



Contractors Pollution Liability Insurance Policy ACE Westchester Elite FormSM

PLEASE READ THIS POLICY CAREFULLY. SOME OF THE PROVISIONS CONTAINED IN THIS POLICY RESTRICT COVERAGE, SPECIFY WHAT IS AND IS NOT COVERED AND DESIGNATE RIGHTS AND DUTIES. LEGAL DEFENSE EXPENSES ARE SUBJECT TO AND WILL ERODE THE LIMITS OF INSURANCE AND ANY APPLICABLE DEDUCTIBLE.

Throughout this policy the words “the Insurer”, “we”, “us” and “our” shall refer to the company providing this insurance. Other words and phrases that appear in bold have special meanings and are defined in **Section V. – DEFINITIONS**. In consideration of the payment of the Premium and in reliance upon all statements made in the Application, including the information furnished in connection therewith, and subject to all terms, definitions, conditions, exclusions and limitations of this policy, the Insurer agrees to provide insurance coverage to the “Insured” as described herein. The words “insured”, “you” and “your” mean any person or organization qualifying as such under **Section II. – WHO IS ANINSURED**.

I. COVERAGES – CONTRACTORS POLLUTION LIABILITY

A. Insuring Agreement

We will pay those sums in excess of the deductible shown in the Declarations that the insured becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies. We shall have the right and duty to defend the insured against any **claim** or **suit** seeking those damages. However, we shall have no duty to defend the insured against any **claim** or **suit** seeking damages for **bodily injury** or **property damage** to which this insurance does not apply.

We may, at our discretion, investigate any **loss** and settle any **claim(s)** or **suit(s)** that may result. But the amount we will pay for damages is limited as described in **III. LIMITS OF INSURANCE**; and our right and duty to defend ends when the applicable limit of insurance has been exhausted in the payment of judgments, settlements or supplementary payments under all attached Coverage Parts and all Supplementary Payments which reduce the Limit of Insurance.

This insurance applies to a **loss** only if:

1. The **loss** occurs during the policy period; and
2. The **loss** takes place in the **coverage territory**; and
3. The **loss** arises out of **your work**.

In the event a **loss** continues to take place during multiple policy periods for policies issued by us, all **bodily injury** and **property damage** arising out of such **loss** will be deemed to take place during the earliest period during which the **loss** commenced.

B. Exclusions

This insurance does not apply to:

1. Contractual Liability

Bodily injury or **property damage** arising out of any liability of others assumed by the insured through contract or agreement. This exclusion shall not apply to liability for damages:

- a. That would have otherwise attached to the insured in the absence of such contract or agreement; or
- b. Assumed in a contract or agreement that is an **insured contract**, provided the **bodily injury** and **property damage** occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of **bodily injury** and **property damage** provided:
 - (1) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
 - (2) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

2. **Damage to Your Work**

Property damage to your work arising out of it or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

- a. To **replacements costs**; or
- b. If the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

3. **Employer's Liability**

Bodily injury to:

- a. An insured or an **employee** of the insured, its parent, subsidiary or affiliate:
 - (1) Arising out of and in the course of employment; or
 - (2) While performing duties related to the conduct of the insured's business.
- b. The spouse, child, parent, brother or sister of that **employee** of the insured, its parent, subsidiary or affiliate as a consequence of Paragraph **a.** above.

This exclusion applies:

- a. Whether the insured may be liable as an employer or in any other capacity; and
- b. To any obligation to share damages with or repay someone else who must pay damages because of such **bodily injury**.

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

4. **Executive Officer**

Bodily injury or **property damage** arising from your services and/or capacity as an **executive officer**, director, partner, trustee or **employee** of a business enterprise not named in the Declarations.

5. Expected or Intended Injury

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

6. Fines and Penalties

Any **suit(s)** or **claim(s)** seeking injunctive relief; or payment for fines, penalties, punitive, exemplary or multiplied damages unless allowed by law.

7. Insured's Internal Expenses

Claim(s) arising from expenses incurred by the insured for services performed by the salaried staff and **employees** of the insured. However, this exclusion shall not apply to **emergency response expense**.

8. Impaired Property

Any **suit(s)** or **claim(s)** arising out of **property damage** to **impaired property** or property that has not been physically injured, arising out of:

- a. A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
- b. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

9. Insured's Real Property

Bodily Injury or **property damage** arising from the insured's ownership, rental, lease, maintenance, operation, use, repair, voluntary or involuntary sale, transfer, exchange, gift, abandonment, or condemnation of insured's real property. However, this exclusion does not apply to:

- a. **Bodily injury** or **property damage** arising from the insured's temporary rental, lease or use of non-owned real property used solely to house materials, parts or equipment furnished in connection with **your work** during the duration of **your work** performed for a specific job or project; or
- b. Asbestos that was transported, stored, or otherwise handled as a result of **your work** performed in accordance with applicable **environmental laws** during the policy period that is stored for a period of time not to exceed ten (10) days at premises owned or leased by you during the policy period.

10. Intentional Acts

Bodily injury or **property damage** based upon or arising from any acts of the insured which are based upon or otherwise attributed to the insured's:

- a. Dishonest, intentional, fraudulent, malicious, willful, deliberate or knowingly wrongful act or;
- b. Dishonest, intentional, fraudulent, malicious, willful, deliberate non-compliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body prior to or after inception of this policy.

This exclusion does not apply to a **responsible insured** that did not commit, participate in, or have knowledge of an act described above.

11. Non-Owned Disposal Sites

Bodily injury or **property damage** arising out of **pollution conditions** on, at, under or migrated from a **Non-Owned Disposal Site**.

12. Other Enterprises

Bodily injury or **property damage** arising out of any business enterprise owned, operated or managed by the insured or its parent company or the affiliate, successor or assignee of such company not named in the Declarations.

13. Other Named Insureds

Bodily injury or **property damage** arising out of **claim(s)** against you by any other **Named Insured**.

14. Products Liability

Bodily injury or **property damage** arising out of **your product**. However, this exclusion does not apply to **bodily injury** or **property damage** resulting in a **pollution condition** that commences during the transportation of **your product** by a **carrier**.

15. Professional Liability

Bodily injury or **property damage** arising from or in any way related to the rendering of or failure to render **professional services** by the insured or any contractor or subcontractor working on the insured's behalf. This exclusion does not apply to damaged work or the work out of which the damage arises due to improper supervision or lack of supervision of a subcontractor by the insured.

16. Vehicles

Bodily injury or **property damage** arising from the ownership, maintenance, use or entrustment to others, beyond the boundaries of job sites where **your work** is being performed by any aircraft, **auto**, or watercraft owned or operated by or rented or loaned to you. However, this exclusion does not apply to **bodily injury** or **property damage** resulting in a **pollution condition** that commences during the transportation of **your product** by a **carrier**.

17. War

Bodily injury and **property damage** based upon, arising out of any consequence, whether direct or indirect, of war, invasion, act of foreign enemy, terrorism, civil war, rebellion, revolution, insurrection or military or usurped power.

18. Workers' Compensation

Claim(s) or **suit(s)** arising as a result of any obligation of any insured under any workers compensation, disability benefits, or unemployment compensation law or any similar law.

C. Supplementary Payments

We will pay, with respect to any **claim(s)** we investigate or settle, or any **suit(s)** against an insured we defend:

1. All expenses we incur.

2. All premiums on appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. The company does not have the obligation to apply or furnish these bonds.
3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **claim(s)** or **suit(s)**, including actual loss of earnings up to \$250 a day because of time off of work.
4. All costs taxed against the insured in the **suit(s)**.
5. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will reduce the Limits of Insurance shown in the Declarations.

II. WHO IS AN INSURED

A. If you are designated in the Declarations as:

1. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
2. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respects to the conduct of your business.
3. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
4. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your **executive officers** and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

B. Each of the following is also an insured:

1. Your **employees**, other than either your **executive officers** (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of **your work**.
2. Any person (other than your **employee**), or any organization while acting as your real estate manager.
3. Any person or organization having proper temporary custody of your property if you die, but only
 - a. With respect to liability arising out of the maintenance or use of that property; and
 - b. Until your legal representative has been appointed.

4. 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.
- C. Any organization you newly acquire or form other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest will qualify as a **Named Insured** if there is no other similar insurance available to that organization. However:
1. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
 2. Coverage does not apply to **claim(s)** that occurred before you acquired or formed the organization.

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

III. LIMITS OF INSURANCE

- A. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of insureds, **emergency response expense, claim(s)** made or **suit(s)** brought or persons or organizations making **claim(s)** or bringing **suit(s)**.
- B. The Each Pollution Condition Limit shown in the Declarations is the most we will pay for the sum of all damages because of a **loss** or **emergency response expense** arising out of any one **pollution condition** under this policy. The most we will pay with respect to any **pollution condition** that continues during the policy periods of more than one Pollution Liability Policy is the Each Pollution Condition Limit shown in the Declarations applicable to the first policy period during which the **pollution condition** commenced.
- C. The General Aggregate Limit shown in the Declarations is the most we will pay for the sum of damages under all Coverage Parts and Supplementary Payments afforded by this policy.
- D. The Limits of Insurance apply to the policy period shown in the Declarations or as amended by endorsement.
- E. The deductible amount stated on the Declarations is applicable to each **pollution condition** or **emergency response expense**. The deductible amount applies once to each **pollution condition** or **emergency response expense** and applies to defense expenses, investigation, settlement, compromise, or indemnification.
- F. We, at our sole election and option, may either:
1. Pay any part of the deductible amount to effect settlement or expense of any **claim**, and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount that has been paid by us; or
 2. Simultaneously upon receipt of notice of any **claim** or at any time thereafter, call upon you to pay or deposit with us all or any part of the deductible amount, to be held and applied by us at our sole discretion.
- G. If a **claim** has not entered into litigation, and we and the **Named Insured** mutually agree to **mediation** as a means to settle a **claim** made against the insured, and if such **claim** is settled as a direct result of and during the **mediation**, the deductible stated in the Declarations or applicable endorsement(s) shall be waived up to a maximum of \$25,000. When this occurs, we will reimburse the **Named Insured** as soon as practical for any qualifying deductible amount which was already paid by the **Named Insured** prior to the **mediation**.

IV. GENERAL CONDITIONS

A. Bankruptcy

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

B. Duties in the event of a Loss, Claim or Suit:

1. You must see to it that we are notified as soon as practicable of a **pollution condition** or **loss**, which may result in a **claim** or **suit**. To the extent possible, notice should include:
 - a. How, when and where the **pollution condition** or **loss** took place;
 - b. The names and addresses of any injured persons and witnesses;
 - c. The nature and location of any injury or damage arising out of the **pollution condition** or **loss**; and
 - d. The steps undertaken by the insured to respond to the **pollution condition** or **loss**.
2. If a **claim** is made or **suit** is brought against any insured, you must:
 - a. Immediately record the specifics of the **claim** or **suit** and the date received;
 - b. Notify us as soon as practicable.

You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable.
3. You and any other involved insured must:
 - a. Immediately send us copies of any demands, notices, summons or legal papers received in connection with the **claim** or **suit**;
 - b. Authorize us to obtain records and other information;
 - c. Cooperate with us in the investigation or settlement of the **claim** or defense against the **suit**; and
 - d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
4. No insured will, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for **emergency response expense** or first aid, without our consent.

C. Legal Action Against Us

No person or organization has a right under this policy:

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

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages 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.

D. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this policy, our obligations are limited as follows:

1. Primary Insurance

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

2. Excess Insurance

If other insurance, whether collectible or not, is available to the insured covering a **loss** also covered by this policy, other than a policy that is specifically written to apply in excess of this policy, the insurance afforded by the policy shall apply in excess of and shall not contribute with other such insurance.

This policy shall in no way be increased or expanded as a result of 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.

When this insurance is excess, we will have no duty under the policy to defend any **claim(s)** or **suit(s)** if any other insurer has a duty to defend the insured against that **claim(s)** or **suit(s)**. If no other insurer defends a **loss** covered under this policy, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the **loss**, if any, that exceeds the sum of:

- a. The total amount that all such other insurance would pay for the **loss** in the absence of this insurance; and
- b. The total of all deductible and self-insured amounts under all other insurance or under this policy.

We will share the remaining **loss**, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

3. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

E. Premium Audit

1. We will compute all premiums for this policy in accordance with our rules, rates, and minimum premium requirements.

2. Premium shown in the Declarations page of this policy as Premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the **Named Insured**.
3. The **Named Insured** must keep records of the information we need for premium computation, and send us copies at such times as we may request.
4. We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.
5. Premium adjustments as a result of premium audits will be done after the policy expires or is terminated, but may be done by us while the policy is in effect.
6. Premium Audit adjustment calculations will be made to determine additional premium only. You have agreed with us that there will be no downward adjustments of the Premium.

F. Representations

By accepting this policy, you agree:

1. The statements in the Declarations, application for insurance, any other underwriting, loss control or claims related information, and any other information submitted to us are accurate and complete at the time you reported that information; and
2. Those statements are based upon representations you made to us; and
3. We have issued this policy in reliance upon your representations.

G. Separation of Insureds

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

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

H. 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 these rights once a **loss** is known by a **responsible insured**. At our request, the insured will bring **suit** or transfer those rights to us and help us enforce them.

I. Cancellation or Non-renewal

This policy may be cancelled by you by surrender thereof to us or any of our authorized representatives or by mailing to us written notice stating when thereafter the cancellation shall be effective.

If we decide to cancel or not to renew this policy on or before the expiration date of the policy, we will mail or deliver to the first **Named Insured** shown in the Declarations, written notice of cancellation or non-renewal not less than sixty (60) days or ten (10) days for non-payment of premium prior to cancellation.

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

J. Inspection

With reasonable notice to the insured, the Insurer shall be permitted, but not obligated, to inspect the insured's property and/or operations. Neither the Insurer's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the insured or others, to determine or warrant that such property or operations are safe or in compliance with **environmental law(s)**, or any other law.

K. Headings

The descriptions in the headings and sub-headings of this policy are inserted solely for convenience and do not constitute any part of the terms or conditions hereof.

V. DEFINITIONS

A. **Auto** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But **auto** does not include **mobile equipment**.

B. **Bodily injury** means:

1. Physical injury, illness or disease, sustained by any person, including death resulting there from, and any associated medical monitoring; and
2. Mental anguish, emotional distress or shock.

C. **Carrier** means a person or entity, other than the Insured or any subsidiary or affiliated company of the Insured, engaged in the business of transporting property for hire by **auto**, rolling stock, aircraft or watercraft.

D. **Claim** means any written demand, notice, or request for defense, request for indemnity, or other legal or equitable proceeding against any insured by a person, entity or asserted class for **loss**.

E. **Cleanup costs** means reasonable and necessary expenses incurred in the investigation, evaluation, monitoring, testing, removal, containment, treatment, response, disposal, remediation, detoxification or neutralization of any **pollution conditions**:

1. To the extent required by applicable **environmental laws**; or
2. In absence of any applicable **environmental laws**, to the extent recommended in writing by an **environmental consultant**.

Cleanup costs also include **replacement costs**.

F. **Coverage territory** means:

1. The United States of America, its territories and possessions, Puerto Rico and Canada;
2. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Item 1. above.

G. **Emergency response expense** means reasonable **cleanup costs** incurred by the **Named Insured** in response to an imminent and substantial threat to human health or the environment arising from a **pollution condition**. Such reasonable **cleanup costs** must be incurred within seven (7) days of the discovery of a **pollution condition**.

H. **Employee** includes temporary and/or leased staff working on behalf of and under direct supervision by you, but only for **your work**.

- I. **Environmental consultant** means a person approved by us in writing who is duly certified and licensed in a recognized field of environmental science as required by an applicable state or provincial board, a professional association, or both, and fulfills certain minimum qualifications and maintains errors and omissions insurance. We shall consult with the insured in conjunction with the selection of the **environmental consultant**.
- J. **Environmental law** means federal, state, provincial, municipal or other local laws, statutes, ordinances, regulations, and all amendments thereto, including state voluntary cleanup or risk-based corrective action guidance, governing the liability of the insured with respect to **pollution conditions**.
- K. **Executive officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- L. **Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:

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

If such property can be restored to use by:

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

M. **Insured contract** means:

1. A sidetrack agreement;
2. Any easement or license agreement;
3. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
4. An elevator maintenance agreement;
5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph 5. does not include that part of any contract or agreement:

- a. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (1) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- b. Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional

services, including those listed in Item **5.a.** above and supervisory, inspection, architectural or engineering activities.

N. **Loss** means **bodily injury** or **property damage**, neither expected nor intended from the standpoint of the insured, caused by or resulting from a **pollution condition** and which results in a **claim** or **suit**.

O. **Mediation** means the non-binding intervention of a neutral third-party to effect resolution of a **claim**.

P. **Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment:

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

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **auto**:

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

Q. **Mold** means mildew, fungus, or mold; including mycotoxins, spores or byproducts produced or released by fungi.

R. **Named Insured** means the person or entity shown in Item **1.** of the Declarations.

- S. **Natural resource damage** means damage for, injury to, destruction of, or loss of fish, wildlife, biota, land, air, water, groundwater, drinking water supplies, and other similar resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States, and state or local government, any foreign government, or any Indian Tribe, including the reasonable costs of assessing such injury, destruction or **loss** resulting there from.
- T. **Non-Owned Disposal Site** means a facility or site that is used for treatment, storage or disposal of any material or waste provided the **Non-Owned Disposal Site** is not owned, operated, leased or maintained by the insured or affiliated entity.
- U. **Pollution condition** means the discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal, material matter, irritant or contaminant, including smoke, soot, vapors, fumes, acids, alkalis, chemicals, hazardous substances, hazardous materials, low level radiological material, or waste materials including medical, infectious, or pathological wastes, on, in, into, or upon land and structures thereupon, the atmosphere, surface water or groundwater. **Pollution condition** includes electromagnetic fields, **mold**, virus(es), and bacteria including Legionella pneumophila.
- V. **Products - completed operations hazard:**
1. Includes all **bodily injury** and **property damage** occurring away from premises you own or rent and caused by **pollution conditions** arising out of **your product** or **your work** except:
 - a. Products that are still in your physical possession; or
 - b. Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:
 - (1) When all of the work called for in your contract has been completed.
 - (2) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
 2. Does not include **bodily injury** or **property damage** arising out of
 - a. The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the loading or unloading of that vehicle by any insured;
 - b. The existence of tools, uninstalled equipment or abandoned or unused materials.
- W. **Professional services** means those architectural, engineering, consulting, project management or construction management services that are performed by you or on your behalf. **Professional services** includes making recommendations for the site selection, transportation, disposal or treatment of **pollution condition(s)**.
- X. **Property damage means:**
1. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of physical injury that caused it; or

2. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **loss**; or
 3. **Cleanup costs**; or
 4. **Natural Resource Damage**; or
 5. Diminished value of property owned by third parties.
- Y. **Replacement costs** means reasonable expenses necessarily incurred by the insured to repair or replace real property or physical improvements to such real property that were made prior to the **pollution condition** and damaged during the course of responding to the **pollution condition**. **Replacement costs** do not include costs associated with improvements or betterments.
- Z. **Responsible Insured** means any employee of the insured responsible for environmental affairs, control, or compliance, or any officer, director, partner, branch manager, operations manager, or project manager of the **Named Insured**.
- AA. **Suit** means a civil proceeding in which damages because of **bodily injury** or **property damage** to which this insurance applies are alleged. **Suit** includes:
1. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 2. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- BB. **Your product**:
1. Means:
 - a. Any goods or products including waste, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
 2. Includes:
 - a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
 - b. The providing of or failure to provide warnings or instructions.
 3. Does not include vending machines or other property rented to or located for the use of others but not sold.
- CC. **Your work**:
1. Means:

- a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.
2. Includes:
- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and