

RAILROAD PROTECTIVE LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "Insured" means any person or organization qualifying as such under WHO IS AN INSURED (Section II).

Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS (Section V).

SECTION I - COVERAGES

COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.

- a. We will pay those sums that the Insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages. We may at our discretion investigate any "occurrence" and settle any claim or "suit" that may result. But

- (1) the amount we will pay for damages is limited as described in Limits of Insurance (Section III); and

- (2) our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverage A.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) the "bodily injury" or "property damage" occurs during the policy period; and

- (2) the "bodily injury" or "property damage" arises out of acts or omissions at the "job location" which are related to or are in connection with the "work" described in the Declarations.

- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

2. Exclusions.

This insurance does not apply to:

- a. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the Insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

- b. Contractual Liability

"Bodily injury" or "property damage" for which the Insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages assumed in a contract or agreement that is a "covered contract"

- c. Completed Work

"Bodily injury" or "property damage" which occurs after the "work" is completed. The "work" will be deemed completed at the earliest of the following times:

- (1) When all the "work" called for in the "contractor's" contract has been completed.

(2) When all the "work" to be done at the "job location" has been completed.

(3) When that part of the "work" at the "job location" has been put to its intended use by you, the governmental authority or other contracting party.

This exclusion does not apply to "bodily injury" or "property damage" resulting from the existence of or removal of tools, uninstalled equipment or abandoned or unused materials.

d. Acts or Omissions of Insured

"Bodily injury" or "property damage," the sole proximate cause of which is an act or omission of any Insured other than acts or omissions of any of "your designated employees." This exclusion does not apply to injury or damage sustained at the "job location" by any of "your designated employees" or employee of the "contractor," or by any employee of the governmental authority or any other contracting party (other than you) specified in the Declarations.

e. Workers Compensation and Similar Laws

Any obligation of the Insured under a workers compensation, disability benefits or unemployment compensation law or similar law. This exclusion does not apply to any obligation of the Insured under the Federal Employers Liability Act, as amended.

f. Pollution

"Bodily injury" or "property damage" arising out of the actual alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at or from the "job location":

(1) due to the past or present use of the "job location" by you or for you or others for the handling, storage, disposal, processing or treatment of waste; or

(2) due to the dumping or disposal of waste on the "job location" by the "contractor" with the knowledge of you or any of "your designated employees"; or

(3) on which you or "contractor's" working directly or indirectly on any Insured's behalf are performing operations:

(a) if the pollutants are brought on or to the "job location" in connection with such operations by such Insured, contractor or subcontractor; or

(b) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraph (3)(a) does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

g. Damage to Owned, Leased, or Entrusted Property

"Property damage" to property owned by you or leased or entrusted to you under a lease or trust agreement.

COVERAGE B - PHYSICAL DAMAGE TO PROPERTY

1. Insuring Agreement

We will pay for "physical damage to property" to which this insurance applies. The "physical damage to property" must occur during the policy period. The "physical damage to property" must arise out of acts or omissions at the "job location" which are related to or in connection with the "work" described in the Declarations. The property must be owned by or leased or entrusted to you under a lease or trust agreement.

2. Exclusions

This insurance does not apply to "physical damage to property":

a. Completed Work

Occurring after the "work" is completed. The "work" will be deemed completed at the earliest of the following times:

- (1) When all the "work" called for in the "contractor's" contract has been completed.
- (2) When all the "work" to be done at the "job location" has been completed.
- (3) When that part of the "work" done at the "job location" has been put to its intended use by you, the governmental authority or other contracting party.

This exclusion does not apply to "physical damage to property" resulting from the existence of tools, uninstalled equipment, or abandoned or unused materials.

b. Acts or Omissions of Insured

The sole proximate cause of which is an act or omission of any Insured other than acts or omissions of any part of "your designated employees".

c. Nuclear Incidents or Conditions

Due to nuclear reaction, nuclear radiation or radioactive contamination or to any related act or condition.

d. Pollution

Due to the discharge, dispersal, seepage, migration, release or escape of pollutants excluded under exclusion f., Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGE A

We will pay, with respect to any claim or "suit" we defend

1. All expenses we incur.
2. All costs taxed against the Insured in the "suit"
3. 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.

4. The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.

5. Expenses incurred by the Insured for first aid to others at the time of an accident, for "bodily injury" to which this insurance applies.

6. All reasonable expenses incurred by the Insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work.

7. Prejudgment interest awarded against the Insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

These payments will not reduce the Limits of Insurance.

SECTION II - WHO IS AN INSURED

1. You are an Insured.
2. Your "executive officers" and directors are Insureds, but only with respect to their duties as your officers and directors.
3. Your stockholders are Insureds, but only with respect to their liability as stockholders.
4. Any railroad operating over your tracks is an Insured.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. claims made or "suits" brought; or
 - c. persons or organizations making claims or bringing "suits."
2. The Aggregate Limit is the most we will pay for the sum of all damages because of all "bodily injury," all "property damage" and all "physical damage to property."

3. Subject to 2. above, the Each Occurrence limit is the most we will pay for the sum of all damages because of all "bodily injury," all "property damage" and all "physical damage to property" arising out of any one "occurrence."
4. Subject to 3. above, the payment for "physical damage to property" shall not exceed the lesser of:
 - a. the actual cash value of the property at the time of loss; or
 - b. the cost to repair or replace the property with other property of like kind or quality.

The Limits of Insurance of this Coverage Part 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.

SECTION IV - CONDITIONS

A. The following conditions apply to Coverages A and B:

1. Assignment.

Assignment of interest under this Coverage Part shall not bind us unless we issue an endorsement consenting to the assignment.

2. Bankruptcy.

Bankruptcy or insolvency of the Insured or of the Insured's estate will not relieve us of our obligations under this Coverage Part.

3. Cancellation.

- a. You may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to you, the "contractor" and any involved governmental authority or other contracting party designated in the Declarations, at the respective mailing addresses last known

to us, written notice of cancellation at least 60 days before the effective date of cancellation.

- c. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

- d. If this policy is cancelled, any unearned premium will be refunded. If we cancel, the refund will be pro rata. If you cancel, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

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

4. Changes.

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

5. Inspections and Surveys.

We have the right but are not obligated to:

- a. make inspections and surveys at any time;
- b. give you reports on the conditions we find; and
- c. recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a. are safe or healthful; or
- b. comply with laws, regulations, codes or standards.

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

6. Other Insurance.

The insurance afforded by this policy is:

- a. primary insurance and we will not seek contribution from any other insurance available to you except if the other insurance is provided by a contractor other than the designated contractor for the same operation and "job location"; and
- b. if the other insurance is available, we will share with that other insurance by the method described below.

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.

7. Premium and Premium Audit.

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Contract cost, the premium base shown in the Declarations, means the total cost of the operations described in the Declarations.
- c. The premium shown in the Declarations as advance 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 contractor designated in the Declarations. If the sum of the advance

and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the contractor designated in the Declarations.

In no event shall the payment of premium be your obligation.

8. 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 after loss to impair them. At our request, the Insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew.

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

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

B. The following conditions apply to Coverage A only:

1. Legal Action Against Us.

No person or organization has a right under this policy:

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

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an Insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the Insured and the claimant or the claimant's legal representative.

2. Duties In The Event Of Occurrence, Claim Or Suit.

a. You must see to it that we are notified as soon as practicable of an occurrence which may result in a claim. To the extent possible, notice should include:

- (1) how, when and where the occurrence took place;
- (2) the names and addresses of any injured persons and witnesses; and
- (3) the nature and location of any injury or damage arising out of the occurrence.

b. If a claim is made or "suit" is brought against any Insured, you must:

- (1) immediately record the specifics of the claim or "suit" and the date received; and
- (2) 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.

c. You and any other involved Insured must:

- (1) immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) authorize us to obtain records and other information;
- (3) cooperate with us in the investigation, settlement, or defense of the claim or "suit"; and
- (4) 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.

d. No Insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than first aid, without our consent.

3. Separation Of Insureds.

Except with respect to the Limits of Insurance this insurance applies:

- a. as if each Named Insured were the only Named Insured; and
- b. separately to each Insured against whom claim is made or "suit" is brought.

C. The following Conditions apply to Coverage B only:

1. Appraisal

If you fail to agree with us on the value of the property, or the amount of loss, either you or we may make written demand for an appraisal of the loss within sixty (60) days after proof of loss is filed. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the value of the property and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. pay its chosen appraiser; and
- b. bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we still retain our right to deny the claim.

2. No Benefit to Bailee.

No person or organization, other than you, having custody of the property will benefit from this insurance.

3. Insured's Duties In The Event Of A Loss.

You must:

- a. protect the property, whether or not the loss is covered by this policy. Any further loss due to your failure to

protect the property shall not be recoverable under this policy. Reasonable expenses incurred in affording such protection shall be deemed to be incurred at our request; and

- b. submit to us, as soon after the loss as possible, your sworn proof of loss containing the information we request to settle the loss and, at our request, make available the damaged property for examination.

4. Legal Action Against Us.

No person or organization has a right under this policy to sue us on this policy unless all of its terms have been fully complied with and until 30 days after proof of loss is filed and the amount of loss is determined as provided in this policy.

5. Payment of Loss.

We may pay for the loss in money, but there can be no abandonment of any property to us.

SECTION V - DEFINITIONS

1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
2. "Contractor" means the contractor designated in the Declarations and includes all subcontractors working directly or indirectly for that "contractor" but does not include you.
3. "Covered contract" means any contract or agreement to carry a person or property for a charge or any interchange contract or agreement respecting motive power, or rolling stock equipment.
4. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
5. "Job location" means the job location designated in the Declarations including any area directly related to the "work" designated in the Declarations. "Job location" includes the ways next to it.

6. "Physical damage to property" means direct and accidental loss of or damage to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbeds, catenaries, signals, bridges or buildings.

7. "Property damage" means:

- a. 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 the physical injury that caused it; or
- b. 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 occurrence that caused it.

8. "Suit" means a civil proceeding in which damages because of "bodily injury" or "property damage" to which this insurance applies are alleged. "Suit" includes:

- a. an arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
- b. any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.

9. "Work" means work or operations performed by the "contractor" including materials, parts or equipment furnished in connection with the work or operations.

10. "Your designated employee" means:

- a. any supervisory employee of yours at the "job location";
- b. any employee of yours while operating, attached to or engaged on work trains or other railroad equipment at the "job location" which are assigned exclusively to the "contractor"; or
- c. any employee of yours not described in a. or b. above who is specifically loaned or assigned to the work of the "contractor" for the prevention of accidents or protection of property.