ASPEN STORAGE TANK POLICY

«CompanyName»
c/o Aspen Specialty Insurance Management, Inc.
«Address1»
«Address2»
(«StockCo,IncorporatedInfo»)

NOTICE: THIS POLICY INCLUDES CLAIMS MADE AND REPORTED COVERAGES WHICH CONTAIN PROVISIONS THAT RESTRICT COVERAGE AND ARE UNIQUE. THE INSURED SHOULD READ THE ENTIRE POLICY CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED. BOLD WORDS AND PHRASES, OTHER THAN HEADINGS, ARE DEFINED IN SECTION VII. OF THIS POLICY, AND OTHER TERMS ARE ALSO DEFINED THROUGHOUT THE POLICY.

In consideration of payment of premium when due and in reliance upon the **application**, the **insurer** agrees to provide insurance coverage to the **insured**, for only those Coverage Sections purchased as evidenced by a corresponding Limit of Liability listed in Item 6 of the Declarations, subject to all terms and conditions of the Policy as follows:

I. INSURING AGREEMENTS

A. COVERAGES

1. Storage Tank System Liability Protection

a. Storage Tank Systems - Claims for Bodily Injury or Property Damage

The **insurer** will pay on behalf of the **insured**, **loss** in excess of the deductible, that the **insured** becomes legally obligated to pay as a result of **claims** for **bodily injury** or **property damage** resulting from a **pollution incident** from a **storage tank system**, provided the **claim** is first made against an **insured** and reported to the **insurer** during the **policy period** or applicable Extended Reporting Period, if any.

b. Storage Tank Systems - Clean-up Cost or Corrective Action

The **insurer** will pay on behalf of the **insured**, **clean-up cost** or **corrective action** in excess of the deductible that the **insured** becomes legally obligated to pay as a result of a **confirmed release**, provided the **confirmed release** is first reported to the **insurer** during the **policy period** or applicable Extended Reporting Period, if any.

This coverage applies only if: (i) on or prior to the **inception date** no **responsible insured** knew of or reasonably should have known of the **pollution incident**; and (ii) such **pollution incident** first commences on or after the Retroactive Date listed at Item 4. of the Declarations and before expiration of the **policy period**. If no Retroactive Date is listed in the Declarations, then the **pollution incident** must first commence during the **policy period**.

2. On-Site Clean-up Coverage

The **insurer** will pay on behalf of the **insured**, **clean-up cost** in excess of the deductible resulting from a **pollution incident** on, at, or under an **insured location**; provided that:

a. The **pollution incident** first commences during the **policy period**; and

b. On or prior to the **inception date** no **responsible insured** knew of or reasonably should have known of such **pollution incident**; and

c. Such **pollution incident** is reported to the **insurer** in writing during the **policy period**, or applicable Extended Reporting Period, if any**;** and

d. The **pollution incident** does not arise from or is not connected with a **storage tank system**.

B. DEFENSE AND SETTLEMENT

1. Defense

a. Subject to the Limit of Liability for **defense expense** and deductible listed in Item 6. of the Declarations, the **insurer** has the right and duty to pay **defense expense** and to defend the **insured** against any **claim** to which this Policy applies.

b. The **insurer** has no duty to pay **defense expense** or to defend the **insured** against: (i) any **claim** to which this Policy does not apply; or (ii) any claim, suit, or liability arising from a **pollution incident** to which Coverage **2.** applies. The **insurer's** duty to defend and to pay **defense expense** ends when the Aggregate Limit for defense expense is exhausted by payment of covered **defense expense** or as provided in paragraph **2. Settlement** immediately below.

c. The **insurer** has the right to select counsel to defend an **insured** against any **claim** to which this insurance applies. The **insurer** also has the right but not the duty to investigate any **claim** or **pollution incident** and settle any **claim** that may result therefrom.

d. If by mutual agreement between the **insurer** and the **insured**, or in the event that the **insured** is legally entitled to select independent counsel to defend it, the attorneys' fees and expenses the **insurer** will pay are limited to the rates that the **insurer** normally pays to counsel selected by the **insurer** to defend similar claims in the jurisdiction where the **claim** or **clean-up cost** or **corrective action** is being defended. The **insurer** may require that such counsel meet certain minimum qualifications, maintain errors and omissions insurance, and cooperate with the **insurer's** request for information. The **insured** may at any time by its written consent waive any right to select independent counsel.

2. Settlement

The **insurer** will present all settlement offers to the **insured**. If the **insurer** recommends a settlement of a **claim** that is acceptable to the claimant and is within the applicable Limits of Liability, and the **insured** refuses to consent to such settlement, then the **insurer's** duty to defend shall end and the **insurer** may tender the defense to the **insured**. The **insured** shall thereafter defend such **claim** independently. The **insurer's** liability shall not exceed the amount for which the **claim** could have been settled had the **insurer's** recommendation been accepted plus **defense expense**, exclusive of the deductible, incurred up to the time the **insurer** recommended the settlement.

II. EXCLUSIONS

A. EXCLUSIONS APPLICABLE TO ALL COVERAGES

This Policy does not apply to:

1. Contractual Liability

Loss, **clean-up cost**, **corrective action** or **defense expense** that any **insured** is obligated to pay by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability: i) That the **insured** would have in the absence of the contract or agreement; or ii) Assumed in an **insured contract**.

2. Fines, Penalties and Injunctive Relief

Any punitive, exemplary or multiplied damages, fines, taxes, penalties, assessments; any statutory fines, penalties, damages or assessments; any civil, administrative or criminal fines, sanctions or penalties; or any non-pecuniary or injunctive relief.

3. Divested Storage Tank System(s) or Insured Locations

Loss, **clean-up cost**, **corrective action** or **defense expense** arising from any **pollution incident** or any **confirmed release** which commences on or after the date that a covered **storage tank system** or **insured location** is: i) sold; ii) given away; iii) abandoned or iv) subleased, unless the sub-lease has been approved in writing by the **insurer** prior to the commencement of the sub-lease.

4. Employment Liability

Claims for **Bodily injury** to:

a. An employee of any **insured** arising out of and in the course of:

(1) Employment by any **insured**; or

(2) Performing duties related to the conduct of any **insured's** business; or

b. The spouse, child, parent, brother or sister of that employee as a consequence of Paragraph 1. above.

This Exclusion applies whether any **insured** may be liable as an employer or in any other capacity, to any obligation to share damages with or repay someone else who must pay damages because of the injury and to all legal expense arising from such injury.

5. Installed Asbestos and Lead

Loss, **clean-up cost** or **defense expense** arising out of asbestos, asbestos-containing materials or lead-based paint installed or applied in, on, or to any building or structure including but not limited to any **storage tank system**.

6. Insured Versus Insured

Any **claim** brought by or on behalf of any **insured** against any other **insured** under this Policy. This exclusion does not apply to a demand for indemnification asserted by one **insured** against another **insured** pursuant to an **insured contract**.

7. Intentional Non-Compliance

Loss, **clean-up cost**, **corrective action** or **defense expense** arising out of a **responsible insured's** intentional non-compliance with **environmental law**. This Exclusion does not apply to the **insured's** action taken in good faith in response to an imminent and material threat to human health or the environment.

8. Internal Expenses

Any costs, charges or expenses, incurred by any **insured** for goods supplied or services performed by the staff or salaried employees of any **insured**, unless such costs, charges or expenses are incurred with the prior written approval of the **insurer** in its sole discretion.

9. Microbial Matter

Any **loss** arising from or related to **microbial matter**.

10. Nuclear Hazard

a. Claims, **loss**, **clean-up cost**, **corrective action** or **defense expense:**

(1) With respect to which the **insured** pursuant to this Policy is also an **insured** pursuant to a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an **insured** pursuant to any such policy but for its termination upon exhaustion of its limits of liability; or

(2) Resulting from the hazardous properties of nuclear material and with respect to which:

(a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or

(b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, pursuant to any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. **Claims loss**, **clean-up cost**, **corrective action** or **defense expense** arising out of or related to the hazardous properties of nuclear material, if:

(1) The nuclear material:

(a) Is at any nuclear facility owned by, or operated by or on behalf of the **insured**; or

(b) Has been discharged or dispersed therefrom;

(2) The nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of the insured; or

(3) The **bodily injury** or **property damage** arises out of the furnishing by the **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, located within the United States of America, its territories or possessions or Canada.

c. As used in this exclusion:

(1) Hazardous properties include radioactive, toxic, or explosive properties.

(2) Nuclear material means source material, special nuclear material, or byproduct material.

11. Prior Knowledge

A **pollution incident** or imminent threat thereof known by or that reasonably should have been known by a **responsible insured** prior to the **inception date**.

12. War

Loss, **clean-up cost**, **corrective action** or **defense expense** arising, directly or indirectly, out of:

a. War, including undeclared or civil war;

b. War-like action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

13. Vehicles

Loss, **clean-up cost**, **corrective action** or **defense expense** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto**, rolling stock or watercraft. Use does not include loading and unloading of an **auto**.

14. Workers' Compensation and Similar Laws

Loss, **clean-up cost**, **corrective action** or **defense expense** arising out of any obligation of any **insured** under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

15. Insured Property

Loss or **defense expense** arising out of damage or injury to real or personal property owned by, leased to, loaned to, or rented by, any **insured**, or otherwise in the care, custody, or control of any **insured**.

16. Intentional and Willful Acts

Loss, **clean-up cost**, **corrective action** or **defense expense** arising out of any intentional, willful, dishonest, fraudulent, malicious or knowingly wrongful act committed by or at any **insured's** direction.

17. Non-Owned Disposal Sites

Loss, **clean-up cost**, **corrective action** or **defense expense** arising out of any **pollution incident** on, at, under or migrating from any location or premises that is not owned, leased, managed or operated by any **insured** that is used for the recycling, treatment, storage, trans-shipment or disposal of any **pollutant**.

B. EXCLUSIONS APPLICABLE TO COVERAGE 1. STORAGE TANK SYSTEM LIABILITY PROTECTION

This Policy does not apply to:

1. Costs to Confirm a Release from a Storage Tank System

For any costs, charges or expenses incurred to investigate or certify that a **confirmed release** or **pollution incident** has taken place.

2. Costs to Repair, Replace or Upgrade a Storage Tank System

For any costs or expense arising out of or in connection with the reconstruction, repair, replacement, upgrading or rebuilding of any **storage tank system** or for any other improvements, site enhancements or routine maintenance on, within or under the site at which the **storage tank system(s)** is/are located.

3. Regulatory Compliance

Loss, **clean-up cost**, **corrective action** or **defense expense** arising from or related to any **pollution incident** arising from a **storage tank system** that was not in compliance with all applicable **environmental law** prior to such **pollution incident**.

4. Storage Tank Contents

Any damages, costs, expenses, loss of use, taxes or liabilities arising out of any injury to or impairment or contamination of the contents of any **storage tank system**, including but not limited to the removal, replacement or recycling of the contents of the **storage tank system**.

III. LIMITS OF LIABILITY AND DEDUCTIBLE

The Limits of Liability shown in the Declarations and the rules below fix the most the **insurer** will pay under this Policy regardless of the number of **insureds**, claimants, **claims**, **pollution incidents** or **confirmed releases**. The applicable Limits of Liability apply in excess of the applicable Deductible amounts.

A. Policy Aggregate Limit

The Policy Aggregate Limit set forth in Item 6 of the Declarations is the most the **insurer** will pay for the sum total of all **loss**, **clean-up cost**, and **corrective action** under this Policy.

B. Coverage Section Limits

Subject to Paragraph **A.** above, the applicable Coverage Section Limit of Liability set forth in Item 6 of the Declarations is the most the **insurer** will pay for all **loss**, **clean-up cost**, and **corrective action** under each corresponding Coverage Section.

C. Defense Expense Aggregate Limit

The Aggregate Defense Expense Limit set forth in Item 6 of the Declarations is the most that the **insurer** will pay for the sum total of all **defense expense** under this Policy. **Defense expense** does not erode the Policy Aggregate Limit.

D. Each Incident Limit and Related Claims

Subject to Paragraphs **A. B.** and **C.** above, for each Coverage Section, the applicable Each Incident Limit set forth in Item 6 of the Declarations is the most the **insurer** will pay for the sum total of all **loss**, **clean-up cost**, or **corrective action** arising out of any one **pollution incident**.

Multiple **pollution incidents** that arise out of the same, related, continuous or repeated **pollution incident** will be deemed to be one **pollution incident** and shall be deemed to have: (i) first commenced when the first such **pollution incident** commenced; and (ii) been first reported to the **insurer** on the date that the first **pollution incident** is reported to the **insurer** under this Policy or under any subsequent policy issued by the **insurer** or its affiliates, and will be subject to the Each Incident Limit of the policy in effect when the **pollution incident** was first reported. The same, related, continuous or repeated **pollution incidents** and any **pollution incidents** that arise out of or that are in any way connected to the same or related facts, circumstances or situations.

Multiple **claims** made during this Policy or under any subsequent policy issued by the **insurer** or its affiliates and arising out of the same **pollution incident** will be deemed a single **claim** and will be deemed to have been first made against the **insured** on the date that the first such **claim** was made and will be subject to the Each Incident Limit of the policy in effect when the **claim** was first made against the **insured** and reported to the **insurer**.

E. Deductible

Subject to Paragraph **A. B. C.** and **D.** above, the applicable Deductible set forth in Item 6 of the Declarations applies separately to **loss**, **corrective action**, **clean-up cost** or **defense expense**, as applicable, arising from each **pollution incident**.

The Deductible shall be paid by the **first named insured** and remain uninsured. The **insurer** may, but is not obligated to, advance amounts for **loss**, **corrective action**, **clean-up cost** or **defense expense**, as applicable, within the Deductible. Upon the **insurer's** request, the **first named insured** will promptly reimburse the **insurer** for any amounts within the Deductible that the **insurer** has advanced.

IV. RIGHTS AND DUTIES OF THE INSURER AND THE INSURED

A. The Insured's Duties in the Event of a Pollution Incident

1. Notice as required pursuant to this Policy is to be provided by or on the **insured's** behalf as follows:

Report all **pollution incidents** to:

a. Aspen Specialty Insurance Management, Inc.
«Address1»
«Address2»
Main Tel: 646-502-1000
Fax: 646-502-1020

b. environmental.claims@aspen-insurance.com

c. 24/7 Emergency Response 1-866-287-5146

As a condition precedent to coverage under this Policy, the **insured** must provide immediate notice to the **insurer** of any **pollution incident**. In all events, such notice must be reported to the **insurer** in writing during the **policy period** or, if applicable, the Extended Reporting Period.

Such notice should include reasonably detailed information as to:

a. How, when and where the **pollution incident** took place;

b. The identity of the **storage tank system** or **insured location**;

c. The names and addresses of any injured persons and witnesses; and

d. Any steps undertaken by the **insured** to respond to the **pollution incident**.

Notice of a **pollution incident** is not notice of a **claim**.

2. In the event the **insured** becomes aware of a **pollution incident**, the **insured** must:

a. Promptly report the **pollution incident** to the appropriate governmental authority as required by **environmental law**;

b. Mitigate and clean-up any **pollution incident** or imminent threat thereof to the extent required by **environmental law**;

c. Provide the **insurer** with proposed work plans, bids, contracts, agreements or any similar document, concerning work to result in **clean-up cost** or **corrective action**, as applicable, which proposals shall be subject to the **insurer's** right to prior approval; and

d. Provide the **insurer** at reasonable intervals, (and always at least thirty (30) days, or as soon as practicable and prior to submission of any progress reports to the **implementing agency**) written progress reports concerning the work resulting in **clean-up cost** or **corrective action**.

B. The Insurer's Rights and Duties in the Event of a Pollution Incident

The **insurer** shall have the right, but not the duty, to mitigate and clean-up (including assuming direct control of any mitigation or clean-up) any **pollution incident** that may be covered under this Policy or any imminent threat that may result in a **pollution incident** that may be covered under this Policy. In the event the **insurer** asserts a right to mitigate or clean-up, then any amounts the **insurer** spends to mitigate or clean-up shall erode the applicable Limits of Liability and the **insured** will reimburse the **insurer** for any portion of any applicable deductible advanced while taking such action.

C. The insured's Duties in the Event of a Claim

As a condition precedent to coverage under this Policy, if a **claim** is made against any **insured**, the **insured** must:

1. Immediately send the **insurer** copies of any demands, notices, summonses or legal papers received in connection with any **claim** or **pollution incident**;

2. Authorize the **insurer** to obtain records and other information;

3. Cooperate with the **insurer** in the investigation, settlement or defense of the **claim** or **pollution incident**;

4. Assist the insurer, upon the insurer's request, in the enforcement of any right against any person or organization which may be liable to the insured because of bodily injury, property damage, clean-up cost, corrective action, or defense expense to which this Policy may apply;

5. Provide the insurer with such information and cooperation as it may reasonably require; and

6. Except at the insured's sole cost, not make or authorize an admission of liability, attempt to settle or otherwise resolve any claim, or incur or assume any loss, clean-up cost, corrective action or defense expense without the prior express written consent of the insurer, except in the event of a pollution incident that presents or reasonably threatens to present an imminent and substantial endangerment to human health or the environment; provided always that the insured notifies the insurer within 24 hours of such pollution incident.

D. Insured's Duties in the Event of Voluntary Tank Replacement

As a condition precedent to coverage under this Policy, at least seven days prior to any voluntary removal or replacement of any **storage tank system**, the **insured** must provide the **insurer** with written notice of such removal or replacement. Such notice must be provided to the **insurer** at the following email address:

1. Aspen Specialty Insurance Management, Inc.
«Address1»
«Address2»
Main Tel: 646-502-1000
Fax: 646-502-1020

2. environmental.claims@aspen-insurance.com

E. Insured's Right to Give Notice of Possible Claim Under Coverage 1.a (Claims for Bodily Injury or Property Damage)

If during the **policy period** the **insured** first becomes aware of a **pollution incident** which may reasonably be expected to give rise to a **claim** against the **insured** for **bodily injury** or **property damage**, the **insured** may give the **insurer** written notice during the **policy period** of such **pollution incident** and the reasons for believing that a **claim** may arise. Such notice must include the following to the extent possible:

1. The circumstances under which the **insured** first became aware of the **pollution incident**;

2. The nature, location and date of commencement of the pollution incident;

3. The identity of anticipated or potential claimants;

4. The bodily injury or property damage that has resulted or may result from the pollution incident;

5. All available engineering information relating to the pollution incident; and

6. Any other information that the insurer deems reasonably necessary.

In the event the **insured** provides such notice to the **insurer**, a **claim** otherwise covered under **Coverage 1.a (Claims** for **Bodily Injury or Property Damage)** that arises out of such **pollution incident** and that is first made against an **insured** and reported to the **insurer** within five (5) years after the end of the **policy period** shall be deemed to have been first made against an **insured** and reported to the **insurer** during the **policy period**.

V. EXTENDED REPORTING PERIOD

If the Policy was not terminated due to non-payment of premium, fraud or misrepresentation in the **application** for this Policy, or failure to comply with the material terms, conditions or contractual obligations under this Policy, and the **first named insured** has not purchased any other insurance to replace this insurance, the **insurer** will provide an Automatic Extended Reporting Period as described in Paragraph A. below, or, if the **first named insured** purchases it, an Optional Extended Reporting Period as described in Paragraph B. below.

A. Automatic Extended Reporting Period

The Automatic Extended Reporting Period is one hundred and eighty (180) days following the end of the **policy period**. Under **Coverage 1.a.**, a **claim** first made against an **insured** and reported to the **insurer** during the Automatic Extended Reporting Period, will be deemed to have been first made against the **insured** and reported to the **insurer** on the last day of the **policy period**, provided that such **claim** arises from a **pollution incident** that first commenced before the end of the **policy period** and after the Retroactive Date, if any.

Under **Coverage 1.b.** or **2.**, a **pollution incident** first reported during the Automatic Extended Reporting Period will be deemed to have been reported to the **insurer** on the last day of the **policy period**, provided that such **pollution incident** first commenced before the end of the **policy period** and after the Retroactive Date, if any.

The Automatic Extended Reporting Period shall not apply if the Optional Extended Reporting Period is purchased pursuant to Paragraph B. below.

B. Optional Extended Reporting Period

The **first named insured** is entitled to purchase an Optional Extended Reporting Period Endorsement upon providing written notice to the **insurer**, within the first sixty (60) days following the end of the **policy period**, of its election to purchase the Endorsement. Upon the **insured's** payment of an additional premium of not more than 100% of the premium set forth in Item 5(c) of the Declarations, the Optional Extended Reporting Period will commence upon expiration of the **policy period** and will expire twelve (12) months thereafter. The Optional Extended Reporting Period Endorsement shall not become effective unless the **first named insured** pays the additional premium when due, which will be fully earned upon payment. Once the **first named insured** pays the additional premium when due, the Optional Extended Reporting Period may not be cancelled.

Under **Coverage 1.a.**, a **claim** first made against an **insured** and reported to the **insurer** during the Optional Extended Reporting Period will be deemed to have been first made against the **insured** and reported to the **insurer** on the last day of the **policy period**, provided the **pollution incident** first commenced before the end of the **policy period** and after the Retroactive date, if any.

Under **Coverage 1.b.** or **2.**, a **pollution incident** first reported during the Optional Extended Reporting Period will be deemed to have reported to the **insurer** on the last day of the **policy period**, provided that such **pollution incident** first commenced before the end of the **policy period** and after the Retroactive Date, if any.

C. The provision of an Extended Reporting Period does not extend the **policy period**, does not increase the scope of coverage, and does not increase or reinstate any Limit of Liability under this Policy.

VI. CONDITIONS

A. Assignment

Assignment of this Policy or any of the **insured's** rights or duties hereunder, shall not bind the **insurer** unless and until the **insurer's** written consent is endorsed hereto.

B. Bankruptcy

Bankruptcy or insolvency of the **insured** or the **insured's** estate will not relieve the **insurer** of any obligations under this Policy.

C. Cancellation

1. The **first named insured** may cancel this Policy by delivering advance written notice of cancellation to the **insurer** stating when cancellation is to be effective. If the **first named insured** cancels, any unearned premium shall be paid to the **first named insured** calculated on the customary short rate basis.

2. The **insurer** may cancel this Policy for the reasons stated below in **2.a.** and **2.b.** by mailing or delivering to the **first named insured** at the address stated in Item 10(a) of the Declarations written notice of cancellation at least:

a. Fifteen (15) days before the effective date of cancellation if the **insurer** cancels for nonpayment of premium or the applicable Deductible;

b. Ninety (90) days before the effective date of cancellation if the **insurer** cancels for fraud or misrepresentation in the **application** for this Policy or failure to comply with the material terms, conditions or contractual obligations under this Policy.

If the **insurer** cancels, any premium refund will be calculated on a pro rata basis.

3. Any written notice of cancellation provided under Paragraphs **1.** or **2.** shall state the effective date of cancellation and the **policy period** will end on such date. Proof of mailing of notice shall be sufficient proof of notice of cancellation.

4. The **insurer** will tender any premium refund due upon cancellation to the **first named insured** as soon as practicable after cancellation is effective, but tender of such premium refund is not a condition of cancellation.

D. Changes

This Policy contains all the agreements between the **insurer** and the **first named insured** concerning the insurance afforded under this Policy. This Policy's terms cannot be changed, amended or waived except by an endorsement issued by the **insurer** and made a part of this Policy.

E. Cooperation

The **insured** shall cooperate with the **insurer** and provide such reasonable assistance and cooperation in the investigation and defense of **claims** as the **insurer** may require. At the **insurer's** request, the **insured** shall submit to examination under oath, attend depositions, hearing and trials, submit proof of loss, assist in effecting settlements, providing evidence and obtaining the attendance of witnesses.

F. Coverage Territory

This Policy shall apply to any **claim** for **loss** that is made within the United States of America, its territories, Puerto Rico or Canada. Judgments against the **insurer** are only enforceable in courts venued within the United States of America. In no event will this insurance serve or be relied upon as evidence of financial assurance in any jurisdiction outside of the United States of America.

G. Financial Assurance and Reimbursement

If this Policy is relied upon to certify the **insured's** compliance with financial assurance requirements pursuant to 40 CFR Sections 280.60 – 280.67 and 40 CFR Section 280.72, or other similar state laws, with respect to the **insured** status as an owner or operator of a **storage tank system**, the **insured** is obligated to reimburse the **insurer** for any payment made by the **insurer** on the **insured's** behalf which the **insurer** would not have been otherwise obligated to make under the terms of this Policy. Payment by the **insurer** under this paragraph will not create any obligations beyond those obligations set forth in any other paragraph of this Policy and is not to be construed as a waiver or estoppel of any of the **insurer's** rights under the Policy or law.

H. Headings

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

I. Legal Action Against Insurer

No person or organization shall have the right under this Policy to join the **insurer** as a party, or otherwise bring the **insurer** into a suit seeking damages from an **insured**, or to bring any action against the **insurer** in connection with this Policy, unless as a condition precedent thereto all terms of this Policy have been fully complied with. A person or organization may sue the **insurer** to recover after an agreed settlement or on a final judgment against an **insured**. However, the **insurer** will not be liable for amounts that are not payable under the terms of this Policy or that are in excess of the applicable Limit of Liability.

J. Other Insurance

If other valid and collectible insurance or any **storage tank fund** is available for any **loss**, **clean-up cost**, **defense expense** or **corrective action** covered under this Policy, the **insurer's** obligations are limited as follows:

1. Except as stated in subparagraph **3.** of this Paragraph, this insurance is primary and the **insurer's** obligations are not affected unless any of the other insurance is also primary, in which case the **insurer** will share with all other primary insurance by the method described in Paragraph **2.** below.

2. If all of the other insurance permits contribution by equal shares, the **insurer** also will follow such method. Under this method, each insurer contributes equal amounts until it has paid its limit of liability or no loss remains, whichever comes first; or if any of the other insurance does not permit contribution by equal shares,

the **insurer** will contribute by limits. Under this method, each insurer's share is based on the ratio of its limit of liability to the total limits of insurance of all insurers.

3. This insurance shall apply as excess insurance over any **storage tank fund**, provided that in the event of the receivership, insolvency, or inability to pay of any **storage tank fund**, this insurance shall act as primary insurance. Where this insurance is excess, the **insurer** will pay only its share of the amount of **loss**, **clean-up costs**, **defense expense** or **corrective action**, if any, that exceeds the total amount available through the **storage tank fund**.

K. Representations

By acceptance of this Policy, the **first named insured** hereby represents that: (i) the statements made in the **application** are the **first named insured's** representations; (ii) such representations are material to the underwriting of this Policy; (iii) the **insurer** issued this Policy in reliance upon such representations; and (iv) breach of such representations will, at the **insurer's** election, result in forfeiture of coverage for any **claim**, **loss**, **corrective action** or **clean-up cost**, as applicable or voiding of the policy from the **inception date**.

L. Right of Access and Inspection

Upon reasonable notice to the **insured**, the **insurer** or its authorized representatives, have the right, but not the duty, to inspect any **storage tank system** or **insured location**, review **storage tank system** management records and to interview the **insured's** representatives. The **insured** shall have the concurrent right to participate in the inspection and collect split samples, if applicable. By undertaking any inspection, neither the **insurer** nor its representatives are assuming and responsibility or duty to the **insured** or any other party, person or entity. Neither the **insurer's** right to make inspections, the making of such inspections, nor any report thereon, shall constitute an undertaking, on behalf of or for the benefit of any **insured** or others, to determine or warrant that any **storage tank system**, **insured location** or associated operations are safe or are in compliance with **environmental laws**, any other laws, any engineering practices or any industry standard.

If the **insurer's** inspection or review demonstrates the existence of a material risk, hazard or condition that was not disclosed in the **application**, or that deviated from the information disclosed in the **application**, the **insurer** has the right to amend, modify or delete any of the Policy terms and conditions, to charge additional premium, or to withdraw, rescind or void the Policy.

M. Separation of Insureds

Except with respect to the Limits of Liability, the Insured versus Insured exclusion, and any rights or duties specifically assigned in this Policy to the **first named insured**, this Policy applies as if each **insured** were the only **insured** and applies separately to each **insured** against whom a **claim** is made.

N. Service of Suit

In the event of failure of the **insurer** to pay any amount claimed to be due hereunder, the **insurer**, at the request of the **insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes a waiver of the **insurer's** right to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon counsel at the notice address provided in Section **IV.**, paragraph **A.** of this Policy. Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, the **insurer** hereby designates the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successors in office as its true and lawful agent upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of an **insured** arising out of this Policy.

O. Sole Agent

The **first named insured** shall act on behalf of all **insureds** for the payment or return of premium and Deductibles, negotiation, receipt and acceptance of any endorsement issued by the **insurer** and made part of this Policy, giving or receiving notice of cancellation, and exercising the right to an extended reported period.

P. Subrogation

If the **insured** has any right to recover all or part of any payment by the **insurer** under this Policy, such right is hereby transferred to the **insurer** and the **insured** shall not do anything to impair such rights. At the request of the **insurer**, the **insured** will bring suit or take any action to effectuate transfer of such rights to the **insurer** and help the **insurer** enforce such rights. Any amounts so recovered by the **insurer** shall be allocated first to the expenses incurred in such recovery efforts and proceedings, proportioned in accordance with each interested party's share in the total recovery; then to the **insured** to the extent of its paid Deductible and its payments in excess of the limit of coverage; and last to the **insurer** to the extent of its payment under this Policy.

VII. DEFINITIONS

A. Application means all applications, including any attachments, other materials provided therewith or incorporated or referenced therein submitted by or on behalf of the **insured** in connection with the underwriting of this Policy or for any other policy of which this Policy is a renewal, replacement or which it succeeds in time. All **applications**, attachments and other materials are deemed attached to and made a part of this Policy.

B. Auto means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment.

C. Bodily injury means physical injury, sickness, mental anguish, shock or emotional distress or disease sustained by a person, including death resulting therefrom. Bodily injury also includes medical monitoring costs, but only when accompanied by physical injury.

D. Claim means:

1. Under **Coverage 1.a**., a written demand seeking a remedy or alleging liability or responsibility on the part of an **insured** for **loss** arising out of a **pollution incident** from a **storage tank system**.

2. Under **Coverage 1.b.**, a civil or administrative proceeding or suit that seeks to impose a legal obligation upon an **insured** to undertake **corrective action** or to incur **clean-up cost** because of a **confirmed release**.

E. Clean-up cost means reasonable and necessary expense incurred with the **insurer's** prior written consent to investigate, abate, contain, treat, remove, remediate, monitor, neutralize or dispose of contaminated soil, surface water or groundwater or other contamination caused by a **pollution incident** but only to the extent required by **environmental law** or, in the absence of applicable **environmental law**, as determined to be reasonable and necessary by an **environmental professional**. **Clean-up cost** includes **restoration costs**.

F. Confirmed release means a **pollution incident** from a **storage tank system** that has been investigated and confirmed by or on behalf of an **insured** during the **policy period** through a system tightness test, site check, or other procedure approved by the **implementing agency** in accordance with **environmental law**.

G. Corrective action means:

1. Reasonable and necessary costs for response, abatement, investigative, and removal actions resulting from a **confirmed release** to the extent legally required by Subpart F of the federal underground storage tank regulations, 40 C.F.R. 280.60 through 280.66, and 280.72, or to the extent legally required by other applicable federal regulations or by other 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

2. Reasonable and necessary costs for the cleanup, pursuant to a written order from the **implementing agency** and with the prior written approval of the Company, of **pollutants** in soil or groundwater due to a **confirmed release**, including the preparation, development, modification and implementation of a "corrective action plan" as defined in 40C.F.R. 280.66, and the monitoring, evaluation and reporting of the results of the implementation of such plan.

H. Defense Expense means reasonable and necessary legal fees, charges, costs and expenses incurred in the defense, investigation or adjustment of any **claim** to which this insurance applies, but does not include: (i) salaries, wages, overhead or benefit expenses incurred by the **insured**, including but not limited to employees or

supervisory or monitoring counsel; or (ii) costs incurred by the **insurer** in the investigation or administering any **claim** or **pollution incident**.

I. **Environmental law** means any federal, state, provincial, municipal or other local law, statute, ordinance, rule, guidance document, regulation, administrative order or directive that is applicable to a **pollution incident**.

J. **Environmental professional** means a person qualified to address the remediation of the subject **pollution incident** and whom the **insurer** approves in advance in writing, in its sole discretion after consultation with the **insured**.

K. **First named insured** means the entity named in Item 1 of the Declarations.

L. **Implementing agency** means the United States Environmental Protection Agency or a state or local agency having jurisdiction over the **storage tank system** or **insured location** pursuant to **environmental law**.

M. **Inception date** means the date set forth in Item 3(a) of the Declarations.

N. **Insured** means:

1. The **first named insured**;

2. Any person or organization listed on any Schedule of Named Insureds Endorsement, attached to this Policy; and

3. Any past or present director, officer, partner, member, manager or employee, including any executive officer or temporary, leased or volunteer employee, while acting within the scope of his or her duties as such for either **1.** or **2.** above.

O. **Insured contract** means any contract entered into prior to the discovery of a **pollution incident** giving rise to **loss**, a **claim**, **corrective action** or **clean-up cost** under this Policy, and listed in any Schedule of Insured Contracts Endorsement, attached to this Policy.

P. **Insured location** means real property owned or managed by, or leased or rented to, the **insured** and shown in Item 9. of the Declarations.

Q. **Insurer** means the entity set forth in Item 10(c) of the Declarations.

R. **Loss** means monetary awards or settlements for compensatory damages because of **bodily injury** or **property damage**

S. **Microbial matter** means fungi, mold, yeast, bacteria or mildew including any spores, mycotoxins, or by-products produced or released therefrom, whether or not such matter is living.

T. **Natural resource damage** means physical injury to or destruction of, including the resulting loss of value 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. § 1801 et seq.)), any state, local or provincial government, any foreign government, any Native American tribe, or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

U. **Policy period** means the period of time set forth in Item 3 of the Declarations, except if this Policy is cancelled or otherwise terminated, then the expiration date shall become the effective date of such cancellation or termination.

V. **Pollutant** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals, hazardous substances, petroleum hydrocarbons.

W. **Pollution incident** means the discharge, emission, seepage, migration, dispersal, release or escape of any **pollutant** into or upon land, or any structure on land, the atmosphere or any watercourse or body of water

including groundwater, provided such **pollutant** is not naturally present in the environment or in any structure on land in the concentration or amounts discovered.

X. **Property damage** means:

1. Physical injury to tangible property of parties other than an **insured**, including all resulting loss of use and diminished value of such property;

2. Loss of use of tangible property of parties other than an **insured** that is not physically injured or destroyed, arising out of physical injury to or destruction of other tangible property; or

3. **Natural resource damage**.

Property damage does not include **clean-up cost** or **corrective action**.

Y. **Responsible insured** means any manager or supervisor of the **insured** responsible for environmental affairs, control or compliance, risk management or procurement or assessment of insurance.

Z. **Restoration cost** means reasonable and necessary expense incurred by the **insured** with the **insurer's** prior written consent to restore, repair or replace physically damaged real or personal property, when such damage occurs during the course of incurring covered **clean-up cost** or **corrective action**, regardless of whether such damage to such real or personal property is directly caused by a **pollution incident** or **confirmed release**. **Restoration cost** shall not exceed the actual cash value of such real or personal property prior to incurring such physical damage.

AA. **Storage tank system** means a stationary tank or tanks owned or operated by the **insured** and shown in Item 8 of the Declarations. **Storage tank system** includes any on-site integral piping or dispensing equipment, ancillary equipment and containment system associated with the tanks.

BB. **Storage tank fund** means any state storage tank trust fund, state administered insurance program, or restoration funding for **storage tank systems** whose owners qualify for reimbursement, or any self-insurance fund established for the purpose of funding **clean-up costs** or **corrective action** for a **pollution incident** from a **storage tank system**.