

**LIBERTY INTERNATIONAL UNDERWRITERS**

**STORAGE TANK THIRD PARTY LIABILITY,  
CORRECTIVE ACTION AND CLEANUP POLICY**



**Liberty**  
Surplus Insurance  
Corporation™

**STORAGE TANK THIRD PARTY  
LIABILITY, CORRECTIVE ACTION  
AND CLEANUP POLICY**



**LIBERTY SURPLUS INSURANCE CORPORATION**  
(A New Hampshire Stock Insurance Company, hereinafter the "Company")

**SCHEDULE OF FORMS**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Issued To: Adams County Colorado

<b><u>Form Number</u></b>	<b><u>Form Name</u></b>	<b><u>Endorsement Number:</u></b>
D-TX (1/07) R6	Storage Tank Third Party Liability Corrective Action and Cleanup Declarations	
SC-9-CO (05/16)	Service of Suit Clause - Colorado	1
OFAC (08/09)	U.S. Economic And Trade Sanctions Endorsement	2
TRIA-ENV-E003 (03/15)	Exclusion of Terrorism	3
TRIA-ENV-E002 (03/15)	Exclusion of Certified Acts of Terrorism	4
E-TX-2 (12/14)	Bodily Injury and Property Damage Coverage Extension Endorsement	5
E-TX-13 (5/10)	Financial Assurance Amendatory Endorsement	6
E-TX-6 (08/07)	Schedule of Covered Locations and Storage Tanks (with Retroactive Date) Amendatory Endorsement	7
E-TX-8 (7/02)	Biological Contaminants Exclusion	8
E-TX-4 (07/02)	Cancellation - Minimum Earned Premium (25.0%)	9
E-TX-3 (07/02)	Loading and Unloading Coverage Extension	10
E-TX-11 (3-09)	AST Pipeline Exclusion	11
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E-TX-17 (2-11)	Notice of Underground Storage Tank Removal	13
ES-TX (01/07) R2	Storage Tank Third Party Liability Corrective Action and Cleanup Policy	

**STORAGE TANK THIRD PARTY  
LIABILITY, CORRECTIVE ACTION AND  
CLEANUP POLICY**



**LIBERTY SURPLUS INSURANCE CORPORATION**  
(A New Hampshire Stock Insurance Company, hereinafter the "Company")  
175 Berkeley Street, Boston, MA 02116  
Toll-free number: 1-800-677-9163

**STORAGE TANK THIRD PARTY LIABILITY  
CORRECTIVE ACTION AND CLEANUP POLICY**

**COVERAGE IS PROVIDED ON A CLAIMS-MADE, REPORTED AND DEFENSE WITHIN  
LIMITS BASIS.**

**Policy Number:** TXEDEB12022117 **New/Renewal:** New  
**Renewal of:** **1st Year of Policy:** 2017

**Item 1. NAMED INSURED:** Adams County Colorado  
**ADDRESS:** 4430 S. Adams County Parkway, Ste. C40000B  
Brighton, CO 80601  
**First Named Insured:** Adams County Colorado  
**The Named Insured is:**  Individual  Partnership  Joint Venture  Sole Proprietor  
 Organization (Other than Partnership or Joint Venture)

**Item 2. POLICY PERIOD:** **From:** 04-30-2017 **To:** 04-30-2018  
12:01 AM standard time at the address of the Named Insured as stated herein.

**Item 3. RETROACTIVE DATE:** See Tank Schedule

**Item 4.** In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance we stated in this policy.  
A: Each Incident Limit: \$1,000,000  
B: Aggregate Limit Per Policy Period: \$1,000,000  
C: Aggregate Claims Expense Limit: \$250,000

**Item 5.** Deductible Each Pollution Incident See Tank Schedule

**Item 6.** a. Covered Location(s):  
1. See Schedule of Covered Locations and Storage Tanks Endorsement  
b. Covered Storage Tank(s):  
1. See Schedule of Covered Locations and Storage Tanks Endorsement

**Item 7.** POLICY PREMIUM: \$11,357  
TRIA PREMIUM: (Certified Acts of Terrorism) Declined  
TRIA PREMIUM: (Non-Certified Acts of Terrorism) Declined  
TOTAL PREMIUM: \$11,357  
Premium Due 30 days after the effective date shown above.

**"This contract is delivered as a surplus line coverage under the 'Nonadmitted Insurance Act.' The insurer issuing this contract is not licensed in Colorado but is an approved nonadmitted insurer. There is no protection under the provisions of the 'Colorado Insurance Guaranty Association Act.'"**  
Robert F. Barnes

**STORAGE TANK THIRD PARTY  
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This policy may be subject to surplus lines taxes stamping fees surcharges and certain surplus lines reporting requirements mandated by state regulations. The Surplus Lines Broker is responsible for the disclosure of all related taxes surcharges and fees. The Surplus Lines Broker is also responsible for the applicable surplus lines reporting requirements including but not limited to the submission of diligent search forms.

This policy, including all endorsements issued herewith, is hereby countersigned by

\_\_\_\_\_  
PRESIDENT  
Christopher L. Peirce

\_\_\_\_\_  
VICE PRESIDENT and SECRETARY  
Mark C. Touhey

Broker: Arthur J. Gallagher Risk Management Serv  
Broker Address: 6399 S. Fiddler's Green Circle, Suite 200  
Greenwood Village, CO 80111

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

# Storage Tank Third Party Liability, Corrective Action and Cleanup Policy



**LIBERTY SURPLUS INSURANCE CORPORATION**  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SERVICE OF SUIT CLAUSE - COLORADO**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 1
Issued To: Adams County Colorado	

This endorsement modifies insurance provided under the following:

### **ALL COVERAGE PARTS IN THIS POLICY**

Liberty Surplus Insurance Corporation hereby appoints the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as the true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this contract of insurance.

The Company furthermore designates Corporation Service Company, 1560 Broadway, Suite 2090, Denver CO 80202 as the agent to whom a copy of the Service of Process should be forwarded by the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the State of Colorado. A copy of any process, "suit", complaint or summons by certified or registered mail may be made upon the Senior Vice President – Claims, Liberty International Underwriters C/O Liberty International Underwriters Inc., 55 Water Street, 23rd Floor, New York, New York 10041.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
LIABILITY, CORRECTIVE ACTION AND  
CLEANUP POLICY**



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**OFAC**

**U.S. ECONOMIC AND TRADE SANCTIONS ENDORSEMENT**

Effective Date:	04-30-2017	Expiration Date:	04-30-2018
Policy Number:	TXEDEB12022117	Endorsement No.	2
Issued To:	Adams County Colorado		

Whenever coverage provided by this policy would be in violation of any U.S. economic or trade sanctions such as, but not limited to, those sanctions administered and enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), such coverage shall be null and void.

Similarly, any coverage relating to or referred to in any certificates or other evidences of insurance or any claim that would be in violation of U.S. economic or trade sanctions as described above shall also be null and void.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
LIABILITY, CORRECTIVE ACTION AND  
CLEANUP POLICY**



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**LIBERTY SURPLUS INSURANCE CORPORATION**  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION OF TERRORISM**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 3
Issued To: Adams County Colorado	

It is hereby agreed that the policy is amended as follows:

- A. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury or damage, are enclosed in quotation marks:**
- 1. "Terrorism" means activities against persons, organizations or property of any nature:**
    - a. That involve the following or preparation for the following:**
      - (1) Use or threat of force or violence; or
      - (2) Commission or threat of a dangerous act; or
      - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
    - b. When one or both of the following applies:**
      - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
      - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
  - 2. "Any injury or damage" means any injury, damage or loss covered under any Coverage Part, Policy or underlying insurance to which this endorsement is applicable, and includes but is not limited to "bodily injury", "business interruption", "clean-up costs", "corrective action", "defense expense" or "property damage" as may be defined in any applicable Coverage Part, Policy or underlying insurance..**

## STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



**B. The following exclusion is added:**

**EXCLUSION OF TERRORISM**

We will not pay for “any injury or damage” caused directly or indirectly by “terrorism”, including action in hindering or defending against an actual or expected incident of “terrorism”. “Any injury or damage” is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of “terrorism”:**

1. The “terrorism” is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the “terrorism” was to release such material; or
3. The “terrorism” is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the “terrorism” was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the “terrorism” and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of “terrorism” which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs **B.5.** or **B.6.** are exceeded.

With respect to this Exclusion, Paragraphs **B.5.** and **B.6.** describe the threshold used to measure the magnitude of an incident of “terrorism” and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of “terrorism”, there is no coverage under this Coverage Part or Policy.

In the event of any incident of “terrorism” that is not subject to this Exclusion, coverage does not apply to “any injury or damage” that is otherwise excluded under this Coverage Part or Policy.

**C. The following is hereby added to the Policy and shall apply to all coverages:**

This exclusion shall not apply to coverage for “certified acts of terrorism” if you have elected to purchase such coverage. However, with respect to any one or more “certified acts of terrorism”, we will not pay any amounts for which we are not responsible under the terms of the federal Terrorism Risk Insurance Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.



**STORAGE TANK THIRD PARTY  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION OF CERTIFIED ACTS OF TERRORISM**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 4
Issued To: Adams County Colorado	

It is hereby agreed that the policy is amended as follows:

**A.** The following exclusion is added:

This insurance does not apply to:

**TERRORISM**

“Any injury or damage” arising, directly or indirectly, out of a “certified act of terrorism”.

**B.** The following definitions are added:

- 1.** For the purposes of this endorsement, “any injury or damage” means any injury, damage or loss covered under any Coverage Part, Policy or underlying insurance to which this endorsement is applicable, and includes but is not limited to “bodily injury”, “business interruption”, “clean-up costs”, “corrective action”, “defense expense” or “property damage” as may be defined in any applicable Coverage Part, Policy or underlying insurance.
- 2.** “Certified act of terrorism” means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a “certified act of terrorism” include the following:
  - a.** The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
  - b.** The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

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**BODILY INJURY AND PROPERTY DAMAGE  
COVERAGE EXTENSION ENDORSEMENT**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 5
Issued To: Adams County Colorado	

It is agreed that

- A. Coverage A: Third Party Bodily Injury and Property Damage** under paragraph 1.a. of **SECTION I – INSURING AGREEMENT** is replaced by the following:

**Coverage A: Third Party Bodily Injury and Property Damage**

We will pay those sums that the insured becomes legally obligated to pay for compensatory damages because of "bodily injury" and "property damage" caused by a "pollution incident" at or "emanating" from a "covered location", provided a "claim" is first made and reported to us during the "policy period" or Extended Reporting Period, if applicable.

- B. Exclusion o.** is replaced by the following:

- o.** under Coverage A, any "claim" arising from "property damage" on, within or under a "covered location", whether or not incurred in the course of avoiding or mitigating "bodily injury", "property damage" or any other effect of a "pollution incident", including costs for "corrective action" or "cleanup" which may be covered under this policy.

However, this exclusion does not apply to "property damage" to the personal property of others that occurs on a "covered location".

All other terms and conditions remain unchanged.

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**FINANCIAL ASSURANCE AMENDATORY ENDORSEMENT**

Effective Date:	04-30-2017	Expiration Date:	04-30-2018
Policy Number:	TXEDEB12022117	Endorsement No.	6
Issued To:	Adams County Colorado		

It is hereby agreed that **SECTION IV - CONDITIONS**, paragraph 8. Cancellation and **SECTION V - EXTENDED REPORTING PERIOD** are deleted in their entirety and replaced by the following:

**SECTION IV - CONDITIONS**

**8. Cancellation.**

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - (2) 60 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The "policy period" will end on that date.
- e. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V - EXTENDED REPORTING PERIOD**

1. We will provide an Automatic Extended Reporting Period, and if you purchase it, a Supplemental Extended Reporting Period as described below, if
  - a. this policy is canceled or not renewed; or
  - b. the policy is renewed or replaced with insurance that has a Retroactive Date later than the date shown in the Declarations of this policy; or
  - c. with regard to an individual "covered location", if coverage for such location is terminated because:
    - (1) Coverage for the "covered location" is deleted from this Policy by us; or
    - (2) The "covered location" is:
      - (a) sold;
      - (b) given away;

## STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



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- (c) abandoned; or
  - (d) sub-leased, unless the sub-lease has been approved in writing by us prior to the commencement of the sub-lease.
2. The Extended Reporting Periods will not extend the "policy period", change the scope of coverage provided or reinstate or increase the Limits of Insurance. The Extended Reporting Periods will apply only to "claims":
- a. Under **Coverage A** first made and reported; or
  - b. Under **Coverage B** or **Coverage C** first reported;
- during the Extended Reporting Periods and arising out of "pollution incidents" that occur before the end of the "policy period" but not before the Retroactive Date, if any, shown in the Declarations. Any such "claim" will be deemed first made and reported under **Coverage A**, or first reported under **Coverage B** or **Coverage C**, on the last day of the "policy period".

### 3. Automatic Extended Reporting Period

We will provide the "named insured" an Automatic Extended Reporting Period. Under this provision the "named insured" shall have six (6) months from the end of the policy period to report to us in writing any "claim(s)" first made against the "insured" during the policy period or Automatic Extended Reporting Period. This Automatic Extended Reporting Period does not apply to "claims" that are covered under the Supplemental Extended Reporting Period described below; or covered under any subsequent insurance you purchase, or that would be covered but for the exhaustion of the amount of insurance applicable to such "claim".

### 4. Supplemental Extended Reporting Period

A Supplemental Extended Reporting Period of one year is available, but only by an endorsement and for an extra charge. This Supplemental Extended Reporting Period starts upon cancellation, nonrenewal, or termination of coverage as described above. Once in effect, the Supplemental Extended Reporting Period may not be canceled.

You must give us a written request for the endorsement within 30 days after the termination of coverage. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due. The additional premium will not exceed 100% of the annual premium for this Policy.

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for "claims" first received during such period is excess over any other valid and collectible insurance.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
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**SCHEDULE OF COVERED LOCATIONS AND STORAGE TANKS  
(WITH RETROACTIVE DATE) AMENDATORY ENDORSEMENT**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No: 7
Issued To: Adams County Colorado	

It is agreed that the previous schedule of Covered Locations and Storage Tanks is deleted in its entirety and replaced with the following. It is also agreed that **Item 6.a** and **Item 6.b** of the Declarations are deemed to include the following:

**Item 6.a. Covered Locations**

LOC #	Location Name	Street Address	City	State	Postal Code
1	Front Range Airport	37651 Beechcraft Way	Watkins	CO	80137
2	Front Range Airport	5200 Front Range Parkway	Watkins	CO	80137
3	Front Range Airport	38500 50th Avenue	Watkins	CO	80137

This policy will not provide coverage for any Covered Location(s) other than the above-listed unless specifically scheduled onto the policy by endorsement.

**Item 6.b. Covered Storage Tanks**

The following Storage Tank(s) is (are) covered under the policy:

LOC #	Tank #	Tank ID /Name	UST/AST	Year Installed	Capacity Gallons	Construction	SW /DW	Contents	Retro.Date	Deductible
1	1	1	UST	1984	15,000	FRP Clad Steel	SW	JetFuel	05/01/2008	\$50,000
1	2	2	UST	1984	15,000	FRP Clad Steel	SW	JetFuel	05/01/2008	\$50,000
1	3	3	UST	1984	20,000	FRP Clad Steel	SW	JetFuel	05/01/2008	\$50,000
1	4	4	AST	1995	2,000	Coated Or Bare Steel	DW	Diesel	05/01/2008	\$25,000
2	1	1	AST	1996	10,000	Coated Or Bare Steel	DW	JetFuel	05/01/2008	\$25,000
3	1	1	AST	2016	2,000	Coated Or Bare Steel	DW	Diesel	10/31/2016	\$25,000

This policy will not provide coverage for any Storage Tank(s) other than the above-listed unless specifically scheduled onto the policy by endorsement.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**BIOLOGICAL CONTAMINANTS EXCLUSION**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No: 8
Issued To: Adams County Colorado	

It is agreed that the following is added to **SECTION I**, paragraph 3. – Exclusions:

**Biological Contaminants**

This insurance does not apply to any “claim” arising from, out of, caused by, resulting from, contributed to, or in any way related to the existence, inhalation or exposure to any “biological contaminants” regardless of any other cause, event, material, product, and/or building component that contributed concurrently or in sequence to the injury or damage.

It is also agreed that the following is added to **SECTION VI – DEFINITIONS**

“Biological contaminants” means mold, mildew, fungi, or bacterial matter including any substance produced by, emanating from, or arising out of any such biological contaminants.

All other terms and conditions remain unchanged.

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**CANCELLATION – MINIMUM EARNED PREMIUM**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 9
Issued To: Adams County Colorado	

It is agreed that **SECTION IV – CONDITIONS**, paragraph 8. **Cancellation**, subparagraph e. is deleted in its entirety and replaced with the following:

- e. Subject to a 25.0% minimum earned premium provision, if this policy is cancelled, we will send the “named insured” any premium refund due. If we cancel, the refund will be pro rata. If the “named insured” cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
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**LOADING AND UNLOADING COVERAGE EXTENSION**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 10
Issued To: Adams County Colorado	

It is agreed that Exclusion f. of the policy is deleted and replaced with the following:

Any "claim" arising from the ownership, maintenance, use or entrustment to others of any aircraft, "auto", rolling stock or watercraft. Use shall include the loading and unloading of any watercraft, aircraft or rolling stock. Use shall not include the loading or unloading of any "auto".

All other terms and conditions remain unchanged.



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**ABOVEGROUND STORAGE TANK PIPELINE EXCLUSION**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 11
Issued To: Adams County Colorado	

It is agreed that **SECTION VI – DEFINITIONS**, Paragraph 1. is replaced by the following:

1. "Aboveground storage tank" means a stationary device designed to contain an accumulation of hazardous waste or other waste product or any product, that is: constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support; situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including or excluding the tank bottom) is able to be visually inspected; and located on a "covered location" and designated in Item 6 of the Declarations. The "aboveground storage tank" does not include pipelines or any ancillary equipment attached to the tank.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
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**ABOVEGROUND STORAGE TANK PIPELINE COVERAGE EXTENSION**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No. 12
Issued To: Adams County Colorado	

It is agreed that **SECTION VI – DEFINITIONS**, Paragraph 1. is replaced by the following:

1. "Aboveground storage tank" means a stationary device designed to contain an accumulation of hazardous waste or other waste product or any product, that is: constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support; situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including or excluding the tank bottom) is able to be visually inspected; and located on a "covered location" and designated in Item 6 of the Declarations. The "aboveground storage tank" includes pipelines and ancillary equipment attached to the tank that are located on the "Covered Location".

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY LIABILITY,  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**NOTICE OF UNDERGROUND STORAGE TANK REMOVAL**

Effective Date: 04-30-2017	Expiration Date: 04-30-2018
Policy Number: TXEDEB12022117	Endorsement No: 13
Issued To: Adams County Colorado	

It is agreed that the following is added to **SECTION IV – CONDITIONS:**

**NOTICE OF UNDERGROUND STORAGE TANK REMOVAL**

- a.) We must be given, in writing, notice for all underground storage tank system removals. The notice must be received by us 10 days prior to any such removal and sent via overnight delivery to the attention of :

Edmund Papazian, VP  
Environmental Claims  
Liberty Surplus Insurance Corp.  
55 Water Street, 23<sup>rd</sup> Floor  
New York, NY 10041

- b.) We reserve the right to have a representative present for all underground storage tank system removals.

All other terms and conditions remain unchanged.

**STORAGE TANK THIRD PARTY  
LIABILITY, CORRECTIVE ACTION AND  
CLEANUP POLICY**



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**LIBERTY SURPLUS INSURANCE CORPORATION**  
(A New Hampshire Stock Insurance Company, hereinafter the "Company")

**STORAGE TANK THIRD-PARTY LIABILITY  
CORRECTIVE ACTION AND CLEANUP POLICY**

This policy provides:

- claims-made and reported coverage for storage tank third-party bodily injury and property damage liability;
- claims-made and reported coverage for cleanup costs for aboveground storage tanks; and
- release-reported coverage with respect to corrective action for underground storage tanks.

Defense costs will reduce both the deductible amount and the separate limit of insurance available to pay legal defense costs.

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we," "us" and "our" refer to the company providing this insurance. Other words and phrases that appear in quotation marks have special meaning. Refer to **DEFINITIONS (SECTION VI)**. Insured means any person or organization qualifying as such under **WHO IS AN INSURED (SECTION II)**.

**SECTION I – INSURING AGREEMENT**

**1. Coverages**

- a. Subject to the Limits of Insurance and the Deductible:

**Coverage A: Third Party Bodily Injury and Property Damage**

We will pay those sums that the insured becomes legally obligated to pay for compensatory damages because of "bodily injury" and "property damage" that occurs beyond the boundaries of a "covered location" and is caused by "pollutants" "emanating" from a "covered location" as a result of a "pollution incident" at the "covered location", provided a "claim" is first made and reported to us during the "policy period" or Extended Reporting Period, if applicable.

**Coverage B: Corrective Action Due to Underground Storage Tank Releases**

We will pay those reasonable and necessary costs that the insured is legally obligated to pay for "corrective action" due to a "confirmed release" resulting from a "pollution incident" from an "underground storage tank system", provided a "claim" reporting the "confirmed release" is first made during the "policy period" or during the Extended Reporting Period, if applicable.

**Coverage C: Cleanup of Pollutants Due to Aboveground Storage Tank Releases**

We will pay those reasonable and necessary costs that the insured is legally obligated by "governmental order" to pay for "cleanup" because of a "pollution incident" from an "aboveground storage tank", provided that the "governmental order" first issued against the insured during the "policy period" or during the Extended Reporting Period, if applicable, and the "claim" reporting the "governmental order" is first made during the "policy period" or during the Extended Reporting Period, if applicable.

**STORAGE TANK THIRD PARTY  
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- b. The insurance provided under **Coverage A**, **Coverage B** and/or **Coverage C** applies only if:
- (1) The “pollution incident” occurs on or after the Retroactive Date shown in Item 3 of the Declarations and before the end of the “policy period”;
  - (2) The “pollution incident” occurs in the United States, its territories or possessions or Canada; and
  - (3) The “claim”, and the “governmental order” if applicable, is made, brought or issued in the United States, its territories or possessions, or Canada.

**2. Defense**

- a. We have the right and duty to defend the insured against:
- (1) “Claims” to which Coverage A applies; and
  - (2) Civil or administrative actions which seek to impose a legal obligation upon the insured to:
    - a. undertake “corrective action” following verification of a “confirmed release” to which **Coverage B** applies; or
    - b. “cleanup” the effects of a “pollution incident” following the issuance of a “governmental order” to which **Coverage C** applies.

However, we will have no duty to defend the insured against any “claim”, suit or action to which this insurance does not apply.

- b. We may at our discretion investigate any “pollution incident” and settle any “claim” under **Coverage A** or any action under **Coverage B** or **Coverage C**
- c. Our duty to defend under a. above will end at the earlier of the following times:
- (1) When we have exhausted the Aggregate Claims Expense Limit, as described in **SECTION III – LIMITS OF INSURANCE AND DEDUCTIBLE**, by the payments of “claims expenses” in the defense, investigation, settlement, or adjustment of “claims” and actions under this Paragraph 2., Defense; or
  - (2) When an applicable limit of insurance is exhausted by the payment of damages arising from “bodily injury” and/or “property damage” and/or costs for “corrective action” or “cleanup”.

If our duty to defend ends upon exhaustion of the Aggregate Claims Expense Limit, we may, at our option and in our sole discretion, continue to defend any “claim” or action to which **Coverage A**, **Coverage B** and/or **Coverage C** apply at our own expense. We may withdraw from such defense by giving notice pursuant to **Condition 15. of SECTION IV – CONDITIONS**, and we shall have no further obligation for the defense, or any related expenses.

# STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



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## 3. Exclusions – Coverages A, B, and C

The insurance does not apply to:

- a. any “claim” arising out of a “pollution incident” that was expected or intended by any insured, or an employee of any insured.
- b. any “claim” arising from a “pollution incident” that commenced or occurred prior to the inception of this policy, if an insured or any employee of any insured knew or could have reasonably foreseen that such “pollution incident” could have been expected to give rise to a “claim”.
- c. punitive, exemplary or multiplied damages, fines, taxes, penalties, assessments, punitive or statutory assessments, or any civil, administrative or criminal fines, sanctions or penalties.
- d. any “claim” made by any insured against any other person or entity who is also an insured under this policy.
- e. any “claim” arising from one or more “pollution incidents” caused by, based upon, resulting from, or attributable to the insured’s intentional, knowing, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body.
- f. any “claim” arising from the ownership, maintenance, use or entrustment to others of any aircraft, “auto”, rolling stock or watercraft. Use includes loading and unloading.
- g. costs, charges or expenses incurred by the insured for goods supplied by the insured or services performed by the staff and/or salaried employees of the insured, or its parent, subsidiary or affiliate, unless such costs, charges or expenses are incurred with our prior written approval.
- h. any “claim” arising from any consequence, whether direct or indirect, of war, invasion, act of a foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, strike, riot or civil commotion.
- i. under **Coverage B** or **Coverage C**:
  - (1) any costs arising out of the reconstruction, repair, replacement, upgrading of any “aboveground storage tank” or “underground storage tank system” or any other improvements and any site enhancements or routine maintenance on, within, or under a “covered location”.
  - (2) any costs arising out of the removing, replacing, or recycling of the contents of any “aboveground storage tank” or “underground storage tank system”.

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- j.** any costs, charges or expenses incurred to investigate or verify that a “confirmed release” under **Coverage B** or a “pollution incident” under **Coverage C** has taken place.
  - k.** any “claim” arising out of “bodily injury” to:
    - (1)** An employee of the insured or its parent, subsidiary or affiliate arising out of and in the course of:
      - (a)** Employment by the insured or its parent, subsidiary or affiliate; or
      - (b)** Performing duties related to the conduct of the business of the insured or its parent, subsidiary or affiliate; 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.
- l.** any obligation of the insured under workers’ compensation, unemployment compensation or disability benefits law or similar law.
  - m.** any liability or “claim” for liability of others assumed by the insured under any contract or agreement, unless the insured would have been liable in the absence of such contract or agreement.
  - n.** under Coverage A, any “claim” arising out of “property damage” to:
    - (1)** property owned, leased, loaned or rented by or to any insured; or
    - (2)** property an insured has sold, leased, given away or abandoned.

For “property damage” to real property, this exclusion shall apply to “property damage” on, within or under the real property.

- o.** under **Coverage A**, any “claim” arising from “bodily injury” or “property damage” on, within or under a “covered location”, whether or not incurred in the course of avoiding or mitigating “bodily injury”, “property damage” or any other effect of a “pollution incident”, including costs for “corrective action” or “cleanup” which may be covered under this policy
- p.** under **Coverage A**, any “claim” arising out of “property damage” to goods or products manufactured, sold, handled or distributed by any insured or its parent, subsidiary or affiliate arising out of such goods or products or any part thereof, or due to “property damage” to work

## STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



performed by or on behalf of any insured or its parent, subsidiary or affiliate arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith.

- q.** any "claim" arising from one or more "pollution incidents" on, within, under, or "emanating" from a "covered location" if any of the "pollution incidents" commenced subsequent to the time such location is:
- (1)** sold;
  - (2)** given away;
  - (3)** abandoned; or
  - (4)** sub-leased, unless the sub-lease has been approved in writing by us prior to the commencement of the sub-lease.
- r.** any "claim" arising from the actual, alleged or threatened exposure of person(s) or property to any radioactive matter, except where specifically endorsed onto this policy.
- s.** **(1)** any "claim" for "bodily injury", "property damage", "corrective action" or "cleanup":
- (a)** with respect to which an insured under this Policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of insurance; or
  - (b)** resulting from the "hazardous properties" of "nuclear material" and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- (2)** any "claim" for "bodily injury", "property damage", "corrective action" or "cleanup" resulting from the "hazardous properties" of "nuclear material", if
- (a)** the "nuclear material" (1) is at any "nuclear facility" owned by, or operated by or on behalf of, an insured or (2) has been discharge or disposed therefrom;
  - (b)** the "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (c)** the "bodily Injury", "property damage", "corrective action" or "cleanup" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to "property damage" to such "nuclear facility" and any property thereat.



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- (3) As used in this exclusion:
- “Hazardous properties” include radioactive, toxic or explosive properties;
- “Nuclear material” means “source material”, “special nuclear material” or “by-product material”;
- “Source material”, “special nuclear material”, and “by-product material” have the meanings given them in the Atomic Energy Act of 1954 or in any law, amendatory thereof;
- “Spent fuel” means any fuel element or fuel component, solid or liquid which has been used or exposed to radiation in a “nuclear reactor”;
- “Waste” means any waste material (a) containing “by-product material” and (b) resulting from the operation by any person or organization of any “nuclear facility” included within the definition of “nuclear facility” under paragraph (a) or (b) thereof;
- “Nuclear facility” means
- (a) any “nuclear reactor”
  - (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing “spent fuel”, or (3) handling, processing or packaging “waste”;
  - (c) any equipment or device used for the processing, fabricating or alloying of “special nuclear material” if at anytime the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of “waste”; and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
- “Nuclear reactor” means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
- “Property Damage” includes all forms of radioactive contamination of property.

### SECTION II- WHO IS AN INSURED

#### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. An organization other than a partnership or joint venture, you are an insured. Your 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.

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**2. Each of the following is also an insured:**

- a.** Your employees, other than your officers, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no employee is an insured for:
  - (1)** "Bodily injury":
    - (a)** To you, to your partners or members (if you are a partnership or joint venture) or to a co-employee while in the course of his or her employment or while performing duties related to the conduct of your business;
    - (b)** To the spouse, child, parent, brother or sister of that co-employee as a consequence of paragraph (1)(a) above;
    - (c)** For which there is an obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (b) above; or
    - (d)** Arising out of his or her providing or failing to provide professional health care services.
  - (2)** "Property damage" for damage to property:
    - (a)** Owned, occupied or used by,
    - (b)** Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your employees, or, if you are a partnership or joint venture, by any partner or member.
- b.** Any person or organization having proper temporary custody of your property if you die, but only:
  - (1)** With respect to liability arising out of the maintenance or use of that property; and
  - (2)** Until your legal representative has been appointed.
- c.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

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

# STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



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## SECTION III- LIMITS OF INSURANCE AND DEDUCTIBLE

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

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

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

- a. Damages under **Coverage A**;
- b. Costs under **Coverage B**; and
- c. Costs under **Coverage C**.

3. Subject to the Aggregate Limit, the Each Incident Limit is the most we will pay for the sum of:

- a. Damages under **Coverage A**;
- b. Costs under **Coverage B**; and
- c. Costs under **Coverage C**.

because of one "pollution incident".

The Each Incident Limit shown in the Declarations of the policy in effect when the first "claim" arising out of the same, interrelated, associated, repeated or continuous "pollution incidents" was made and reported to us is the most we will pay for all "claims", during one or more "policy periods", arising out of such "pollution incident". All such "claims" shall be deemed first reported to us during the "policy period" in which the first such "claim" was first reported to us.

4. The Aggregate Claims Expense Limit is the most we will pay for the sum of all "claims expenses" for defense we provide under Paragraph 2., Defense of the INSURING AGREEMENT (**SECTION I**). "Claims expenses" will not reduce the Aggregate Limit.

5. For any one "pollution incident", this policy applies only to damages for "bodily injury" or "property damage", costs for "corrective action" or "cleanup", and/or "claims expenses" in excess of the Deductible shown in the Declarations. The Deductible amount does not reduce the Each Incident Limit, the Aggregate Limit or the Aggregate Claims Expense Limit. We may advance payment of part or all of the Deductible amount and, upon notification of such payment made, the insured shall promptly reimburse us. Payment of defense or amounts within the Deductible will not create any obligations or be construed as a waiver or estoppel of our rights under the policy.

6. The insured will not, except at the insured's own cost, make or accept any settlement for damages under **Coverage A** or costs under **Coverage B** or **Coverage C** which exceeds the Deductible without our prior written consent. The insured will not make any agreement or settlement for all or part of the Deductible which relieves or attempts to relieve the insured of further liability but

# STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



expressly or impliedly reserves a right of action by any third-party claimant against us. In the event the insured violates the provisions of this paragraph, all insurance (including liability for "claims expenses") provided under this policy shall be void and we shall have no further obligation under this policy.

## SECTION IV – CONDITIONS

### 1. Bankruptcy.

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

### 2. Duties In The Event Of Pollution Incident or Claim.

a. It is a condition precedent to coverage under this Policy that:

(1) Notice of "claim":

In the event of a "claim" under **Coverage A**, the insured shall give us written notice as soon as possible but in any event no later than (7) seven days after receipt of the "claim" by the insured.

In the event that a "pollution incident" has taken place which the insured has verified as a "confirmed release", the insured must submit a "claim" under Coverage B, in writing, as soon as possible but in any event no later than (7) seven days after verifying the "confirmed release".

In the event the insured is issued a "governmental order" requiring "cleanup", the insured must submit a "claim" under Coverage C, in writing, as soon as possible but in any event no later than (7) seven days after receipt of the "governmental order".

All "claims" shall be reported to:

Manager, Environmental Claims  
Liberty International Underwriters  
55 Water Street, 23rd Floor  
New York, NY 10041

or other address(es) as substituted by us in writing.

(2) When a "claim" has been made and/or reported as required herein, the insured must forward to us as soon as practicable after receipt, or receipt by its representative or agent, all of the following:

(a) All technical reports, laboratory data, field notes or any other documents generated by or on behalf of the insured to investigate or abate a "pollution incident" or to implement "corrective action" or "cleanup".

For "claims" under **Coverage B**, the insured shall also forward documentation of the release, detection tests or procedures, such as system tightness tests or site checks, undertaken to investigate a suspected "pollution incident" and verify that a "confirmed release" has taken place.

## STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



- (b) All correspondence between the insured and any third party claimant, including but not limited to any government agency;
- (c) All demands, summons, notices or other processes or papers from a court of law, administrative agency or an investigative body;
- (d) All expert reports, investigations and data collected by experts retained by the insured whether or not the insured intends to use the material for any purpose; and
- (e) Any other information developed or discovered by the insured concerning the "claim" whether or not deemed by the insured to be relevant to the "claim".

**b.** No costs, charges and expenses for:

- (1) the defense, investigation, or adjustment of "claims" or actions to which **SECTION I, Paragraph 2., Defense**, applies;
- (2) preparing, developing, modifying or implementing a "corrective action" plan undertaken as part of a covered "corrective action"; or
- (3) "cleanup" shall be incurred without our prior written approval.

**c.** The insured shall not admit or assume any liabilities or settle any "claims" without our prior written consent.

**d.** The insured shall cooperate with us to the fullest extent possible by providing the assistance necessary to adjust, investigate and defend the "claim" under **Coverage A, Coverage B or Coverage C**. The insured agrees to provide us full access to interview any employee, agent, representative or independent contractor of the insured and to review any of the insured's documents concerning the "claim".

**e.** We shall have the right but not the duty to participate in decisions regarding "corrective action" or "cleanup", or to assume direct control over all aspects of such "corrective action" or "cleanup", and the adjustment of any "claim" under **Coverage A, Coverage B or Coverage C**, up to the limit of insurance. If we exercise our rights under this paragraph, the insured shall participate in discussions regarding "corrective action" or "cleanup", or performance of "corrective action" or "cleanup".

### **3. Legal Action Against Us.**

No person or organization has a right under this policy:

- a.** To join us as a party or otherwise bring us into a suit asking for damages from an insured; or
- b.** To sue us on this policy unless all of its terms have been fully complied with.

## STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY



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 policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. Other Insurance.

- a. Where other insurance is available to an insured for damages for "bodily injury" or "property damage" or for costs for "corrective action" or "cleanup" covered under the terms and conditions of the Policy, our obligation to the insured shall be as follows:
- (1) This insurance shall apply as excess insurance over any other valid insurance, whether collectible or not, be it primary or excess. This excess insurance shall in no way be increased or expanded as a result of the receivership, insolvency, or inability to pay of any insurer with respect to both the duty to indemnify and the duty to defend. This also applies to the insured while acting as a self-insured for any coverage.
  - (2) Where this insurance is excess insurance, we will pay only our share of the total amount of damage for "bodily injury" or "property damage" and costs for "corrective action" or "cleanup", if any, that exceeds the sum of:
    - (a) The total amount of all such other valid insurance, whether collectible or not; and
    - (b) The total of all deductible and self-insured amounts under all that other insurance.
- b. When this insurance is excess, we will have no duty to defend any "claim" or civil or administrative action that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so in accordance with Paragraph 2., **Defense of the INSURING AGREEMENT (SECTION I)**, but we will be entitled to the insured's rights against all those other insurers.

#### 5. Representations.

By accepting this policy, you agree:

- a. The statements in the Declarations and application are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

#### 6. Transfer Of Rights Of Recovery Against Others To Us.

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

## **STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY**

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### **7. When We Do Not Renew.**

If we decide not to renew this policy, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

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

### **8. Cancellation.**

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium;  
or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The "policy period" will end on that date.
- e. If this policy is canceled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

### **9. Changes.**

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

### **10. Inspections And Surveys.**

We have the right but are not obligated to:

- a. Make inspections and surveys at any time;
- b. Give you reports on the conditions we find; and
- c. Recommend changes.

## **STORAGE TANK THIRD PARTY LIABILITY, CORRECTIVE ACTION AND CLEANUP POLICY**



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Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not manage or exercise control over any premises or any “underground storage tank system” or “aboveground storage tank”, nor are we in control of any source of a “regulated substance”. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a. Are safe or healthful; or
- b. Comply with laws, regulations, codes or standards.

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

### **11. Premiums.**

The first Named Insured shown in the Declarations:

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

### **12. Transfer Of Your Rights And Duties Under This Policy.**

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

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

### **13. Notice When A limit Of Insurance Is Used Up.**

As soon as is practicable after we have knowledge that a Limit of Insurance is used up, we will notify the first Named Insured in writing. Any failure by us to provide any notice under this paragraph will not have the effect of increasing any Limit of Insurance.

### **14. Transfer Of Duties When A Limit of Insurance Is Used Up.**

- a. When we terminate our defense because a Limit of Insurance has been used up in payment of judgments and/or settlements, the Aggregate Claims Expense Limit is used up in the payment of “claims expenses” or pursuant to any provision of the policy:



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- (1) We will notify the Named Insured and any insured against whom a “claim” is pending, in writing, as soon as practicable, that we will no longer defend the insured or pay any “claims expenses.”
  - (2) The Named Insured and any insured against whom a “claim” is pending will, as soon as practicable, arrange for the transfer of control of the defense of all such “claims” and against any insured.
  - (3) We will assist in, and all insureds must cooperate in, the transfer of control of the defense of all “claims” which are subject to that limit and which are reported to us before that limit is used up.
  - (4) We will take steps we deem appropriate to avoid a default in, or continue the defense of, such “claims” until the transfer is completed, provided the appropriate insured is cooperating in completing such transfer. The Named Insured and any insured against whom a “claim” is pending will reimburse us for any expenses we incur (for which expenses each Named Insured and each insured against whom a “claim” is pending are jointly and severally liable) to take such steps on and after the date on which the applicable Limit of Insurance is used up.
  - (5) We will take no action whatsoever with respect to any “claim” reported to us after the applicable Limit of Insurance has been used up.
- b. The duty to reimburse us will begin on the date the applicable Limit of Insurance is used up. The exhaustion of any Limit of Insurance, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

**15. Limited Defense By The Insured.**

The following provisions apply if, by mutual agreement or by law, an insured is entitled to select independent counsel to defend any “claim” at our expense:

- a. The definition of “claims expenses” will be modified by adding:
  - (1) Reasonable fees of attorneys, legal interns and paralegals (other than salaries and expenses of the insured’s employees) the insured retains to defend a “claim” or action. The attorney’s fees and all other litigation expenses we must pay to that counsel are limited to the rates we actually pay to counsel we retain in the ordinary course of business in the defense of similar “claims” in the community where the “claim” arose or is being defended.
- b. We will have the right to require that such counsel have certain minimum qualifications with respect to competency, including experience in defending “claims” similar to the one pending against the insured, and to require such counsel to have errors and omissions insurance coverage.
- c. We retain the right to settle or approve the settlement of any “claim” and appeal any judgment at our expense.

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- d. You and any other involved insured must:
- (1) Continue to comply with the Duties In The Event Of Pollution Incident or Claim condition in this section; and
  - (2) Direct defense counsel to furnish us with information we may request to evaluate “claims” and coverage under this policy for those “claims”, and cooperate with any counsel we select to monitor or associate in the defense.

**16. Duplicate Policies Provided to Governmental Agencies.**

Whenever requested by a governmental agency or the insured, we agree to provide a signed duplicate original of the policy and any endorsements.

**17. Financial Responsibility and Reimbursement**

If this policy is issued to certify your compliance with the federal Environmental Protection Agency financial responsibility requirements imposed on you as an owner or operator of an “underground storage tank system” and we make payment accordingly, you agree to reimburse us for any payment made by us on your behalf which we would not have been obligated to make under the terms of this policy. Payment by us under this paragraph will not create any obligations or be construed as a waiver or estoppel of our rights under the policy.

**SECTION V – EXTENDED REPORTING PERIOD**

1. a. **You shall be entitled to purchase an** Extended Reporting Period if this policy is canceled or nonrenewed by you or by us.
- b. With regard to an individual “covered location”, you shall be entitled to purchase an Extended Reporting Period if coverage for such location is terminated because:
  - (1) Coverage for the “covered location” is deleted from this Policy by us; or
  - (2) The “covered location” is:
    - (a) sold;
    - (b) given away;
    - (c) abandoned; or
    - (d) sub-leased, unless the sub-lease has been approved in writing by us prior to the commencement of the sub-lease.
2. The Extended Reporting Period will not extend the “policy period”, change the scope of coverage provided or reinstate or increase the Limits of Insurance. The Extended Reporting Period will **apply only to “claims”**:
  - a. Under **Coverage A** first made and reported; or
  - b. Under **Coverage B** or **Coverage C** first reported;

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during the Extended Reporting Period and arising out of “pollution incidents” that occur before the end of the “policy period” but not before the Retroactive Date, if any, shown in the Declarations. Any such “claim” will be deemed first made and reported under **Coverage A**, or first reported under **Coverage B** or **Coverage C**, on the last day of the “policy period”.

3. An Extended Reporting Period of one year is available, but only by an endorsement and for an extra charge. This Extended Reporting Period starts upon cancellation, nonrenewal, or termination of coverage as described above. Once in effect, the Extended Reporting Period may not be canceled.
4. You must give us a written request for the endorsement within 30 days after the termination of coverage. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due. The additional premium will not exceed 100% of the annual premium for this Policy.

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Extended Reporting Period, including a provision to the effect that the insurance afforded for “claims” first received during such period is excess over any other valid and collectible insurance.

### SECTION VI – DEFINITIONS

1. “Aboveground storage tank” means a stationary device designed to contain an accumulation of hazardous waste or other waste product or any product, that is: constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support; situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including or excluding the tank bottom) is able to be visually inspected; and located on a “covered location” and designated in Item 6 of the Declarations.
2. “Auto” means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment.
3. “Bodily injury” means physical injury, sickness or disease, and mental anguish or emotional distress when accompanied by physical injury, sustained by any person, including death resulting therefrom.
4. “Claim” means:
  - a. **Coverage A**  
A written demand by a third party seeking damages from an insured for “bodily injury” or “property damage” covered under Coverage A.
  - b. **Coverage B**  
A notice to us written by or on behalf of the insured reporting a “confirmed release”.
  - c. **Coverage C**  
A notice to us written by or on behalf of the insured reporting receipt of a “governmental order”.

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### 5. "Claims expenses" means:

- a. (1) fees, salaries and expenses of attorneys, legal interns and paralegals we retain (including our own employees); and  
(2) all other expenses we incur; that are directly allocable to the "claim".
  - b. 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.
  - c. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim", including actual loss of earnings up to \$100 a day because of time off from work.
  - d. All costs taxed against the insured.
  - e. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - f. 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.
6. "Cleanup" means activities undertaken to remove, abate, contain, treat, detoxify or neutralize "pollutants", or to assess, test for or monitor the effects of "pollutants".
7. "Confirmed release" means a "pollution incident" from an "underground storage tank system" that has been investigated and verified by or on behalf of the insured utilizing a system tightness check, site check or other procedure approved by the "implementing agency" in accordance with 40 C.F.R. 280.52 or another applicable federal or state regulation or state statute.
8. "Corrective action" means response to a "confirmed release" as legally required by:
- a. Subpart F of the federal underground storage tank regulations, 40 C.F.R. 280.60 through 280.66, 40 C.F.R. 280.72, or any other applicable federal regulations; or
  - b. Any applicable regulations promulgated by a state under an underground storage tank program approved by the federal Environmental Protection Agency in accordance with section 9004 of the Resource Conservation and Recovery Act of 1976, as amended.
9. "Covered location" means any location designated in Item 6 of the Declarations and includes above, on and below the surface of the location, as well as the groundwater below the location.
10. "Emanating" means originating and directly releasing, dispersing or escaping.
11. "Environmental laws" means the following statutes, any amendments thereto, any regulations promulgated thereunder; and any similar statutes or regulations of any state or province, or political

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subdivision thereof, of the United States or Canada in effect at the commencement of the “policy period”: 1) the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601-9675; 2) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901-6992K; and 3) the Federal Water Pollution Control Act, 33 U.S.C. 1251-1387. “Environmental laws” includes any amendments to the statutes or regulations described above enacted or promulgated subsequent to the binder of coverage.

- 12.** “Governmental order” means an order, including any governmental directive, lawfully issued against the insured by the federal Environmental Protection Agency (E.P.A.) or a state or local agency or court having jurisdiction over the “covered locations” and acting under authority granted by “environmental laws”.

“Governmental order” does not include any order issued pursuant to or as an agreement between an insured and an agency described above if we did not give our prior written approval for the agreement.

- 13.** “Implementing agency” means the federal Environmental Protection Agency (E.P.A.) or a state or local agency having jurisdiction over the “underground storage tank system” pursuant to an underground storage tank program approved by the federal E.P.A. in accordance with section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, or other applicable statutes.

- 14.** “Policy period” means the period set forth in Item 2 of the Declarations, or any shorter period arising as a result of:

- a. cancellation of this Policy; or
- b. with respect to an individual “covered location”:
  - (1) the deletion of such location from this Policy by us ; or
  - (2) the sale, giving away or abandonment of such location, or the sub-leasing of such location, unless the sub-lease has been approved in writing by us prior to the commencement of the sub-lease.

- 15.** “Pollutants” means:

- a. With regard to “pollution incidents” from “aboveground storage tanks”, any solid, liquid, gaseous, thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- b. With regard to “pollution incidents” from “underground storage tank systems”, one or more “regulated substances”.

- 16.** “Pollution incident” means any spilling, leaking, emitting, discharging, escaping or leaching of “pollutants” from an “aboveground storage tank” or an “underground storage tank system” into groundwater, surfacewater or surface or subsurface soils.

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The entirety of the same, interrelated, associated, repeated or continuous episodes of "pollution incidents" from the same "aboveground storage tank" or "underground storage tank system" shall be deemed to be a single "pollution incident" commencing at the time of the initial "pollution incident".

**17. "Property damage" means:**

- a. Physical injury to or destruction of tangible property, including the resulting loss of use thereof;
- b. Loss of use of tangible property that has not been physically injured or destroyed.

**18. "Regulated substance" means:**

- a. petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure;
- b. hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (but not including any substance regulated as hazardous under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended).

**19. "Underground storage tank system" means a tank or tanks operated by the insured, including any connected underground piping, underground ancillary equipment and containment system:**

- a. that are on, within, or under a "covered location" and designated in Item 6 of the Declarations; and
- b. that are used solely to contain "regulated substances".

Each tank in an "underground storage tank system", including associated underground piping connected to the tank, must have at least ten (10) percent of its volume beneath the surface of the ground.

In witness whereof, the company has caused this policy to be signed by its President and its Secretary at Boston, Massachusetts, and countersigned by a duly authorized representative of the company.

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PRESIDENT  
Christopher L. Peirce

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VICE PRESIDENT and SECRETARY  
Mark C. Touhey