The insurance company shown in the Declarations (hereinafter "the Company") in consideration of the payment of the premium and the undertaking of the named insured to pay the Deductible described hereunder, in reliance upon all representations and warranties contained in the application attached hereto and made a part of this policy, including any addendum or addenda thereto, and subject to all provisions of this policy subsequently set forth, agrees with the named insured as follows:

I. INSURING AGREEMENTS

A. COVERAGE AND DEFENSE

The Company shall pay on behalf of the insured those damages in excess of the Deductible that the insured becomes legally obligated to pay to others, but only:

1. If such damages result from a wrongful act committed by any insured in performing or failing to perform professional services anywhere in the world; and

2. If the insured committed the wrongful act on or after the retroactive date specified in the Declarations and prior to the end of this policy period; and

3. If claim for such damages is first made against the insured during this policy period, or any applicable extended reporting period; and

4. If such claim is reported in writing directly to the Company and such reporting is received by the Company as soon as practicable, but not later than sixty (60) days immediately subsequent to the end of this policy period; and

5. If on the effective date of this policy, no insured had knowledge of any circumstances which could reasonably be expected to give rise to a claim.

The Company will pay all claims expenses in excess of the Deductible for all claims covered under the terms of this policy.
The Company shall have both the right and duty to provide for the defense of the insured with respect to a claim made against any insured in the United States of America, its territories or possessions, or Canada, falling under the purview of all of the foregoing requirements. The Company shall also have the exclusive right to investigate such claim, to designate and appoint all legal counsel to defend the insured and to otherwise control the defense thereof.

If a claim is made against any insured such as is described in the immediate foregoing, other than in the United States of America, its territories or possessions, or Canada, the Company shall have the right, but not the duty, to provide for the defense of such claim. If the Company elects not to provide for the defense of such claim, the named insured, under the supervision of the Company, shall have the duty to make or cause to be made such investigation and defense as are necessary and, subject to prior authorization by the Company, effectuate settlement. In such eventuality, the Company shall indemnify the named insured for claims expenses incurred and damages and supplementary payments paid in excess of the Deductible.

The Company shall have the exclusive right hereunder to negotiate and effectuate the settlement of all claims, as it deems expedient, whether under or in excess of the Deductible, but it shall not commit the named insured to any settlement without the named insured’s consent. If, however, the named insured refuses to consent to a settlement recommended by the Company and elects to contest such claim or continue legal proceedings in connection therewith, the Company’s liability shall be limited to the sum of the amount for which the claim could have been settled and all claims expenses incurred up to the time of such refusal, which is in excess of the Deductible.

The Company’s duty to provide for the defense of any insured, to pay damages on behalf of any insured, or to make any payment pursuant to Section I.B., Supplementary Coverages and Payments, shall immediately terminate:

1. If the Limits of Insurance of this policy become exhausted by payment of damages or claims expenses; or
2. If the named insured fails to fulfil its Deductible obligation as imposed by Section IV. Deductible; or
3. If the application attached hereto and made a part of this policy, including any addendum or addenda thereto, contains any material misrepresentation of fact.
B. SUPPLEMENTARY COVERAGES AND PAYMENTS

With respect to such insurance as is afforded by this policy, the Company shall pay, in addition to the applicable limit of liability, all of the following:

1. All premiums on bonds to release attachments and appeal bonds, limited to that portion of such bond that does not exceed the limit of liability of this policy but without any obligation of any kind upon the Company to apply for, secure, or furnish any such bonds.

2. Pre-judgment interest and post judgment interest on the full amount of any judgment that accrues after entry of the judgment and before the Company has paid, offered to pay, or deposited in court the part of the judgment that is covered and within the applicable Per Claim or Aggregate Limit of Liability. However, the maximum amount of pre-judgment or post judgment interest the Company will pay under this policy will be the portion of pre-judgment or post judgment interest accrued on damages covered by this policy.

3. All reasonable expenses incurred by any insured at the Company’s request in assisting the Company in the investigation and defense of any claim, other than loss of earnings, salaries or other compensation paid to the named insured’s officers or employees, except as provided in Paragraph 5, below.

4. All costs assessed against any insured in any suit covered under this policy.

5. Defendant’s reimbursement - The Company will pay an amount of $500 to each insured for each day or part of a day that any insured attends as a witness at any trial, deposition, or interrogatory at which the Company has requested any insured’s attendance, or when such attendance is required by the court. This payment shall only apply to appearances involving claims against an insured. The maximum amount payable for all such appearances made during the policy period shall not exceed $5,000 as a total aggregate, regardless of how many appearances are actually made during the policy period, or how many different insureds make appearances, and regardless of any other fact, circumstance, or situation.

6. Coverage for fines or penalties - The Company will reimburse the named insured for the amount of any fine or penalty which is levied against any insured, and is paid by the insured during the policy period, by the Environmental Protection Agency, any state or local environmental regulatory agency, or any other governmental official or regulatory agency, or any court. The maximum total amount the Company will pay for reimbursement for all fines or penalties combined which are levied and paid
during the policy period will be $50,000, regardless of the actual number of fines or penalties levied or paid, or the actual amount of any fine, and regardless of any other fact or circumstance. Reimbursement shall not be available whenever the applicable law provides that a particular fine or penalty is uninsurable as a matter of law.

For Supplementary Coverages numbers 7., 8., 9., and 10. below, it is agreed that any and all payments made for any of these shall be included within, and shall not be in addition to, the applicable limit of liability.

7. Automatic coverage for newly formed or acquired entities - The coverage provided under this policy shall apply on behalf of any entity which is newly formed or newly acquired by the named insured subsequent to the inception date of the policy period. Coverage shall be provided only to those newly formed or newly acquired entities for which, as of the date of formation or acquisition, the named insured directly owns fifty percent (50%) or more of the outstanding stock or other equity or ownership interest.

It is agreed that there shall only be coverage for those claims that arise from wrongful acts which were committed subsequent to the date of formation or acquisition. The named insured agrees to advise the Company of any newly formed or acquired entity within ninety (90) days of the date of formation or acquisition. The named insured agrees to accept any coverage terms or reasonable additional premium which the Company may require, relative to the newly formed or acquired entity.

8. Coverage for indemnification of clients - Whenever any written contract or written job specifications provide that the named insured shall indemnify the client for, or hold the client harmless or free from, any damages or claims expense which are due to the wrongful act of any insured, the Company will pay on behalf of the named insured those damages or claims expense that must be paid to indemnify the client.

9. Vicarious liability coverage - The coverage provided under this policy shall apply on behalf of all insureds for wrongful acts committed by any entity or individual for whom any insured is legally liable, as long as the wrongful act was committed on or after the retroactive date shown on the Policy Declarations Page or on an endorsement to the policy.

10. Response costs coverage - In accordance with, and in support of, the duties of the named insured to mitigate damages, as described in Section VI., Conditions, Paragraph G., Mitigation, the Company will reimburse the
named insured for all costs expended by the named insured in fulfilling the named insured’s duties of mitigation, subject to the following limitations:

a. The only costs that will be reimbursed by the Company are those costs that are expended by the named insured in efforts to abate, stop, prevent, or reduce the damages emanating from a pollution condition caused directly or indirectly by any wrongful act committed by any insured.

b. The only costs that will be reimbursed by the Company are those costs that are expended by the named insured on or after the date that the named insured first becomes aware of the pollution condition until that date that the named insured first has a reasonable opportunity to report the incident, circumstances, or claim to the Company.

c. Nothing in this provision shall in any way alter, modify, or change the duty of the named insured to give notice of claims to the Company pursuant to Section VI., Conditions, Paragraph A., Notice of Claim.

II. DEFINITIONS

Words and phrases in italics in this Policy have the following special meaning.

Claim

The term claim means an oral or written notice to the named insured from any party intending to hold any insured responsible for damages arising out of a wrongful act committed by any insured in performing or failing to perform professional services.

Claims Expenses

The term claims expenses shall mean all costs, charges and expenses resulting from the adjustment, appraisal, investigation, defense, settlement, arbitration or appeal of any claim covered by the terms and conditions of this policy if such costs, charges and expenses are incurred by the Company, an attorney designated by the Company, or by any insured with the written consent of the Company; except that it shall not include the costs of investigating or administering any claim by employees of the Company or loss of earnings incurred by any insured in investigating, defending, settling, arbitrating or appealing any claim at the Company's direction, except as provided in Section I.B., Supplementary Coverages and Payments, Paragraph 5., Defendant’s Reimbursement.

Damages

The term damages shall mean a judgment, award or settlement monetarily compensating a claimant for a claim covered by the terms and conditions of this policy, and shall include damages based upon emotional distress. Damages also includes any loss due to diminution in value or loss of use of land, property, or buildings. Damages does not include any of the following:
1. Any administrative, civil or criminal fines, sanctions, taxes, or penalties, whether pursuant to law or statute, except to the extent coverage for reimbursement for fines or penalties is provided under Section I.B., Supplementary Coverages and Payments, Paragraph 6., Coverage for fines or penalties;

2. Restitution, reduction, disgorgement, set off, return, or payment of any form of any consulting fees or payments, or any other costs, expenses or charges;

3. Any loss of income or revenue to any insured, regardless of the cause or reason for the loss of income or revenue, except as provided in Section I.B., Supplementary Coverages and Payments, Paragraph 5., Defendant’s reimbursement;

4. Any form of non-monetary judgments or relief, including, but not limited to, specific performance or any injunctive relief of any kind;

5. Any amount of any civil judgment which is, or represents, any multiple of any kind of damage award, including, but not limited to, the two-thirds portion of any award of treble damages.

**Insured**

The term *insured* means:

1. The named insured; and

2. A director or officer of the named insured, but only while acting in their respective capacity as such; and

3. An employee of the named insured, but only with respect to professional services performed or failed to have been performed on behalf of the named insured in the employee’s capacity as such; and

4. A former director, officer or employee of the named insured, but only with respect to professional services performed or failed to have been performed on behalf of the named insured prior to the termination of that respective capacity; and

5. The current spouse of any current owner, director or officer of the named insured; and

6. The heirs, executors, administrators, and legal representatives of each insured in the event of death, incapacity or bankruptcy, but solely with respect to the liability of each insured as otherwise covered by this policy; and
7. A limited liability company, if the named insured or any other insured exists as such, along with all past and present members of any such limited liability company, but only with respect to professional services performed or failed to have been performed on behalf of the named insured.

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

Named Insured

The term named insured shall mean the proprietor, partners or organization specified in the Declarations.

Policy Period

The term policy period means the period set forth in the Declarations, or any shorter period arising as a result of cancellation.

Policy Year

The term policy year means the separate annual year period whenever the policy period set forth in the Declarations is for either a two or three year time period.

Pollution Condition

The term pollution condition means the discharge, dispersal, release or escape of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in bodily injury or property damage.

Professional Services

The term professional services shall mean the services specified by endorsement to this policy, but only if the services were performed by or on behalf of the named insured for clients for a fee.

Waste

The term waste means any discarded materials of any kind, including those materials to be recycled, reconditioned, reclaimed, or disposed of.

Wrongful Act

The term wrongful act means any of the following that any insured actually or allegedly commits, but only in the performance of professional services rendered by or on behalf of the named insured:

1. An act, error, omission or failure to perform;
2. Breach of contract in failing to provide or perform agreed upon professional services;
3. A conflict of interest in representing clients with adverse interests; or
4. The unauthorized practice of law.
Additionally, in order to be defined as a *wrongful act* under this definition, the particular *wrongful act* must have been committed on or after the retroactive date specified either in the Policy Declarations or in an endorsement to this policy, but prior to the end of the *policy period*. If no retroactive date is specified, that means that all *wrongful acts* committed prior to the end of the *policy period* are included within this definition.

**III. LIMITS OF INSURANCE**

**A. MAXIMUM LIMITS OF LIABILITY**

The Company's maximum limit of liability hereunder shall not exceed the separate limits for *damages* and *claims expenses* specified in the Declarations, irrespective of any of the following:

1. The number of *claims* made; or
2. The number of persons or organizations making *claims*; or
3. The number of persons covered hereunder; or
4. The number of *wrongful acts* actually or allegedly committed; or
5. The types of *damages* awarded.

**B. SEPARATE AND SPECIFIC LIMITS OF LIABILITY**

As specified in the Declarations:

1. The "*Damages Limit for Each Claim*" amount shown in the Declarations is the maximum amount the Company will pay under all Coverage Parts combined that form a part of this policy for *damages* that arise out of any one *claim*;
2. The "General Aggregate Limit for *Damages* (Other than Products-Completed Operations)" amount shown in the Declarations is the maximum amount the Company will pay under all Coverage Parts combined that form a part of this policy, for all *damages* arising from covered *claims* (other than those included in the products-completed operations hazard);
3. The "*Claims Expense Limit for Each Claim*" amount shown in the Declarations is the maximum amount the Company will pay for all *claims expenses* that arise out of any one *claim* that is covered under either or both of the Contractors Pollution Liability and/or the Professional Liability Coverage Parts;
4. The “Claims Expense Aggregate Limit” amount shown in the Declarations is the maximum amount the Company will pay for all claims expenses that arise from covered claims that are covered under either or both of the Contractors Pollution Liability and/or the Professional Liability Coverage Parts.

The Limits of Insurance apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

If this policy and any other policy providing coverage by the Company or any affiliate company apply to the same wrongful act or series of related wrongful acts, the aggregate maximum Limit of Liability payable under all of the policies combined shall be limited to the amount of the highest applicable Limit of Liability payable under any one of the policies. Related wrongful acts are those wrongful acts that arise out of, are based on, relate to or are in consequence of, the same facts, circumstances or situations.

The Limits of Insurance shown in the Declarations shall apply in excess of the Self Insured Retention amount shown in the Declarations.

IV. DEDUCTIBLE

As respects each claim first made against any insured, the named insured shall be responsible for payment for that amount of damages or claims expenses indicated in the Declarations as the Deductible amount. The Company shall not be responsible to make any payments for either damages, claims expenses, or any coverage or payment provided pursuant to Section I.B., Supplementary Coverages and Payments, unless and until the full amount of the Deductible has been paid by the named insured.

Should the Company, for any reason, pay any amount of damages, claims expenses or supplementary payments without regard to the Deductible amount, the named insured will reimburse the Company within 30 days of the Company’s request for such reimbursement, for that part of the Deductible Amount which has been paid.
V. EXCLUSIONS

The Company shall have no obligation whatsoever under this policy to make any payment of any kind for either damages, claims expense, or any coverage or payment provided pursuant to Section I.B., Supplementary Coverages and Payments, or to arrange for, provide, or pay, for any defense, for:

A. Any claim of any kind or nature made by any past or present insured against any other past or present insured; or

B. Any claim for wrongful termination, discrimination or any unfair employment practices; or

C. Any claim made by or on behalf of any business enterprise not shown on the Declarations:
   1. Which is, was, or will be owned in whole or in part by any past or present insured; or
   2. Which owned in whole or in part at any time the named insured; or

D. Any claim arising from any advice rendered or which allegedly should have been rendered with respect to any bond, suretyship or insurance requirement; or

E. Any claim arising from any insured’s intentional, willful or deliberate non-compliance with any statute, regulation, ordinance, administrative complaint or notice of violation, notice letter, executive order, or instruction of any governmental agency or body; or

F. Any claim arising from an illegal, dishonest, fraudulent, criminal, or malicious act actually or allegedly committed by any insured; or

G. Any claim which arises from, or is related to, any collision or accident involving an automobile, truck, boat, watercraft, airplane, helicopter, or other aircraft or vehicle of any kind or type; or

H. Any claim in any way related to any dispute or any other kind of issue or right involving any copyright, patent, or trademark; or

I. Any claim arising from any of the following relative to any contract any insured has entered into with a client:
   1. Any assumption of the client’s sole negligence or legal liability by the insured; or
2. Any failure by any insured to perform or provide a good or service by a date stipulated in a contract with any client; or

3. Any liquidated or stipulated damages under a contract with a client of any insured, unless the same type of damages would attach without the existence of the contract; or

J. Any obligation of any insured under workers compensation, disability benefits, unemployment compensation, employee benefits, pension sharing, ERISA law or any similar law; or

VI. CONDITIONS

A. NOTICE OF CLAIM

In the event of a claim, or any insured's knowledge of circumstances which could reasonably be expected to give rise to a claim the named insured shall have the duty to provide written notice to the Company as soon as practicable, but not later than sixty (60) days immediately subsequent to the end of this policy period.

This written notice shall be given whether or not the named insured believes that the claim, or incident giving rise to the insured's knowledge, will result in a demand that falls under, or in excess of, the Deductible.

Written notice shall be given to the insurance company shown in the Declarations, in care of:

Senior Vice President - Claims
Endurance American Specialty Insurance Company
C/O Endurance Specialty Insurance Marketing Corp.
725 South Figueroa Street, Suite 2100
Los Angeles, California 90017

Telephone (213) 270-7017
Fax (213) 270-7800
E-Mail addressed to: Eclaims@enhinsurance.com

Such written notice must contain complete details, including, but not limited to, the exact date the claim was made, location, circumstances giving rise to such claim, the name of all claimants and a full description of the nature and scope of the allegations. These duties of the insured hereunder shall be non-delegable.
B. COOPERATION AND ASSISTANCE OF THE INSURED

Each insured shall have the duty to fully cooperate with and assist the Company, with respect to the investigation, defense, settlement, arbitration or appeal of any claim. No insured shall be indemnified hereunder for loss of earnings incurred in such cooperation or assistance, except as provided in Section I.B., Supplementary Coverages and Payments, Paragraph 5., Defendant’s Reimbursement, nor shall such loss of earnings apply towards the satisfaction of the Deductible.

C. ACTIONS PREJUDICIAL TO THE COMPANY

In the event of a claim, no insured shall undertake any of the following actions, without the Company's prior, written consent:

1. Engage counsel to provide legal representation; or

2. Assume any obligation, other than the reasonable efforts required to satisfy the duty to mitigate damages as provided in Section VI., Conditions, Paragraph G., Mitigation; or

3. Forgive, reduce in amount or otherwise compromise any compensation owed or allegedly owed to the named insured; or

4. Admit, or in any manner acknowledge liability; or

5. Effectuate or attempt to effectuate settlement, including, but not limited to, entering into a consent decree involving the assignment of any insured’s interest under this policy.

Any of the foregoing actions by any insured shall be deemed to materially prejudice the Company's rights.

D. SUBROGATION

If the Company pays an amount hereunder as damages, claims expense, or as any payment under Section I.B., Supplementary Coverages and Payments, or any combination thereof, the Company shall be subrogated to all of each insured’s rights of recovery against any person, firm or organization. All insureds shall execute and deliver instruments and papers and do whatever else is necessary to
secure such rights. No insured shall waive or prejudice any such rights either prior to or subsequent to any claim.

E. ACCEPTANCE

By acceptance of this policy, the named insured hereby confirms that all provisions hereof, including all endorsements and the application attached hereto and made a part of this policy, embody all agreements existing between the named insured and the Company and supersede any prior agreements, whether expressed or implied.

F. MITIGATION

The named insured shall make all reasonable efforts to abate, stop, prevent, or reduce the damages emanating from any pollution condition resulting directly or indirectly from any wrongful act committed by any insured. It is agreed that these efforts shall commence immediately upon discovery or notice of the pollution condition by any insured. These efforts must include mitigating, alleviating or otherwise limiting the damages which could result from the pollution condition. Such efforts must be undertaken even in the absence of a claim.

G. NO ACTION AGAINST COMPANY

No action shall lie against the Company unless, as a condition precedent thereto, each insured has fully complied with all the provisions of the policy, or until the amount of the named insured’s obligation to pay has been finally determined either by written agreement of the named insured, the claimant and the Company or by final judgment against the named insured after the actual trial of the issues and the period of time to appeal has elapsed without an appeal having been taken or, if an appeal has been taken, then until after such appeal has been determined.

H. AUDIT

The Company shall have the right to examine or audit all financial records of the named insured, for the purpose of ascertaining the accuracy of the income or revenue stated in the application.

I. NONRENEWAL
The Company may non-renew this policy by mailing or delivering to the named insured at the address stated on the Declarations Page written notice of nonrenewal at least thirty (30) days before the expiration date of this policy. The offer of renewal policy terms, conditions, or premium amounts different than those in effect prior to renewal does not constitute non-renewal.

J. APPLICATION IS INCORPORATED INTO, AND IS PART OF POLICY

The named insured acknowledges and agrees that:

1. The warranties and representations contained in the Application for this Policy are true, correct and complete; and

2. The Company issued this Policy in specific reliance upon the warranties and representations contained in the Application; and

3. The Application is incorporated into, and is part of, this Policy.

K. OTHER INSURANCE

If any part of either damages or claims expenses is insured under this Policy and any other current, prior or subsequent Policy, this policy shall provide coverage for such damages or claims expenses on a pro rata basis with such other Policy according to the applicable Limits of Liability of this Policy and such other Policy.

L. SEPARATION OF INSURED

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

1. As if each Named Insured were the only Named Insured; and

2. Separately to each insured against whom claim is made or suit is brought.