion D - Part II of the Policy is deleted with respect to Coverage D - Medical Expense only.
- 2. The description of Coverage B - Medical Expense under Policy Part I is amended to include the following:

#### **Coverage B - Sickness Medical Expense**

If sickness requires treatment of a covered person(s) by a legally qualified physician or surgeon, the Company will pay the covered person(s) the expenses incurred in excess of the deductible amount (if any), set forth in the schedule within fifty-two (52) weeks from the date sickness for any of the services listed under this policy section which are recommended and approved by the attending physician or surgeon, but not to exceed the maximum benefit as set forth in the schedule, as the result of any one sickness.

## **Covered Expenses**

All covered expenses are subject to the general exceptions and limitations and the pre-existing conditions, limitations and provisions. Certain covered expenses are also limited as described within this section. An expense is incurred on the date of the treatment, service or purchase. Covered expenses include only expenses incurred by the covered person(s) or any covered dependent for the following, to the extent that they are reasonable and customary:

### **In Hospital Covered Expenses:**

- 1) Daily Room & Board in a hospital, but not more than hospital's most common semi-private room rate to a maximum of \$300. per day.
- 2) Confinement in an intensive care unit, payable in place of expenses covered in (1) above up to a maximum of \$500. per day.
- 3) All other necessary services and supplies furnished by a hospital for in-patient medical care treatment, except for professional services.
- 4) Service and supplies furnished by an ambulatory surgical or medical center, except for professional services.
- 5) Out-patient medical care and treatment furnished by a hospital within 24 hours after or in connection with a surgical operation except for professional service.
- 6) Professional local ambulance service for transportation to the nearest hospital and from a hospital subject to a \$250. maximum per occurrence.

### **Surgical Covered Expenses:**

- 1) A surgical procedure performed by a physician.
- 2) Anesthesia administered by a physician.

### **Other Covered Expenses:**

- 1) Medical care and treatment furnished by a physician as a result of sickness.
- 2) Out-patient medical care and treatment furnished by a hospital or clinic.
- 3) Radium therapy, x-ray treatments and examination, microscopic tests, or any lab tests or analysis made for diagnosis or treatment.
- 4) Physiotherapy.
- 5) A second surgical opinion.
- 6) The following supplies while hospital confined or prescribed upon release from hospital confinement: a) drugs and medicines which require the written prescription of a physician; b) whole blood and blood components; c) artificial limbs or eyes (not including replacement of these items); d) casts, splints, trusses, crutches, and braces (not including replacement of these items or dental braces); e) oxygen or rental of equipment for administration of oxygen; f) rental of a wheel chair or hospital-type bed; and g) rental of mechanical equipment for treatment of respiratory paralysis.

## **General Exceptions and Limitations**

This policy section will not pay benefits for expenses incurred for any of the following:

- 1) Sickness which results from or in the course of a covered person(s)'s regular occupation for pay or profit. (This does not apply to a corporate officer, partner or sole proprietor who is not insured under Workers' Compensation Employer's Liability Law or similar law).
- 2) Sickness for which a covered person(s) is entitled to benefits under Workers' Compensation Law, Employer's Liability Law or similar law.
- 3) Sickness which results from war or an act of war (declared or undeclared); participation in a riot; or commission of a felony.



- 4) Attempted suicide or intentionally self-inflicted injury, while sane or insane.
- 5) Hospital confinement, surgery, treatment, service or supply for which:
  - a) The charge is payable or reimbursable by or through a plan or program of any governmental agency; or b) charges are not imposed against the covered person. However, as long as the charge is not made solely due to the existence of insurance, the Company will pay benefits for covered expenses incurred by an Insured receiving state or local medical assistance or service for:
    - i) Mentally retarded, epileptic or emotionally handicapped children in a licensed 24-hour care facility;
    - ii) Child care in a group foster care facility;
    - iii) Treatment for children with social, physical, or emotional problems requiring foster care placement;
    - iv) Public child welfare programs; and
    - v) Any other form of public welfare.
- 6) Expenses incurred which are reimbursable by Medicare Part A and Part B. If a covered person at any time was entitled to enroll in the Medicare program (including Part B) but did not do so, his or her benefits under the Group Policy will be reduced by any amount that would have been reimbursed by Medicare.
- 7) Eye refractions, eyeglasses, contact lenses, or hearing aids or the fitting of eye glasses, contact lenses or hearing aids.
- 8) Cosmetic or plastic surgery, except:
  - a) when necessary as a result of sickness occurring while the covered person is insured under the Policy; or
  - b) reconstructive surgery when such service is incidental to or follows surgery resulting from sickness; or
  - c) reconstructive surgery for correction of congenital abnormality of a dependent child which has resulted in a functional defect as determined by the attending physician.
- 9) Hospital confinement, care or treatment which is not recommended and approved by a physician.
- 10) Treatment or care of a person by a physician, registered nurse or licensed practical nurse if the physician or nurse is a member of the covered person(s)'s immediate family or ordinarily resides with the covered person(s).
- 11) Private Duty Nursing.
- 12) Physical examinations, unless required because of sickness.
- 13) Any care furnished to a newborn child, unless required because of sickness.
- 14) Normal pregnancy, or hospital nursery expenses.
- 15) Dental Expenses.
- 16) Expenses related to alcoholism, chemical dependency or drug addiction.
- 17) Expenses for treatment of mental illness or nervous disorder.
- 18) Any benefits that are paid for or furnished under any other part of this Policy or under any other group, franchise, Blue Cross, Blue Shield, or other service or medical prepayment plan arranged through the employer to the extent so furnished or paid.

## DEFINITIONS

- 1) The term "hospital" as used in this policy or any rider attached hereto shall mean, except as may otherwise be provided, a hospital (other than an institution for the aged, chronically ill or convalescent resting or nursing homes) operated pursuant to law for the care and treatment of sick or injured persons with organized facilities for diagnosis and surgery and having 24-hour nursing service and medical supervision.
- 2) The term "physician" as used in this policy or any rider attached hereto shall mean a doctor of medicine or a doctor of osteopathy licensed to render medical services as performed, however, such definition will exclude chiropractors and physiotherapists.
- 3) The term "sickness" wherever used in this policy or any rider attached hereto shall mean sickness or disease of any kind contracted and commencing after the effective date of this policy and causing loss covered by this policy.

## COORDINATION OF BENEFITS

If a covered person insured under this Policy is also insured under one or more of the following other plans providing medical benefits: (a) group insurance or any other arrangement of coverage for individuals in a group whether on an insured or uninsured basis, or (b) Blue Cross, Blue Shield or any other prepayment coverage, then the benefits payable with respect to him under this plan are subject to reduction so that the sum of the benefits payable under this plan and all other plans for expenses incurred for each disability will not exceed the total Allowable Expenses incurred during such period. Benefits payable under another plan include benefits which would have been payable had claim been duly made therefore.

"Allowable Expense" means any necessary, reasonable and customary item of expense at least partially covered under one of the plans involved.

For the purpose of Coordination of Benefits, the Company:

- (a) may release to or obtain from any other organizations or individuals any claim information and any individual claiming benefits under this plan shall furnish the Company with any information which the Company may require;
- (b) has the right, if any overpayment is made under this plan because of failure to report other coverage or other reasons, to recover such overpayment from any individual or individuals to whom it was made.

## PRE-EXISTING CONDITIONS

Pre-existing condition is defined as benefits for a condition which a covered person(s) receives treatment, incurs expense or receives a diagnosis from a Physician during 90 days prior to the date of injury or sickness. With respect to Pre-existing Conditions, benefits will be paid to a maximum of \$500.00.

## PAYMENT OF CLAIMS

To Whom Paid - Benefits paid on account of a covered person(s) death will be paid as follows:

- 1) to his spouse, if living;
- 2) if not, in equal shares, to his living children;
- 3) if there are none, in equal shares to his living parents;
- 4) if there are none, in equal shares to his living brothers and sisters;
- 5) if there are none, to his estate.

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Authorized Representative

January 21, 1999

PAC



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 3

EFFECTIVE DATE: January 11, 1999

POLICY PERIOD FROM: January 11, 1999

TO: January 11, 2000

Company Name: CIGNA Insurance Company

Premium: ☒ Included ☐

Due When Coverage Begins

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**HIRED AUTO PHYSICAL DAMAGE COVERAGE ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**CONTINGENT AUTO LIABILITY COVERAGE FORM**

For the purpose of this coverage endorsement, SECTION II - COVERED AUTOS is amended to cover only hired "autos."

**SECTION I.I - HIRED AUTO PHYSICAL DAMAGE COVERAGE**

**INSURING AGREEMENT**

We will reimburse you, at replacement cost, up to \$1,000 per "accident" for physical damage "loss" to a hired "auto" or its equipment while in the care, custody, or control of an insured.

You may pay for "loss" to a hired "auto" that was damaged while in your care, custody, or control. We will reimburse you for that payment. Our consent for such payment is not required, but we do require proof of "loss" and proof that the payment was made for "loss" to a covered "auto" before we will reimburse you.

**EXCLUSIONS**

In addition to the **Contingent Auto Liability Coverage Form** exclusions, we will not pay for "loss" to any covered "auto" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss":

**Racing or Demolition**

We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. Also, we will not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a

**Wear and Tear**

We will not pay for "loss" caused by or resulting from any of the following:

1. Wear and tear, freezing, mechanical or electrical breakdown.
2. Blowouts, punctures or other road damage to tires.

### **Tapes, Records, and Equipment**

We will not pay for "loss" to any of the following:

1. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
2. Equipment designed or used for the detection or location of radar or laser emissions.
3. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
4. Any accessories used with the electronic equipment described in paragraph (3) above.

### **Care, Custody, or Control**

The exclusion for care, custody or control is deleted solely with respects to this endorsement.

### **SECTION IV - LIMIT OF INSURANCE**

The most we will pay for "loss" in any one "accident" or in any one policy period for hired auto physical damage coverage is the lesser of:

1. The replacement cost of the damaged or stolen property as of the time of the "loss"; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
3. \$1,000 for any one "accident" or \$10,000 in any one policy period.

### **SECTION V - AUTO CONDITIONS**

#### **Duties in the Event of Accident, Claim, "Suit" or Loss**

For hired auto physical damage coverage to apply, you must also do the following if there is a loss to a hired "auto" or its equipment:

6. Promptly notify the local police, civil guard, militia, or other appropriate local legal authority if the hired "auto" or any of its equipment is stolen.
7. Take all reasonable steps to protect the hired "auto" from further damage. Also, keep a record of your expenses for consideration in the settlement of the claim.
8. Assume no obligation, make no payment, or incur no expense other than for hired "auto" physical damage coverage without our consent, except at the insured's own cost.

**ALL OTHER TERMS AND CONDITIONS OF THE CONTINGENT AUTO LIABILITY COVERAGE FORM ARE STILL APPLICABLE TO THIS COVERAGE ENDORSEMENT.**

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Authorized Representative



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

ENDORSEMENT NO.: 4

EFFECTIVE DATE: January 11, 1999

POLICY PERIOD FROM: January 11, 1999

TO: January 11, 2000

Company Name: CIGNA Insurance Company

Premium: ☒ Included ☐

Due When Coverage Begins

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.  
ELECTRONIC MEDIA ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

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

**a. Any actual or alleged failure, malfunction or inadequacy of:**

**(1) Any of the following, whether belonging to any insured or to others:**

- (a) Computer hardware, including micro-processors;
- (b) Computer application software;
- (c) Computer operating systems and related software;
- (d) Computer networks;
- (e) Microprocessors (computer chips) not part of any computer system; or
- (f) Any other computerized or electronic equipment or components; or

**(2) Any other products and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph a(1), above, of this endorsement.**

due to the inability or failure to process, including but not limited to, calculating, comparing, recording, retrieving, sequencing, reading, storing, manipulating, writing to media, determining, distinguishing, converting, transferring or executing "Date/Time Material".

"Date/Time Material", as used herein, means dates, times, data or information that in any manner includes, depends upon, is contingent upon, is derived from, or incorporates any date or time, irrespective of the manner or medium of storage or recordation.

**b. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph a. of this endorsement.**

We shall have no duty to defend any "suit" arising out of or in any way related to "Date/Time Material."

All other terms and conditions remain unchanged.

Authorized Representative



NAMED INSURED: Blitz U.S.A., Inc.

POLICY NUMBER: PHF 053908

EFFECTIVE DATE: January 11, 1999

DECLARATION EFFECTIVE: January 11, 1999

This policy consists of these Coverage Declarations, endorsements, the applicable General Declarations page and the following printed forms:

Cover Page	Form UW-8H24A
Commercial General Liability Coverage	Form UW-4J50B
Contingent Automobile Liability Coverage	Form UW-1608D
Employee Benefits Liability Endorsement	Form UW-6L68
Employers Responsibility Coverages with Executive Assistance	Form UW-601658A
Accidental Death and Dismemberment - Medical	Form IT607737
Common Policy Conditions	Form UW-2L52

#### Liberalization

During the policy year, and any subsequent renewal, we may replace any of the above forms with a revised form of the same form number as shown above. You will have the benefit of any changes in coverage in the revised form as though the changes had been part of this policy at the beginning of the policy year in which we first used such form to replace the form of the same number listed above.



***INTERNATIONAL***  
***ADVANTAGE***  
***Commercial Insurance Policy***

## INTRODUCTION

This is your commercial insurance policy. It offers a wide range of protection designed to meet today's complex insurance needs. Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

### How to Read This Policy

This policy is keyed to the coverages shown in the Declarations. You have only those coverages for which a limit or other specification is shown in the Declarations.

This policy may provide several different kinds of coverage. The forms included explain the coverages shown in the Declarations, and include certain extensions of coverage that may apply.

Whenever a loss occurs or a claim is to be presented, there are certain things you must do to help us settle the claim. These are described in the **CONDITIONS** sections of your policy.

Finally, read the **COMMON POLICY CONDITIONS**. This section gives you information on when and where the policy will be in effect, the payment of premiums, changes in the policy and cancellation. The **COMMON POLICY CONDITIONS** also contains other important information about the policy.

### You, Your, We, Us, and Our

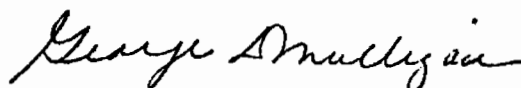
Throughout the policy the terms "you" and "your" mean the person, people, or organization shown as the Named Insured in the Declarations. "We", "us", and "our" mean the insurance company issuing this policy. Besides you, there may be other people "insured" under certain parts of the policy.

### Words in Quotation Marks

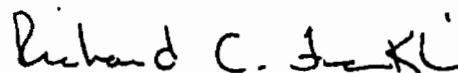
Words and phrases that appear in quotation marks have the special meaning given to them in the Section - DEFINITIONS of the coverage form in which they appear.

By signing and delivering the policy to you, we state that it is a valid contract when countersigned by our authorized representative.

**CIGNA INSURANCE COMPANY**  
A California Corporation



GEORGE D. MULLIGAN, Corporate Secretary



RICHARD C. FRANKLIN, President





ACE USA

## **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

### **SECTION I COVERAGES**

#### **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

##### **INSURING AGREEMENT**

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. 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. This insurance applies only to "bodily injury" and "property damage" which occurs during the Policy Period. The "bodily injury" or "property damage" must be caused by an "occurrence." The "occurrence" must take place in the "coverage territory." We will have the right and duty to defend any "suit" seeking those damages.

But:

1. The amount we will pay for damages is limited as described in SECTION III - LIMITS OF INSURANCE;
2. We may investigate and settle any claim or "suit" at our discretion; and
3. 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.

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."

"Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.

##### **EXCLUSIONS**

This insurance does not apply to:

###### **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.

###### **Contractual**

"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. Assumed in a contract or agreement that is an "insured contract"; or
2. That the insured would have in the absence of the contract or agreement.

###### **Alcoholic Beverages Business**

"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 only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

#### **Workers Compensation**

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

#### **Employee Indemnification and Employers Liability**

"Bodily injury" to:

1. An employee of the insured arising out of and in the course of employment by the insured; or
2. The spouse, child, parent, brother or sister of that employee as a consequence of 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.

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

#### **Pollution**

"bodily injury" or "property damage" arising out of the discharge, dispersal, release or escape of:

1. smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals or liquids; or
2. gases, waste materials or other irritants, contaminants or pollutants.

into or upon land, the atmosphere or any watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;

any loss, cost or expense arising out of or in any way related to any governmental direction or other demand or request that you test for, assess, monitor, clean-up, remove, contain, treat, detoxify or neutralize any irritants, pollutants or contaminants, and we shall not have the duty to defend any claim or "suit" seeking to impose such cost, expense, damages or any other relief.

#### **Aircraft, "Autos," 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 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 50 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 the operation of any of the equipment listed in paragraph 6.b. or

6.c. of the definition of "mobile equipment" in Section V.

#### **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 or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

#### **War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

#### **Nuclear**

"Nuclear"

#### **Care, Custody, or Control**

"Property damage" to:

1. Property you own, rent, or occupy;
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 your care, custody or control;
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.

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."

#### **"Property Damage" to "Your Product"**

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

#### **"Property 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.

#### **Failure to Perform**

"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.

#### **Sistership**

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.

#### **Premises Legal Exception**

Only the exclusions above for EXPECTED OR INTENDED INJURY and for CONTRACTUAL apply to damage to premises rented to you. A separate limit of insurance applies to this coverage as described in SECTION III - LIMITS OF INSURANCE.

### **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**

#### **INSURING AGREEMENT**

We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" or "advertising injury" to which this insurance applies. 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. We will have the right and duty to defend any "suit" seeking those damages. But:

1. The amount we will pay for damages is limited as described in SECTION III - LIMITS OF INSURANCE.
2. We may investigate and settle any claim or "suit" at our discretion; and
3. 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.

This insurance applies to "personal injury" only if caused by an offense:

1. Committed in the "coverage territory" during the Policy Period; and
2. Arising out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

This insurance applies to "advertising injury" only if caused by an offense committed:

1. In the "coverage territory" during the Policy Period; and
2. In the course of advertising your goods, products or services.

#### **EXCLUSIONS**

This insurance does not apply to:

"Personal injury" or "advertising injury";

1. Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
2. Arising out of oral or written publication of material whose first publication took place before the beginning of the

Policy Period;

3. Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured; or
4. 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.

"Advertising injury" arising out of:

1. Breach of contract, other than misappropriation of advertising ideas under an implied contract;
2. The failure of goods, products or services to conform with advertised quality or performance;
3. The wrong description of the price of goods, products or services; or
4. An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

#### **COVERAGE C. MEDICAL PAYMENTS**

##### **INSURING AGREEMENT**

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:

1. The accident takes place in the "coverage territory" and during the Policy Period;
2. The expenses are incurred and reported to us within one year of the date of the accident; and
3. The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

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 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.

##### **EXCLUSIONS**

We will not pay expenses for "bodily injury":

1. To any insured.
2. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
3. To a person injured on that part of premises you own or rent that the person normally occupies.
4. 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.
5. To a person injured while taking part in athletics.
6. Included within the "products completed operations hazard."
7. Excluded under Coverage A..
8. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection,

rebellion or revolution.

#### **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. 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.
3. 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.
4. 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 \$100 a day because of time off from work.
5. All costs taxed against the insured in the "suit."
6. Pre-judgment 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 pre-judgment interest based on that period of time after the offer.
7. 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.

#### **SECTION II - WHO IS AN INSURED**

If you are designated in the Declarations as:

1. 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.
2. 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.
3. An organization other than a partnership or joint venture, 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.

Each of the following is also an insured:

1. Your employees, other than your executive officers, but only for acts within the scope of their employment by you. However, none of these employees is an insured for:
  - a. "Bodily injury" or "personal injury" to you or to a co-employee while in the course of his or her employment; or
  - b. "Bodily injury" or "personal injury" arising out of his or her providing or failing to provide professional health care services; or
  - c. "Property damage" to property owned or occupied by or rented or loaned to that employee, any of your other employees, or any of your partners or members (if you are a partnership or joint venture).
2. Your volunteer workers, at your option.
3. Any lessor but only for liability assumed in a contract or agreement that is an "insured contract" and arising out of the ownership, maintenance or use of personal property leased to a Named Insured or that part of a premises leased to a Named Insured. However, this insurance does not apply:

- a. to any "occurrence" which takes place after the Named Insured ceases to be a tenant in the premises;
- b. to structural alterations, new construction or demolition operations performed by or on behalf of the lessor
- 4. Any person (other than your employee), or any organization while acting as your real estate manager.
- 5. Any person or organization having proper temporary custody of your property if you die, but only:
  - a. With respect to liability arising out of the maintenance or use of that property; and
  - b. Until your legal representative has been appointed.
- 6. 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 Form.

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an Insured with respect to:

- 1. "Bodily injury" to a co-employee of the person driving the equipment; or
- 2. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

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

- 1. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the Policy Period, whichever is earlier;
- 2. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- 3. Coverage B does not apply to "personal injury" or "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 or joint venture that is not shown as a Named Insured in the Declarations.

### **SECTION III- LIMITS OF INSURANCE**

The Limits of Insurance for COMMERCIAL GENERAL LIABILITY COVERAGE shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- 1. Insureds;
- 2. Claims made or "suits" brought; or
- 3. Persons or organizations making claims or bringing "suits."

The Each Occurrence Limit is the most we will pay for the sum of:

- 1. Medical expenses under Coverage C; and
- 2. Damages under Coverage A because of all "bodily injury" and "property damage" arising out of any one "occurrence"; except damages because of injury and damage included in the "products-completed operations hazard."

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of injury and damage included in the "products-completed operations hazard."

The Personal and Advertising Injury Aggregate Limit is the most we will pay for damages under Coverage B for all "personal injury" and all "advertising injury."

Subject to the Each Occurrence Limit above, the Premises Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises rented to you arising out of any one "occurrence."

Subject to the Each Occurrence Limit 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 this Coverage Form 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**

##### **Bankruptcy**

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

##### **Duties In The Event Of "Occurrence," Claim or "Suit"**

You must see to it that we are notified promptly of an "occurrence" which may result in a claim. Notice should include:

1. How, when and where the "occurrence" took place; and
2. The names and addresses of any injured persons and witnesses.

If a claim is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the claim or "suit."

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, settlement or defense of the claim or "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.

No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **Legal Action Against Us**

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

1. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
2. To sue us on this Coverage Form 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 obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this Coverage Form 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.



## 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 Form, our obligations are limited as follows:

### 1. "Contingent" Insurance

This insurance is "contingent" except when 2. below applies. If this insurance is "contingent", our obligations are not affected unless any of the other insurance is also "contingent." Then, we will share with all that other insurance by the method described in 3. below.

### 2. Excess Insurance

This insurance is excess over any of the other insurance, whether "primary," excess, "contingent" or on any other basis:

- a. That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for your work";
- b. That is Fire, Extended Coverage or similar coverage for premises rented to you; or
- c. If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to the Exclusion of Coverage A (Section II) titled: Aircraft, Autos, Watercraft.

When this insurance is excess, we will have no duty under Coverage A or B to defend any claim or "suit" that any other insurer has a duty to defend. 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.

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.

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 Form.

### 3. 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.

## Premium Audit

1. We will compute all premiums for this Coverage Form in accordance with our rules and rates.
2. Premium for this Coverage Form is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.
3. 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.

## **Representations**

By accepting this policy, you agree:

1. The statements in the Declarations are accurate and complete;
2. Those statements are based upon representations you made to us; and
3. We have issued this policy in reliance upon your representations.

## **Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Form to the first Named Insured, this insurance applies:

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

## **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 Form, 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.

## **Notice of Accident**

If you report an accident to the insurer providing "your workers" compensation insurance, and that accident later develops into a claim or "suit" under this Coverage Form, your failure to report such accident to us at the time of "occurrence" shall not be deemed a violation of the condition titled Duties in the Event of Occurrence, Claim or "Suit". However, you will notify us as soon as you become aware that the accident is a claim or "suit" under this Coverage Form.

## **Knowledge of "Occurrence"**

Knowledge of an "occurrence" by your agent, servant or employee shall not constitute your knowledge of an "occurrence" unless one of your executive officers or someone responsible for administering your Insurance program shall have received such notice from the agent, servant, or employee.

## **Unintentional Errors or Omissions**

Your unintentional failure or omission to disclose all hazards existing as of the inception date of this policy shall not prejudice the coverage afforded by this policy.

## **SECTION V - DEFINITIONS**

### **Advertising Injury**

means injury arising out of one or more of the following offenses:

1. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
2. Oral or written publication of material that violates a person's right of privacy;
3. Misappropriation of advertising ideas or style of doing business; or
4. Infringement of copyright, title or slogan.

### **Auto**

means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

### **Bodily Injury**

means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

### **Contingent**

means insurance issued to apply to claims or "suits" arising from "occurrences" outside the country in which the insurance was issued. "Contingent" insurance takes the place of "primary" insurance when the "insured" has no "primary" insurance coverage which applies.

Contingent" insurance will pay only the amount by which its limit exceeds the limits of any "primary" insurance, including "primary" insurance issued on an excess basis, which applies.

When this insurance is "contingent," we have the right but not the duty to defend.

If no "primary" insurance coverage applies, we have the duty to defend.

### **Coverage territory**

means "Coverage Territory for Liability Insurances" shown in the Declarations.

The "coverage territory" also includes:

1. international waters or airspace, provided the injury or damage does not occur in the course of travel or transportation from one place to another when both places are within the United States of America (including its territories and possessions), Puerto Rico and Canada; and
2. the United States of America (including its territories and possessions), Puerto Rico or Canada, if the insured's responsibility to pay damages is determined in a "suit" on the merits in any country other than the United States of America (including its territories and possessions), Puerto Rico or Canada, or in a settlement we agree to.

### **Impaired property**

means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:

1. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
2. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

1. The repair, replacement, adjustment or removal of "your product" or "your work"; or
2. Your fulfilling the terms of the contract or agreement.

### **Insured contract**

means:

1. A lease of premises;
2. A sidetrack agreement;
3. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
4. Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
5. An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
6. An elevator maintenance agreement; or

7. That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

1. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - a. Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
  - b. Giving directions or instructions or failing to give them, if that is the primary cause of the injury or damage;
2. Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in 1. above and supervisory, inspection or engineering services; or
3. That indemnifies any person or organization for damage by fire to premises rented or loaned to you.

#### **Loading or unloading**

means the handling of property:

1. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
2. While it is in or on an aircraft, watercraft or "auto"; or
3. 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."

#### **Mobile equipment**

means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - a. Power cranes, shovels, loaders, diggers or drills; or
  - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - b. Cherry pickers and similar devices used to raise or lower workers;
6. Vehicles not described in 1., 2., 3. or 4. 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":

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

#### **Nuclear**

means this insurance does not apply:

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 other similar nuclear energy liability insurance underwriting association or organization, 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 other law or regulation requiring the insured to maintain such financial protection 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 other country, or any agency thereof, under any agreement entered into by the United States of America, or any other country, or any agency thereof, with any person or organization;

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;

Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "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.

As used in this definition of "nuclear":

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear facility" means:

1. Any "nuclear reactor;"

2. Any equipment or device designed or used for a) separating the isotopes of uranium or plutonium, b) processing or utilizing "spent fuel," or c) handling, processing or packaging "waste;"
3. 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;
4. 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 material" means "source material," "special nuclear material" or "by-product material;"

"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.

"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."

#### **Occurrence**

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

#### **Personal injury**

means injury, other than "bodily injury," arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;
2. Malicious prosecution;
3. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
4. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
5. Oral or written publication of material that violates a person's right of privacy.

#### **Primary**

means insurance issued to respond prior to other insurance to claims or "suits" brought in the country in which such insurance was issued. "Primary" insurance may include insurance for claims or "suits" arising from "occurrences" which take place outside the country in which such insurance was issued.

### **Products-completed operations hazard**

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.

"Your work" will be deemed completed at the earliest of the following times:

1. When all of the work called for in your contract has been completed.
2. When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
3. 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.

This hazard 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 created by the "loading or unloading" of it;
2. The existence of tools, uninstalled equipment or abandoned or unused materials;
3. Products or operations for which the classification in this Coverage Form, or in our manual of rules, includes products or completed operations.

### **Property damage**

means:

1. Physical injury to tangible property, including all resulting loss of use of that property; or
2. Loss of use of tangible property that is not physically injured.

### **Suit**

means a civil proceeding in which damages because of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

### **Your product**

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.

"Your product" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in 1. and 2. above.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

**Your work 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.

"Your work" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in 1. or 2. above.





ACE USA

## **CONTINGENT AUTO LIABILITY COVERAGE FORM**

**THIS INSURANCE MAY NOT BE OFFERED IN SATISFACTION OF INSURANCE REQUIREMENTS OF ANY MOTOR VEHICLE LAW ANYWHERE.**

### **SECTION I - LIABILITY COVERAGE**

#### **INSURING AGREEMENT**

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto."

We have the right and duty to defend any "suit" asking for these damages. However, we have no duty to defend "suits" for "bodily injury" or "property damage" not covered by this Coverage Form. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Contingent Auto Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

#### **SUPPLEMENTARY PAYMENTS**

In addition to the Limit of Insurance, we will pay for the "insured":

1. All expenses we incur.
2. Up to \$250 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
3. The cost of bonds to release attachments in any "suit" we defend, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$100 a day because of time off from work.
5. All costs taxed against the "insured" in any "suit" we defend.
6. All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" we defend; but our duty to pay interest ends when we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

#### **EXCLUSIONS**

This insurance does not apply to any of the following:

##### **Expected or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured."

##### **Contractual**

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

1. Assumed in a contract or agreement that is an "insured contract"; or
2. That the "insured" would have in the absence of the contract or agreement.

#### **Workers Compensation**

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers compensation; disability benefits or unemployment compensation law or any similar law.

#### **Employee Indemnification and Employers Liability**

"Bodily injury" to:

1. An employee of the "insured" arising out of and in the course of employment by the "insured"; 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.

But this exclusion does not apply to "bodily injury" to domestic employees not entitled to workers compensation benefits or to liability assumed by the "insured" under an "insured contract."

#### **Fellow Employee**

"Bodily injury" to any fellow employee of the "insured" arising out of and in the course of the fellow employee's employment.

#### **Care, Custody or Control**

"Property damage" to property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

#### **Handling of Property**

"Bodily injury" or "property damage" resulting from the handling of property:

1. Before it is accepted by the "insured" for movement into or onto the covered "auto"; or
2. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured."

#### **Movement of Property by Mechanical Device**

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto."

## **Operations**

"Bodily injury" or "property damage" arising out of the operation of any equipment listed in paragraphs 2. and 3. of the definition of "mobile equipment."

## **Completed Operations**

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion your work 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.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in 1. or 2. above.

Your work will be deemed completed at the earliest of the following times:

1. When all of the work called for in your contract has been completed.
2. When all of the work to be done at the site has been completed, if your contract calls for work at more than one site.
3. 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.

## **Pollution**

"bodily injury" or "property damage" arising out of the discharge, dispersal, release or escape of:

1. smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals or liquids; or
2. gases, waste materials or other irritants, contaminants or pollutants,

into or upon land, the atmosphere or any watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;

any loss, cost or expense arising out of or in any way related to any governmental direction or other demand or request that you test for, assess, monitor, clean-up, remove, contain, treat, detoxify or neutralize any irritants, pollutants or contaminants, and we shall not have the duty to defend any claim or "suit" seeking to impose such cost, expense, damages or any other relief.

## **War**

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

## **Nuclear**

"Nuclear"

## **SECTION II - COVERED AUTOS**

The following are covered "autos":

### **Owned "Autos"**

Those "autos" you own (and any "trailers" you do not own while attached to power units you own), including those "autos" you acquire ownership of after the policy begins.

### **Hired "Autos"**

Those "autos" you lease, hire, rent or borrow; but not including any "auto" you lease, hire, rent, or borrow from any of your employees or partners or members of their households.

### **Nonowned "Autos"**

Those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business, including "autos" owned by your employees or partners or members of their households but only while used in your business or your personal affairs.

### **Newly Acquired "Autos"**

Those "autos" that you acquire for the remainder of the Policy Period.

### **Other Covered "Autos"**

The following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads;
2. "Mobile equipment" while being carried or towed by a covered "auto";
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its breakdown, repair, servicing, "loss", or destruction.

## **SECTION III - WHO IS AN INSURED**

The following are "insureds":

1. You for any covered "auto."
2. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
  - a. The owner or anyone else from whom you hire or borrow a covered "auto." This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
  - b. Your employee, if the covered "auto" is owned by that employee or a member of his or her household. This exception does not apply during any use of the covered "auto" by the employee for your business or your personal affairs.
  - c. Someone using a covered "auto," while he or she is working in a business of selling, servicing, repairing or parking "autos" unless that business is yours.

- d. Anyone other than your employees, partners, a lessee or borrower or any of their employees, while moving property to or from a covered "auto."
  - e. A partner of yours for a covered "auto" owned by him or her or a member of his or her household. This exception does not apply during any use of the covered "auto" by the partner for your business or your personal affairs.
3. Anyone else who is not otherwise excluded under paragraph 2. above and is liable for the conduct of an "insured" but only to the extent of that liability.

#### **SECTION IV - LIMIT OF INSURANCE**

Regardless of the number of covered "autos," "insureds," premiums paid, claims made or vehicles involved in the "accident," the most we will pay for all damages resulting from any one "accident" is the Limit of Insurance for Contingent Auto Liability Coverage shown in the Declarations.

All "bodily injury" and "property damage" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident."

#### **SECTION V - AUTO CONDITIONS**

##### **Duties in the Event of Accident, Claim, "Suit" or Loss**

In the event of "accident," claim, "suit" or "loss," you must give us or our authorized representative prompt notice of the "accident" or "loss." Include:

1. How, when and where the "accident" or "loss" occurred;
2. The "insured's" name and address; and
3. To the extent possible, the names and addresses of any injured persons and witnesses.

Additionally, you and any other involved "insured" must

1. Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
2. Immediately send us copies of any demand, notice, summons or legal paper received concerning the claim or "suit."
3. Cooperate with us in the investigation, settlement or defense of the claim or "suit."
4. Authorize us to obtain medical records or other pertinent information.
5. Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

##### **Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form until:

1. There has been full compliance with all the terms of this Coverage Form; and
2. We agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

### **Transfer of Rights of Recovery against Others to Us**

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

### **Bankruptcy**

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

### **Concealment, Misrepresentation or Fraud**

This coverage form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured," at any time, intentionally conceal or misrepresent a material fact concerning:

1. This Coverage Form;
2. The covered "auto";
3. Your interest in the covered "auto"; or
4. A claim under this Coverage Form.

### **Other Insurance**

The insurance provided by this Coverage Form is "contingent."

When this Coverage Form and any other Coverage Form or policy covers on the same "contingent" basis, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

The insurance provided by this Coverage Form will not act as a substitute for any compulsory "auto" insurance. Failure of the "insured" to comply with compulsory insurance requirements shall not invalidate this insurance, but in the event of such failure, we will only be liable to the same extent as if the "insured" had complied with such requirements.

### **Premium Audit**

The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

### **Policy Period, "Coverage Territory"**

Under this Coverage Form, we cover "accidents" and "losses" occurring:

1. During the Policy Period shown in the Declarations; and
2. Within the "coverage territory" for CONTINGENT AUTO LIABILITY COVERAGE shown in the Declarations.

We also cover "accidents" involving a covered "auto" while being transported between places which are in the "coverage territory."

### **Two or More Coverage Forms or Policies Issued by Us**

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident," the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or any affiliated company specifically to apply as excess insurance over this Coverage Form.

## **SECTION VI- DEFINITIONS**

### **Accident**

includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage."

### **Auto**

means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

### **Bodily injury**

means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

### **Contingent**

means insurance issued to apply to claims or "suits" arising from "occurrences" outside the country in which the insurance was issued. "Contingent" insurance takes the place of "primary" insurance when the "insured" has no "primary" insurance coverage which applies.

"Contingent" insurance will pay only the amount by which its limit exceeds the limits of any "primary" insurance, including "primary" insurance issued on an excess basis, which applies.

When this insurance is "contingent," we have the right but not the duty to defend.

If no "primary" insurance coverage applies, we have the duty to defend.

### **Coverage territory**

means "Coverage Territory for Liability Insurances" shown in the Declarations.

The "coverage territory" also includes:

1. international waters or airspace, provided the injury or damage does not occur in the course of travel or transportation from one place to another when both places are within the United States of America (including its territories and possessions) and Puerto Rico; and
2. the United States of America (including its territories and possessions) and Puerto Rico, if the insured's responsibility to pay damages is determined in a "suit" on the merits in any country other than the United States of America (including its territories and possessions) and Puerto Rico, or in a settlement we agree to.

**Insured**

means any person or organization qualifying as an insured in Section III WHO IS AN INSURED of this Coverage Form. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

**Insured contract**

means:

1. A lease of premises;
2. A sidetrack agreement;
3. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
4. Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
5. An indemnification of a municipality as required by ordinance, except in connection with work for a municipality; or
6. That part of any contract or agreement entered into, as part of your business, by you or any of your employees, pertaining to the rental or lease of any "autos";
7. That part of any other contract or agreement pertaining to your business, under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

An "insured contract" does not include that part of any contract or agreement:

1. That pertains to the loan, lease or rental of any "auto" to you or any of your employees, if the "auto" is loaned, leased or rented with a driver; or
2. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

**Loss**

means direct and accidental loss or damage.

**Mobile equipment**

means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, fork-lifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;



4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
  - a. Power cranes, shovels, loaders, diggers or drills; or
  - b. road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in 1., 2., 3., or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
  - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - b. Cherry pickers and similar devices used to raise or lower workers;
6. Vehicles not described in 1., 2., 3. or 4. 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":

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

#### **Nuclear**

means this insurance does not apply:

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 other similar nuclear energy liability insurance underwriting association or organization, 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 other law or regulation requiring the insured to maintain such financial protection 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 other country, or any agency thereof, under any agreement entered into by the United States of America, or any other country, or any agency thereof, with any person or organization;

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;

Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "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.

As used in this definition of "nuclear":

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear facility" means:

1. Any "nuclear reactor;"
2. Any equipment or device designed or used for a) separating the isotopes of uranium or plutonium, b) processing or utilizing "spent fuel," or c) handling, processing or packaging "waste;"
3. 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;
4. 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 material" means "source material," "special nuclear material" or "by-product material;"

"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.

"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."

**Primary**

means insurance issued to respond prior to other insurance to claims or "suits" brought in the country in which such insurance was issued. "Primary" insurance may include insurance for claims or "suits" arising from "occurrences" which take place outside the country in which such insurance was issued.

**Property damage**

means damage to or loss of use of tangible property.

**Suit**

means a civil proceeding in which damages because of "bodily injury" or "property damage" to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

**Trailer**

includes semitrailer.

## **EMPLOYERS RESPONSIBILITY COVERAGES** **WITH EXECUTIVE ASSISTANCE**

**THIS INSURANCE MAY NOT BE OFFERED IN SATISFACTION OF THE INSURANCE REQUIREMENTS OF ANY "WORKERS COMPENSATION LAW" ANYWHERE.**

### **VOLUNTARY COMPENSATION COVERAGE**

"Voluntary compensation" coverage applies when you make a claim for bodily injury by accident, bodily injury by disease, or bodily injury by "endemic disease." The bodily injury must be injury to your "employee" and must arise out of and in the course of employment by you. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the Policy Period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The "employee's" last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the Policy Period.
3. Bodily injury by "endemic disease" must be caused by disease which your "employee" may reasonably be thought to have contracted by being in a place as a result of your employment. The "employee" must have been in a place where the disease contracted is known to occur. The time the "employee" was in the place where the disease occurs must have been within the Policy Period. The "employee's" last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the Policy Period.

We will adjust the claim with the "employee" by applying the "workers compensation law" of the "state" you choose when you make the claim. The "state" whose law you choose must be one which is shown in the Declarations. The workplace of the "employee" must be within the "coverage territory."

### **We Will Pay Benefits**

We will pay promptly the benefits which would be required of you by the "workers compensation law" of the "state" you choose when making the claim. The "state" you choose must be one which is shown in the Declarations for the following:

1. North Americans, meaning "employees" who are citizens or legal permanent residents of the United States (including its territories and possessions), and Puerto Rico;
2. Third Country Nationals, meaning "employees" who are not citizens of the country of their workplace and who are not described in 1. above; and
3. Local Nationals, meaning "employees" while traveling outside the country of their workplace and who are citizens of the country of their workplace but who are not described in 1. above.

If "State of Hire" appears after the words "North Americans:" in the Declarations for Voluntary Compensation, then with respect to "employees" for whom you wish to provide the benefits of a "state" of the United States of America (including its territories and possessions), or Puerto Rico, but who were not hired in any of those places, the benefits will be:

1. those of the "state" to which you agreed with the "employee" prior to the accident or the discovery of the disease; or
2. if no "state" was agreed with the "employee" prior to the accident or the discovery of the disease, the benefits of the specific "state" shown in the Declarations for "North Americans" as an alternative to "state of hire", or

3. if no "state" was agreed with the "employee" prior to the accident or the discovery of the disease, and no specific "state" is shown above for "North Americans", the benefits of the "state" shown in the address of the insured on the first page of the Declarations for this policy.

#### **Payments You Must Make**

You are responsible for any payments in excess of the benefits regularly provided by the "workers compensation law," including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an "employee" in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any "employee" in violation of the "workers compensation law."

If we make any payments in excess of the benefits regularly provided by the "workers compensation law" on your behalf, you will reimburse us promptly.

#### **Before We Pay**

Before we pay benefits to the persons for whom you have made claims, they must:

1. Release you and us, in writing, of all responsibility for the injury or death, if we so request;
2. Transfer to us their right to recover from others who may be responsible for the injury or death; and
3. Cooperate with us and do everything necessary to enable us to enforce the right to recover from others.

If the persons for whom you have made claims under this coverage fail to do those things, our duty to pay ends at once. If they claim damages from you or from us for the injury or death, our duty to pay ends at once.

#### **Recovery From Others**

If we make a recovery from others, we will keep an amount equal to our expenses of recovery and the benefits we paid. We will pay the balance to the persons entitled to it. If the persons who receive the benefits of this insurance make a recovery from others, they must reimburse us for the benefits we paid them.

#### **EXECUTIVE ASSISTANCE SERVICES**

When an "employee" that is covered under this coverage part becomes injured or ill while travelling on your business within the "coverage territory," Executive Assistance Services are available. We will provide your "employee", subject to the Limits of Insurance shown in the Declarations under II. Executive Assistance Services, Medical Assistance Services with the services listed below.

Executive Assistance Services are Medical Assistance, Personal Assistance, Travel Assistance and Security Assistance as described herein.

Executive Assistance is serviced by Worldwide Assistance (WA), a third party provider of the Medical, Personal and Travel Assistance services described in this section.

Control Risks Group (CRG), a third party provider, services Security Assistance Services.

Executive Assistance Services are available to "you," your "expatriate employees" and "employees" engaged

in "temporary travel," including their accompanying spouse, child(ren) or other companion(s) engaged in "temporary travel. For Executive Assistance Services, the definition of "employee" is extended to include accompanying spouse, child(ren) or other companion(s). "Employees" may contact Worldwide Assistance at any hour on any day.

For Executive Assistance Services, Temporary Travel includes personal travel, but only if such personal travel does not exceed a total of fourteen consecutive days, and is incidental to travel on your business, outside of the country of an "employee's" workplace.

Worldwide Assistance is staffed with trained multi-lingual personnel, including doctors on round-the-clock call for emergency medical consultation and assistance as described in these Executive Assistance Services. This center handles requests for referrals to English-speaking doctors, and specialists, as well as all aspects of coordinating an emergency medical evacuation.

We will give you service cards for your policy that includes Executive Assistance Services. The service cards will explain how to reach Worldwide Assistance. It is your responsibility to distribute the service cards and descriptions to your "employees" who may require assistance services. You may ask us for additional cards as you may require.

### **Medical Assistance Services**

We will not pay more for all Medical Assistance Services expense in any one policy year than the amount shown in the Declarations as the policy limit for Medical Assistance Services, regardless of the number of "employees" to whom services were rendered. If we incur expenses for Medical Assistance Services in any one policy year in excess of the policy limit, you agree to reimburse us or our designee for the amount in excess of the policy limit.

All services and payments must be arranged and pre-approved by Worldwide Assistance. Evacuations/Repatriations must be ordered by a legally licensed physician and approved by a Worldwide Assistance designated physician to certify that the severity of the "employees" injury or sickness warrants an emergency evacuation/repatriation. All transportation arrangements must be by the most direct and economical route possible. In the event you are seriously ill or injured and cannot call, you must contact Worldwide Assistance as soon as you are able.

### **Hospital Admission Deposit**

We will either guarantee the payment of or wire any required emergency hospital admission deposit up to US\$10,000. You or your "employee" will repay any such deposit to us within 45 days (without interest). If you fail to repay to us such deposit in the time allowed or we are required to pay on our guarantee, then such money becomes a service rendered, and we have the additional rights set out under the heading "Transfer of Rights of Recovery against Others to Us."

### **Medical Monitoring**

Worldwide Assistance will monitor the "employee's" condition when hospitalized abroad and will use best efforts to report regularly the "employee's" condition to a person designated by the "employee."

### **Dispatch of a Doctor or Specialist**

When Worldwide Assistance determines, based on information available to them, that an "employee's" condition cannot be adequately assessed to evaluate the need for evacuation, Worldwide Assistance will dispatch a doctor or specialist to the "employee's" location. We will pay the cost of the doctor's or specialist's travel to the "employee's" location, but we will not pay the cost of any medical services rendered by the doctor or specialist at the location. Medical Expenses are not covered by Executive Assistance and should be submitted to the health carrier, or if work related, submitted to the Workers' Compensation carrier, or similar carrier.

### **Emergency Medical Evacuation**

When Worldwide Assistance determines adequate medical facilities are not available locally, we will arrange and pay for emergency medical evacuation under medical supervision, if necessary, to the nearest location with adequate facilities. Our obligation is limited to the limits of liability shown in the declarations page.

Worldwide Assistance will arrange and we will pay the cost of one family member or other traveling companion to continue to accompany the "employee" during evacuation, if it is reasonably possible for that person to accompany the "employee". Our obligation is limited to the cost of the airfare, and an incidental expense maximum of \$300. per day, and \$5,000 Maximum for any one occurrence.

"Employee" and any accompanying family member or other traveling companion may be required to release us or a third party assistance provider from liability during emergency evacuation.

#### **Repatriation**

If Worldwide Assistance determines, based on information available to them, that it is medically necessary to repatriate the "employee" to a facility which is in the country of residence of the "employee" or a location in the country of which the "employee" is a citizen, following stabilization, we will arrange and will pay for repatriation under medical supervision, if necessary.

Worldwide Assistance will arrange and we will pay the cost of one family member or other traveling companion to continue to accompany the "employee" during repatriation, if it is reasonably possible for that person to accompany the "employee". Our obligation is limited to the cost of the airfare, and an incidental travel expense of a maximum of \$300. per day, and Maximum for any one occurrence of \$5,000.

"Employee" and any accompanying family member or other traveling companion may be required to release us or a third party assistance provider from liability during repatriation.

Our obligation is limited to the provision of one (1) repatriation attributable to any single medical condition of an "employee."

#### **Repatriation of Mortal Remains**

In the event of an "employee's" death while traveling, Worldwide Assistance will render every assistance possible to obtain necessary clearances and arrange for the return of the mortal remains in an appropriate transportation container to a location which is consistent with the known reasonable wishes of the "employee" or of the "employee's" family. We will pay reasonable expenses associated with such return, including the cost of embalming to meet any applicable requirements.

We will also pay the cost of one family member or other traveling companion to continue to accompany the mortal remains of the deceased "employee" during repatriation, if it is reasonably possible for that person to accompany the remains. Our obligation is limited to the cost of the airfare, and an incidental travel expense of a maximum of \$300. per day, and a Maximum for any one occurrence of \$5,000.

#### **Personal Assistance**

##### **Pre-Trip Medical Referral Information**

Worldwide Assistance will provide pre-trip referral information to "employees" regarding countries and regions to be visited, including local multi-lingual doctors and/or addresses and phone numbers for hospitals.

##### **Emergency Medication**

Should an "employee" require prescription medication that is not available locally, Worldwide Assistance will

make arrangements for the transportation of such medication, when possible and legally permissible, to the "employee" upon the request of the prescribing physician. The "employee" is responsible for the cost of medication and the transportation.

#### **Embassy and Consular Information**

Worldwide Assistance will provide "employees" with contact information for embassies and consulates worldwide.

#### **Lost Document Assistance**

Worldwide Assistance will assist with obtaining replacements if an "employee" loses important travel documents while traveling, including passport and credit cards. We will not pay the cost of obtaining such replacements.

#### **Emergency Message Transmission**

Worldwide Assistance will make reasonable efforts to receive and transmit emergency messages for an "employee" to one family member and/or employer.

#### **Emergency Cash Advance**

We will, whenever possible, provide "employees" with a cash advance of up to \$1000 in local currency for emergencies. You or your "employee" will repay any such emergency cash advance to us within 45 days (without interest). If you or your "employee" fail to repay to us such advance, then such money becomes a service rendered, and we have the additional rights set out under the heading "Transfer of Rights of Recovery against Others to Us."

#### **Legal Access**

Worldwide Assistance will provide "employees" with an introduction to local attorneys. Assistance will also be provided in obtaining bail bonds in those areas where such bonds are customarily issued. "Employee" is responsible for contracted legal fees.

#### **Translations & Interpreters**

Worldwide Assistance will provide personal emergency translation services, as well as referrals to interpreter services. When personal presence or other customized interpreter services are required, the "employee" will be responsible to pay locally the cost of such interpreter services.

#### **Benefits Verification and Claims Assistance**

Worldwide Assistance will assist "employees" in verifying their medical insurance benefits when hospitalized overseas and we will assist in coordinating overseas claims procedures with their health insurance and any applicable workers compensation insurance and as you direct.

#### **Travel Assistance**

##### **Emergency Family Travel Arrangements**

Worldwide Assistance will coordinate emergency travel arrangements for family members who need to join a hospitalized "employee", or to accompany the mortal remains of a deceased "employee". The costs of travel services are the responsibility of the traveler(s).

##### **Return of Traveling Companion/Dependents**

When Worldwide Assistance hospitalizes or evacuates an "employee" and a traveling companion's air ticket is no longer usable, Worldwide Assistance will arrange, but not pay the cost of, one way air transportation for UW-601658d (4/01)



the companion to the original departure point, or to their place of residence.

At the request of the "employee", Worldwide Assistance will arrange, but not pay the cost of qualified attendants to accompany the return of traveling companions/dependents.

#### Return of Vehicle

In the event of an "employee's" hospitalization or medical evacuation, Worldwide Assistance will arrange, but not pay the cost, to have the "employee's" unattended vehicle returned to the rental agency or the "employee's" current principal residence.

### SECURITY ASSISTANCE

#### Travel Security Information

We will provide an "employee" with access through the Internet to CRG'S CityBrief™ (CR24™). CR24™ is designed to provide travelers with city specific information in an executive summary format regarding the risks posed by crime, terrorism and civil unrest in cities throughout the world.

#### Security Crisis Center

We will provide an "employee" with access to a Security Consultant at (CR24™) Security and Incident Management Support Services, which can provide an oral briefing on the available information regarding the threats posed in a particular city or country by criminal or terrorist activities or political and civil unrest and other factors affecting travel in cities throughout the world.

#### CR-24 Services™

In response to a request by an "employee," (CR24™) will arrange, but not pay the cost of, evacuation of an "employee" whose personal security is threatened by any political instability or civil unrest to a safe location at the earliest reasonable possible time. In the event that evacuation is not reasonably possible for any reason, regular contact can be maintained with the employee through (CR24™) until the threat to the personal security of the "employee" is abated or the evacuation of the "employee" is reasonably possible.

#### Crises Management Planning

Through an arrangement with (CR24™), we will arrange, but not pay for, evacuation contingency planning for intended travel locations. Evacuation contingency planning consists of an on-site evaluation and recommendations for evacuating the "employee" in the event of an emergency or crisis situation which poses an imminent threat to the personal security of the "employee."

#### Exclusions

We will not be responsible for the cost of services arising from:

Service provided outside the policy period; if, before the end of the policy period, we have begun to assist an "employee" with any of the services described under the heading "Medical Assistance Services," we will continue to provide those services for up to seven days from the end of the policy period;

Services rendered without our authorization and/or intervention; but we will pay the cost, if any, which we estimate we would have incurred to provide evacuation and/or repatriation to any "employee" who obtained such services without our authorization and/or intervention.

Services provided for which no charge is normally made;

Expenses incurred if the original or ancillary purpose of the "employee's" trip is to obtain medical treatment;

Intentionally self-inflicted injuries, suicide or any attempt thereof, regardless of mental condition;

Service in the Armed Forces of any country;

Use of any drug unless prescribed by a physician;

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The commission of or attempt to commit an unlawful act;  
Routine or minor medical problems, tests and exams related to pregnancy;

Transportation for an "employee's" vehicle involving intercontinental and/or marine transportation;

No services shall be available for any "employee" if such services are required as a result of:

Mild lesions, simple fractures, or mild sickness, which can be treated by local doctors and do not prevent the "employee" from continuing his/her trip or returning home;

Pregnancies except in case of major, vital complication for mother and/or baby; and

Services for which request is made after we have paid the policy limit or incurred expenses which exceed the policy limit

### **Conditions**

#### **Errors and Omissions**

We are not liable for any act or omission by a local doctor or attorney who is not our employee nor the employee of a third party provider of the assistance services described in this section of the policy.

We cannot be held responsible for failure to provide, or for delay in providing, services when such failure or delay is caused by conditions beyond our control, including but not limited to flight conditions, strike, riot, civil commotion, war or uprising, or where rendering of service is prohibited by local laws or regulations.

#### **Transfer of Rights of Recovery against Others to Us**

If you or the "employee" to whom we render assistance have any rights to recover all or any part of the cost of services rendered under this coverage part from any other people or organization, including rights to recover under any "workers compensation law," health plan or insurance policies, we are entitled to an assignment of those rights to the extent of our benefit payments. You and your "employee" shall transfer those rights to us and cooperate with us as may be necessary to enforce such rights. You and your "employee" agree to sign any papers, deliver them to us, and do anything else that we may reasonably require to help us pursue such rights.

#### **Suits Against Us**

You agree not to bring suit against us unless you have complied with all the terms of this policy. Any such suit must be brought within two years after assistance services are rendered.

No person or organization has any right to bring us into any action to determine your liability.

#### **Return to Work**

You have the responsibility for the decision of whether or not an "employee" returns to work. You are responsible for obtaining any medical releases to determine "employee's" suitability to travel or not, or to resume work or not. The decision and the results thereof are solely the responsibility of the "employee," you, and/or the "employee's" attending physician. We are not involved in such decisions.

### **Services Not Covered**

You agree to reimburse us or our designee for services rendered on your behalf which are not covered in this policy, when such services are requested or approved by a corporate officer whose name you have given us to contact, or when

such services are provided in good faith to any "employee" not covered by reason of cancellation of this policy or coverage.

### **CONTINGENT EMPLOYERS LIABILITY COVERAGE**

We will pay all sums you legally must pay as damages because of bodily injury to your "employees," provided the bodily injury is covered by this Contingent Employers Liability Coverage

The damages we will pay, where recovery is permitted by law, include damages:

1. for which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your "employee";
2. for care and loss of services;
3. for consequential bodily injury to a spouse, child, parent, brother or sister of the injured "employee"; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured "employee's" employment by you; and
4. because of bodily injury to your "employee" that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

### **How This Insurance Applies**

This employers liability insurance applies to bodily injury by accident, bodily injury by disease and bodily injury by "endemic disease." Bodily injury includes resulting death. The bodily injury must arise out of and in the course of the injured "employee's" employment by you. The workplace of the "employee" must be within the "coverage territory."

1. Bodily injury by accident must occur during the Policy Period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The "employee's" last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the Policy Period.
3. Bodily injury by "endemic disease" must be caused by disease which your "employee" may reasonably be thought to have contracted by being in a place as a result of your employment. The "employee" must have been in a place where the disease contracted is known to occur. The time the "employee" was in the place where the disease occurs must have been within the Policy Period. The "employee's" last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the Policy Period.

### **Exclusions**

This insurance does not cover:

1. liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. punitive or exemplary damages because of bodily injury to an "employee" employed in violation of law;
3. bodily injury to an "employee" while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;

4. any obligation imposed by a workers compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. bodily injury intentionally caused or aggravated by you;
6. damages arising out of the discharge of, coercion of, or discrimination against any "employee" in violation of law.
7. bodily injury sustained by any:
  - a. master or crew member of any vessel or of the flying crew of any aircraft;
  - b. "employee" in the course of any employment subject to United States Government workers compensation laws, including Jones Act, Longshoremen and Harbor Workers Compensation Act, Defense Base Act, or War Hazards Compensation Act or any amendment or replacement of those Acts.

#### **Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in the Declarations. They apply as explained below.

1. Bodily Injury by Accident. The limit shown for "bodily injury by accident-each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more "employees" in any one accident.

A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. Bodily Injury by Disease. The limit shown for "bodily injury by disease including by endemic disease-policy limit" is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease including by "endemic disease," regardless of the number of "employees" who sustain bodily injury by disease. The limit shown for "bodily injury by disease including by endemic disease-each employee" is the most we will pay for all damages because of bodily injury by disease to any one "employee."

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

#### **EXCLUSION - ALL COVERAGES**

##### **War**

This insurance does not cover loss arising out of war, whether or not declared, invasions, insurrection, rebellion, hostilities, revolution or usurped power.

#### **CONDITIONS - ALL COVERAGES**

##### **Premium Basis**

Premiums for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll, allowances relating to expatriate employment and all other remuneration paid or payable during the Policy Period for the services of:

1. all your officers and "employees" engaged in work covered by this policy; and

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2. all other persons engaged in work that could make us liable under this policy. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis.

You will allocate reported remuneration or other premium basis between categories for North Americans, Third Country Nationals, and Local Nationals or such other categories as you and we may agree.

### **Final Premium**

The premium shown in the Declarations is an estimate. The final premium for each period of this policy will be determined after the end of such period by using the actual, not the estimated, premium basis and the classifications and rates that apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you.

If this policy is canceled, the final premium will be calculated pro rata based on the time this policy was in force.

### **Long Term Policy**

If the Policy Period is longer than one year and sixteen days, all provisions of this coverage form will apply as though a new policy were issued on each annual anniversary that this policy is in force.

### **Who is Insured**

You are insured if you are an employer shown as a Named Insured in the Declarations. If you are designated in the Declarations as a partnership, and if you are one of its partners, you are insured, but only in your capacity as an employer of the partnership's "employees."

### **We Will Defend**

We have the right and duty to defend at our expense any claim, proceeding or suit against you for "voluntary compensation" benefits, for repatriation, or for damages for employers liability payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this insurance.

### **We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

Tell us at once if injury occurs that may be covered by this policy. Your other duties are listed here.

1. Provide for immediate medical and other services required by the "workers compensation law."
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal papers related to the injury, claim, proceeding or suit.
4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

#### **Other Insurance**

For "Voluntary Compensation" Coverage, the insurance under this policy is "primary."

For Employers Liability Coverage and Executive Assistance Services, this policy is "contingent."

If there is other insurance or assistance service which is on the same "contingent" or "primary" basis as this insurance, we will not pay more than our share of benefits and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

#### **DEFINITIONS - ALL COVERAGES**

##### **Contingent**

means insurance, including contracts for assistance services, issued to apply to claims, "suits" or requests for assistance services, brought outside the country in which the insurance was issued. "Contingent" insurance takes the place of "primary" insurance when the "insured" has no "primary" insurance coverage which applies.

"Contingent" insurance will pay only the amount by which its limit exceeds the limits of any "primary" insurance, including "primary" insurance issued on an excess basis, which applies.

When this insurance is "contingent," we have no duty to defend unless

1. the amount of the claim or "suit" exceeds the limits of the "primary" insurance which applies, or
2. no "primary" insurance coverage applies.

##### **Coverage territory**

means the Coverage Territory for Employers Responsibility Coverages shown in the Declarations.

##### **Endemic disease**

means any disease which is:

1. infectious and generally recognized as a public health hazard;
2. restricted or peculiar to a locality or region; and
3. not disease caused or aggravated by the conditions of your employment.

## **Employee**

means anyone employed by the Named Insured including any voluntary worker. At your option, "employee" may include individuals who are independent contractors with whom you have a written contract in which you agree to provide them the benefits of "voluntary compensation."

## **Expatriate Employees**

means that for "employees" of your workplaces to which this insurance applies and which are not excluded from the applicable "coverage territory" shown in the Declarations, this insurance applies from the moment you hire or assign such an "employee" to a workplace outside the home country or country of residence of that "employee." If you agree with an "employee" whose home country or country of residence is other than that of the intended workplace, to grant benefits as though the "employee" had been hired or assigned while outside the country of intended workplace, this insurance will cover such benefits.

This insurance will cease to apply to such an "employee" when the "employee's" employment or assignment in such workplace ends; however this insurance shall continue to apply during the prompt return of the "employee" to the place from which assignment or employment commenced. If you are found legally liable under the provisions of the "workers compensation law" of any "state" other than that of the workplace for which you hired or to which you assigned such "employee," we will adjust and settle for you all sums which you become obligated to pay by reason of such law.

## **Primary**

means insurance issued to respond prior to other insurance to claims or "suits" brought in the country in which such insurance was issued. "Primary" insurance may include insurance for claims or "suits" arising from "occurrences" which take place outside the country in which such insurance was issued.

## **State**

means any nation or political sub-division which has a "workers compensation law" and includes the states of the United States of America (including its territories and possessions), the District of Columbia, and Puerto Rico.

## **State of hire**

means the "state" in which you hire or from which you assign an "employee" for work at a workplace within another country or countries shown in the "coverage territory" to which this insurance applies.

## **Temporary Travel**

means that for "employees" of your workplaces located in the United States of America (including its territories and possessions), and Puerto Rico, this insurance only applies to claims or suits arising from temporary travel on your business outside of the country of their workplace.

For "employees" of your workplaces to which this insurance applies and which are not excluded from the applicable "coverage territory" shown in the Declarations, this insurance also applies to claims or suits arising from temporary travel on your business in the United States of America (including its territories and possessions), and Puerto Rico.

If you are found legally liable under the provisions of the "workers compensation law" of the "state" of an "employee's" workplace for a claim or suit arising from temporary travel on your business outside the country of the "employee's" workplace, you may voluntarily submit such claim or suit to us and we will adjust and settle such claims or suits for all sums which you would become obligated to pay by reason of such law.

### **Voluntary compensation**

means the medical, disability and other benefits prescribed by the "workers compensation law" of the "state" you choose when you make a claim. We will not pay the amount of any benefits which are denied an "employee" by reason of:

1. insolvency of another insurance company, "state" fund or self-insurance plan; or
2. your failure to comply with the requirements of any "state" that you maintain workers compensation and employers liability insurance in that "state."

### **Workers compensation law**

means the workers or workmen's compensation law and occupational disease law of any "state." It includes any amendments to that law which are in effect during the Policy Period. It does not include the provisions of any law that provide non-occupational disability benefits. For a "state" which has no comparable law, it means whatever are the customary benefits for medical care and loss of wages that would be provided to an injured worker whether provided by the employer or by the "state."



**EMPLOYEE BENEFITS LIABILITY ENDORSEMENT**  
**CLAIMS MADE COVERAGE**

This endorsement modifies coverage provided by the Commercial General Liability Coverage Form.

**INSURING AGREEMENT**

We will pay under this endorsement those sums that the insured becomes legally obligated to pay as damages because of a claim or "suit" brought by any employee, former employee, or their beneficiaries or legal representatives in connection with any error, omission, or breach of duty in the "administration" of your "employee benefits" programs.

This insurance applies only if a claim for damages covered by this endorsement is first made against any insured during the Policy Period.

**WHO IS AN INSURED**

Section II - Who Is An Insured of your policy is modified to include employees under this endorsement only while authorized to act in the "administration" of your "employee benefits" programs.

**EXCLUSIONS**

Insurance under this endorsement does not apply to any claim or "suit" arising out of:

1. any dishonest, fraudulent, criminal or malicious act;
2. any "bodily injury," "personal injury," "advertising injury" or "property damage";
3. any claim for failure of performance of contract by any insurer;
4. any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law;
5. any failure of stock to perform as represented by you; or
6. any advice given by you to your employees to participate or not to participate in stock subscription plans;
7. any actual or alleged error or omission or breach of duty, committed or alleged to have been committed by a trustee, in the discharge of fiduciary duties, obligations or responsibilities imposed by the Federal Employee Retirement Income Security Act of 1974 and amendments to the Act.

**LIMITS OF INSURANCE**

The Limits of Insurance shown in the Declarations for this endorsement and the rules below, fix the most we will pay regardless of the number of:

1. Insureds,
2. Claims made or "suits" brought, or

3. Persons or organizations making claims or bringing "Suits."

The annual aggregate limit is the most we will pay for the sum of all damages under this endorsement.

The each claim limit is the most we will pay for damages arising out of any one claim or "suit."

The Limits of Insurance 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.

**SPECIAL DEDUCTIBLE**

A Special Deductible in the amount of \$1,000 applies to each claim covered by this endorsement. We will subtract this amount from the amount of damages payable for each claim.

**ADDITIONAL DEFINITIONS**

The following additional definitions are added to Section V - Definitions:

**Administration**

means any of the following acts that you do or authorize a person to do:

1. Counseling employees on "employee benefits" programs;
2. Interpreting your "employee benefits" programs;
3. Handling records for your "employee benefits" programs; and
4. Effecting enrollment, termination or cancellation of employees under your "employee benefits" programs.

**Employee benefits**

means group life insurance, group health insurance, profit sharing plans, pension plans, employee stock subscription plans, employee travel, vacation, savings plans, workers' compensation, unemployment insurance, social security and disability benefits insurance.

damages payable for each claim.