

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT IN AND FOR  
FLAGLER COUNTY, FLORIDA

CASE NO.: 2018 CA 000082

HIS BUNNELL II, LLC d/b/a BUNNELL'S  
FOOD MART and MOHAMMED ANSARI,  
an individual,

Plaintiffs,

v.

ASSOCIATED INDUSTRIES INSURANCE  
COMPANY, INC., AMTRUST NORTH  
AMERICA, INC., JOSE VIDAL, JR, as  
Co-Personal Representative of the of the  
Estate of ZUHEILY ROMAN ROSADO,  
and CARMEN DELIA ROSADO, as  
Co-Personal Representative of the of  
the Estate of ZUHEILY ROMAN ROSADO,

Defendants.

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**COMPLAINT AND PETITION FOR DECLARATORY JUDGMENT**

Petitioners/Plaintiffs, HIS Bunnell II, LLC and Mohammed Ansari, by and through their undersigned counsel, sue Associated Industries Insurance Company, Inc., AmTrust North America, Inc., Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado alleging the following:

1. This Court has jurisdiction on the grounds that the amount in controversy exceeds the sum of Fifteen Thousand Dollars (\$15,000.00)
2. Plaintiff, Mohammed Ansari ("Ansari"), was at all times material a Florida resident.

3. Plaintiff, HIS Bunnell II, LLC ("HIS Bunnell") was at all times material to this action a Florida limited liability company.

4. Defendant, Associated Industries Insurance Company, Inc. ("Associated Industries"), was at all times material hereto, a Florida Profit Corporation, authorized to do business in the State of Florida.

5. Defendant, AmTrust North America, Inc. ("AmTrust"), is a Foreign Profit Corporation, authorized to do business in the State of Florida.

6. Defendant, Jose Vidal, Jr., was appointed Co-Personal Representative of the of the Estate of Zuheily Roman Rosado on October 16, 2016, and was at all times material hereto, a resident of Florida.

7. Defendant, Carmen Delia Rosado, was appointed Co-Personal Representative of the of the Estate of Zuheily Roman Rosado on October 28, 2016, and was at all times material hereto, a resident of Florida.

8. Associated Industries issued a Worker's Compensation and Employers Liability Insurance Policy to HIS Bunnell II, LLC numbered AWC1015257 (sometimes referred to as the "Policy") which had an effective policy period from 8/19/2012 to 8/9/2013. A copy of the policy is attached hereto as **Exhibit "A."**

9. Upon information and belief, AmTrust is an agent, administrator, producer or otherwise legally responsible for the obligations of Associated Industries under the Policy issued by Associated Industries to HIS Bunnell.

10. The Policy naming HIS Bunnell II, LLC as its Insured was in effect on February 21, 2013.

11. On February 21, 2013, HIS Bunnell operated a convenience store and gas station located at 6020 East Highway 100, Flagler Beach, Flagler County, Florida ("Store")

12. On February 21, 2013, Zuheily Roman Rosado was employed by HIS Bunnell as a clerk at the Store operated by HIS Bunnell II, LLC. On February 21, 2013, an individual entered the Store and shot and killed Zuheily Roman Rosado.

13. On February 22, 2013, AmTrust and Associated Industries was notified of the death of Zuheily Roman Rosado while employed as a store clerk for HIS Bunnell.

14. All conditions precedent to the initiation or maintenance of this action have been complied with, have occurred, or have been waived.

15. HIS Bunnell and Ansari have retained the undersigned attorneys and agreed to pay a reasonable fee for their services.

COUNT I - DECLARATORY RELIEF  
PART ONE WORKERS COMPENSATION INSURANCE

16. This is an action seeking declaratory relief brought pursuant to Chapter 86, Florida Statutes.

17. Petitioners/Plaintiffs reassert and reallege paragraphs 1 through 15 above.

18. Pursuant to the terms of Part One Workers Compensation Insurance in the Policy, Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado are entitled to obtain workers compensation benefits on behalf of Zuheily Roman Rosado's estate, as Zuheily Roman Rosado was an employee of HIS Bunnell II, LLC in the course and scope of her employment at the time of her death.

19. Pursuant to the terms of Part One Workers Compensation Insurance in the Policy issued by Associated Industries to HIS Bunnell, Associated Industries and AmTrust have the obligation to provide workers compensation coverage under the Policy issued to HIS Bunnell and to pay workers compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado as a consequence of her death occurring during the course and scope of her employment with HIS Bunnell.

20. A demand was made upon Associated Industries and AmTrust to pay workers compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado for the death of Zuheily Roman Rosado but despite the demand, Associated Industries and AmTrust have failed to pay any workers compensation benefits pursuant to the terms of the Policy and Florida law.

21. Due to Associated Industries and AmTrust failing to pay workers compensation benefits for the death of Zuheily Roman Rosado, there is an actual controversy as to whether the Policy provides workers compensation coverage for HIS Bunnell or whether Associated Industries and/or AmTrust is otherwise obligated to provide worker's compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado for the death of Zuheily Roman Rosado.

22. HIS Bunnell and Ansari are uncertain as to its rights and the rights of Associated Industries, AmTrust, Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily

Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado under Part One of said insurance Policy, Plaintiffs are in need of judicial interpretation or determination as to the availability of workers compensation benefits under Part One of the Policy as it relates to claims for workers compensation coverage for the death of Zuheily Roman Rosado.

23. HIS Bunnell and Ansari seek declaratory relief in that:

- A. There is a bonafide, actual, present and practical need for the declaration;
- B. There is a present ascertainable set of facts on which relief can be granted;
- C. The rights and obligations under the Policy of HIS Bunnell and all defendants and allegations can be determined on said state of facts and the law applicable to the facts;
- D. Defendants Associated Industries and AmTrust have a present and adverse interest in the subject matter of this action; and
- E. Defendants Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, as beneficiaries of the Estate of Zuheily Roman Rosado and the Policy have an interest in the subject matter in this action.
- F. The adverse interests are now before the court.

WHEREFORE, HIS Bunnell and Ansari request that the court adjudge:

- 1. That there is workers compensation insurance coverage available under Part One of the Policy attached as Exhibit "A" issued by Associated Industries with respect to the death of Zuheily Roman Rosado on February 21, 2013.

2. That Associated Industries and/or AmTrust have a duty to provide workers compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado under the terms of the Policy and Florida law with respect to the death of Zuheily Roman Rosado on February 21, 2013.
3. That HIS Bunnell and Ansari be granted such additional, alternative or supplemental relief as the Court deems appropriate under the circumstances.
4. That this Court's jurisdiction be reserved in this matter in order to determine further equities between the Plaintiff and Defendants as they exist or may arise by reason of any declaration of rights made herein.
5. That HIS Bunnell be awarded its costs and attorney's fees incurred by the necessity of filing this action.

COUNT II - BREACH OF CONTRACT  
PART ONE WORKERS COMPENSATION INSURANCE

24. Plaintiffs reassert and reallege paragraphs 1-15 above.
25. This is an action for breach of contract against Associated Industries and AmTrust.
26. A demand was made on Associated Industries and AmTrust to pay workers compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of

Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado for the death of Zuheily Roman Rosado, but despite the demand Associated Industries and AmTrust have failed to pay any workers compensation benefits pursuant to the terms of the Policy and Florida law.

27. Due to Associated Industries' and AmTrust's failure to pay workers compensation benefits to Zuheily Roman Rosado's estate beneficiaries under Part One of the Policy, Associated Industries and AmTrust have breached their obligation under the terms of Part One of the Policy to provide worker's compensation benefits to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado for the benefit of the estate's beneficiaries for the death of Zuheily Roman Rosado.

28. As a foreseeable consequence of Associated Industries and/or AmTrust's failure to pay workers compensation benefits under Part One of the Policy, HIS Bunnell and Ansari have been sued by Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado in Counts I, II, III and IV of Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado's Fourth Amended Complaint, Case No. 2013-CA-000632 pending in the Circuit Court, Flagler County, Florida ("2013 Pending Action").

29. Should HIS Bunnell and/or Ansari be held liable for damages to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado under Count

I, II, III or IV in the Fourth Amended complaint, Associated Industries and/or AmTrust is legally responsible for all such damages due to Associated Industries and/or AmTrust's breach of its legal obligation under the Policy to provide workers compensation benefits under Part One of the Policy for the death of Zuheily Roman Rosado.

30. As a consequence of the breach of contract by Associated Industries and AmTrust, HIS Bunnell and Ansari have suffered damages which include costs and attorney's fees in the defense of the 2013 Pending Action and due to the necessity of filing this action.

WHEREFORE, HIS Bunnell and Ansari demand judgment against Defendants, Associated Industries and AmTrust for damages, including those damages, if any, awarded to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado in the 2013 Pending Action, as well as attorneys fees, costs in this action and the 2013 Pending Action and for such other relief as this Court deems just and proper.

COUNT III - DECLARATORY RELIEF  
PART TWO WORKERS COMPENSATION INSURANCE

31. This is an action seeking declaratory relief brought pursuant to Chapter 86, Florida Statutes.

32. Petitioners/Plaintiffs reassert and reallege paragraphs 1 through 15 above.

33. As a foreseeable consequence of Associated Industries and/or AmTrust's failure to pay workers compensation benefits under Part One Workers Compensation Insurance of the Policy, HIS Bunnell and Ansari have been sued by Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of



the of the Estate of Zuheily Roman Rosado in Counts I, II, III and IV in the Fourth Amended Complaint, Case No. 2013-CA-000632 pending in the Circuit Court, Flagler County, Florida ("2013 Pending Action").

34. A demand was made upon Associated Industries and AmTrust to defend and indemnify HIS Bunnell and Ansari pursuant to Part Two Employers Liability Insurance in the Policy issued to HIS Bunnell which Policy provides liability coverage for HIS Bunnell and Ansari for the claims made against them in Counts I, II, III and IV of the Fourth Amended Complaint but despite the demand, Associated Industries and AmTrust have failed to agree to defend and indemnify HIS Bunnell and Ansari.

35. Due to Associated Industries and AmTrust's failure to agree to defend or indemnify HIS Bunnell or Ansari in the 2013 Pending Action, there is an actual controversy as to whether the Policy provides liability coverage for HIS Bunnell II, LLC and/or Ansari in the 2013 Pending Action.

36. HIS Bunnell and Ansari are uncertain as to their rights and the rights of Associated Industries and AmTrust under Part Two Employers Liability Insurance of the Policy, Plaintiffs are in need of judicial interpretation or determination as to the availability of liability coverage under Part Two of the Policy as it relates to claims against HIS Bunnell and Ansari in the 2013 Pending Action.

37. HIS Bunnell and Ansari seek declaratory relief in that:

- A. There is a bonafide, actual, present and practical need for the declaration;
- B. There is a present ascertainable set of facts on which relief can be granted;

C. The rights and obligations of HIS Bunnell and Ansari and Associated Industries and AmTrust and all defendants under the Policy and allegations can be determined on said state of facts and the law applicable to the facts;

D. Defendants Associated Industries and AmTrust have a present and adverse interest in the subject matter of this action; and

E. Defendants Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, as beneficiaries of the Estate of Zuheily Roman Rosado have an interest in the Policy and subject matter in this action.

F. The adverse interests are now before the court.

WHEREFORE, HIS Bunnell and Ansari request that the court adjudge:

1. That there is liability insurance coverage available under Part Two of the Policy attached as Exhibit "A" issued by Associated Industries with respect to the claims against HIS Bunnell and Ansari in the 2013 Pending Action.
2. That Associated Industries and/or AmTrust have a duty to provide a defense and indemnity to HIS Bunnell and Ansari in the 2013 Pending Action.
3. That HIS Bunnell and Ansari be granted such additional, alternative or supplemental relief as the Court deems appropriate under the circumstances.

4. That this Court's jurisdiction be reserved in this matter in order to determine further equities between the Plaintiff and Defendants as they exist or may arise by reason of any declaration of rights made herein.
5. That HIS Bunnell and Ansari be awarded its costs and attorney's fees incurred in the 2013 Pending Action and by the necessity of filing this action.

COUNT IV - BREACH OF CONTRACT  
PART TWO WORKERS COMPENSATION INSURANCE

38. Plaintiffs reassert and reallege paragraphs 1-15 above.
39. This is an action for breach of contract against Associated Industries and AmTrust.
40. A demand was made upon Associated Industries and AmTrust to defend and indemnify HIS Bunnell and Ansari pursuant to Part Two Employers Liability Insurance in the Policy issued to HIS Bunnell which Policy provides liability coverage for HIS Bunnell and Ansari for the claims made against them in Counts I, II, III and IV of the Fourth Amended Complaint but despite the demand, Associated Industries and AmTrust have failed to agree to defend and indemnify HIS Bunnell and Ansari.
41. Due to Associated Industries' and AmTrust's failure to provide a defense and indemnity to HIS Bunnell and Ansari pursuant to Part Two of the Policy, Associated Industries and AmTrust have breached their contract obligations under the terms of the Policy to provide a defense and indemnity to HIS Bunnell and Ansari for the claims made against them in the 2013 Pending Action.

42. As a foreseeable consequence of Associated Industries and/or AmTrust's breach of contract by their failure to pay workers compensation benefits under Part One Workers Compensation Insurance of the Policy, HIS Bunnell and Ansari have been sued by Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado in Counts I, II, III and IV of the Fourth Amended Complaint, Case No. 2013-CA-000632 pending in the Circuit Court, Flagler County, Florida ("2013 Pending Action").

43. Should HIS Bunnell and/or Ansari be held liable for damages to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado under Count I, II, III or IV in the Fourth Amended Complaint in the 2013 Pending Action, Associated Industries and/or AmTrust is legally responsible to pay any judgment rendered against HIS Bunnell and Ansari by breaching its duties under the Policy and for all such damages due to Associated Industries and/or AmTrust's breach of contract in failing to provide a defense under Part Two of the Policy to His Bunnell and Ansari for the claims arising out of the aforesaid death of Zuheily Roman Rosado.

44. As a consequence of the breach of contract by Associated Industries and AmTrust, HIS Bunnell and Ansari have suffered damages which include costs and attorney's fees in the defense of the 2013 Pending Action and the necessity of filing this action.

WHEREFORE, HIS Bunnell and Ansari demand judgment against Defendants, Associated Industries and AmTrust for damages, including any damages awarded to Jose Vidal, Jr., as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado, and Carmen Delia Rosado, as Co-Personal Representative of the of the Estate of Zuheily Roman Rosado through a

judgment in the 2013 Pending Action, as well as attorneys fees, costs incurred in defending the 2013 Pending Action and the necessity to file this action and for such other relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Petitioners/Plaintiffs demand a trial by jury on all issues so triable.

Dated this 15<sup>th</sup> day of February, 2018.

McGEE & POWERS, P.A.  
201 E. Pine Street, Suite 700  
Orlando, FL 32801  
407-422-5742  
407-423-1377 (fax)  
[jpowers@mcgeepowers.com](mailto:jpowers@mcgeepowers.com)

By: s/ James K. Powers  
James K. Powers, Esq.  
Florida Bar No. 501476

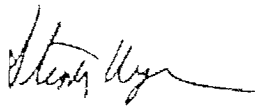
ASSOCIATED INDUSTRIES INSURANCE COMPANY, INC.

PO Box 310704  
Boca Raton, FL 33431-0704

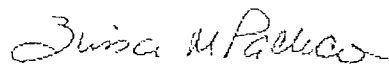
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WORKERS' COMPENSATION  
and  
EMPLOYERS' LIABILITY INSURANCE POLICY

In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.



Stephen Ungar, Secretary



Elissa M. Pacheco, President

To obtain information, please contact your agent or Associated Industries Insurance Company, Inc. at 877-528-7878. You may also write Associated Industries Insurance Company, Inc. Consumer Relations at:

5800 Lombardo Center  
Cleveland OH 44131-2550

WC 00 00 00

EXHIBIT A

Associated Industries Insurance Company, Inc.

A Stock Insurance Company

PO Box 310704

Boca Raton, FL 33431-0704

WORKERS COMPENSATION  
AND EMPLOYERS LIABILITY  
INSURANCE POLICY

WC 00 00 01 A

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INFORMATION PAGE

I. Insured:

His Bunnell II, LLC

4861 E Hwy 100

Flagler Beach FL 32136

Other workplaces not shown above:

See Extension of Information Page

Producer:

AmTrust North America, Inc.

c/o Paychex Insurance Agency, Inc.

150 Sawgrass Drive

Rochester NY 14620

Policy Number:

AWC1015257

Federal Tax ID:

262117132

Board File Number:

Renewal of:

AWC1009921

Entity:

Limited Liability Company

Interim Adjustment:

Annual

Ncci Code:

25372

SIC Code:

5411

2. The policy period is from 8/19/2012 to 8/19/2013 12:01 a.m. at the insured's mailing address.

3. A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here: Florida

B. Employers Liability Insurance: Part Two of the policy applies to work in each state listed in item 3.A.

The limits of our liability under Part Two are:

State	Bodily Injury by Accident	Bodily Injury by Disease	Bodily Injury by Disease
FL	\$ 100,000 each accident	\$ 500,000 policy limit	\$ 100,000 each employee

C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here:

All states except ND, OH, WA, WY and State(s) Designated in Item 3A.

D. This policy includes these endorsements and schedules:

WC 00 00 00 B, WC 00 00 01 A, WC 00 04 04, WC 00 04 14, WC 00 04 19, WC 09 03 03, WC 09 04 02, WC 09 04 03A, WC 09 06 06

4. The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating

Plans. All information required below is subject to verification and change by audit.

See Extension of Information Page

**TOTAL ESTIMATED ANNUAL PREMIUM**

1,755

**STATE ASSESSMENT**

0

**TOTAL ESTIMATED COST**

1,755

Minimum Premium

449

Deposit Premium

438

Issue Date: 6/14/2012

Countersigned by:

[premier1\_5/15/2012]

Authorized Representative

Associated Industries Insurance Company, Inc.

WC 00 00 01 A

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WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

INFORMATION PAGE

Insured: His Bunnell II, LLC

Policy Number: AWC1015257

EXTENSION OF INFORMATION PAGE FOR ITEM #1  
ITEM 1: NAMED INSURED and WORKPLACES

WORKPLACES:

4861 E Hwy 100 Flagler Beach FL 32136



Insured: Hls Bunnell II, LLC

Policy Number: XXXXXXXXXX

## EXTENSION OF INFORMATION PAGE FOR ITEM #4

## ITEM 4: SCHEDULE OF PREMIUMS

Classifications	# of Emps	Code No.	Premium Basis Total Estimated Annual Remuneration	Rate Per \$100 of Remun.	Estimated Annual Premium
<b>State of Florida</b>					
Store: Grocery—Convenience—Retail		8061	46,575	3.32	1,546
Manual Premium					1,546
Total Manual Premium					1,546
Total Premium Subject to Experience Modification					1,546
Experience Modified - N/A					1,546
Expense Constant		0900			200
Terrorism Risk Insurance Act		9740			9
Total FL Premium					1,755
Total FL Cost					1,755
<b>TOTAL ESTIMATED ANNUAL PREMIUM</b>					<b>1,755</b>
<b>STATE ASSESSMENT</b>					<b>0</b>
<b>TOTAL COST</b>					<b>1,755</b>

Insured: His Bunnell II, LLC

Policy Number: [REDACTED]

## PAYMENT SCHEDULE

Payment Due Date	Description	Premium Due	Surcharge Due	Fees Due	Total Due
8/19/2012	Downpayment	\$438.00	\$0.00	\$0.00	\$438.00
10/20/2012	Installment 1 of 3	\$439.00	\$0.00	\$0.00	\$439.00
11/20/2012	Installment 2 of 3	\$439.00	\$0.00	\$0.00	\$439.00
12/20/2012	Installment 3 of 3	\$439.00	\$0.00	\$0.00	\$439.00
Totals		\$1,755.00	\$0.00	\$0.00	\$1,755.00

Your Installments will be billed in 3 invoices based on the Schedule above.

Payment of each Installment is due to the Company on or before the due date indicated. You will receive an installment invoice for each of the Installments shown above.

To avoid cancellation of your coverage, please make sure that our payment is received by the specified due date. The Company may process a Notice of Cancellation if payment is not received by the Company on or before the due date. Postmark is not sufficient. If your check is returned by the bank for insufficient funds or for any reason, a Notice of Cancellation will be immediately processed.

If your policy cancels for late payment or because of an item returned by the bank, you may be assessed a Late Payment Fee of \$25 to reinstate your coverage.

All payments received will first be applied to fees assessed against the account and then to premium due.

Checks should be made payable to Amtrust North America, Inc. and can be mailed to:

Amtrust North America, Inc.  
P.O. Box 318004  
Cleveland OH 44131-8004

Do not mail certified, overnight or express mail to our P.O. Box. Any such mail can be sent to:

Amtrust North America, Inc.  
5800 Lombardo Center  
Cleveland OH 44131-2550

Printed: 6/14/2012

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

In return for the payment of the premium and subject to all terms of this policy, we agree with you as follows:

PART ONE

WORKERS COMPENSATION INSURANCE

GENERAL SECTION

A. The Policy

This policy includes at its effective date the Information Page and all endorsements and schedules listed there. It is a contract of insurance between you (the employer named in Item 1 of the Information Page) and us (the insurer named on the Information Page). The only agreements relating to this insurance are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by us to be part of this policy.

B. Who is Insured

You are insured if you are an employer named in Item 1 of the Information Page. If that employer is a partnership, and if you are one of its partners, you are insured, but only in your capacity as an employer of the partnership's employees.

C. Workers Compensation Law

Workers Compensation Law means the workers or workmen's compensation law and occupational disease law of each state or territory named in Item 3.A. of the Information Page. It includes any amendments to that law which are in effect during the policy period. It does not include any federal workers or workmen's compensation law, any federal occupational disease law or the provisions of any law that provide nonoccupational disability benefits.

D. State

State means any state of the United States of America, and the District of Columbia.

E. Locations

This policy covers all of your workplaces listed in Items 1 or 4 of the Information Page; and it covers all other workplaces in Item 3.A. states unless you have other insurance or are self-insured for such workplaces.

A. How This Insurance Applies

This workers compensation insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the policy period.
2. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.

B. We Will Pay

We will pay promptly when due the benefits required of you by the workers compensation law.

C. We Will Defend

We have the right and duty to defend at our expense any claim, proceeding or suit against you for benefits payable by this insurance. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance.

D. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this insurance;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this insurance; and
5. expenses we incur.

E. Other Insurance

We will not pay more than our share of benefits and costs covered by this insurance and other



insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance will be equal until the loss is paid.

#### F. Payments You Must Make

You are responsible for any payments in excess of the benefits regularly provided by the workers compensation law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the workers compensation law.

If we make any payments in excess of the benefits regularly provided by the workers compensation law on your behalf, you will reimburse us promptly.

#### G. Recovery From Others

We have your rights, and the rights of persons entitled to the benefits of this insurance, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

#### H. Statutory Provisions

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of you or your estate will not relieve us of our duties under this insurance after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this insurance. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the workers compensation law. We are bound by decisions against you under that law, subject to the provisions of this policy that are not in conflict with that law.
5. This insurance conforms to the parts of the

workers compensation law that apply to:

- a. benefits payable by this insurance;
- b. special taxes, payments into security or other special funds, and assessments payable by us under that law.

6. Terms of this insurance that conflict with the workers compensation law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this policy.

### PART TWO EMPLOYERS LIABILITY INSURANCE

#### A. How This Insurance Applies

This employers liability insurance applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in a state or territory listed in Item 3.A. of the Information Page.
3. Bodily injury by accident must occur during the policy period.
4. Bodily injury by disease must be caused or aggravated by the conditions of your employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the policy period.
5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

#### B. We Will Pay

We will pay all sums that you legally must pay as damages because of bodily injury to your employees, provided the bodily injury is covered by this Employers Liability Insurance.

The damages we will pay, where recovery is permitted by law, include damages:

1. For which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against



such third party as a result of injury to your employee;

2. For care and loss of services; and
3. For consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee; provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
4. Because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

#### C. Exclusions

This Insurance does not cover:

1. Liability assumed under a contract. This exclusion does not apply to a warranty that your work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. Bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers;
4. Any obligation imposed by a workers compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. Bodily injury intentionally caused or aggravated by you;
6. Bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
7. Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions;
8. Bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Non-appropriated Fund Instrumentalities Act (5 USC Sections 8171-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356a.), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Safety and Health Act (30 USC Sections 801-945), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;
9. Bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. Bodily injury to a master or member of the crew of any vessel;
11. Fines or penalties imposed for violation of federal or state law; and
12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued there under, and any amendments to those laws.

#### D. We Will Defend

We have the right and duty to defend, at our expense, any claim, proceeding or suit against you for damages payable by this insurance. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this insurance. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this insurance.

#### E. We Will Also Pay

We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding, or suit we defend:

1. Reasonable expenses incurred at our request, but not loss of earnings;
2. Premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this insurance;
3. Litigation costs taxed against you;
4. Interest on a judgment as required by law until we offer the amount due under this insurance; and
5. Expenses we incur.



**F. Other Insurance**

We will not pay more than our share of damages and costs covered by this insurance and other insurance or self-insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the loss is paid.

2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This insurance does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of you or your estate will not relieve us of our obligations under this Part.

**G. Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in Item 3.B. of the Information Page. They apply as explained below.

1. **Bodily Injury by Accident.** The limit shown for "bodily injury by accident—each accident" is the most we will pay for all damages covered by this insurance because of bodily injury to one or more employees in any one accident.

A disease is not bodily injury by accident unless it results directly from bodily injury by accident.

2. **Bodily Injury by Disease.** The limit shown for "bodily injury by disease—policy limit" is the most we will pay for all damages covered by this insurance and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for "bodily injury by disease—each employee" is the most we will pay for all damages because of bodily injury by disease to any one employee.

Bodily injury by disease does not include disease that results directly from a bodily injury by accident.

3. We will not pay any claims for damages after we have paid the applicable limit of our liability under this insurance.

**H. Recovery From Others**

We have your rights to recover our payment from anyone liable for an injury covered by this insurance. You will do everything necessary to protect those rights for us and to help us enforce them.

**I. Actions Against Us**

There will be no right of action against us under this insurance unless:

1. You have complied with all the terms of this policy; and

**PART THREE  
OTHER STATES INSURANCE****A. How This Insurance Applies**

1. This other states insurance applies only if one or more states are shown in Item 3.C. of the Information Page.
2. If you begin work in any one of those states after the effective date of this policy and are not insured or are not self-insured for such work, all provisions of the policy will apply as though that state were listed in Item 3.A. of the Information Page.
3. We will reimburse you for the benefits required by the workers compensation law of that state if we are not permitted to pay the benefits directly to persons entitled to them.
4. If you have work on the effective date of this policy in any state not listed in Item 3.A. of the Information Page, coverage will not be afforded for that state unless we are notified within thirty days.

**B. Notice**

Tell us at once if you begin work in any state listed in Item 3.C. of the Information Page.

**PART FOUR  
YOUR DUTIES IF INJURY OCCURS**

Tell us at once if injury occurs that may be covered by this policy. Your other duties are listed here.

1. Provide for immediate medical and other services required by the workers compensation law.
2. Give us or our agent the names and addresses of the injured persons and of witnesses, and other information we may need.
3. Promptly give us all notices, demands and legal



papers related to the injury, claim, proceeding or suit.

4. Cooperate with us and assist us, as we may request, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with our right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

## PART FIVE—PREMIUM

### A. Our Manuals

All premium for this policy will be determined by our manuals of rules, rates, rating plans and classifications. We may change our manuals and apply the changes to this policy if authorized by law or a governmental agency regulating this insurance.

### B. Classifications

Item 4 of the Information Page shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the policy period. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and premium basis by endorsement to this policy.

### C. Remuneration

Premium for each work classification is determined by multiplying a rate times a premium basis. Remuneration is the most common premium basis. This premium basis includes payroll and all other remuneration paid or payable during the policy period for the services of:

1. all your officers and employees engaged in work covered by this policy; and
2. all other persons engaged in work that could make us liable under Part One (Workers Compensation Insurance) of this policy. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the premium basis. This paragraph 2 will not apply if you give us proof that the employers of these persons lawfully secured their workers compensation obligations.

### D. Premium Payments

You will pay all premium when due. You will pay the premium even if part or all of a workers compensation law is not valid.

### E. Final Premium

The premium shown on the Information Page, schedules, and endorsements is an estimate. The final premium will be determined after this policy ends by using the actual, not the estimated, premium basis and the proper classifications and rates that lawfully apply to the business and work covered by this policy. If the final premium is more than the premium you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final premium will not be less than the highest minimum premium for the classifications covered by this policy.

If this policy is canceled, final premium will be determined in the following way unless our manuals provide otherwise:

1. If we cancel, final premium will be calculated pro rata based on the time this policy was in force. Final premium will not be less than the pro rata share of the minimum premium.
2. If you cancel, final premium will be more than pro rata; it will be based on the time this policy was in force, and increased by our short-rate cancellation table and procedure. Final premium will not be less than the minimum premium.

### F. Records

You will keep records of information needed to compute premium. You will provide us with copies of those records when we ask for them.

### G. Audit

You will let us examine and audit all your records that relate to this policy. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the policy period and within three years after the policy period ends. Information developed by audit will be used to determine final premium. Insurance rate service organizations have the same rights we have under this provision.



**PART SIX—CONDITIONS****A. Inspection**

We have the right, but are not obliged to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

**B. Long Term Policy**

If the policy period is longer than one year and sixteen days, all provisions of this policy will apply as though a new policy were issued on each annual anniversary that this policy is in force.

**C. Transfer of Your Rights and Duties**

Your rights or duties under this policy may not be transferred without our written consent.

If you die and we receive notice within thirty days after your death, we will cover your legal representative as insured.

**D. Cancellation**

1. You may cancel this policy. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel this policy. We must mail or deliver to you not less than ten days advance written notice stating when the cancellation is to take effect. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.
3. The policy period will end on the day and hour stated in the cancellation notice.
4. Any of these provisions that conflict with a law that controls the cancellation of the insurance in this policy is changed by this statement to comply with the law.

**E. Sole Representative**

The insured first named in Item 1 of the Information Page will act on behalf of all insureds to change this policy, receive return premium, and give or receive notice of cancellation.