

CADES SCHUTTE
A Limited Liability Law Partnership

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ALOHA PETROLEUM, LTD.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

ALOHA PETROLEUM, LTD.,

Plaintiff,

v.

NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA,

Defendant.

CIVIL NO. _____
(Contract)

**COMPLAINT; EXHIBIT A; DEMAND
FOR JURY TRIAL**

COMPLAINT

1. Plaintiff Aloha Petroleum, Ltd. (“**Aloha**”), by its undersigned counsel, brings this action against Defendant National Union Fire Insurance Company of Pittsburgh, PA (“**National Union**”), and alleges as follows:

INTRODUCTION

2. Aloha brings this action for breach of contract and declaratory relief arising out of National Union’s failure to honor its contractual obligations to provide coverage to Aloha in connection with underlying climate-change-related lawsuits brought against Aloha by the City and County of Honolulu and Honolulu Board of Water Supply (“**Honolulu Action**”), and by the County of Maui (“**Maui Action**”).

3. Defendant National Union issued to Aloha’s then-parent E-Z Serve, Inc., a liability insurance policy no. GLA 1169253, with a policy period of February 1, 1985 to February 1, 1986 (“**1985 National Union Policy**”). A partially redacted copy of that policy is attached and incorporated as Exhibit “A.”

4. Upon information and belief, Defendant National Union issued to Aloha’s then-parent E-Z Serve, Inc., a liability insurance policy no. GLA 1169215, with a policy period of February 1, 1984 to February 1, 1985 (the “**1984 National Union Policy**”).

5. Upon information and belief, Defendant National Union has assumed by merger the obligations of Landmark Insurance Company, which issued to Aloha’s

then-parent E-Z Serve, Inc., a liability insurance policy no. SMP 8000367, with a policy period of October 1, 1980 to October 1, 1981 (the “**1980 Landmark Policy**”).

6. Upon information and belief, Defendant National Union has assumed by merger the obligations of Landmark Insurance Company, which issued to Aloha’s then-parent E-Z Serve, Inc., a liability policy no. SMP 8000067, with a policy period of October 1, 1978 to October 1, 1980 (the “**1978 Landmark Policy**”).

7. Upon information and belief, the four above-referenced policies (the “**AIG Policies**”) include within their coverage Aloha as an additional Named Insured.

8. Upon information and belief, the above-referenced policies obligate National Union to defend and indemnify Aloha in connection with the Honolulu Action and Maui Action referenced above.

9. Aloha brings this action because National Union has failed and/or refused to defend and indemnify Aloha under any of the AIG Policies.

PARTIES

10. Aloha, currently a subsidiary of Sunoco, LP, is incorporated in the State of Hawai‘i, with its principal place of business in Honolulu, Hawai‘i.

11. Upon information and belief, National Union is an insurance company incorporated under the laws of Pennsylvania, with its principal place of business in New York, New York.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between plaintiff and defendant, and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

13. Pursuant to 28 U.S.C. § 1391(b)(2), venue is proper in this district as the claims in this action arise in Hawai‘i.

BACKGROUND

The Underlying Climate Change Lawsuits

14. This action concerns insurance coverage for two separate but related lawsuits filed against Aloha (and other defendants) by the City and County of Honolulu and Honolulu Board of Water Supply (filed March 9, 2020 in the First Circuit Court, State of Hawai‘i, Civil No. 1CCV-20-0000380 (LWC), amended March 22, 2021), and the County of Maui (filed October 12, 2020 in the Second Circuit Court, State of Hawai‘i, Civil No. 2CCV-20-0000283) (collectively, the “**Climate Change Lawsuits**”).

15. In their respective complaints in the Climate Change Lawsuits, the plaintiffs allege, *inter alia*, that fossil fuel products, when used in the ordinary course, have contributed to emissions of carbon dioxide, and other greenhouse gases – and that the use of those products by the public have contributed to global

warming. Specifically, the plaintiffs assert various tort claims contending that the defendants are directly responsible for the damaging effects of global warming because of defendants' alleged failure to disclose or warn of the hazards of using the fossil fuel products that the defendants sold into the stream of commerce. Plaintiffs assert that these alleged failures to disclose or warn resulted in increased carbon dioxide emissions – and an increase in resulting injuries and damage from the use of fossil fuel products – during the period between 1965 and the present.

16. The plaintiffs further allege that, as a result of global warming and its attendant environmental impacts, they have suffered and will continue to suffer severe damage and injury, including but not limited to: the injury to or destruction of publicly-owned-or-operated facilities and assets, increased costs concerning planning and preparation, and injuries to public resources.

17. The plaintiffs assert various claims against Aloha (and other defendants), such as strict liability for failure to warn, negligent failure to warn, as well as claims of nuisance and trespass.

18. The plaintiffs seek an unspecified amount of compensatory damages, as well as equitable relief and attorneys' fees and costs of litigation, among other damages.

19. Aloha disputes the plaintiffs' claims and has retained counsel to provide a defense with respect to the Climate Change Lawsuits.

20. To date, Aloha has incurred more than \$880,000 in defense costs in connection with the Climate Change lawsuits, and Aloha expects that it will continue to incur significant additional defense costs, as the litigation progresses.

Notice and Denial of Coverage

21. On or about February 2, 2021, Aloha provided National Union with notice of the Climate Change Lawsuits under the four AIG Policies, along with a request for defense and indemnity coverage under the AIG Policies.

22. By letter dated April 19, 2021, National Union expressed its inability to locate copies of three of the four policies (the 1978 Landmark Policy, the 1980 Landmark Policy and the 1984 National Union Policy). National Union did, however, acknowledge the issuance of the 1985 National Union Policy.

23. In its April 19, 2021 letter, National Union denied coverage for the Climate Change Lawsuits under the 1985 National Union Policy.

24. In its April 19, 2021 letter, National Union asserted the position that exclusion (f), the so-called “qualified pollution exclusion,” in the 1985 National Union Policy precludes all coverage – both defense and indemnity – for the Climate Change Lawsuits.

25. Despite subsequent correspondence sent by Aloha explaining why National Union’s denial of coverage is incorrect, National Union continues to deny its contractual obligation to provide coverage for the Climate Change Lawsuits.

1985 National Union Policy

26. In exchange for the payment of certain premiums, National Union issued a Comprehensive General Liability insurance policy bearing policy number GLA 1169253 to E-Z Serve, Inc., which by endorsement names Aloha as a Named Insured. *See* 1985 National Union Policy, Ex. A, at p. EZSERVE000024.

27. The 1985 National Union Policy provides coverage for “all sums which the insured shall become legally obligated to pay as damages because of A. bodily injury or B. property damage to which this insurance applies, caused by an occurrence . . .” *Id.* at § I, at p. EZSERVE000003.

28. The 1985 National Union Policy also provides that “. . . *the company shall have the right and duty to defend any suit against the insured seeking damages on account of such bodily injury or property damage, even if any of the allegations of the suit are groundless, false or fraudulent . . .*” *Id.* at § I (emphasis added).

29. “Bodily injury” is defined as “bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom.” *Id.* at “Definitions”, at p. EZSERVE000004.

30. The 1985 National Union Policy defines “property damage” as “(1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss

of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period.” *Id.*

31. “Occurrence,” in turn, is defined as “an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.” *Id.*

32. The 1985 National Union Policy further provides for \$1 million in per occurrence and aggregate (where applicable) coverage for bodily injury liability and property damage liability for the February 1, 1985 to February 1, 1986 policy period. *See id.* at p. EZSERVE000014.

33. The 1985 National Union Policy obligates National Union to pay any covered claim or judgment or defend any covered suit until “the applicable limit of the company’s liability has been exhausted by payment of judgments or settlements.” *Id.* at EZSERVE000003, § I.

34. The 1985 National Union Policy specifically provides coverage for “products hazard” which includes bodily injury or property damage arising out of the named insured’s products. *Id.* at EZSERVE000004.

35. Notwithstanding these express contractual obligations, National Union refuses to provide defense or indemnity coverage to Aloha under the 1985 National Union Policy with respect to the Climate Change Lawsuits.

36. On information and belief, National Union would assert the same denial-of-coverage position with respect to the 1984 National Union Policy, the 1978 Landmark Policy and the 1980 Landmark Policy.

COUNT I

(Breach of Contract – Duty to Defend)

37. Aloha re-alleges paragraphs 1 through 36.

38. Aloha has incurred and continues to incur substantial defense costs in connection with the Climate Change Lawsuits.

39. Aloha is entitled to a defense under one or more of the AIG Policies with respect to the Climate Change Lawsuits.

40. All conditions precedent to recovery under the AIG Policies have been satisfied, waived, or are otherwise inapplicable.

41. National Union refuses and/or has failed to defend Aloha with respect to the Climate Change Lawsuits.

42. National Union has acted in a manner inconsistent with the terms and conditions of the AIG Policies, and its actions constitute a breach of the AIG Policies.

43. As a direct and proximate result of National Union's breach of the AIG Policies, Aloha has sustained, and National Union is liable for, damages in an amount to be determined at trial.

COUNT II

(Breach of Contract – Duty to Indemnify)

44. Aloha re-alleges paragraphs 1 through 43.

45. Aloha is entitled to indemnity coverage under one or more of the AIG Policies with respect to the Climate Change Lawsuits.

46. All conditions precedent to recovery under the AIG Policies have been satisfied, waived, or are otherwise inapplicable.

47. National Union has denied indemnity coverage under the 1985 National Union Policy and, upon information and belief, would deny indemnity coverage under the other three AIG Policies once they are located.

48. National Union has acted in a manner inconsistent with the terms and conditions of the AIG Policies, and its actions constitute a breach of the AIG Policies.

49. As a direct and proximate result of National Union's breach of the AIG Policies, Aloha has sustained, and National Union is liable for, damages in an amount to be determined at trial.

COUNT III

(Declaratory Judgment)

50. Aloha re-alleges paragraphs 1 through 49.

51. Aloha's alleged liability arising out of the Climate Change Lawsuits, as well as Aloha's costs of defending against those lawsuits, are within the coverage provided by the AIG Policies.

52. With respect to Aloha's alleged liability arising out of the Climate Change Lawsuits, an alleged occurrence and/or bodily injury, property damage, or other triggering event within the meaning of the AIG Policies has taken place during the periods of these policies.

53. All conditions precedent to recovery under the AIG Policies have been satisfied, waived, or are otherwise inapplicable.

54. An actual controversy exists between Aloha and National Union regarding National Union's duties and obligations under the AIG Policies, because Aloha contends that:

- (a) To date, National Union has repudiated its duty to defend Aloha against the claims brought in the Climate Change lawsuits, and National Union's duty to defend does not terminate until the AIG Policies' applicable limits of liability have been exhausted;
- (b) National Union has a duty to pay all sums with respect to any indemnity costs that Aloha may incur with respect to the Climate Change Lawsuits, subject to the applicable limits of the AIG Policies;

55. A judicial declaration is necessary to resolve the controversy between the parties.

56. Under 28 U.S.C. § 2201 et seq., Aloha is entitled to a declaration by this Court of its rights and National Union's duties with respect to the insurance claims discussed in this complaint.

WHEREFORE, Aloha requests a judgment in its favor and against National Union as follows:

- (a) Declaring that National Union has a duty to defend Aloha for the Climate Change Lawsuits;
- (b) Declaring that National Union has a duty to indemnify Aloha for the Climate Change Lawsuits;
- (c) Entering a judgment enjoining National Union from failing to defend and indemnify Aloha for the Climate Change Lawsuits;
- (d) For money damages in an amount yet to be ascertained;
- (e) For reasonable and necessary attorneys' fees and costs; and
- (f) For other such relief as is just and proper, including interest.

DATED: Honolulu, Hawai'i, August 10, 2022.

CADES SCHUTTE
A Limited Liability Law Partnership

/s/ C. Michael Heihre

C. MICHAEL HEIHRE
MICHU MOMOSE

Attorneys for Plaintiff
ALOHA PETROLEUM, LTD.

GENERAL LIABILITY-AUTOMOBILE

DAILY REPORT
NATIONAL UNION
FIRE INSURANCE COMPANY
OF PITTSBURGH, PA.

GLA 116-82-15
Renewal of Number

BRANCH	B9	DEPARTMENT	#751
DIVISION	#59	MAJOR PRODUCT	General Liability Garage Ins.
BROKER	#05769	COMMISSION	10%
#03769			

Item 1. Named insured and Address:

(No., Street, Town or City, County, State)

E-Z Serve, Inc.
901 S. First Street
Abilene, Texas 79601

Perry Hunter Hall, Inc.
P. O. Box 1480
Abilene, Texas 79604

Item 2. Policy Period (Mo., Day, Yr.)

From 8-1-85 to 2-1-86
12:01 A.M., standard time at the address of the named insured as stated herein.

The named insured is:

☐

Individual

☐

Partnership

☒

Corporation

☐

Joint Venture

☐

Other

Business of the named insured is: (ENTER BELOW)

Audit Period: Annual, unless otherwise specified. (ENTER BELOW)

Refiner and distributor of oil products

Item 3. The insurance afforded is only with respect to the Coverage Part(s) indicated below by specific premium charge(s) and attached to and forming a part of this policy

Advance Premiums	Coverage Part No(s).	Coverage Part(s)	Advance Premiums	Coverage Part No(s).	Coverage Part(s)
\$		Automobile Medical Payments Insurance	\$		Hospital Professional Liability Insurance
\$		Automobile Physical Damage Insurance (Deductible)	\$		Manufacturers' and Contractors' Liability Insurance
\$		Automobile Physical Damage Insurance (Fleet Automobile)	\$		Owners' and Contractor's Protective Liability Insurance
\$		Automobile Physical Damage Insurance (Non-Fleet)	\$		Owners', Landlords' and Tenants' Liability Insurance
\$		Basic Automobile Liability Insurance	\$		Personal Injury Liability Insurance
\$		Completed Operations and Products Liability Insurance	\$		Physicians', Surgeons' and Dentists' Professional Liability Insurance
\$		Comprehensive Automobile Liability Insurance	\$		Premises Medical Payments Insurance
\$	1 639a	Corporate General Liability Insurance	\$		Special Protection Highway Liability Insurance New York Department of Transportation
\$		Contractual Liability Insurance	\$		Storekeeper's Insurance
\$		Druggists' Liability Insurance	\$		Uninsured Motorists Insurance
\$		Elevator Collision Insurance	\$		
\$		Farm Employers' Liability and Farm Employees' Medical Payments Insurance	\$		
\$		Farmer's Comprehensive Personal Insurance	\$		
\$		Farmer's Medical Payments Insurance	\$		
\$	A 151a	Garage Insurance			
\$					
\$					
\$		Total Advance Premium for this policy.			

Form numbers of endorsements, other than those entered on Coverage Part(s), attached at issue

* If the Policy Period is more than one year and the premium is to be paid in installments, premium is payable on:

Effective Date 1st Anniversary 2nd Anniversary

\$ \$ \$

Item 4. During the past three years no insurer has cancelled insurance, issued to the named insured, similar to that afforded hereunder, unless otherwise stated herein.

Countersigned:
019-177-3-15/B23
Not applicable in Texas

28321 (1/80)

By _____
Authorized Representative

HOME OFFICE COPY

ORDER 19 Y 39162 (8/83)

COVERAGE PART

COMPREHENSIVE GENERAL-LIABILITY INSURANCE

L 6395a
(Ed. 1-77)For attachment to Policy No. GLA 110-52-53 To complete said policy.

ADDITIONAL DECLARATIONS

Location of all premises owned by, rented to or controlled by the named insured. (ENTER "NAME" IF SAME LOCATION AS ADDRESS SHOWN IN ITEM 1 OF DECLARATIONS)

Interest of named insured in such premises (CHECK BELOW)

☐ Owner ☐ General Lessee ☐ Tenant ☐ Other

Part occupied by named insured. (CHECK BELOW)

The following discloses all hazards insured hereunder known to exist at the effective date of this policy, unless otherwise stated herein.

SCHEDULE

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	Limits of Liability		Advance Premiums
	each occurrence	aggregate	
A-Bodily Injury Liability	\$ SEE ENCL.	\$	\$
B-Property Damage Liability	\$ 1,000	\$	\$
Form numbers of endorsements attached at issue			\$
Total Advance Premium			\$

General Liability Hazards

Description of Hazards	Code No.	Item Basis	Rates		Advance Premiums	
			D.I.	P.D.	Bodily Injury	Property Damage
Premises - Operations:						
See Extension Schedules						
Escalators (Number at Premises)		Number Insured	Per Landing			
Independent Contractors		Cost	Per \$100 of Cost			
Completed Operations		(a) Receipts	(b) Per \$1,000 of Receipts			
Products		(a) Sales	(b) Per \$1,000 of Sales			
Total Advance D.I. and P.D. Premiums			\$		\$	

019-117-3-15/824

When used as a premium basis:

- "admissions" means the total number of persons, other than employees of the named insured, admitted to the event insured or to events conducted on the premises whether on paid admission tickets, complimentary tickets or passes;
- "cost" means the total cost to the named insured with respect to operations performed for the named insured during the policy period by independent contractors of all work let or sub-let in connection with each specific project, including the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of such work, whether furnished by the owner, contractor or subcontractor, including all fees, allowances, bonuses or commissions made, paid or due;
- "receipts" means the gross amount of money charged by the named insured for such operations by the named insured or by others during the policy period as are listed on a receipts basis other than receipts from telecasting, broadcasting or motion pictures, and includes taxes, other than taxes which the named insured collects as a separate item and remits directly to a governmental division;
- "remuneration" means the entire remuneration earned during the policy period by proprietors and by all employees of the named insured, other than chauffeurs (except operators of mobile equipment) and aircraft pilots and co-pilots, subject to any overtime earnings or limitation of remuneration rule applicable in accordance with the manuals in use by the company;
- "sales" means the gross amount of money charged by the named insured or by others trading under his name for all goods and products sold or distributed during the policy period, including installation, servicing or repair, and includes taxes, other than taxes which the named insured and such others collect as a separate item and remit directly to a governmental division.

(over)

I. COVERAGE A—BODILY INJURY LIABILITY
COVERAGE B—PROPERTY DAMAGE LIABILITY

The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of

A. bodily injury or
B. property damage

to which this insurance applies, caused by an occurrence, and the company shall have the right and duty to defend any suit against the insured seeking damages on account of such bodily injury or property damage, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

Exclusions

This insurance does not apply:

- (a) to liability assumed by the insured under any contract or agreement except an incidental contract, but this exclusion does not apply to a warranty of fitness or quality of the named insured's products or a warranty that work performed by or on behalf of the named insured will be done in a workmanlike manner;
- (b) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) any automobile or aircraft owned or operated by or rented or loaned to any insured; or
 - (2) any other automobile or aircraft operated by any person in the course of his employment by any insured;
 but this exclusion does not apply to the parking of an automobile on premises owned by, rented to or controlled by the named insured or the ways immediately adjoining. If such automobile is not owned by or rented or loaned to any insured;
- (c) to bodily injury or property damage arising out of (1) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment which being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity or (2) the operation or use of any snowmobile or trailer designed for use therewith;
- (d) to bodily injury or property damage arising out of and in the course of the transportation of mobile equipment by an automobile owned or operated by or rented or loaned to any insured;
- (e) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) any watercraft owned or operated by or rented or loaned to any insured; or
 - (2) any other watercraft operated by any person in the course of his employment by any insured;
 but this exclusion does not apply to watercraft while ashore on premises owned by, rented to or controlled by the named insured;
- (f) to bodily injury or property damage arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;
- (g) 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 by the insured under an incidental contract; or
 - (2) expenses for first aid under the Supplementary Payments provision;
- (h) to bodily injury or property damage for which the insured or his indemnitee may be held liable:
 - (1) as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages; or
 - (2) if not so engaged, as an owner or lessor of premises used for such purposes;
 if such liability is imposed
 - (a) by, or
 - (b) as a result of the violation of, any statute, ordinance or regulation pertaining to the sale, gift, distribution or use of any alcoholic beverage; or
 - (c) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person;
 but part (h) of this exclusion does not apply with respect to liability of the insured or his indemnitee as an owner or lessor described in (2) above;
- (i) 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;
- (j) to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured or to any obligation of the insured to indemnify another because of damages arising out of such injury; but this exclusion does not apply to liability assumed by the insured under an incidental contract;
- (k) to property damage to:
 - (1) property owned or occupied by or rented to the insured;
 - (2) property used by the insured; or
 - (3) property in the care, custody or control of the insured or as to which the insured is for any purpose exercising physical control;
 but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidehack agreement and part (3) of this exclusion does not apply with respect to property damage (other than to elevators) arising out of the use of an elevator at premises owned by, rented to or controlled by the named insured;
- (l) to property damage to premises alienated by the named insured arising out of such premises or any part thereof;
- (m) to loss of use of tangible property which has not been physically injured or destroyed resulting from:
 - (1) a delay in or lack of performance by or on behalf of the named insured of any contract or agreement; or
 - (2) the failure of the named insured's products or work performed by or on behalf of the named insured to meet the level of performance, quality, fitness or durability warranted or represented by the named insured; but this exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the named insured's products or work performed by or on behalf of the

named insured after such products or work have been put in use by any person or organization other than an insured;

- (n) to property damage to the named insured's products arising out of such products or any part of such products;
- (o) to property damage to work performed by or on behalf of the named insured arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;
- (p) 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 work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;
- (q) to property damage included within:
 - (1) the explosion hazard in connection with operations identified in this policy by a classification code number which includes the symbol "x";
 - (2) the collapse hazard in connection with operations identified in this policy by a classification code number which includes the symbol "c";
 - (3) the underground property damage hazard in connection with operations identified in this policy by a classification code number which includes the symbol "u".

H. PERSONS INSURED

Each of the following is an insured under this insurance to the extent set forth below:

- (a) if the named insured is designated in the declarations as an individual, the person so designated but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the named insured with respect to the conduct of such a business;
- (b) if the named insured is designated in the declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such;
- (c) if the named insured is designated in the declarations as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such;
- (d) any person other than an employee of the named insured or organization while acting as a real estate manager for the named insured; and
- (e) with respect to the operation, for the purpose of locomotion upon a public highway, of mobile equipment registered under any motor vehicle registration law:
 - (i) an employee of the named insured while operating any such equipment in the course of his employment; and
 - (ii) any other person while operating with the permission of the named insured any such equipment registered in the name of the named insured and any person or organization legally responsible for such operation, but only if there is no other valid and collectible insurance available, either on a primary or excess basis, to such person or organization;
 provided that no person or organization shall be an insured under this paragraph (e) with respect to:
 - (1) bodily injury to any fellow employee of such person insured in the course of his employment; or
 - (2) property damage to property owned by, rented to, in charge of or occupied by the named insured or the employer of any person described in subparagraph (ii).

This insurance does not apply to bodily injury or property damage arising out of the conduct of any partnership or joint venture of which the insured is a partner or member and which is not designated in this policy as a named insured.

I. LIMITS OF LIABILITY

Regardless of the number of (1) insureds under this policy, (2) persons or organizations who sustain bodily injury or property damage, or (3) claims made or suits brought on account of bodily injury or property damage, the company's liability is limited as follows:

Coverage A—The total liability of the company for all damages, including damages for care and loss of services, because of bodily injury sustained by one or more persons as the result of any one occurrence shall not exceed the limit of bodily injury liability stated in the schedule as applicable to "each occurrence". Subject to the above provision respecting "each occurrence", the total liability of the company for all damages because of (1) all bodily injury included within the scheduled operations hazard and (2) all bodily injury included within the products hazard shall not exceed the limit of bodily injury liability stated in the schedule as "aggregate".

Coverage B—The total liability of the company for all damages because of all property damage sustained by one or more persons or organizations as the result of any one occurrence shall not exceed the limit of property damage liability stated in the schedule as applicable to "each occurrence".

Subject to the above provision respecting "each occurrence", the total liability of the company for all damages because of all property damage to which this coverage applies and described in any of the numbered subparagraphs below shall not exceed the limit of property damage liability stated in the schedule as "aggregate".

- (1) all property damage arising out of premises or operations rated on a remuneration basis or contractor's equipment rated on a receipts basis, including property damage for which liability is assumed under any incidental contract relating to such premises or operations, but excluding property damage included in subparagraph (2) below;
 - (2) all property damage arising out of and occurring in the course of operations performed for the named insured by independent contractors and general supervision thereof by the named insured, including any such property damage for which liability is assumed under any incidental contract relating to such operations, but this subparagraph (2) does not include property damage arising out of maintenance or repairs at premises owned by or rented to the named insured or structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;
 - (3) all property damage included within the products hazard and all property damage included within the completed operations hazard.
- Such aggregate limit shall apply separately to the property damage described in subparagraphs (1), (2) and (3) above, and under subparagraphs (1) and (2), separately with respect to each project away from premises owned by or rented to the named insured.

Coverages A and B—For the purpose of determining the limit of the company's liability, all bodily injury and property damage arising out of continuous or repeated exposure to substantially the same general condition shall be considered as arising out of one occurrence.

IV. POLICY TERRITORY

This insurance applies only to bodily injury or property damage which occurs within the policy territory.

100-1000000000
 AUTHENTIC

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

(A stock insurance company, herein called the company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, agrees with the named insured as follows:

DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

"automobile" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include mobile equipment;

"bodily injury" means bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom;

"collapse hazard" includes "structural property damage" as defined herein and property damage to any other property at any time resulting therefrom. "Structural property damage" means the collapse of or structural injury to any building or structure due to (1) grading of land, excavating, borrowing, filling, back-filling, tunnelling, pile driving, cofferdam work or caisson work or (2) moving, shoring, underpinning, raising or demolition of any building or structure or removal or rebuilding of any structural support thereof. The collapse hazard does not include property damage (1) arising out of operations performed for the named insured by independent contractors, or (2) included within the completed operations hazard or the underground property damage hazard, or (3) for which liability is assumed by the insured under an incidental contract;

"completed operations hazard" includes bodily injury and property damage arising out of operations or reliance upon a representation or warranty made at any time with respect thereto, but only if the bodily injury or property damage occurs after such operations have been completed or abandoned and occurs away from premises owned by or rented to the named insured. "Operations" include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (1) when all operations to be performed by or on behalf of the named insured under the contract have been completed,
- (2) when all operations to be performed by or on behalf of the named insured at the site of the operations have been completed, or
- (3) when the portion of the work out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete, shall be deemed completed.

The completed operations hazard does not include bodily injury or property damage arising out of

- (a) operations in connection with the transportation of property, unless the bodily injury or property damage arises out of a condition in or on a vehicle created by the loading or unloading thereof,
- (b) the existence of tools, uninstalled equipment or abandoned or unused materials, or
- (c) operations for which the classification stated in the policy or in the company's manual specifies "including completed operations";

"elevator" means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery; but does not include an automobile servicing hoist, or a hoist without a platform outside a building if without mechanical power or if not attached to building walls, or a hoist or material hoist used in alteration, construction or demolition operations, or an inclined conveyor used exclusively for carrying property or a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

"explosion hazard" includes property damage arising out of blasting or explosion. The explosion hazard does not include property damage (1) arising out of the explosion of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment, or (2) arising out of operations performed for the named insured by independent contractors, or (3) included within the completed operations hazard or the underground property damage hazard, or (4) for which liability is assumed by the insured under an incidental contract;

SUPPLEMENTARY PAYMENTS

The company will pay, in addition to the applicable limit of liability:

- (a) all expenses incurred by the company, all costs taxed against the insured in any suit defended by the company and all interest on the entire amount of any judgment therein which accrues after entry of the judgment and before the company has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the company's liability thereon;
- (b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this policy, and the cost of bail bonds required

completed operations hazard or the underground property damage hazard, or (4) for which liability is assumed by the insured under an incidental contract;

"incidental contract" means any written (1) lease of premises, (2) easement agreement, except in connection with construction or demolition operations on or adjacent to a railroad, (3) undertaking to indemnify a municipality required by municipal ordinance, except in connection with work for the municipality, (4) side-track agreement, or (5) elevator maintenance agreement;

"insured" means any person or organization qualifying as an insured in the "Persons Insured" provision of the applicable insurance coverage. The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability;

"mobile equipment" means a land vehicle (including any machinery or apparatus attached thereto), whether or not self-propelled, (1) not subject to motor vehicle registration, or (2) maintained for use exclusively on premises owned by or rented to the named insured, including the ways immediately adjoining, or (3) designed for use principally off public roads, or (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle: power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding and building cleaning equipment; and geophysical exploration and well servicing equipment;

"named insured" means the person or organization named in Item 1. of the declarations of this policy;

"named insured's products" means goods or products manufactured, sold, handled or distributed by the named insured or by others trading under his name, including any container thereof (other than a vehicle), but "named insured's products" shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold;

"occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured;

"policy territory" means:

- (1) the United States of America, its territories or possessions, or Canada, or
- (2) international waters or air space, provided the bodily injury or property damage does not occur in the course of travel or transportation to or from any other country, state or nation, or
- (3) anywhere in the world with respect to damages because of bodily injury or property damage arising out of a product which was sold for use or consumption within the territory described in paragraph (1) above, provided the original suit for such damages is brought within such territory;

"products hazard" includes bodily injury and property damage arising out of the named insured's products or reliance upon a representation or warranty made at any time with respect thereto, but only if the bodily injury or property damage occurs away from premises owned by or rented to the named insured and after physical possession of such products has been relinquished to others;

"property damage" means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period;

"underground property damage hazard" includes underground property damage as defined herein and property damage to any other property at any time resulting therefrom. "Underground property damage" means property damage to wires, conduits, pipes, mains, sewers, tanks, tunnels, any similar property, and any apparatus in connection therewith, beneath the surface of the ground or water, caused by and occurring during the use of mechanical equipment for the purpose of grading land, paving, excavating, drilling, borrowing, filling, back-filling or pile driving. The underground property damage hazard does not include property damage (1) arising out of operations performed for the named insured by independent contractors, or (2) included within the completed operations hazard, or (3) for which liability is assumed by the insured under an incidental contract.

of the insured because of accident or traffic law violation arising out of the use of any vehicle to which this policy applies, not to exceed \$250 per bail bond, but the company shall have no obligation to apply for or furnish any such bonds;

- (c) expenses incurred by the insured for first aid to others at the time of an accident, for bodily injury to which this policy applies;
- (d) reasonable expenses incurred by the insured at the company's request in assisting the company in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$25 per day.

Each Coverage Part(s) and Endorsement(s) (If Any)

CONDITIONS

1. **Premium:** All premiums for this policy shall be computed in accordance with the company's rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.

Premium designated in this policy as "advance premium" is a deposit premium only which shall be credited to the amount of the earned premium due at the end of the policy period. At the close of each period (or part thereof terminating with the end of the policy period) designated in the declarations as the audit period the earned premium shall be computed for such period and, upon notice thereof to the named insured, shall become due and payable. If the total earned premium for the policy period is less than the premium previously paid, the company shall return to the named insured the unearned portion paid by the named insured.

The named insured shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to the company at the end of the policy period and at such times during the policy period as the company may direct.

2. **Inspection and Audit:** The company shall be permitted but not obligated to inspect the named insured's property and operations at any time. Neither the company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the named insured or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The company may examine and audit the named insured's books and records at any time during the policy period and extensions thereof and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.

3. **Financial Responsibility Laws:** When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, such insurance as is afforded by this policy for bodily injury liability or for property damage liability shall comply with the provisions of such law to the extent of the coverage and limits of liability required by such law. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph.

4. **Insured's Duties in the Event of Occurrence, Claim or Suit:**

- (a) In the event of an occurrence, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to the company or any of its authorized agents as soon as practicable.
- (b) If claim is made or suit is brought against the insured, the insured shall immediately forward to the company every demand, notice, summons or other process received by him or his representative.
- (c) The insured shall cooperate with the company and, upon the company's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of injury or damage with respect to which insurance is afforded under this policy; and the insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of accident.

5. **Action Against Company:** No action shall lie against the company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the company.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the company as a party to any action against the insured to determine the insured's liability, nor shall the company be impleaded by the insured or his legal representative. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the company of any of its obligations hereunder.

6. **Other Insurance:** The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

(a) **Contribution by Equal Shares.** If all of such other valid and collectible insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

(b) **Contribution by Limits.** If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

7. **Subrogation:** In the event of any payment under this policy, the company shall be subrogated to all the insured's rights of recovery therefor against any person or organization and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.

8. **Changes:** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the company from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

9. **Assignment:** Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon; if, however, the named insured shall die, such insurance as is afforded by this policy shall apply (1) to the named insured's legal representative, as the named insured, but only while acting within the scope of his duties as such; and (2) with respect to the property of the named insured, to the person having proper temporary custody thereof, as insured, but only until the appointment and qualification of the legal representative.

10. **Three Year Policy:** If this policy is issued for a period of three years any limit of the company's liability stated in this policy as "aggregate" shall apply separately to each consecutive annual period thereof.

11. **Cancellation:** This policy may be cancelled by the named insured by surrender thereof to the company or any of its authorized agents or by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the company by mailing to the named insured at the address shown in this policy, written notice stating when not less than ten days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the named insured or by the company shall be equivalent to mailing.

If the named insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective; but payment or tender of unearned premium is not a condition of cancellation.

12. **Declarations:** By acceptance of this policy, the named insured agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the company or any of its agents relating to this insurance.

IN WITNESS WHEREOF, the National Union Fire Insurance Company has caused this policy to be signed by its president and secretary and countersigned on the declarations page by a duly authorized representative of the company.

David E. Jaffe Secretary

[Signature] President

This endorsement modifies the provisions of the [redacted] relating to ALL AUTOMOBILE LIABILITY, GENERAL LIABILITY AND MEDICAL PAYMENTS INSURANCE OTHER THAN COMPREHENSIVE PERSONAL AND FARMER'S COMPREHENSIVE PERSONAL INSURANCE.

Nuclear Energy Liability Exclusion Endorsement—Broad Form

It is agreed that:

I. The policy does not apply:

A. Under any Liability Coverage, to bodily injury or property damage

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

(2) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

C. Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous properties of nuclear material, if

(1) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom;

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

(3) the bodily injury or property damage arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to property damage to such nuclear facility and any property thereat.

NEW YORK—It is agreed that the provisions of the "Nuclear Energy Liability Exclusion Endorsement—Broad Form", printed above, do not apply in New York with respect to any Automobile Bodily Injury Liability and Automobile Property Damage Liability coverage afforded by this policy.

II. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any material

(a) containing by-product material other than the tailings or wastes produced by the extraction or concentration or uranium or thorium from any ore processed primarily for its source material content, and

(b) resulting from the operation by any person or organization of any nuclear facility included under the first two paragraphs of the definition of nuclear facility;

"nuclear facility" means

(a) any nuclear reactor;

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste;

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

the knowledge or consent of the insured;
 (3) to personal injury or advertising injury arising out of a publication or utterance of a libel or slander, or a publication or utterance in violation of an individual's right of privacy, if the first injurious publication or utterance of the same or similar material

... of any motor equipment while being used in any premises or organized racing, speed or demolition contest or in any starting activity or in practice or preparation for any such contest or activity, or
 (2) the operation or use of any automobile or trailer designed for use thereon.

This endorsement, effective

2-1-85
 (12:01 A.M., standard time)

, forms a part of policy No. GLA 116-52-53

Issued to E-Z Serve, Inc.

by National Union Fire Insurance Company of Pittsburgh, Pa.

Authorized Representative

SCHEDULE

Personal Injury and Advertising Injury Liability	
Aggregate limit shall be the per occurrence bodily injury liability limit unless otherwise indicated herein.	
Limit of Liability \$	Aggregate
Limit of Liability—Premises Medical Payments Coverage:	
\$1,000 each Person unless otherwise indicated herein \$	each person.
Limit of Liability—Fire Legal Liability Coverage:	
\$50,000 per occurrence unless otherwise indicated herein \$	per occurrence.
Adm	Premium Basis
\$	% OF THE TOTAL COMPREHENSIVE GENERAL LIABILITY BODILY INJURY AND PROPERTY DAMAGE PREMIUM AS OTHERWISE DETERMINED
\$	MINIMUM PREMIUM
\$	Additional Premium

I. CONTRACTUAL LIABILITY COVERAGE

(A) The definition of incidental contract is extended to include any contract or agreement relating to the conduct of the named insured's business.

(B) The insurance afforded with respect to liability assumed under an incidental contract is subject to the following additional exclusions:

- (1) to bodily injury or property damage for which the insured has assumed liability under any incidental contract, if such injury or damage occurred prior to the execution of the incidental contract;
- (2) if the insured is an architect, engineer or surveyor, to bodily injury or property damage arising out of the rendering or failure to render professional services by such insured, including:
 - (a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, and
 - (b) supervisory, inspection or engineering services;

(3) if the indemnitee of the insured is an architect, engineer or surveyor, to the liability of the indemnitee, his agents or employees, arising out of:

- (a) the preparation or approval or the failure to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or
- (b) the giving of or the failure to give directions or instructions by the indemnitee, his agents or employees, provided such giving or failure to give is the primary cause of the bodily injury or property damage;

(4) to any obligation for which the insured may be held liable in an action on a contract by a third party beneficiary for bodily injury or property damage arising out of a project for a public authority, but this exclusion does not apply to an action by the public authority, or any other person or organization engaged in the project;

(5) to bodily injury or property damage arising out of operations, within 50 feet of any railroad property, affecting any railroad bridge or trestle, tracks, road bed, tunnel, underpass or crossing; but this exclusion does not apply to railroad agreements.

(C) The following exclusions applicable to Coverages A (Bodily Injury) and B (Property Damage) do not apply to this Contractual Liability Coverage: (a), (c) (2), (d) and (e).

(D) The following additional condition applies:

Arbitration

The company shall be entitled to exercise all of the insured's rights in the choice of arbitrators and in the conduct of any arbitration proceeding.

II. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY COVERAGE

(A) The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of personal injury or advertising injury to which this insurance applies, sustained by any person or organization and arising out of the conduct of the named insured's business, within the policy territory, and the company shall have the right and duty to defend any suit against the insured seeking damages on account of such injury, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

(B) This insurance does not apply:

- (1) to liability assumed by the insured under any contract or agreement;
- (2) to personal injury or advertising injury arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of the insured;
- (3) to personal injury or advertising injury arising out of a publication or utterance of a libel or slander, or a publication or utterance in violation of an individual's right of privacy, if the first injurious publication or utterance of the same or similar material

(6) to advertising injury arising out of

(a) failure of performance of contract, but this exclusion does not apply to the unauthorized appropriation of ideas based upon alleged breach of implied contract, or

(b) infringement of trademark, service mark or trade name, other than titles or slogans, by use thereof on or in connection with goods, products or services sold, offered for sale or advertised, or

(c) incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;

(7) with respect to advertising injury

(a) to any insured in the business of advertising, broadcasting, publishing or telecasting, or

(b) to any injury arising out of any act committed by the insured with "actual malice."

(C) Limits of Liability

Regardless of the number of (1) insureds hereunder, (2) persons or organizations who sustain injury or damage, or (3) claims made or suits brought on account of personal injury or advertising injury the total limit of the company's liability under this coverage for all damages shall not exceed the limit of liability stated in this endorsement as "aggregate."

(D) Additional Definitions

"Advertising Injury" means injury arising out of an offense committed during the policy period occurring in the course of the named insured's advertising activities. If such injury arises out of libel, slander, defamation, violation of right of privacy, piracy, unfair competition, or infringement of copyright, title or slogan.

"Personal Injury" means injury arising out of one or more of the following offenses committed during the policy period:

1. false arrest, detention, imprisonment, or malicious prosecution;
2. wrongful entry or eviction or other invasion of the right of private occupancy;
3. a publication or utterance
 - (a) of a libel or slander or other defamatory or disparaging material, or
 - (b) in violation of an individual's right of privacy, except publications or utterances in the course of or related to advertising, broadcasting, publishing or telecasting activities conducted by or on behalf of the named insured shall not be deemed personal injury.

III. PREMISES MEDICAL PAYMENTS COVERAGE

The company will pay to or for each person who sustains bodily injury caused by accident all reasonable medical expense incurred within one year from the date of the accident on account of such bodily injury, provided such bodily injury arises out of (a) a condition in the insured premises or (b) operations with respect to which the named insured is afforded coverage for bodily injury liability under the policy.

This insurance does not apply:

(A) to bodily injury

(1) arising out of the ownership, maintenance, operation, use, loading or unloading of

(a) any automobile or aircraft owned or operated by or rented or loaned to any insured, or

(b) any other automobile or aircraft operated by any person in the course of his employment by any insured;

but this exclusion does not apply to the parking of an automobile on the insured premises, if such automobile is not owned by or rented or loaned to any insured;

(2) arising out of

(a) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment while being used in any premises or organized racing, speed or demolition contest or in any starting activity or in practice or preparation for any such contest or activity, or

(b) the operation or use of any automobile or trailer designed for use thereon.

no insurance for property damage liability applies, subject to the following additional provisions:

(A) Exclusions (k) and (l) are replaced by the following:

- (1) to property owned or occupied by or rented to the insured, or, except with respect to the use of elevators, to property held by
 - (b) to a minor,
 - (c) to a person under the influence of alcohol; or
 - (d) which causes or contributes to the intoxication of any person, if the named insured is a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages, or if not so engaged, is an owner or lessor of premises used for such purposes, but only part (b) of this exclusion (B) (3) applies when the named insured is such an owner or lessor;
 - (4) 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;
- (C) to bodily injury
- (1) to the named insured, any partner therein, any tenant or other person regularly residing on the insured premises or any employee of any of the foregoing if the bodily injury arises out of and in the course of his employment therewith;
 - (2) to any other tenant if the bodily injury occurs on that part of the insured premises rented from the named insured or to any employee of such a tenant if the bodily injury occurs on the tenant's part of the insured premises and arises out of and in the course of his employment for the tenant;
 - (3) to any person while engaged in maintenance and repair of the insured premises or alteration, demolition or new construction at such premises;
 - (4) to any person if any benefits for such bodily injury are payable or required to be provided under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;
 - (5) to any person practicing, instructing or participating in any physical training, sport, athletic activity or contest whether on a formal or informal basis;
 - (6) if the named insured is a club, to any member of the named insured;
 - (7) if the named insured is a hotel, motel, or tourist court, to any guest of the named insured;
- (D) to any medical expense for services by the named insured, any employee thereof or any person or organization under contract to the named insured to provide such services.

LIMITS OF LIABILITY

The limit of liability for Premises Medical Payments Coverage is \$1,000 each person unless otherwise stated in the schedule of this endorsement. The limit of liability applicable to "each person" is the limit of the company's liability for all medical expense for bodily injury to any one person as the result of any one accident, but subject to the above provision respecting "each person", the total liability of the company under Premises Medical Payments Coverage for all medical expense for bodily injury to two or more persons as the result of any one accident shall not exceed the limit of bodily injury liability stated in the policy as applicable to "each occurrence".

When more than one medical payments coverage afforded by the policy applies to the loss, the company shall not be liable for more than the amount of the highest applicable limit of liability.

ADDITIONAL DEFINITIONS

When used herein:

"insured premises" means all premises owned by or rented to the named insured with respect to which the named insured is afforded coverage for bodily injury liability under this policy, and includes the ways immediately adjoining on land;

"medical expense" means expenses for necessary medical, surgical, x-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

ADDITIONAL CONDITION

Medical Reports; Proof and Payment of Claim

As soon as practicable the injured person or someone on his behalf shall give to the company written proof of claim, under oath if required, and shall, after each request from the company, execute authorization to enable the company to obtain medical reports and copies of records. The injured person shall submit to physical examination by physicians selected by the company when and as often as the company may reasonably require. The company may pay the injured person or any person or organization rendering the services and the payment shall reduce the amount payable hereunder for such injury. Payment hereunder shall not constitute an admission of liability of any person or, except hereunder, of the company.

IV. HOST LIQUOR LAW LIABILITY COVERAGE

Exclusion (b) does not apply with respect to liability of the insured or his indemnitee arising out of the giving or serving of alcoholic beverages at functions incidental to the named insured's business, provided the named insured is not engaged in the business of manufacturing, distributing, selling or serving of alcoholic beverages.

V. FIRE LEGAL LIABILITY COVERAGE—REAL PROPERTY

With respect to property damage to structures or portions thereof rented to or leased to the named insured, including fixtures permanently attached thereto, if such property damage arises out of fire;

(A) All of the exclusions of the policy, other than the Nuclear Energy Liability Exclusion (Broad Form), are deleted and replaced by the following:

This insurance does not apply to liability assumed by the insured under any contract or agreement.

(B) The limit of property damage liability as respects this Fire Legal Liability Coverage—Real Property is \$50,000 each occurrence unless otherwise stated in the Schedule of this endorsement.

(C) The Fire Legal Liability Coverage—Real Property shall be excess insurance over any valid and collectible property insurance (including any deductible portion thereof), available to the insured, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

VI. BROAD FORM PROPERTY DAMAGE LIABILITY COVERAGE (Including Completed Operations)

The insurance for property damage liability applies, subject to the following additional provisions:

(A) Exclusions (k) and (l) are replaced by the following:

- (1) to property owned or occupied by or rented to the insured, or, except with respect to the use of elevators, to property held by

property damage, personal injury and advertising injury with respect to which such new organization under this policy is also an insured under any other similar liability or indemnity policy or would be an insured under any such policy but for exhaustion of its limits of liability. The insurance afforded hereby shall terminate 90 days from the date any such organization is acquired or formed by the named insured.

(d) to that particular part of any property, not on premises owned by or rented to the insured,

(i) upon which operations are being performed by or on behalf of the insured at the time of the property damage arising out of such operations, or

(ii) out of which any property damage arises, or

(iii) the restoration, repair or replacement of which has been made or is necessary by reason of faulty workmanship thereon by or on behalf of the insured;

(3) with respect to the completed operations hazard and with respect to any classification stated in the policy or in the company's manual as "including completed operations", to property damage to work performed by the named insured arising out of such work or any portion thereof, or out of such materials, parts or equipment furnished in connection therewith.

(B) The Broad Form Property Damage Liability Coverage shall be excess insurance over any valid and collectible property insurance (including any deductible portion thereof) available to the insured, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage or Installation Risk Coverage, and the Other Insurance Condition of the policy is amended accordingly.

VII. INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVERAGE

The definition of bodily injury is amended to include Incidental Medical Malpractice Injury.

Incidental Medical Malpractice Injury means injury arising out of the rendering of or failure to render, during the policy period, the following services:

- (A) medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or
- (B) the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

This coverage does not apply to:

- (1) expenses incurred by the insured for first-aid to others at the time of an accident and the "Supplementary Payments" provision and the "Insured's Duties in the Event of Occurrence, Claim or Suit" Condition are amended accordingly;
- (2) any insured engaged in the business or occupation of providing any of the services described under VII (A) and (B) above;
- (3) injury caused by any indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described under VII (A) and (B) above.

VIII. NON-OWNED WATERCRAFT LIABILITY COVERAGE (under 26 feet in length)

Exclusion (e) does not apply to any watercraft under 26 feet in length provided such watercraft is neither owned by the named insured nor being used to carry persons or property for a charge.

Where the insured is, irrespective of this coverage, covered or protected against any loss or claim which would otherwise have been paid by the company under this endorsement, there shall be no contribution or participation by this company on the basis of excess, contributing, deficiency, concurrent or double insurance or otherwise.

IX. LIMITED WORLDWIDE LIABILITY COVERAGE

The definition of policy territory is amended to include the following:

4. Anywhere in the world with respect to bodily injury, property damage, personal injury or advertising injury arising out of the activities of any insured permanently domiciled in the United States of America though temporarily outside the United States of America, its territories and possessions or Canada, provided the original suit for damages because of any such injury or damage is brought within the United States of America, its territories or possessions or Canada.

Such insurance as is afforded by paragraph 4. above shall not apply:

- (a) to bodily injury or property damage included within the completed operations hazard or the products hazard;
- (b) to premises medical payments coverage.

X. ADDITIONAL PERSONS INSURED

As respects bodily injury, property damage and advertising injury and personal injury coverages, under the provision "Persons Insured", the following are added as insureds:

- (1) Spouse—Partnership—If the named insured is a partnership, the spouse of a partner but only with respect to the conduct of the business of the named insured.
- (2) Employee—Any employee of the named insured while acting within the scope of his duties as such, but the insurance afforded to such employee does not apply:
 - (a) to bodily injury or personal injury to another employee of the named insured arising out of or in the course of his employment;
 - (b) to personal injury or advertising injury to the named insured or, if the named insured is a partnership or joint venture, any partner or member thereof, or the spouse of any of the foregoing;
 - (c) to property damage to property owned, occupied or used by, rented to, in the care, custody or control of or over which physical control is being exercised for any purpose by another employee of the named insured, or by the named insured or, if the named insured is a partnership or joint venture, any partner or member thereof or by the spouse of any of the foregoing.

XI. EXTENDED BODILY INJURY COVERAGE

The definition of occurrence includes any intentional act by or at the direction of the insured which results in bodily injury, if such injury arises solely from the use of reasonable force for the purpose of protecting persons or property.

XII. AUTOMATIC COVERAGE—NEWLY ACQUIRED ORGANIZATIONS (90 DAYS)

The word insured shall include as named insured any organization which is acquired or formed by the named insured and over which the named insured maintains ownership or majority interest, other than a joint venture, provided this insurance does not apply to bodily injury, property damage, personal injury and advertising injury with respect to which such new organization under this policy is also an insured under any other similar liability or indemnity policy or would be an insured under any such policy but for exhaustion of its limits of liability. The insurance afforded hereby shall terminate 90 days from the date any such organization is acquired or formed by the named insured.

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

LIABILITY

GL 03 00 (Ed. 07 81)
DEDUCTIBLE LIABILITY INSURANCE

L 6113a
 (Ed. 7-81)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:
 COMPREHENSIVE GENERAL LIABILITY INSURANCE
 COMPLETED OPERATIONS AND PRODUCTS LIABILITY INSURANCE
 MANUFACTURERS' AND CONTRACTORS' LIABILITY INSURANCE
 OWNERS', LANDLORDS', AND TENANTS' LIABILITY INSURANCE
 OWNERS' AND CONTRACTORS' PROTECTIVE LIABILITY INSURANCE
 SMP LIABILITY INSURANCE

This endorsement, effective

2-1-85
 (12:01 A.M., Standard Time)

, forms a part of Policy No. GLA 116-92-53

Issued to E-2 Servo, Inc.

by National Union Fire Insurance Company of Pittsburgh, Pa.

Authorized Representative

SCHEDULE

Coverage	Amount and Basis of Deductible	
Bodily Injury Liability	\$ --	per claim
	\$ --	per occurrence
Property Damage Liability	\$ --	per claim
	\$ 500.	per occurrence

APPLICATION OF ENDORSEMENT (Enter here any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to all loss however caused:—

The deductible applies only to products/completed operations claims.

It is agreed that:

1. The company's obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on behalf of the Insured, applies only to the amount of damages in excess of any deductible amounts stated in the schedule above as applicable to such coverages, and the limit of liability shown in this policy as being applicable to "each occurrence" for such coverages shall be reduced by the amount of such deductible. The limit of liability shown in this policy as "aggregate", if any, for such coverages shall not be reduced by the application of such deductible's amount.
2. The deductible amounts stated in the schedule apply as follows:
 - (a) PER CLAIM BASIS—If the deductible is on a "per claim" basis, the deductible amount applies under the Bodily Injury Liability or Property Damage Liability Coverage, respectively, to all damages because of bodily injury sustained by one person, or to all property damage sustained by one person or organization, as the result of any one occurrence.
 - (b) PER OCCURRENCE BASIS—If the deductible is on a "per occurrence" basis, the deductible amount applies under the Bodily Injury Liability or Property Damage Liability Coverage, respectively, to all damages because of all bodily injury or property damage as the result of any one occurrence, regardless of the number of persons or organizations who sustain damages because of that occurrence.
3. The terms of the policy, including those with respect to (a) the company's rights and duties with respect to the defense of suits and (b) the Insured's duties in the event of an occurrence apply irrespective of the application of the deductible's amount.
4. The company may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken, the named Insured shall promptly reimburse the company for such part of the deductible amount as has been paid by the company.

813-217-3-15/82B

11/2/85

This endorsement, effective **2-1-85** (12:01 A.M., standard time), forms a part of policy No. **GLA 116-92-53**
 issued to **E-Z Serve, Inc.**
 by **National Union Fire Insurance Company of Pittsburgh, Pa.**

Authorized Representative

As respects bodily injury liability coverage and property damage liability coverage, unless the company is prejudiced by the insured's failure to comply with the requirement, any provision of this policy requiring the insured to give notice of action, occurrence or loss, or requiring the insured to forward demands, notices, summons or other legal process, shall not bar liability under this policy.



(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

LIABILITY

GL 20 16 (Ed. 07 66)
 G 114

L 9115a
 (Ed. 7-66)

ADDITIONAL INSURED
 (Vendors—Limited Form)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:
COMPREHENSIVE GENERAL LIABILITY INSURANCE
COMPLETED OPERATIONS AND PRODUCTS LIABILITY INSURANCE

This endorsement, effective **2-1-85** (12:01 A.M., standard time), forms a part of policy No. **GLA 116-92-53**
 issued to **E-Z Serve, Inc.**
 by **National Union Fire Insurance Company of Pittsburgh, Pa.**

Authorized Representative

★ SCHEDULE

Name of Vendor(s)	Description of Product(s)
U'Tote'm Division of Fairmont Foods Company **	Gasoline
Gibson Products Company, Inc. of Denton	Gasoline
Gibson Products Company, Inc. of Gainesville	Gasoline

It is agreed that the "Persons Insured" provision is amended to include any person or organization designated above (herein referred to as "vendor"), as an insured, but only with respect to the distribution or sale in the regular course of the vendor's business of the named insured's products designated above subject to the following additional provisions:

1. The insurance with respect to the vendor does not apply to:
 - (a) any express warranty, or any distribution or sale for a purpose, unauthorized by the named insured;
 - (b) bodily injury or property damage arising out of
 - (i) any act of the vendor which changes the condition of the products;
 - (ii) any failure to maintain the product in merchantable condition;
 - (iii) any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products; or
 - (iv) products which after distribution or sale by the named insured have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor;
 - (c) bodily injury or property damage occurring within the vendor's premises.
2. The insurance does not apply to any person or organization, as insured, from whom the named insured has acquired such products or any ingredient, part or container, entering into, accompanying or packaging such products.



019-117-3-15/830

* \$500. per occurrence property damage deductible applies to products/completed operations

(The Attaching Clause Need Be Completed Only When This Endorsement Is Issued Subsequent To Preparation Of The Policy.)

LIABILITY

QL 04 14 (Ed. 01 73)
G 214-1
ISD 6214

E 6458
(Ed. 1-73)

UNDERGROUND RESOURCES AND EQUIPMENT COVERAGE
(Texas)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

COMPLETED OPERATIONS AND PRODUCTS LIABILITY INSURANCE
COMPREHENSIVE GENERAL LIABILITY INSURANCE
CONTRACTUAL LIABILITY INSURANCE
MANUFACTURERS' AND CONTRACTORS' LIABILITY INSURANCE
OWNERS', LANDLORDS' AND TENANTS' LIABILITY INSURANCE
OWNERS' AND CONTRACTORS' PROTECTIVE LIABILITY INSURANCE

This endorsement effective 2-1-75 (12:01 A.M., standard time) forms a part of policy No. LLA 116-92-53

issued to E-Z Serve, Inc.

by National Union Fire Insurance Company of Pittsburgh, Pa.

Authorized Representative

Limit of Liability: \$ 100,000 Aggregate

It is agreed that the following additional provisions apply with respect to property damage included within the underground resources and equipment hazard arising out of the operations performed by or on behalf of the named insured and described in this endorsement:

Limits of Liability
With respect to property damage included within the underground resources and equipment hazard the limits of liability provisions stated elsewhere in the policy are replaced by the following:
The total liability of the company for all damages because of all property damage included within the underground resources and equipment hazard, and arising out of operations in connection with any one well shall not exceed the limit of liability stated above as "aggregate".

Exclusions
This insurance does not apply:
(a) to any cost or expense incurred by or at the request of the named insured or any co-owner of the working interest in connection with controlling or bringing under control any oil, gas or water well;
(b) to damages claimed by any co-owner of the working interest;
(c) to property damage included within the saline substances contamination hazard.

Definitions
"underground resources and equipment hazard" includes property damage to any of the following:
(a) oil, gas, water or other mineral substances which have not been reduced to physical possession above the surface of the earth or above the surface of any body of water;
(b) any well, hole, formation, strata or area in or through which exploration for or production of any substance is carried on;
(c) any casing, pipe, bit, tool, pump or other drilling or well servicing machinery or equipment located beneath the surface of the earth in any such well or hole or beneath the surface of any body of water.
"co-owner of the working interest" means any person or organization who is, with the named insured, a co-owner, joint venturer or mining partner in mineral properties who participates in the operating expense of such properties or who has the right to participate in the control, development or operation of such properties.
"saline substances contamination hazard" includes property damage to any of the following wherever located:
(a) oil, gas, water or other mineral substances, if the property damage is caused directly or indirectly by a saline substance;
(b) to any other property; if the property damage results from the property damage described in subdivision (a) of this hazard.

Agreement in Connection with Blow-outs or Cratering of Wells
Upon the occurrence of a blow-out or cratering of any oil, gas or water well resulting from or in connection with operations performed by or on behalf of the named insured, the named insured hereby agrees that he will, at his own cost and expense, use due and reasonable diligence to take all such prompt and immediate steps for the purpose of controlling or bringing under control such well as shall be required of him by regulation, order or directive of public authorities having jurisdiction in the matter, unless such regulation, order or directive is being complied with by others.
For failure or delay of the named insured to comply with the obligations of this agreement, the company shall not be liable for any property damage included within the underground resources or equipment hazard resulting from the blow-out or cratering of any such well.

Description of Operations
Gasoline Recovery — from casing head or natural gas
Oil Lease Operators or Gas Lease Operators — natural gas
Oil or Gas Well Shooting
Oil or Gas Wells — cleaning or swabbing — by contractors
Oil or Gas Wells — servicing — by contractors
Oil or Gas Wells — drilling or re-drilling, installation or recovery of casing

ADVERTISING

ENDORSEMENT

This endorsement, effective 12:01 A.M. 2-1-85,

forms a part of

policy No. GLA 116-92-53

issued to E-Z Serve, Inc.

by National Union Fire Insurance Company of Pittsburgh, Pa.

It is agreed that in the event of cancellation or any material change of this policy, except cancellation for non-payment the company shall give to the Named Insured and the companies listed below at the address indicated in the declarations 30 days written notice of such cancellation or material change.

019-11-7-3-16/A4

Authorized Representative

#1
ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-85 forms a part of

policy No. GLA 1169253 Issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

In consideration of an additional premium of [REDACTED] it is understood and agreed that the limit of liability for the comprehensive general liability coverage is amended to \$1,000,000. each occurrence, \$1,000,000. aggregate.

Old Rates	Exposure (per 10,000)	Premium	
<u>Texas</u>			
Bodily Injury	[REDACTED]	[REDACTED]	
Property Damage	[REDACTED]		
Premium discount	[REDACTED]		
<u>Other States</u>			
Bodily Injury	[REDACTED]		
Property Damage	[REDACTED]		
Total			
<u>New Rates</u>			
<u>Texas</u>			
Bodily Injury	[REDACTED]		[REDACTED]
Property Damage	[REDACTED]		
Premium discount	[REDACTED]		
<u>Other States</u>			
Bodily Injury	[REDACTED]		
Property Damage	[REDACTED]		
Total			
Additional Premium		[REDACTED]	

AUTHORIZED REPRESENTATIVE

81 C19 482 1 3

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

AMENDED
 GL 99 17 (Ed. 03 81)
AMENDMENT — LIMITS OF LIABILITY
 (Single Limit)
 (Individual Coverage Aggregate Limit)

L 6108
(Ed. 3-81)

This endorsement modifies such insurance as is afforded by the provisions of the policy relating to the following:

COMPREHENSIVE GENERAL LIABILITY INSURANCE
 COMPLETED OPERATIONS AND PRODUCTS LIABILITY INSURANCE
 CONTRACTUAL LIABILITY INSURANCE
 MANUFACTURERS' AND CONTRACTORS' LIABILITY INSURANCE
 OWNERS' AND CONTRACTORS' PROTECTIVE LIABILITY INSURANCE
 OWNERS', LANDLORDS' AND TENANTS' LIABILITY INSURANCE

This endorsement, effective **2-2-85** (12:01 A.M., standard time), forms a part of policy No. **GLA 1169253**
 Issued to **E-Z Servs., Inc.**
 by **National Union Fire Insurance Company of Pittsburgh, Pa.**

Authorized Representative

Coverages	Limits of Liability
Bodily Injury Liability and Property Damage Liability	\$ 1,000,000 each occurrence \$ 1,000,000 aggregate

It is agreed that the provisions of the policy captioned "LIMITS OF LIABILITY" relating to Bodily Injury Liability and Property Damage Liability are amended to read as follows:

LIMITS OF LIABILITY
 Regardless of the number of (1) insureds under this policy, (2) persons or organizations who sustain bodily injury or property damage, or (3) claims made or suits brought on account of bodily injury or property damage, the company's liability is limited as follows:

Bodily Injury Liability and Property Damage Liability:

(a) The limit of liability stated in the Schedule of this endorsement as applicable to "each occurrence" is the total limit of the company's liability for all damages including damages for care and loss of services because of bodily injury and property damage sustained by one or more persons or organizations as a result of any one occurrence, provided that with respect to any occurrence for which notice of this policy is given in less of security or when this policy is certified as proof of financial responsibility under the provisions of the Motor Vehicle Financial Responsibility Law of any state or province such limit of liability shall be applied to provide the separate limits required by such law for Bodily Injury Liability and Property Damage Liability to the extent of the coverage required by such law, but the separate application of such limit shall not increase the total limit of the company's liability.

(b) Subject to the above provision respecting "each occurrence", the total liability of the company for all damages because of all bodily injury and property damage which occurs during each annual period while this policy is in force commencing from its effective date and which is described in any of the numbered subparagraphs below shall not exceed the limit of liability stated in the Schedule of this endorsement as "aggregate":

(i) all property damage arising out of premises or operations rated on a remuneration basis or Contractor's equipment rated on a receipts basis, including property damage for which liability is assumed under any incidental contract relating to such premises or operations, but excluding property damage included in subparagraph (2) below;

(ii) all property damage arising out of and occurring in the course of operations performed for the named insured by independent contractors and general supervision thereof by the named insured, including any such property damage for which liability is assumed under any incidental contract relating to such operations, but this subparagraph (2) does not include property damage arising out of maintenance or repairs at premises owned by or rented to the named insured or structural alterations at such premises which do not involve changing the size of or moving buildings or other structures;

(iii) if Products — Completed Operations Insurance is afforded, all bodily injury and property damage included within the completed operations hazard and all bodily injury and property damage included within the products hazard;

(iv) if Contractual Liability Insurance is afforded, all property damage for which liability is assumed under any contract to which the Contractual Liability Insurance applies.

Such aggregate limit shall apply separately:

(i) to the property damage described in subparagraphs (1) and (2) and separately with respect to each project away from premises owned by or rented to the named insured;

(ii) to the sum of the damages for all bodily injury and property damage described in subparagraph (3); and

(iii) to the property damage described in subparagraph (4) and separately with respect to each project away from premises owned by or rented to the named insured.

(c) For the purpose of determining the limit of the company's liability, all bodily injury and property damage arising out of continuous or repeated exposure to substantially the same general condition shall be considered as arising out of one occurrence.

LIQUOR LIABILITY INSURANCE

L 9492
(Ed. 1-75)

Attachment to Policy No. **CLA 116 92 53**, to complete said policy.

SCHEDULE

The insurance afforded is only with respect to the following Coverage as indicated by specific premium charge. The limit of the company's liability against such coverage shall be as stated herein, subject to all the terms of this policy having reference thereto.

Advance Premium	Limits of Liability	Coverage
\$ 100,000	thousand dollars each common cause	<input checked="" type="checkbox"/> Liquor Liability
\$ 100,000	thousand dollars aggregate	
Total Advance Premium		Form numbers of endorsements attached at issue

Advance Premium	Rate	Premium Basis	Code No.	Description of Hazards	Designated Insured Premises
<input checked="" type="checkbox"/> Liquor Liability					
			59211	PACKAGE STORE	7979 AIRLINE HWY. "TER 004" BATON ROUGE, LOUISIANA
			59211	PACKAGE STORE	INTERSTATE 10 & HWY 30 "005" CONZALES, LOUISIANA
			59211	PACKAGE STORE	410 W. 3RD STREET "006" SAN ANGELO, TEXAS

TOTAL ANNUAL PREMIUM

PRO-RATA EARNED FACTOR (COVERAGE EFFECTIVE 4-25-85)

Receipts

Included as a premium basis is the amount charged by the named insured or others during the policy period for the sale of all alcoholic beverages, and of other beverages used in connection therewith, including taxes, except taxes which the named insured collects as a separate item, and remits directly to a governmental division for which accurate records are maintained apart from other receipts.

I. COVERAGE X - LIQUOR LIABILITY

The company will pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of injury to which this insurance applies, sustained by any person if such liability is imposed upon the insured by reason of the selling, serving or giving of any alcoholic beverage, or at or from the insured premises, and the company shall have the right and duty to defend any suit against the insured seeking such damages, even if any of the allegations of the suit are inadmissible or fraudulent, and may make such investigation and settlement of claim or suit as it deems expedient, but the company shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of the company's liability has been exhausted by payment of judgments or settlements.

Exclusions

No insurance does not apply:

(a) 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;

(b) to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured or to any obligation of the insured to indemnify another because of damages arising out of such injury;

(c) to injury arising out of any alcoholic beverage sold, served or given while any license therefor, required by law, is suspended or after such license expires, is cancelled or revoked;

(d) to bodily injury or property damage arising out of the named insured's products or reliance upon a representation or warranty made at any time with respect thereto, but this exclusion does not apply to bodily injury or property damage for which the insured or his indemnitor may be held liable if such liability is imposed:

(1) by, or because of, the violation of, any statute, ordinance or regulation pertaining to the sale, gift, distribution or use of any alcoholic beverage, or

(2) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person.

II. PERSONS INSURED

Each of the following is an insured under this insurance to the extent set forth below:

(a) if the named insured is designated in the declarations as an individual, the person so designated and his spouses;

The insurance afforded by this Part does not apply to any injury with respect to which insurance is otherwise afforded by, or would be afforded but for the exhaustion of the limits of, the policy.

EZSERVE000016

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-65 forms a part of
 policy No. CLA 116-92-53 Issued to E-Z Serve, Inc.
 by National Union Fire Insurance Company of Pittsburgh, Pa.

Saline Substance Hazard - Texas

Such insurance as is afforded by the policy for property damage liability and/or contractual property damage liability with respect to the Saline Substance Hazard arising out of the operations described in this endorsement, including such operations performed for the named insured by the independent contractors or their subcontractors when covered by the policy, is subject to the following provisions:

The Limit of Liability stated herein as "Aggregate" is the total limit of the company's liability for all damages arising out of the Saline Substance Hazard with respect to all such operations performed by or on behalf of the Named Insured.

The Limit of Liability stated herein applies only to the liability of the company of damages arising out of the Saline Substance Hazard. The limits of liability stated in the policy apply to the liability of the company for damages as respects hazards other than the Saline Substance Hazard and do not apply as respects the insurance covered to in this endorsement.

The term "Saline Substance Hazard", as used in this endorsement, means injury to or destruction of

- (A) water, Oil, Gas or other mineral substances, including any title, interest or estate therein, or
- (B) Any other property or title, interest or estate therein, which results from the injury to or destruction of such substance

caused directly or indirectly by a Saline Substance.

Description of Operations

Gas Lease Operators - natural gas - all operations
 Gasoline recovery - from casing head or natural gas
 Oil or Gas Well Shooting
 Oil or Gas Wells - cleaning or swabbing - by contractors
 Oil or Gas Wells - drilling or redrilling, installation of recovery of casing
 Oil Lease Operators - all operations
 Oil or Gas Lease Work H.O.C.

AUTHORIZED REPRESENTATIVE

Limit of Liability
 \$100,000. Aggregate

No. of wells for which
 insured is the operator

Rate Per Well

Advance Premium
 included in composite
 rate endorsement

010-117-3-7 B27

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-45 forms a part of
policy No. GLA 116-92-53 issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

ADDITIONAL INSURED (OIL OR GAS OPERATIONS - WORKING INTERESTS, NON-OPERATING)

It is agreed that the "Persons Insured" provision is amended to include as an insured:

- (1) Co-owners, Joint Venturers, or mining partners having a non-operating working interest with the named insured in any oil or gas lease, but only with respect to his liability arising out of such interest;
- (2) Owners or co-owners of oil or gas leases for whom the insured acts under written contract as operating agent.

019-117-3-7 825

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-85, forms a part of
policy No. GLA 116-92-53 issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

LIP OF LIABILITY (NON-OPERATING WORKING INTERESTS)

It is agreed that such insurance as is afforded by the policy with respect to interest of the named insured in producing, plugged or abandoned oil, gas or distillate wells (including extraction plants) in which the named insured has a non-operating working interest applies subject to the following additional provisions:

1. The company shall not be liable for a greater proportion of any loss than the ownership interest of the named insured in such property bears to the whole.
2. This insurance does not apply to the extent that any other valid and collectible insurance whether on a contributory, excess or escape basis or otherwise available to the insured.
3. When used as a premium basis, "disbursements" means the total amount of money paid by the insured for work performed by or under the direction of gas or distillate well lease operators for the named insured.

Code Premium Basis Schedule Rate per \$100

Total additional premium included in composite rate.

019-117-3-7 824

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-05, forms a part of
policy No. ELA 116-92-53 issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, PA.

WAIVER OF SUBROGATION

It is understood and agreed that the Company, in the event of any payment under this policy, waives its right of recovery against any principal, but only at the specific written request of the named insured either before or after loss, wherein such waiver has been included before loss as part of a contractual undertaking by the named insured.

This waiver shall apply only with respect to losses occurring due to operations undertaken as per the specific contract existing between the named insured and such Principal and shall not be construed to be a waiver with respect to other operations of such principal in which the named insured has no contractual interest.

No waiver of subrogation shall directly or indirectly apply to any employee or employees of either the named insured or of the Principal, and the Company reserves its right or lien to be reimbursed from any recovery funds obtained by any injured employee.

This waiver does not apply in any jurisdiction or situation where such waiver is held to be illegal or against public policy or in any situation wherein the Principal against whom subrogation is to be waived is found to be solely negligent.

It is further agreed that the above waiver of Subrogation applies to the following only: where required by written contract.

019-117-3-1/812

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-85, forms a part of
policy No. CLA 110-92-53 issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

NON-OPERATING WORKING INTERESTS

In consideration of the premium charged, it is agreed the insurance afforded this policy as respects the named insured's legal liability arising out of the non-operating working interest in any oil or gas lease development, production or operation shall be excess insurance over any other valid and collectible insurance available to the named insured.

019-11-7-3-7 B23

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-85 forms a part of
policy No. GLA 116-92-53 issued to F-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

Composite Rating for General Liability
Exposure per 10,000 gallons, general
liability codes #29112 and #9842

Texas

BI	Rate	PD	Exposure	BI	Premium	PD
			Total			
			Total Discount			

States Other Than Texas

BI	Rate	PD	Exposure	BI	Premium	PD
			Total			
			All States Total			

019-11-7-3-15/026

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A. M. 2-1-85, is a part of
policy No. GLA 116-92-53 issued to F-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

. . consideration of no change in premium it is understood and
agreed that "X", "C", and "U" are provided only for those codes
shown on the general liability schedule.

019-11-7-3-15/827

Authorized Representative

ENDORSEMENT

This endorsement effective 12:01 A. M. 2-1-85 forms a part of
policy No. GLA 116-92-53 issued to E-Z Serve, Inc.
by National Union Fire Insurance Company of Pittsburgh, Pa.

Named Insureds:

E-Z Serve, Inc., et al to include

- a) E-Z Serve Refining, Inc.
- b) E-Z Serve of California, Inc.
- c) Aloha Petroleum, Ltd.
- d) Petroleum Maintenance, Ltd.
- e) Amber Refining, Inc.
- f) Amber Pipeline Company
- g) Amberex Corporation
- h) Rib & Brisket, Inc.
- i) M-Y Properties
- j) E-Z Serve of Louisiana, Inc.
- k) Petron Marketing, A division Louisiana, Inc.
- l) Soft Search, Inc.

019-177-3-7 814

Authorized Representative

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

ALOHA PETROLEUM, LTD.,

Plaintiff,

v.

NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA,

Defendant.

CIVIL NO. _____
(Contract)

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiff ALOHA PETROLUUM, LTD., by and through its undersigned counsel, hereby demands, pursuant to Rule 38 of the Federal Rules of Civil Procedure, trial by jury on all issues so triable.

DATED: Honolulu, Hawai'i, August 10, 2022.

CADES SCHUTTE
A Limited Liability Law Partnership

/s/ C. Michael Heihre

C. MICHAEL HEIHRE
MICHU MOMOSE

Attorneys for Plaintiff
ALOHA PETROLEUM, LTD.