STORAGE TANK ENVIRONMENTAL POLICY

Environmental Liability and Remediation Expense Coverage

CERTAIN SECTIONS OF THIS POLICY INCLUDE CLAIMS MADE AND REPORTED COVERAGE. CLAIMS-MADE AND REPORTED COVERAGE REQUIRES CLAIMS TO BE FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD.

OTHER SECTIONS OF THIS POLICY PROVIDE COVERAGE FOR CONTAMINATION THAT IS DISCOVERED BY THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD.

PAYMENT OF DEFENSE EXPENSES WILL REDUCE THE LIMITS OF INSURANCE AND ARE EXCESS OF THE APPLICABLE DEDUCTIBLE. READ THE ENTIRE POLICY CAREFULLY TO DETERMINE YOUR RIGHTS, DUTIES, AND WHAT IS OR IS NOT COVERED.

Throughout this policy, the words "you" and "your" refer to the named insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance. Other words and phrases that appear in bold have special meaning. Refer to Section II. DEFINITIONS.

In consideration of the premium paid and in reliance upon the statements that you provided to us in the application and any other supplemental information provided in connection with the application, all of which are incorporated and made a part of this policy, we agree to provide coverage as shown in the Declarations and described as follows:

STORAGE TANK COVERAGE INSURANCE

I. INSURING AGREEMENTS

A. Corrective Action – Storage Tank

We will pay for corrective action that you become legally obligated to pay as a result of contamination due to a confirmed release from a storage tank but only if:

a. The confirmed release first commences on or after any Retroactive Date shown in ITEM 9. in the Declarations and before the end of the Policy Period.

b. The claim for the confirmed release is reported to us as soon as practicable during the policy period, or within the extended reporting period, if applicable.

B. Claims for Bodily Injury and Property Damage Resulting from Contamination

We will pay for loss that you become legally obligated to pay as a result of a claim for bodily injury or property damage arising from contamination that originates from a storage tank but only if:

a. The claim is first made against the insured and reported to us during the policy period, or within the extended reporting period, if applicable; and
b. The contamination first commences on or after the Retroactive date shown in Item 9, in the Declarations and before the end of the Policy Period.

C. Defense Expense

We will pay for defense expense for a claim for corrective action or loss to which Insuring Agreements A., B. or C applies. We shall have the right and duty to defend any Insured against any such claim. Defense expenses are subject to the Limits of Insurance for Defense Expense shown in Item 5.C, in the Declarations. Our duty to defend all claims for corrective action or loss ends once the Limits of Insurance for Insuring Agreements A., B. or C of this policy, whichever comes first, is exhausted or tendered into a court of applicable jurisdiction; or once you refuse a settlement offer as provided in Section VI. Paragraph D. of this policy.

D. Image Restoration Coverage

We will reimburse you for image restoration expenses incurred because of contamination reported to us during the policy period or as expressly provided for in the extended reporting period, if applicable, and that result in bodily injury, property damage, or corrective action covered under Insuring Agreements I. A., B., or C., as applicable. Reimbursement is limited to the costs of restoring your reputation and consumer confidence through image consulting, is subject to the deductible for the applicable coverage part, and will in no event exceed the amount shown in Item 5.D. in the Declarations.

II. DEFINITIONS

A. Above ground storage tank means any tank that has at least ninety percent (90%) of its volume above ground (includes any ancillary and connected pumps, sumps and equipment) and is listed in Item 3. Storage Tank Schedule shown on the Declarations or endorsed to this policy.

B. Additional insured means:

1. Any individual, organization or entity scheduled to this policy as an additional insured by an endorsement, but solely for their vicarious liability arising out of their ownership, use, operation or financing of storage tank(s), and subject to any terms, limitations or restrictions set forth in such endorsement; or

2. Any individual, organization or entity when required in a written contract, but solely for their vicarious liability arising out of their ownership, use, operation or financing of storage tank(s) shown in Item 3. Storage Tank Schedule on the Declarations or endorsed to this policy.

C. Bodily injury means:

1. Physical injury, sickness or disease including associated medical or environmental monitoring; and

2. Mental anguish, emotional distress or shock sustained by any person; including death resulting there from.
D. Claim means:

1. A written demand, notice, or assertion of a legal right seeking a remedy or alleging liability or responsibility on the part of you or any insured as a result of contamination. Such demand, notice, or assertion of a legal right includes, but is not limited to legal actions, orders, petitions or governmental or regulatory actions, filed against you or any insured.

2. A written notice by or on behalf of the insured to us reporting a confirmed release.

E. Confirmed Release means contamination from a storage tank that has been investigated and verified by or on behalf of the insured either through a system tightness test, a site inspection or other procedure approved in accordance with 40 C.F.R. 280.52 or other applicable federal or state statutes.

F. Contaminant means any solid, liquid, gaseous or thermal irritant or pollutant, including but not limited to smoke, vapor, odors, soot, fumes, acids, alkalis, toxic chemicals, hazardous substances, petroleum hydrocarbons, and waste materials to be recycled, reconditioned or reclaimed.

G. Contamination means the discharge, dispersal, release or escape of any contaminant from a storage tank into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including groundwater, provided such conditions are not naturally present in the environment in the amounts or concentrations discovered.

H. Corrective action means remediation expense as legally required by:

1. Subpart F. of the federal underground storage tank regulations, 40 C.F.R. 280.0 through 280.66 40 C.F.R. 280.72, or any other applicable federal regulations; or

2. Any applicable regulations promulgated by a state under an underground storage tank program approved by the United States Environmental Protection Agency in accordance with section 9004 of the Resource Conservation and Recovery Act of 1976, as amended; or

3. A written order from the Environmental Protection Agency, or state or local governmental agency having jurisdiction pursuant to law including the preparation, development, modification and implementation of a “corrective action plan” as defined in 40 C.F.R. 280.66, and the monitoring, evaluation and reporting of the results of the implementation of such plan.

I. Defense expense means reasonable and necessary legal fees and expenses incurred: in the defense, investigation or adjustment: (i) of any claim to which this insurance applies; or (ii) of any loss or corrective action that directly results from your discovery of any contamination to which this insurance applies. Defense expense does not include salaries, wages, overhead or benefit expenses incurred by the insured, including but not limited to employees or supervisory or monitoring counsel, or legal fees or expenses incurred in connection with any dispute, disagreement or controversy arising out of the formation, interpretation, alleged breach, termination, or invalidity of this policy, or as to
any other issue regarding the respective duties and responsibilities of us or any insured regarding this policy.

J. **Emergency expense** means reasonable and necessary expenses incurred to contain, control, abate or mitigate contamination covered under this insurance and that is an imminent and substantial endangerment to:

1. Public health, safety or welfare; or
2. The environment;

Provided that: (i) the insured discovers such contamination within seventy-two (72) hours of the contamination first commencing; and (ii) incurs such emergency expense within seven (7) days after the contamination first commenced; and (iii) the emergency expense are incurred pursuant to laws that require an immediate response to contamination.

K. **Employee** means any person whose labor is engaged by or directed by you, including temporary and leased staff working on behalf of and under direct supervision and control by you, but only while acting within the scope of their employment or authority as such.

L. **Environmental professional** means an individual chosen by us, in consultation with the insured, who possesses at least certain minimal levels of education, training and experience, holds valid and applicable licensing, certifications and qualifications to properly assess and remediate the contamination.

M. **Extended Reporting Period** means either:

1. Automatic extended reporting period as described in Section IX. Extended Reporting Provisions, Paragraph A; or
2. Supplemental extended reporting period, as described in Section IX. Extended Reporting Provisions, Paragraph B;

Whichever is applicable, following termination of coverage, as described in Section IX. Extended Reporting Provisions, in which to report a claim.

N. **Image restoration expenses** means reasonable and necessary expenses incurred for services rendered by an image restoration firm, exclusive of any salaries, wages, overhead or benefit expenses incurred by an insured, or any expenses that are covered under any other insurance, including any applicable deductibles or self-insured retention amounts of such other insurance.

O. **Inception date** means: (i) the first date shown in ITEM 4. in the Declarations; or (ii) with respect to any endorsement the Company issues after the first date shown in ITEM 4. in the Declarations, the effective date listed in such endorsement.

P. **Insured** means

1. The named insured;
2. Additional insured and
3. Any past or present director, officer, partner, member, or employee of the insured, but only while acting within the scope of his or her employment or authority as such.

Q. Law means any federal, state, provincial or local statutes, rules, regulations, ordinances, Voluntary Clean Up or Risk Based Corrective Action Standards, and judicial or administrative orders and directives and all amendments thereto that apply to the insured's liability or responsibility for contamination.

R. Loss means monetary awards or settlements, previously agreed to in writing by us, of compensatory damages and, where allowable by law, punitive, exemplary, or multiplied damages, civil fines, penalties and assessments for bodily injury or property damage; together with related defense expense to which this policy applies. Loss does not include any non-pecuniary or injunctive relief, the return or withholding of fees or charges for services rendered by or on behalf of the insured, costs to correct, re-perform or complete any work, or any insured's or additional insured's overhead, profit or mark up.

S. Named insured means the individual or entity shown in ITEM 1. in the Declarations and responsible for acting on behalf of all other insureds, if any, under this policy as described in Section X. General Conditions, N. Sole Agent.

T. Natural resource damage means physical injury to or destruction of, including the resulting loss of value of and assessment of such physical injury to or destruction of: land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801a et seq.), any state or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

U. Policy period means the period shown in ITEM 4. in the Declarations, or any shorter period arising as a result of:

1. Cancellation of this policy; or

2. With respect to any of your storage tanks, the deletion of any such tank(s) from this policy by us at your written request.

V. Property damage means:

1. Physical injury to or destruction of tangible property of parties other than the insured including the resulting loss of use and diminution in value thereof;

2. Loss of use, and diminution in value of tangible property of parties other than the insured that has not been physically injured or destroyed; and

3. Natural resource damage.

Property damage does not include remediation expense.

W. Remediation expense means:
1. Reasonable and necessary expenses, incurred for investigation, removal, abatement, disposal, treatment, clean-up or neutralization, including associated monitoring, of contaminants:
   a. To the extent required by corrective action; or other law; or
   b. That has been actually incurred by any government department or agency in accordance with applicable corrective action; or other law.

2. Monetary awards or settlements, previously agreed to in writing by us, of compensatory damages that the insured is legally obligated to pay for investigation, removal, abatement, disposal, treatment, clean-up or neutralization, including associated monitoring, of contaminants;

3. Restoration expense and emergency expense; and

4. Related defense expense to which this policy applies.

However, remediation expense does not include property damage, or any non-pecuniary or injunctive relief, the return or withholding of fees or charges for services rendered by or on behalf of the insured, costs to correct, re-perform or complete any work, or any insured’s or additional insured’s overhead, profit or mark up.

X. Responsible individual means:

1. Any officer, director, partner or project manager of the insured; or
2. The manager or supervisor of the insured who is responsible for environmental or health and safety affairs or compliance; or
3. Any manager or supervisor of the insured who is responsible for risk management, loss control, procurement or maintenance of insurance, or the tendering or reporting of losses or liabilities to insurers or other third-parties; or
4. Any manager of the storage tank(s).

Y. Restoration expense means reasonable and necessary costs incurred to repair, replace or restore real or personal property to substantially the same general condition it was in prior to being physically damaged, provided that:

1. Such real or personal property is not owned by an insured; and
2. Such physical damage was directly caused by work performed in responding to contamination to which this insurance applies.

However, restoration expense does not include any costs associated with betterments or improvements to, or depreciation of, such real or personal property.

Z. Storage tank means underground storage tank or above ground storage tank.

AA. Underground storage tank means any tank (includes any ancillary and connected pumps, sumps and equipment) that has more than ten percent (10%) of its volume below
BB. **Voluntary Clean Up or Risk Based Corrective Action Standards** means those minimum standards adopted by the federal, state, provincial or local regulatory agency (the “Regulatory Authority”) having jurisdiction over the contamination and applied in consideration of the applicable zoning, land use, geographic conditions, and use restrictions, if any, of the location where the contamination occurred for purposes of obtaining a no further action letter, closure or similar approval from the Regulatory Authority.

CC. **Your insured location** means any property or location approved by us and shown in ITEM 3. Storage Tank Schedule in the Declarations or endorsed to this policy.

III. **LIMITS OF INSURANCE AND DEDUCTIBLE**

The Limits of Insurance shown in ITEMS 5. and 6. in the Declarations and the deductible shown in ITEM 7. and the rules below fix the most we will pay regardless of the number of storage tanks, insureds, contamination incidents, claims or claimants:

A. The **Total Policy Aggregate Limit** shown in ITEM 6. in the Declarations is the most we will pay for the sum of all loss, corrective action or other coverage afforded under this policy.

B. Subject to the **Total Policy Aggregate Limit** shown in ITEM 6. in the Declarations, the most we will pay for the sum of all loss, corrective action or other coverage afforded under this policy, arising from any single contamination incident under any one Insuring Agreement or endorsement is the applicable **Limit of Insurance** shown in ITEM 5. in the Declarations, or in the applicable endorsement for such Insuring Agreement. If no Limit of Insurance is shown for a particular Insuring Agreement in the Declarations, then no coverage is provided under that particular Insuring Agreement.

C. The same, related, similar or continuous contamination shall be deemed to be a single contamination incident.

D. Two or more claims arising out of or resulting from the same, related, similar or continuous contamination will be deemed to: (i) be a single claim; (ii) have been first made at the time the first such claim was made; and (iii) be subject to only one **Limit of Insurance** shown in ITEM 5. in the Declarations or applicable endorsement subject to Paragraph III. E. below, if applicable. The same, related, similar or continuous contamination is contamination that is based upon, arises out of, or is the result of the same, similar or related facts, circumstances, or situations.

E. If we or an arbitration panel determine that more than one Insuring Agreement applies to any single claim, the following conditions will apply:

1. Only one **Limit of Insurance** shown in ITEM 5. in the Declarations or applicable endorsement, together with the corresponding deductible, will apply to such claim.
2. If one of the applicable Limits of Insurance shown in ITEM 5. in the Declarations or applicable endorsement exceed the amount of any of the other applicable Limits of Insurance, then only the highest such Limit of Insurance and corresponding deductible will apply to such contamination incident.

3. In no event will more than one Limit of Insurance shown in ITEM 5. in the Declarations, or applicable endorsement, apply to any single claim or contamination incident.

F. We will not pay for loss, corrective action, defense expense or other coverage afforded under this policy unless the amount of loss, corrective action, defense expense or other coverage afforded under this policy exceeds the applicable Deductible. In the event that we advance any portion of the Deductible, the insured must reimburse us for those amounts promptly and as soon as possible.

G. If we or an affiliated company have issued multiple environmental coverage policies or policies providing coverage similar thereto to you, in no event will more than one such policy apply to any loss, corrective action or defense expense that arises out of the same, related, similar or continuous contamination. In that event, only the policy in effect when the claim arising from such loss, corrective action or defense expense is first made against you and reported to us, or when the insured discovers such contamination and reports it to us, as applicable, shall apply.

IV. EXCLUSIONS

This policy does not apply to claims, loss, corrective action, defense expense or any other coverage afforded under this policy:

A. Asbestos/Lead Paint - Based upon or arising out of asbestos, asbestos-containing materials or products, or lead-based paint, any of which are or were present in or on any building or structure of any type, including any improvements or fixtures thereto.

B. Contractual Liability – Based upon or arising out of 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. Criminal Fines and Penalties – Based upon or arising out of any criminal fines, penalties or assessments.

C. Damage to Insured’s Property – Based upon or arising out of physical injury to or destruction of tangible property, including the resulting loss of use and diminution in value, to any property owned, leased, rented by or loaned to an insured including property in the insured’s care, custody and control. This exclusion does not apply to restoration expense or corrective action.

D. Damage to or Upgrades to Tanks – Based upon or arising out of any costs for reconstruction, repair, removal, maintenance, replacements, upgrading or rebuilding of any underground storage tank or above ground storage tank, including ancillary equipment, piping, monitoring and containment systems, scheduled under this policy.

E. Divested /Abandoned Tank – Based upon or arising out of contamination from a storage tank scheduled in this policy which began after the storage tank has:

1. Been operationally discontinued without performing and completing closure in compliance with and pursuant to corrective action or laws; or
2. Had operational control relinquished by the insured or been sold or given away.

F. Employer Liability – Based upon or arising out of bodily injury to any employee, partner or member of any insured, or by anyone who has a right to make a claim against any insured because of any employment, blood, marital or any other relationship with such employee, partner or member. This exclusion applies:
   1. Whether the insured may be responsible as an employer or in any other capacity; or
   2. To any obligation to share damages with or repay someone else who must pay damages because of claims.

G. Hostile Acts – Based upon or arising out of any consequence, whether direct or indirect, of war, invasion, act of a foreign enemy, hostilities whether declared or not, civil war, rebellion, revolution, insurrection, military or usurped power, or any covert military action.

H. Non-Disclosed Known Contamination – Based upon or arising out of any contamination, including any subsequent dispersal, movement or migration of such contamination, that was in existence prior to the applicable inception date if any responsible individual knew of or reasonably should have known about the existence of the contamination, but prior to the date we issued a binder of insurance for this policy, such responsible individual did not disclose such contamination to us in writing in the application or related materials for this policy or any previous policy for which this policy is a renewal thereof. For purposes of this exclusion, known contamination that is disclosed to us subsequent to the date of binding but prior to date we issue the policy to you is deemed to be Non-Disclosed Known Contamination.

I. Nuclear Liability – Based upon or arising out of radioactive, toxic, or explosive properties of Source Materials, Special Nuclear Material or By-Product Material, as defined in the Atomic Energy Act, and for which the United States Department of Energy or any other governmental authority or agency has indemnified the insured, or for which the Price Anderson Act provides protection for the insured.

J. Prior Claims - Based upon or arising from claims for loss, corrective action, defense expense or other circumstances reported by you or required to be reported by you under any policy that was in effect prior to the inception date.

K. Product Liability – Based upon or arising out of goods or products manufactured, sold, handled or distributed by the insured or others trading under the insured’s name, after possession of such goods or products has been relinquished by the insured or others trading under their name.

L. Retroactive Date – Based upon or arising out of any contamination from any storage tank which first began prior to the corresponding retroactive date listed in ITEM 3. Storage Tank Schedule shown on the Declarations or endorsed to this policy.

M. Tank Contents – Based upon or arising out of damage to or the removal, replacing or recycling of the contents of any storage tank scheduled in this policy.

N. Vehicles - Based upon or arising out of the ownership, use, maintenance or operation of an automobile, aircraft, or watercraft. This exclusion shall not apply to the loading or unloading of a storage tank.
O. Willful Non-Compliance and Dishonest Acts – Based upon or arising out of any contamination based upon or attributable to:

1. A responsible individual's intentional, willful or deliberate noncompliance with or intentional disregard of any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body; or

2. Actual or alleged fraudulent, dishonest, knowingly wrongful or malicious conduct by or at the direction of the responsible individual.

V. Policy Territory

This policy is applicable only in the United States, its territories or possessions, but only if your responsibility is determined in:

A. A proceeding on the merits conducted in the United States or its territories or possessions; or

B. A settlement agreed to by us.

All premiums, limits, deductibles, loss and other amounts under this policy are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is denominated or another element of loss under this policy is stated in a currency other than United States dollars, payment under this policy shall be made in United States dollars at the rate of exchange published in The Wall Street Journal on the date the final judgment is reached, the amount of the settlement is agreed upon, or the other element of loss is due, respectively.

This policy shall not apply in any situation that would be in violation of the laws of the United States of America, as applicable, including but not limited to, United States of America economic or trade sanction laws or export controls laws administered by the United States Treasury's Office of Foreign Assets Control.

VI. Defense and Settlement

A. We shall have the right and duty to defend any insured against any claim to which this insurance applies, even if such claim is groundless, false or fraudulent. For any claim we defend or for any loss or corrective action to which this insurance applies, we will pay defense expense in excess of the deductible: (i) for the investigation or defense of such claim; or (ii) incurred in connection with the payment of such loss or corrective action, as applicable. Defense expense is included within and will erode the Limits of Insurance and is included within the Deductible shown in ITEM 7 in the Declarations, or applicable endorsement. Our duty to defend and to pay defense expense ends once the applicable Limit of Insurance is exhausted or tendered into a court of valid jurisdiction or once the insured refuses a settlement offer as provided in Paragraph VI. D. below. We shall have no duty to defend any claim, or to pay defense expense for any loss or corrective action, to which this insurance does not apply.

B. We shall have the right to select counsel for the investigation, adjustment and defense of claims to which this insurance applies. The insured shall have the right to propose such counsel and we will consult with the insured on the selection. If more than one insured
is involved in a claim to which this insurance applies, we may, in our sole discretion, appoint separate counsel for one or more of such insureds if there is a material (actual or potential) conflict of interest among any such insureds.

C. In the event that by mutual agreement or by applicable law the insured is entitled to select independent counsel to defend a claim to which this insurance applies, the defense expense we must pay to such counsel is limited to the rates we would actually pay to counsel that we retain in the ordinary course of business in the defense of similar claims in the venue where the claim arose or is being defended. We 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 that such counsel have acceptable limits of errors and omissions insurance coverage. The insured agrees that such counsel will timely respond to our requests for information regarding any claim. Notwithstanding the foregoing, the insured may at any time, by its written consent, freely and fully waive any right to select independent counsel.

D. We reserve the right, but not the duty, to at any time, with the insured's consent, settle any claim to which this insurance applies as we deem expedient. If with respect to any claim to which this insurance applies, the insured refuses to consent to the first settlement acceptable to the claimant which we recommend to the insured in writing, and elects to further contest the claim, then our total liability for such claim shall not exceed the amount for which such claim could have been settled, including defense expense incurred, up to the date of such refusal, plus fifty percent (50%) of covered loss, corrective action or other coverage afforded under this policy in excess of such first settlement amount. It being a condition precedent of this insurance that the remaining fifty percent (50%) of such loss, corrective action or other coverage afforded under this policy in excess of the first settlement amount in uninsured and shall be borne by the insured at the insured's own risk. Notwithstanding the foregoing, this paragraph shall not apply until the settlement amount exceeds the Deductible amount shown in ITEM 7 in the Declarations or applicable endorsement.

In addition, if we recommend a first settlement of a claim to which this insurance applies within the policy's applicable Limit of Insurance that is acceptable to the claimant, and the insured consents to such settlement, then the insured's applicable deductible for such claim shall be retroactively reduced by ten percent (10%). It shall be a condition precedent to such reduction that you must consent to the first settlement amount within thirty (30) days after the date we recommend to the insured such first settlement amount, or in the case of a first settlement amount which arises from a first settlement offer by the claimant, then within the time permitted by the claimant to accept such first settlement offer, but in all events no later than thirty (30) days after we recommend to the insured such first settlement offer. If the insured does not consent to the first settlement within the time prescribed above, the applicable Deductible amount shall remain the respective amount shown in ITEM 7 in the Declarations or applicable endorsement, even if consent is given to a subsequent settlement.

VII. Notice and Claim Reporting Provisions

A. Notice as required under this policy must be given by you, or on your behalf:

1. In writing to us at:

   One Bala Plaza, Suite 100

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As a condition precedent to our obligations under this policy, the insured shall give written notice to us as soon as practicable during the policy period or extended reporting period, if applicable, of any claim made against the insured for loss, corrective action or other coverage afforded under the policy. Oral notification must be followed with a written notice to us as soon as practicable during the policy period or extended reporting period, if applicable.

B. If during the policy period, the insured first becomes aware of any contamination or incurs emergency expense which could reasonably be expected to give rise to a claim, corrective action, loss or other coverage under this policy, the insured must give written notice to us regarding all particulars of such incident. Notice must be provided to us as soon as practicable after the insured discovers such contamination, corrective action or incurs such emergency expense, but in no event later than the expiration of the policy period. Oral notification must be followed with a written notice to us as soon as practicable, but in no event later than the expiration of the policy period. Such notice of any contamination or emergency expense must include:

1. The particulars of the specific contamination or emergency expense;
2. The circumstances by which the insured first became aware of such contamination or emergency expense; and
3. The claim, loss, corrective action or other coverage afforded under this policy which has or may result from such contamination or emergency expense.

C. In the event that the named insured continuously maintains Storage Tank Environmental Policy with the Company and in the event we determine that the insured has fully complied with the notice provision set forth in Paragraph VII. B., then for a period not to exceed five (5) years from the expiration of this policy, any claim, corrective action, loss or other coverage afforded under this policy that subsequently arises out of such contamination will be considered to have been first made under the policy in effect at the time the insured discovers such contamination.

VIII. Duties in the Event of a Claim or Corrective Action or Discovery of Contamination

A. The Insured’s Duties

As a condition precedent to our obligations under this policy, in the event of a claim, loss, corrective action, other coverage afforded under this policy or the discovery of contamination and pursuant to VII. Notice and Claim Reporting Provisions above, the insured must:
1. Give notice containing particulars sufficient to identify the insured, time, place and underlying circumstances to us;

2. Immediately forward to us every demand, notice, summons, or other process received by the insured or the insured’s representatives;

3. Take reasonable measures to protect your interests. We will not be liable for loss or corrective action, defense expense, or any other coverage afforded under this policy admitted by the insured without our prior written consent;

4. Admit no liability, make no payments, assume no obligation and incur no expense without our prior written consent, except in the case of emergency expense;

5. Fully cooperate with us and, upon our request, assist in investigations, making settlements and in the conduct and defense of claims. The insured shall, at the insured’s cost, attend inquiries, interviews, hearings, trials and depositions and shall assist in securing and giving evidence and in obtaining the attendance of witnesses and employees; and

6. Not demand or agree to arbitration of any claim or any part of your responsibilities for corrective action, loss, or other coverage afforded or contamination without our prior written consent. Such consent shall not be unreasonably withheld.

B. Rights and Duties Concerning Confirmed Release

1. The insured shall have the right and duty to retain an environmental professional, subject to our consent, to associate with the insured’s investigation of a confirmed release covered by this insurance after the insured discovers and notifies us of the existence of such confirmed release. We have the right, but not the duty, to review and approve all aspects of any such investigation or remediation.

2. In the event of emergency expense, the insured may select an environmental professional without our prior consent. Except for emergency expense, any costs incurred without our consent will not be covered under this policy or credited against the Deductible. As a condition precedent for coverage of emergency expense under this policy, the insured must notify us as soon as practicable, but in no event after expiration of the policy period, of such emergency expense.

a. In the event that the insured, subject to our prior consent, retains a remediation contractor to investigate and remediate contamination to which this policy applies, the corrective action we must pay to such remediation contractor is limited to the unit rates and material costs we would actually pay to remediation contractors that we retain in the ordinary course of business in the investigation or remediation of similar contamination in the location where the contamination took place. We have the right to require that such remediation contractors have certain minimum qualifications with respect to competency, including experience in investigation and remediation contamination similar to the contamination at issue, and to require that such remediation contractors have acceptable limits of errors and omissions insurance coverage. The insured warrants that such remediation contractors will timely respond to our requests for information regarding any contamination.
b. In the event that the insured, subject to our prior consent, directly undertakes the investigation and remediation of contamination to which this policy applies, the corrective action we must pay to such insured is limited to the unit rates and material costs we would actually pay to remediation contractors that we retain in the ordinary course of business in the investigation or remediation of similar contamination in the location where the contamination took place, but in no event will we be obligated to pay the insured for any element of overhead or profit with respect to any corrective action it incurs under this subparagraph.

3. In addition, we shall retain the right but not the duty to investigate or remediate contamination on behalf of the insured after receipt of notice of such contamination. Any expenses incurred in such investigation or remediation shall be deemed to be incurred by the insured and applied against the Limits of Insurance and credited against the Deductible.

IX. Extended Reporting Provisions

A. Automatic Extended Reporting Period

1. If you cancel or refuse to renew this policy or, if we cancel or refuse to renew this policy for reasons other than non-payment of premium or fraud or material misrepresentation on your part, we will provide to you a one-hundred and eighty (180) day automatic extended reporting period, at no additional charge.

2. The automatic extended reporting period will apply to any claim first made against you and reported to us in writing during the one-hundred and eighty (180) day extension period, but only with respect to:

   a. Confirmed release or contamination that the named insured discovers during the policy period and reports to us in writing during the policy period

   Provided that such confirmed release or contamination is otherwise covered by this policy.

3. If you purchase replacement coverage for this policy or a supplemental extended reporting period under B. below, the one-hundred and eighty (180) day automatic extension period will end on the effective date of the replacement coverage or on the effective date of the supplemental extended reporting period, whichever is earliest.

B. Supplemental Extended Reporting Period

1. If you cancel or refuse to renew this policy or, if we cancel or refuse to renew this policy for reasons other than non-payment of premium or fraud or material misrepresentation on your part, you shall have the right to purchase a supplemental extended reporting period of three (3) years for a premium of not more than two hundred and fifty percent (250%) of the expiring policy premium.

2. The supplemental extended reporting period will apply to any claim first made against you and reported to us in writing during the supplemental extended reporting period but only with respect to:

   a. Confirmed release or contamination that the named insured discovers during the policy period and reports to us in writing during the policy period.
Provided that such **confirmed release** or **contamination** is otherwise covered by this policy.

3. You must apply for this extension in writing, accompanied by payment of premium, prior to the expiration of the one-hundred and eighty (180) day automatic **extended reporting period** under paragraph A. of Section IX., above.

C. Extended Reporting Periods

The **extended reporting periods** are subject to the following conditions, as applicable:

1. All premium paid with respect to a supplemental extended reporting period shall be deemed to be fully earned as of the first day of the extension period.

2. The supplemental **extended reporting period** described herein shall commence upon the day that the automatic **extended reporting period** terminates.

3. For the purpose of any **extended reporting period**, any change in premium, deductible, Limits of Insurance or other terms or conditions at renewal is not a refusal to renew.

4. Limits of Insurance available during any **extended reporting period** shall not exceed the balance of the Limits of Insurance in effect at the time the policy terminated.

5. In the event similar insurance is in force covering any **claims** first made during the automatic **extended reporting period**, there is no coverage under this policy.

6. In the event similar insurance is in force covering any **claims** first made during the supplemental **extended reporting period**, coverage provided by this policy shall be excess over any such other insurance, including any applicable deductible or self-insured retention amounts of such other insurance. For purposes of this provision, other insurance includes all types of self-insurance, indemnification or other funding arrangement or program that is available to compensate an **insured** for liability.

7. Any **extended reporting period** does not extend the **policy period**. Any **claim** first made against you during an **extended reporting period** will be deemed to have been first made during the last day of the **policy period**.

X. General Conditions

A. Subrogation

If we pay any amount under this policy, we shall be subrogated to the **insured's** rights of recovery against any individual, firm or organization. The **insured** shall execute and deliver instruments and papers and do whatever is necessary to secure such rights. The **insured** shall not waive or prejudice such rights subsequent to when a **claim** is first made or when the insured discovers **contamination**.

Any recovery as a result of a subrogation proceeding arising out of payment of a **loss** or **corrective action** covered under this insurance shall accrue first to you to the extent of any payments in excess of the Limits of Insurance; then to us to the extent of our payment under the policy; and then to you to the extent of your deductible. Expenses
incurred in such subrogation proceedings will be apportioned among the interested parties in the recovery, in the proportion that each interested party’s share in the recovery bears to the total recovery.

Notwithstanding the foregoing, we hereby waive our right of subrogation against your client where required by written contract provided that such contract is fully executed prior to the first commencement of contamination to which this insurance applies.

B. Changes

Notwithstanding anything to the contrary, no provision of this policy may be amended, waived or otherwise changed except by endorsement issued by us to form part of this policy.

C. Notice of Voluntary Storage Tank Upgrade, Removal or Replacement

As a condition precedent to coverage provided by this endorsement, you must provide us notice of any intended voluntary upgrade, removal or replacement of a scheduled underground storage tank at least seventy-two hours prior to the commencement of such work. Notice shall be provided utilizing the fax or telephone number provided Section VII. Notice and Claims Reporting Provisions.

D. Financial Responsibility and Reimbursement

In the event that this policy is issued to certify your compliance with federal or state financial responsibility requirements, we shall comply with such financial responsibility requirements. However, the insured agrees to reimburse us for any payment made by us, on behalf of the insured, that would we not have been otherwise obligated to make under the terms and conditions of this policy but for the certification of your compliance with federal or state financial responsibility requirements utilizing this policy.

E. Action Against Us

No person or organization has a right under this insurance:

1. To join us as a party or otherwise bring us into a claim; or

2. To sue us under this insurance unless all of its terms have been fully complied with.

A person or organization may sue us to recover on a fully executed settlement agreement or on a final judgment against the insured obtained after an actual trial; but we will not be liable for loss, corrective action, or defense expense that is not payable under the terms of this insurance or that is in excess of the applicable Limits of Insurance.

F. Bankruptcy

Your bankruptcy or insolvency, or that of your successors in interest, shall not relieve us of our obligations under this policy.
G. Cancellation or Non-Renewal

You may cancel this policy by surrendering it to us or to one of our authorized agents or by mailing written notice to us and providing to us a future date when cancellation shall be effective. If you cancel this policy, we shall retain the customary short-rate portion of the premium less the minimum earned premium, if applicable.

We may cancel the policy by mailing to you at the address stated in ITEM 2, in the Declarations written notice stating when, not less than ninety (90) days thereafter; or ten (10) days in the case of cancellation for non-payment of premium or deductible, such cancellation shall become effective. If we cancel the policy, earned premium shall be computed pro-rata. The mailing of Notice of Cancellation as aforementioned shall be sufficient proof of notice of cancellation. The effective date of cancellation specified in the notice shall terminate this policy period.

This policy may only be cancelled by us for:

1. Non-payment of premium or deductible;
2. Fraud or material misrepresentation by you; or
3. Your failure to comply with terms and conditions or your contractual obligations under this policy. You shall have a right of sixty (60) days from the date of notice of cancellation to remedy such non-compliance. If the remedy is satisfactory to us, we shall rescind such notice in writing and the policy shall remain in force. Notwithstanding the foregoing, if the policy is cancelled due to non-payment of premium, at the Company's option, upon receipt of all outstanding premium payments, the policy may be reinstated, but only from the date we receive such outstanding premium payments.

H. Assignment

Assignment of interest under this policy shall not bind us and such assignment is void unless our consent is endorsed hereon.

I. Authorization Clause

By acceptance of this policy, you agree that:

1. The statements in the Declarations, your application, and any other supplemental information thereto are complete and accurate;
2. The statements in your application and any other supplementary information thereto are your representations and that those representations are material;
3. This policy is issued in reliance upon the truth and accuracy of such agreements and representations; and
4. The statements in your application and any other supplemental information thereto are incorporated into this policy. This policy embodies all existing agreements between you and us relating to this insurance.
J. Other Insurance

If other valid and collectible insurance is available to the insured for coverage granted under this policy, our obligations are limited as follows:

1. This insurance is primary, and our obligations are not affected unless any other insurance is also primary. In that case, we will share with all such other insurance by the method described in paragraph 2. below, or this insurance will be primary and non-contributory when Paragraph 3. below applies;

2. If all of the other insurance permits contribution by equal shares, we will also follow this method. In 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. In contribution by limits, each insurer's share is based upon the ratio of its applicable limit of insurance bears to the total applicable limits of insurance of all insurers;

3. This insurance is primary and non-contributory with other valid and collectible insurance, but only if: (i) the named insured has a written contract or agreement requiring this insurance to be primary and non-contributory; and (ii) such contract or agreement was executed prior to the date that any individual or entity discovered the confirmed release or contamination.

For purposes of this provision, other insurance includes all types of self-insurance, indemnification or other funding arrangement or program that is available to compensate an insured for liability.

K. Headings

The descriptions in the headings of this policy are solely for convenience, and form no part of the terms and conditions of coverage.

L. Consent

Where consent by us or an insured is required under this policy, such consent shall not be unreasonably withheld, delayed, conditioned or denied.

M. Access and Inspection

In connection with underwriting of this insurance or with our defense or adjustment of any claim, loss, corrective action or any other coverage afforded under this policy, we shall be allowed, but not obligated to, conduct inspections, surveys, audits or reviews of your location, operations or other information deemed pertinent by us. Such inspections, surveys, audits or reviews could involve the taking of samples, interviewing of employees, physical access to locations or access to materials or information concerning your operations, structure or financials of your company.

The insured agrees to cooperate with us, and provide us with access to locations, information, and employees for such inspections, surveys, audits, or reviews, whether or
not you deem such location or information relevant to the underwriting of this insurance, or with our defense or adjustment of any claim, loss, corrective action or any other coverage afforded under this policy.

Neither our right to conduct such inspections, surveys, audits or reviews nor the results or conclusions of such actual inspections, surveys, audits or reviews shall warrant, in any way, that the operations or location are safe, healthful or compliant with or conform to applicable laws, standards or accepted practices. This condition applies to any agents or representatives that we allow to conduct such inspections, surveys, audits or reviews on our behalf.

N. Sole Agent

You shall act on behalf of all other insureds, if any, for the payment or return of any premium, payment of any deductible, receipt and acceptance of any endorsement issued by us to form a part of the policy, giving and receiving notice of cancellation or non-renewal, and the exercise of the rights provided in the extended reporting period.

O. Severability

Except with respect to Limits of Insurance, Deductible, Cancellation or Non-Renewal and any rights and duties assigned in this policy to you, this insurance applies as if each insured were the only insured and separately to each insured against to whom a claim is made. Any misrepresentation, act, or omission that is in violation of a term, duty or condition under this policy by one insured shall not prejudice another insured under this policy. This condition shall not apply to an insured who is a parent, subsidiary or affiliate of the insured which committed the misrepresentation, act, or omission referenced above.

P. Shared Limits

You and all other insureds understand, agree and acknowledge that this policy contains an Aggregate Limit that is applicable to and shared by all insureds that are or may become an insured. As such all insureds understand and agree that the limits of this policy may be depleted or exhausted by payments made on behalf of other insureds.

Q. Arbitration

Any dispute, disagreement or controversy, arising out of the formation, interpretation, alleged breach, termination, or invalidity of this policy, or as to any other issue regarding the respective duties and responsibilities of us or any insured regarding this policy, shall be resolved through binding arbitration. Except with respect to the selection of the arbitration panel, the arbitration will be conducted in accordance with the rules of the American Arbitration Association (“AAA”) that are in effect as of the date a party first provides notice of its demand for arbitration to the other party in accordance with the policy’s notice provisions. The panel will consist of one arbitrator selected by the insured; one selected by us; and a third independent arbitrator will be selected by the first two arbitrators. If the first two arbitrators cannot agree on the selection of a third independent arbitrator within thirty (30) days of such notice, the third arbitrator will be selected by the AAA.

The arbitration proceeding will take place in the state shown in ITEM 2, in the Declarations or in the domicile of the entity seeking relief from us or from whom we are
seeking relief. The arbitrators must give due consideration to the general principles of the law of the state shown in ITEM 2. in the Declarations in construing and interpreting this policy; provided however, that the terms, conditions, provisions and exclusions of this policy are to be construed in an evenhanded fashion as between the parties. Where the language of this policy is alleged to be ambiguous or otherwise unclear, the issue will be resolved in the manner most consistent with the relevant terms, conditions, provision or exclusions of the policy (without regard to the authorship of the language, the doctrine of reasonable expectations of the parties and without any presumption or arbitrary interpretation or construction in favor of either party or parties, and in accordance with the intent of the parties).

The written decision of the arbitrators (the "Underlying Award") will be binding on all parties, must set forth its reasoning and basis in law and fact, and must be provided to all parties simultaneously. The arbitrators’ award shall not include attorney fees or other costs of arbitration. Judgment on the award may be entered in any court of competent jurisdiction. Each party shall bear the costs and expenses of arbitration equally.

Notwithstanding any language to the contrary, the parties hereby agree that: the Underlying Award may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules ("Appellate Rules"); and that the Underlying Award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) days of a party's receipt of an Underlying Award, as defined by Rule A-3 of the Appellate Rules, by filing a Notice of Appeal with any AAA office and simultaneously serving such Notice on the other party. Following the appeal process the decision rendered by the appeal tribunal may be entered in any court having jurisdiction thereof.