



San Francisco Superior Courts
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Case Number: CGC-06-448898

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COMPLAINT

RT INSURANCE COMPANY, AS SUCCESSOR TO VS. TIG INSURANCE COMPANY, AS S

001C01371696

Instructions:

Please place this sheet on top of the document to be scanned.

ORIGINAL

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

TIG INSURANCE COMPANY as successor to International Insurance Company, as successor to International Surplus Lines Insurance Company

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

TRANSPORT INSURANCE COMPANY, as successor to TRANSPORT INDEMNITY COMPANY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: (El nombre y dirección de la corte es): San Francisco County Superior Court 400 McAllister Street San Francisco, CA 94102-4514

CASE NUMBER: (Número de caso): CGC: 06-448898

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): Mitchell L. Lathrop, Duane Morris LLP Telephone: 619-744-2201 101 West Broadway, Suite 900, San Diego, CA 92101-8285

DATE: (Fecha) JAN 26 2006

Clerk, by: (Secretario) D. Stipe, Deputy (Adjunto)

GORDON PARK-11

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

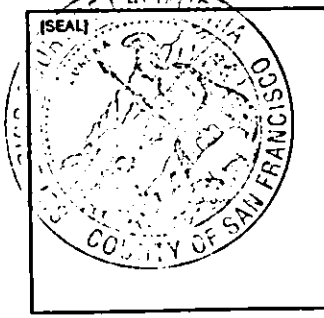
NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant. 2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.40 (association or partnership) other (specify): CCP 416.60 (minor) CCP 416.70 (conservatee) CCP 416.90 (authorized person)

4. by personal delivery on (date):



ORIGINAL
DUPLICATIONS ISSUED
FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO
06 JAN 26 PM 3:50
GORDON PARK - LI. CLERK
BY: *D. S. Lopez*
DEPUTY CLERK

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12 Attorneys for Plaintiff TRANSPORT
INSURANCE COMPANY

CASE MANAGEMENT CONFERENCE SET

JUN 30 2005 - 9 00 AM

DEPARTMENT 212

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF SAN FRANCISCO

17 TRANSPORT INSURANCE COMPANY, as
18 successor to TRANSPORT INDEMNITY
COMPANY,
19
20 v.
21 TIG INSURANCE COMPANY, as successor to
22 INTERNATIONAL INSURANCE COMPANY, as
23 successor to INTERNATIONAL SURPLUS LINES
INSURANCE COMPANY,
24
25
26 Defendant.

Case No. CGC - 06 - 448898
COMPLAINT FOR
1. DECLARATORY RELIEF
2. BREACH OF CONTRACT

27 COMES NOW plaintiff Transport Insurance Company ("Transport"), which, for itself and as
28 successor to the interests of Transport Indemnity Company ("TIC"), alleges as follows:

COMPLAINT FOR DECLARATORY RELIEF AND BREACH OF CONTRACT

NATURE OF THE ACTION

1
2 1. An actual, immediate and justiciable controversy exists between the parties named
3 with regard to their respective rights and obligations under certain contracts of reinsurance (the
4 facultative certificates described more fully below) entered into by and between TIC and
5 International Surplus Lines Insurance Company.

6 2. Reinsurance is a means by which insurance companies spread their exposure to risk
7 assumed under policies of insurance issued by the company to its original policyholders. Under a
8 reinsurance agreement, an insurance company (the "ceding company" or "cedent") cedes a portion
9 of the risk it has assumed under the original policy to another insurance company (the "reinsurer")
10 which agrees to accept such portion of the risk in exchange for an agreed premium.

11 3. "Facultative reinsurance" is negotiated by the cedent and reinsurer with respect to a
12 specific risk insured by a particular insurance policy issued by the cedent. Facultative reinsurance is
13 commonly placed by the cedent with a number of different reinsurers, each issuing its own
14 certificate of reinsurance and assuming a stated part of the cedent's liability under the original policy.

15 4. Transport seeks a declaration that, pursuant to the respective facultative certificates of
16 reinsurance issued to TIC (the subject reinsurance contracts), Defendant is obligated to reimburse
17 Transport for amounts paid to or on behalf of TIC's insured, Aerojet-General Corporation
18 ("Aerojet"), as described more fully below.

19 5. Transport also seeks judgment against International Surplus Lines Insurance
20 Company for the amounts found to be due and owing to Transport by Defendant under the subject
21 reinsurance contracts, with interest, on account of sums paid by Transport under and in connection
22 with a policy of insurance issued by Transport to Aerojet, as more fully described below..

THE PARTIES

23
24 6. Transport is a corporation duly organized under the laws of the State Ohio, which has
25 its principal place of business at 1300 Highland Park, Cumberland, R.I. 02864.

26 7. Pursuant to an agreement effective March 31, 1985, Transport assumed all of the
27 rights and obligations of TIC, an insurance company previously located in Los Angeles, California,
28 under all insurance policies and reinsurance contracts in force on or before March 31, 1985.

1 15. The Policy provides that the amounts paid or incurred by TIC in defense of Aerojet
2 are payable in addition to the applicable indemnity limit of liability.

3 16. International reinsured a part of the risk assumed by TIC under the Policy.

4 17. International issued two facultative reinsurance certificates for delivery to TIC in Los
5 Angeles, California, in connection with TIC's insurance of Aerojet. These certificates, bearing
6 numbers FR 0297 and FR 0298, were issued for the period July 15, 1973 through July 15, 1976.
7 Copies of these certificates are attached hereto as Exhibits "B" and "C", respectively, and are
8 incorporated by reference herein.

9 18. Under certificate number FR 0297, the limit of reinsurance accepted by International
10 for loss payments was \$6,250 part of \$50,000 excess of a \$50,000 self-insured retention.

11 19. In addition, International agreed to pay a portion of the expenses for the settlement
12 and investigation of claims, and other costs and expenses, in the ratio that its loss limit bore to the
13 Policy indemnity limit, whether or not any loss payments were made under the Policy.

14 20. Under certificate number FR 0298, the limit of reinsurance accepted by International
15 for loss payments was \$150,000 part of \$400,000 excess of \$50,000 primary, excess of a \$50,000
16 self-insured retention.

17 21. In addition thereto, International agreed to pay a portion of the expenses for the
18 settlement and investigation of claims, and other costs and expenses, in the ratio that its loss limit
19 bore to the Policy indemnity limit, whether or not any loss payments were made under the Policy.

20 22. The facultative reinsurance certificates issued by International to TIC, as described
21 above, hereinafter shall be referred to collectively as the "Certificates."

22 23. Each of the Certificates issued by International to TIC provides that the reinsurer
23 agrees to reimburse TIC for its respective share of all settlement payments made by TIC to Aerojet,
24 and that such settlements by TIC "shall be binding" on the reinsurer.

25 24. This provision in the Certificates is known as a "follow the settlements" provision
26 and is consistent with well-established reinsurance law and the custom and practice of the
27 reinsurance industry.

28 ///

1 property. Investigation had determined that contaminants from Aerojet's discharges were seeping
2 into the soil and polluting the groundwater.

3 33. The state and federal actions against Aerojet sought reimbursement for the cost of
4 remediation of the contamination. The actions by the private parties sought money damages for
5 personal injury and property damage.

6 34. Aerojet tendered its defense of the Litigation concerning the Sacramento Pollution
7 Claims and Azusa Pollution Claims to Transport and other insurers which had issued policies to
8 Aerojet during the 1956 to 1984 period of alleged contamination.

9 35. In 1982, Transport filed a complaint for declaratory relief in the Superior Court of
10 San Mateo County, California, against several insurers and their common insured, Aerojet,
11 concerning the government remediation claims that formed part of the Sacramento Pollution Claims
12 No. 262425. ("*Coverage Action I*") In its complaint, Transport sought various declarations as to
13 coverage, including that it was not obligated to provide, and Aerojet was not entitled to receive,
14 either indemnification or defense as to those claims.

15 36. In this same *Coverage Action I*, Aerojet filed cross-claims concerning the Sacramento
16 Pollution Claims against more than 50 underwriters and insurance companies ("the Insurers") under
17 245 comprehensive general liability and other insurance policies with periods incepting as early as
18 1950 and expiring as late as 1984.

19 37. Aerojet also filed a complaint for declaratory relief in the Superior Court of
20 Sacramento County, California, against nearly all of its primary and excess insurers, including
21 Transport, concerning the Azusa Pollution Claims No. 527932 ("*Coverage Action II*"). In its
22 complaint, Aerojet sought various declarations as to coverage.

23 38. In 1998, Aerojet filed a complaint for declaratory relief in the Superior Court of
24 Sacramento County, California, against numerous insurers, including Transport, concerning the
25 bodily injury claims that formed part of the Sacramento Pollution Claims No. 98AS05598
26 ("*Coverage Action III*"). In its complaint, Aerojet sought various declarations as to coverage.
27 Hereinafter, these three coverage lawsuits will be referred to collectively as "the Coverage Actions."

28 ///

1 39. At issue in the Coverage Actions were questions relating to the application of
2 exclusions, the duty to defend Aerojet, stacking of coverage limits, apportionment of liability among
3 insurers and allocation of costs of defense and/or indemnity.

4 40. Throughout the course of the Litigation and the Coverage Actions, Transport incurred
5 expenses (other than office expenses and payments to salaried employees of Transport) in the
6 investigation and settlement of Aerojet's claims under the Policy.

7 41. From time to time, and throughout the course of the Litigation and the Coverage
8 Actions, Transport would notify its reinsurers, including International, of the progress of the
9 Litigation and Coverage Actions, and report on amounts spent by it in the Coverage Actions and in
10 the Litigation.

11 42. On December 29, 1997, the Supreme Court of California issued an opinion in
12 *Coverage Action I* holding that "site investigation expenses - - broadly, expenses for determining the
13 existence, nature, extent, effect, etc., of the discharge of hazardous substances at a location - - may
14 constitute defense costs that the insurer must incur in fulfilling its duty to defend." *Aerojet-General*
15 *Corp v. Transport Indemnity Co.* (1997) 17 Cal.4th 38.

16 43. On August 19, 1999, Transport settled the claims of Aerojet in the Coverage Actions
17 and all claims against it and TIC by Aerojet under the Policy for Sacramento Pollution Claims,
18 Azusa Pollution Claims and the Litigation (the "Settlement").

19 44. Transport has duly submitted proofs of loss to International and made claims for
20 payment of its proportionate share of the Settlement and expenses under the Certificates.

21 45. Transport has complied with all terms and conditions of the Certificates on its part to
22 be performed to entitle it to the payment demanded.

23 46. In breach of its obligations under the Certificates, International has not paid Transport
24 its proportionate share of the Settlement and expenses as required by the terms of the Certificates.

25 47. Pursuant to the terms of the Certificates, International's obligation to pay expenses is
26 expressly stated to be "*in addition to*" their loss payment obligations and is not subject to any stated
27 limits of the Certificates for loss payments.

28 ///

1 48. Pursuant to the terms of the Certificates and well established reinsurance custom,
2 usage and practice, International must follow the fortunes of Transport in paying expenses in
3 addition to Policy and/or Certificate limits when such payments are required by the Policy.

4 49. Pursuant to the terms of the Certificates and well established reinsurance custom,
5 usage and practice, International must follow the settlements of Transport in paying expenses in
6 addition to Policy and/or Certificate limits.

7 50. Pursuant to the terms of the Certificates and well established reinsurance custom,
8 usage and practice, International must follow form to the language of the Policy, which states that
9 expense payments, including defense payments, are in addition to the loss limits of the Policy.

10 **FIRST CAUSE OF ACTION**

11 **(Declaratory relief)**

12 51. Transport incorporates by reference all allegations contained in paragraphs 1-50
13 hereof, inclusive, as though fully set forth herein.

14 52. An actual controversy has arisen and now exists between Transport and International
15 concerning the obligations of International under the Certificates to indemnify Transport for its
16 respective share of the aforesaid Settlement and defense costs incurred and paid by Transport.

17 53. Transport desires a judicial determination and declaration of the obligations of
18 International under the Certificates to pay, in full, its proportionate shares of the Settlement and
19 defense costs incurred and paid by Transport in the investigation and settlement of the Aerojet claim.

20 54. The declaration is both necessary and appropriate at this time in order to determine
21 the respective rights, obligations and liabilities, if any, of the parties with reference to the
22 Certificates.

23 **SECOND CAUSE OF ACTION**

24 **(Declaratory relief)**

25 55. Transport incorporates by reference all allegations contained in paragraphs 1-54
26 hereof, inclusive, as though fully set forth herein.

27 ///

28 ///

1 WHEREFORE, Transport respectfully requests that judgment be entered in its favor
2 and against International as follows:

3 On the First Cause of Action:

- 4 a. Declare the rights and obligations of the parties under the Certificates;
5 b. Determine and adjudicate that International is liable for its respective share of the
6 Settlement and defense costs incurred and paid by Transport;

7 On the Second Cause of Action:

- 8 a. Declare the rights and obligations of the parties under the Certificates;
9 b. Determine and adjudicate that International accepted the business from Transport on
10 a "Quota Share" basis and, therefore, is liable for its proportion of Transport's expenses.

11 On the Third Cause of Action:

12 Awarding Transport judgment against International in the amount of \$6,608,039.62, plus
13 prejudgment interest and costs; and

14 On All Causes of Action:

15 Grant such other, further and different relief, including costs of this suit, as the Court deems
16 just and proper.

17
18 Dated: January 26, 2006

DUANE MORRIS LLP

19 By: 
20 _____

Heidi H. Frenzel

21 Attorneys for Plaintiff TRANSPORT INSURANCE
22 COMPANY

23
24
25
26
27
28 NY298846.4

EXHIBIT A

GENERAL LIABILITY POLICY

TRANSPORT INDEMNITY COMPANY

605
1973

A Stock Company
LOS ANGELES, CALIFORNIA

NEW

DECLARATIONS This policy insures:

Named Insured, Address and Zip Code

AERONET-GENERAL CORPORATION, ET AL
9100 EAST FLAIR DRIVE
POST OFFICE BOX 702
EL MONTE, CALIFORNIA 91734

Producer's Name, Address, and Zip Code

STEWART, SMITH, HAIDINGER, INC.
3200 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90010

TEL 900016

2. Occupations: **CONGLOMERATE**
Name and address of employer

Policy Period: 12:01 A.M. STANDARD TIME AT THE ADDRESS
OF THE NAMED INSURED AS STATED HEREIN.

From: **JULY 15, 1973** To: **JULY 15, 1976** Term: **3 YEARS**

Location of Coverages		VARIOUS		
and as further defined in the Primary Policy.				
3. Primary Insurance: (1) Insurer, (2) Policy number (including renewals or replacements thereof)		(1) SELF-RETENTION		
4. Description of Coverages:		SEE FORM		
5. The insurance afforded is only with respect to such of the following coverages as are indicated by specific premium charge or charges. The limit of the Company's liability against each such coverage shall be as stated herein, subject to all the terms of this policy having reference thereto.				
Coverages	Premium	IN EXCESS OF		
		SECTION I Company Limits	SECTION II Underlying Limits	SECTION III Total Limits
A. Bodily Injury—Auto	\$	Each Person	\$	\$
	\$	Each Accident or Occurrence	\$	\$
Bodily Injury—Other	\$	Each Person	\$	\$
	\$	Each Accident or Occurrence	\$	\$
	\$	Aggregate Products	\$	\$
B. Property Damage Automobile	\$	Each Accident or Occurrence	\$	\$
C. Property Damage Except Automobile	\$	Each Accident or Occurrence	\$	\$
	\$	Aggregate Operations	\$	\$
	\$	Aggregate Protective	\$	\$
	\$	Aggregate Products	\$	\$
	\$	Aggregate Contractual	\$	\$
D. Combined Single Limit Bodily Injury and/or Property Damage	\$	Each Accident or Occurrence	\$	\$
	\$	Aggregate	\$	\$
E. Other	\$ 240,000.00	\$950,000 Each Occurrence	\$50,000.00	SEE FORM
	\$	\$950,000 Annual Aggregate	Each Occurrence	SEE FORM
	\$		Aggregate	SEE FORM
Total		\$ 240,000.00		
6. Premium Computation		Estimated Exposure	Rate	Premium
SEE PAGE B				
Deposit Premium \$		Minimum Premium \$	Audit Period	

Date of Issue: **JULY 30, 1973** Countersigned by: _____ Licensed Resident Agent or Authorized Representative

TRANSPORT INDEMNITY COMPANY
Los Angeles, California

Declarations

BLANKET LIABILITY POLICY NUMBER

TEL 900016

- ITEM 1. NAMED INSURED: AEROJET-GENERAL CORPORATION;
AEROJET-GENERAL INTERNATIONAL;
BATESVILLE MANUFACTURING COMPANY;
AEROJET DELFT CORPORATION;
OCEANIC PRODUCTS, INC.
- ADDRESS: 9100 East Flair Drive
Post Office Box 702
El Monte, California 91734
- ITEM 2. POLICY PERIOD: From July 15, 1973 to July 15, 1976, 12:01 A.M.
Standard Time at the address of the Named Insured
as stated herein.
- ITEM 3. COVERAGES AND LIMITS OF LIABILITY: The limit of the Company's
liability against each coverage shall be as stated herein, subject
to all of the terms of this policy having reference thereto.

Coverages

Limits of Liability

A. Personal Injury Liability and Property Damage Liability	The difference between \$1,000,000.00 as a result of any one occurrence or in the aggregate and underlying self- insured retention of \$50,000.00 each occurrence.
B. Advertising Liability	Included
C. Employee Benefits Liability	Included

ITEM 4. PREMIUM: See Page 8.

TRANSPORT INDEMNITY COMPANY

LOS ANGELES, CALIFORNIA

(A STOCK INSURANCE COMPANY herein called THE COMPANY)

Does hereby agree with the Insured, named in the Declarations made a part hereof, in consideration of the payment of the premium and of the statements contained in the Declarations and subject to the limits of liability, exclusions, conditions, and other terms of this policy:

INSURING AGREEMENTS

I. COVERAGE A - PERSONAL INJURY AND PROPERTY DAMAGE LIABILITY

To pay on behalf of the Insured all sums which the Insured shall become legally obligated, including liability assumed under a contract as defined herein, to pay as damages because of personal injury, including death at any time resulting therefrom, sustained by any person or persons or because of injury to or destruction of property, including the loss of use thereof, caused by an occurrence,

COVERAGE B - ADVERTISING LIABILITY

To pay on behalf of the Named Insured all sums which the Insured shall become obligated to pay by reason of liability imposed upon the Insured by law, or assumed by the Insured under contract as defined herein, for damages arising out of any advertising, publicity, television or radio broadcasting activity.

COVERAGE C - EMPLOYEE BENEFITS LIABILITY

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages on account of any claim made during the policy period against the Insured by an employee, former employee or the beneficiaries or legal representatives thereof, and caused by any negligent act, error, mistake or omission of the Insured, or any other person for whose acts the Insured is legally liable in the administration of the Named Insured's Employee Benefit Program as defined herein.

II. DEFENSE, SETTLEMENT, SUPPLEMENTARY PAYMENTS

As respects the insurance afforded by the other terms of this policy the Company shall:

- (a) defend any suit or action against the Insured alleging and seeking damages on account of such injury or alleging and seeking damages

on account of the Insured's failure to perform his contractual obligations with respect to his assumption of liability therefor, even if such suit or action is groundless, false or fraudulent; but the Company shall have the right to make such investigation, negotiation, and settlement of any claim, suit or action as may be deemed expedient by the Company, except that as respects Malpractice claims or Employee Benefit Liability, the Company shall not settle or compromise any claim or suit without the written consent of the Insured, and subject to the Insured's desire must defend any claim or suit until all legal remedies have been exhausted, or until the Company elects to pay the Insured the limit of liability as stated in Item 3 of the Declarations;

- (b) (1) pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, all premiums on appeal bonds required of the Insured in any such defended suit, and the cost of bail bonds, not to exceed \$250.00 per bail bond, in the event of an automobile accident or automobile traffic law violation during the policy period, and the Company shall be obligated to either furnish or apply for and guarantee the surety on all such bonds to release attachments and all such appeal bonds for any amount not in excess of the applicable limit of liability of this policy, but shall not be obligated to apply for, furnish or guarantee any such bail bonds;
- (2) pay all expenses incurred by the Company, all costs taxed against the Insured in any such suit and all interest accruing after entry of judgment until the Company has paid or tendered or deposited in court such part of such judgment as does not exceed the limit of the Company's liability thereon;
- (3) pay expenses incurred by the Insured for first aid to others at the time of the injury, for bodily injury to which this policy applies; provided such injury as may arise out of malpractice shall not be included in this section;
- (4) reimburse the Insured for all reasonable expenses incurred at the Company's request, including actual wages or salary (but not loss of other income) not to exceed \$25 per day because of his attendance at hearings or trials at such request;

and the amounts so incurred, except settlements of claims and suits, are payable by the Company in addition to the applicable limit of liability of this policy. As respects Coverages A and C, the amounts so incurred, except settlement of claims and suits, are payable by the Company in addition to the applicable limit of liability of the policy, and apply irrespective of the application of any deductible amount.

III. DEFINITION OF "NAMED INSURED" AND "INSURED"

Except where stated to the contrary, the term "Named Insured" shall mean:

- (1) the persons or organizations named in Item 1 of the Declarations, or
- (2) any corporation existing at the inception hereof, except as specifically excluded;
- (3) any subsidiary or proprietary corporation of any corporation named as insured in the Declarations.

Except when stated to the contrary, each of the following is an insured to the extent set forth below:

- (1) Any person or organization, now or hereafter existing, which is now or may hereafter be associated, subject to the following provisions:
 - (a) this insurance applies only with respect to liability arising out of the sole negligence of the Named Insured, (b) this insurance shall be excess of any other valid and collectable insurance available to the insured but only to the extent that the amount of loss exceeds the Limit of Liability of the other insurance but then only for an amount not exceeding the difference between any higher applicable Limit of Liability stated in the declarations of this policy and the Limit of Liability of the other insurance;
 - (2) any person or organization for whose protection the Named Insured has or shall have by contract, entered into prior to loss, agreed to procure liability insurance, but the insurance with respect to such persons or organizations shall not exceed such coverage and limits of liability that the Named Insured has so agreed to procure nor the coverage and applicable limits of liability of this policy;
 - (3) General Tire and Rubber Company, but only with respect to liability arising from the operations of the Named Insured;
 - (4) any employee of the Named Insured or any employee of a Doctor of Medicine included under this policy as an insured, employed or retained to act in a medical capacity for the Named Insured, while acting within the scope of their duties as such;
 - (5) any executive officer, director or stockholder of the Named Insured while acting within the scope of their duties as such;
 - (6) any person (other than an employee of the Named Insured) or organization while acting as real estate manager for the Named Insured;
 - (7) if the Named Insured is a partnership or joint venture, any partner or member thereof, but only while acting with the scope of their duties as such;
 - (8) any person while using an owned automobile or hired automobile and any person or organization legally responsible for the use thereof, provided the actual use is with the permission of the Named Insured;
 - (9) with respect to a non-owned automobile, used in the conduct of the business of the Named Insured any director, executive officer, stockholder and any employee of the Named Insured provided such employee is provided an operating allowance of a sort customarily given by the Named Insured;
 - (10) solely with respect to the products hazard, any vendor or distributor but only as respects the distribution or sale in the regular course of the vendor's or distributor's business of products manufactured, sold or distributed by the Named Insured.

None of the following is an insured:

- (1) as respects the operation of any automobile, any person while engaged in the business of the Insured with respect to bodily injury to any fellow

employee of such person injury in the course of his employment, (2) the owner or lessee (of whom the Named Insured is a sub-lessee) of a hired automobile or the owner of a non-owned automobile, or any agent or employee of any such owner or lessee, but this provision shall not apply if and to the extent that the Named Insured is obligated to provide liability insurance for such owner or lessee, (3) any person or organization, other than the Named Insured, engaged in duties in connection with an automobile sales agency, repair shop, service station, storage garage or public parking place.

IV. POLICY PERIOD, TERRITORY

- (a) This policy applies only to occurrences which take place or claims made during the policy period, subject to paragraph (b) below.
- (b) If claim is made or suit is brought elsewhere than within the United States of America, its territories or possessions, or Canada, the Company shall have the right but not the duty to investigate and settle such claims and to defend such suits. In any such case in which the Company elects not to investigate, settle or defend, the Insured, under the supervision of the Company, will make or cause to be made such investigation and defense as are reasonably necessary, and subject to prior authorization by the Company, will effect to the extent possible such settlements as the Company deems prudent. The Company shall reimburse the Insured for the reasonable costs of such investigation and defense, and within the applicable limits of liability of the policy, for the amounts of such authorized settlements.

EXCLUSIONS

THIS INSURANCE DOES NOT APPLY:

As respects Coverage A

- (a) to liability assumed by the Insured under any contract or agreement except a contract as defined herein;
- (b) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing, with respect to (1) liability assumed under any contract covered by this policy or (2) expenses for first aid under the Defense, Settlement, Supplementary Payments provisions of the policy;
- (c) to bodily injury or property damage caused intentionally by or at the direction of the Insured;
- (d) except with respect to operations performed by independent contractors and except with respect to liability assumed by the Insured under a contract as defined herein, to personal injury or property damage arising out of the ownership, maintenance or use of (1) watercraft owned by

the Insured or operated by the Insured under "Bare Boat" charter, if over fifty feet in over-all length, and while such watercraft are away from premises owned by, rented to or controlled by the Named Insured;

- (e) to any obligation for which the Insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law or under any similar law;
- (f) except with respect to liability assumed by the Insured under a contract as defined herein, to bodily injury to any employee of the Insured arising out of and in the course of his employment by the Insured, other than a domestic employee whose injury arises out of an automobile covered by this policy and for whose injury benefits in whole or in part are not payable or required to be provided under any workmen's compensation law;
- (g) to (1) liability assumed by the Insured under any contract or agreement, (2) injury caused by the wilful violation of a penal statute or ordinance committed by or with the knowledge or consent of the Insured, or (3) acts committed in connection with advertising, broadcasting or telecasting activities by or in the interest of the Insured; provided, this exclusion (g) shall not apply with respect to bodily injury or property damage;
- (h) except with respect to operations performed by independent contractors and except with respect to liability assumed by the Insured under a contract as defined herein, to personal injury or property damage arising out of the ownership, maintenance or use of any aircraft; provided, this exclusion (h) shall not apply with respect to the products as defined herein, nor to aircraft of others in the care, custody or control of the Insured;
- (i) except as respects consequential damage resulting therefrom, to property damage to goods or products manufactured, sold, handled, or distributed or premises alienated by the Named Insured, or work completed by or for the Named Insured, out of which the occurrence arises;
- (j) to damages claimed for the withdrawal, inspection, repair, replacement or loss of use of the Named Insured's products or work completed by or for the Named Insured or of any property of which such products or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;
- (k) except as respects consequential damage resulting therefrom, to (1) property damage to any property of others which has been delivered into the possession of the Named Insured for the sole purpose of storage or sale, while said property is held by the Named Insured on premises owned by, rented to or controlled by the Named Insured, (2) any property owned by the Insured, or