

STANDARD PROVISIONS FOR WORKMEN'S COMPENSATION AND EMPLOYERS' LIABILITY POLICIES*

BY

RANDALL C. KEAN

INTRODUCTION

It is the intent of this paper to present a concise explanation of the more important features of the new Workmen's Compensation and Employers' Liability Policy and to describe the Standard Provisions Program which was adopted by the National Council on Compensation Insurance and which became effective on October 1, 1954. This paper will not go into minute detail with respect to the individual policy provisions since it is prepared to serve as a general reference to help in the transition from the old to the new policy for those not directly engaged in using the policy.

We will first concern ourselves with some of the historical reasons why a new policy was needed and how work on it got underway. Next we will consider a description of the Standard Provisions Program. The special features of the new policy are explained herein and its scope of coverage is discussed. Certain comparisons are drawn with the policy previously used and comments are made with respect to new provisions. The endorsement program is outlined and references are made to contemplated legislative changes desirable to further simplify the contract.

WHY — A NEW POLICY?

The old Workmen's Compensation and Employers' Liability Policy was drafted about forty years ago when workmen's compensation insurance was in its infancy and when underwriting concepts were considerably different from what they are today. The policy had not been revised since it was originally drafted.

All of these years, until October 1, 1954, this standard policy was used by the carriers for the writing of workmen's compensation and employers' liability insurance in all states (with the exception of Arizona) in which private carriers are permitted to write compensation insurance. The broad national use of the policy was of great benefit and importance to the companies and the insured alike.

The policy served extremely well and relatively few questions of coverage arose under it. However, during its existence, changes occurred in the workmen's compensation laws of the various states and there were changes in underwriting methods.

Perhaps the most important changes in compensation laws have been those establishing requirements as to what the policies should cover. For example, some states require that all operations of an

*This paper presented by invitation.

employer at a specific location shall be covered, others require that all operations in the state shall be covered and still others require that all operations in a specific business shall be covered.

The underwriting changes have been many although it is necessary to refer to only a few such as:

1. Establishment of a per accident limit for employers' liability,
2. Interpretation of paragraph One (b), Employers' Liability, as not providing disease coverage,
3. Establishment of a different One (b) limit of liability for occupational disease,
4. Interpretation of paragraph One (b) with respect to illegal employment,
5. Inclusion of loss and expense constants and
6. Inclusion of executive officers remuneration charges.

Most of these changes are not applicable on a countrywide basis but are applied differently in the various jurisdictions.

All of these changes had been incorporated in the contract by endorsements which were designed to meet the specific situations involved.

From the beginning it was also necessary to attach to each policy state endorsements citing the compensation acts which were applicable. The policy was designed on the basis that, to perfect coverage, such endorsements would be attached. In addition to these citations, the state endorsements generally contained paragraphs dealing with special state requirements and in many cases specific language was required. As time went on it became necessary to attach more and more underwriting endorsements to the policy.

All in all, the old policy with its many necessary endorsements naturally became complicated, unwieldy, costly to issue and difficult for most people to understand.

HOW — A NEW POLICY?

For some time it had been felt that the ideal would be a new policy which could be used nationally, which would provide an employer with as nearly complete protection as possible for employee work injuries, and in which substantial simplification would be achieved. Such a policy, which eliminated the need for many of the endorsements required with the old policy and which incorporated current underwriting concepts and practices, would have three great advantages. First, it would satisfy the varying coverage needs of the insured, second, it would reduce expenses in connection with the issuance of policies, and third, it would make for better understanding on the part of carriers and insureds.

The achievement of a new simplified policy was necessarily contingent upon many underwriting conclusions. Decisions of the underwriters were sought with respect to innumerable questions. It might be helpful to highlight just a few of these questions:

Question #1 — What operations should be covered? The old policy applied, by its terms, to designated operations at designated locations and to operations necessary, incident, or appurtenant thereto. As pointed out, during the time that policy was in effect many states enacted statutes which required that compensation policies should cover operations more broadly than the old policy did. The old policy had to be endorsed accordingly.

After a number of coverage possibilities were considered, it was finally concluded that the new policy should cover all operations of a risk, at all of its locations within the state or states designated and all operations necessary or incidental thereto.

Question #2 — With respect to paragraph One (b) (Employers' Liability), should provision be made in the policy for voluntary compensation? At first the new policy was drafted as affording such coverage and later it was decided, for several reasons, that the coverage should be added by endorsement.

Question #3 — What should be the extent of coverage afforded under employers' liability? Should it include coverage for traumatic injuries only, or for occupational diseases, or should broad disease coverage be provided? It was ultimately agreed that all of these should be covered.

Question #4 — What limit of liability should apply under paragraph One (b)? The old policy, without endorsement, had no limit under paragraph One (b). Limits of liability were introduced at the time of the enactment of some compensation laws to protect the carriers in the event the laws were found unconstitutional. The basic policy limit for paragraph One (b) had been endorsed on at \$25,000. A different limitation was used in some states, while no limitation applied in New York, Massachusetts and certain other states. It was finally decided that a basic policy limit of \$25,000 should be established.

Many other questions arose, as for example: What should be done about covering illegal employment and what about liability cover? The old policy was commonly endorsed to limit the policy, under paragraph One (b) to liability imposed by law upon the employer for negligence. Should the new policy be limited to cover liability for negligence? What about contractual liability, should it continue to be excluded? The old policy covered "personal injury", was this too broad? Should the coverage be limited to "bodily injury"? These and many more questions were asked and ultimately answered before the actual drafting of the new policy was undertaken.

On the basis of considered answers involving underwriting conclusions, the Policy Forms Committee of the National Council was assigned the task of developing a policy program which would in-

corporate these conclusions and achieve simplification, clarification and operating economies.

For many months the Policy Forms Committee, assisted by other appropriate committees of the National Council on Compensation Insurance and in cooperation with other workmen's compensation insurance bureaus throughout the country, worked to develop the new policy and the Standard Provisions Program.

THE STANDARD PROVISIONS PROGRAM

This Standard Provision Program consists of the standard policy provisions including the policy declarations page, together with a set of general instructions (See Exhibit). Also, as a part of the program, are a number of endorsements which are designed to conform the basic policy to certain special individual state requirements which, in general, are of a statutory nature. For want of a better term these will be referred to as "enabling" endorsements. Certain other endorsements have been developed, as for example; those which provide coverage for maritime and other employments subject to federal law, those which provide voluntary compensation for non-subject employees and those which satisfy other special underwriting rules and requirements which are not applicable to all policies.

A memorandum of advice and direction has been prepared to guide the carriers in connection with the development, printing and issuing of their new policies.

A legislative program is now in the process of development as it is hoped that the several state legislatures can be prevailed upon to make amendments to the laws which will eliminate the need for several of the enabling endorsements. Finally, recommendations have been submitted for certain manual rule changes to achieve uniformity and thus eliminate the need for some of the special endorsements now required.

THE NEW POLICY

The redrafting of the policy was a tremendous task because of the multiplicity and wide variety of compensation laws, the many court decisions which have interpreted the old policy and the underwriting and coverage concept changes which had developed over the years.

The requirements of state laws and regulations applicable to workmen's compensation and employers' liability policies were carefully reviewed. Court decisions were fully examined. Policy drafts were prepared and studied from legal and underwriting viewpoints. Auditors, engineers and sales people considered the suggested language. The new policy, together with its enabling and other special endorsements, represents, as near as possible, the satisfying of all requirements.

In the preparation of the policy it was recognized that a great amount of effort had been expended in the development of standardized provisions for use nationally in other types of liability policies.

The Policy Forms Committee took advantage of the results obtained by the Joint Forms Committee of the Mutual and National Bureaus and adopted comparable provisions and language with whatever changes were necessary. The new policy, with its declarations, insuring agreements, exclusions and conditions, follows generally the national standard provisions for liability policies. It is intended that this new policy will be reviewed periodically in order to keep it up to date.

STANDARDIZATION

The entire form is expressed in standard language which may not be amended except in accordance with the specific instructions which are provided. There are options, however, for making such arrangement of the parts of the form as may be desired by individual carriers. Except for the major parts of the form and the coverage statements, the various identifying and indexing designations may be omitted or amended. This standardization is for the purpose of attaining reasonable uniformity among carriers and for the benefit of policyholders.

SCOPE OF COVERAGE

The old policy, unless otherwise endorsed, covered only those operations described in the declarations and only those employees whose individual remuneration was included in the total remuneration on which the premium for the policy was computed.

The basic concept of the new policy is the undertaking to provide statewide workmen's compensation and employers' liability coverage for all of the insured's locations and operations and to all of the insured's employees subject to the law of that state. Instead of statutory citations, as used in the old state endorsements to make the policy effective with respect to the individual workmen's compensation laws, there has been substituted a declaration that the new policy applies to the workmen's compensation laws of the states designated in Item 3 of its declarations. Having thus designated the states in which workmen's compensation coverage is to be afforded, the employers' liability coverage is automatically afforded with respect to all operations of the insured in the named states and operations necessary or incidental thereto.

The employers' liability coverage which was given by the old policy, unless extended by endorsement, was limited to injury by accident. The new policy, unless restricted by endorsement, gives coverage for bodily injury by accident and also for injury by disease. Thus, under the employers' liability agreement of the new policy, broad common law disease coverage is provided. "Disease" coverage has been included instead of the "occupational disease" coverage afforded by endorsement to the old policy.

The employers' liability coverage of the new policy, in conjunction with the workmen's compensation coverage, approaches the ideal of

giving an employer virtually complete protection with respect to claims by employees for work injuries. This is further highlighted by the fact that in using standard endorsements an employer now has available protection when, and if, he unexpectedly finds himself subject to a workmen's compensation law, under which coverage was not purchased or provided by the policy at the outset, or when he finds that some of his employees engaged in his wide spread operations are not subject to any workmen's compensation law. The standardization of these coverages, under the new program, is a big step forward in eliminating the many and varied "universal" or "all states" coverage and voluntary compensation coverage endorsements devised under the old program by the carriers themselves.

Generally speaking, under the new program more coverage is provided the average insured and more protection is provided for injured workmen.

It is also to be pointed out that during the transition period between the old and the new program certain of the old policies will remain in effect until their expiration date when new policies will be issued. So far as possible those carriers using the new policy will, as respects work injuries occurring on and after October 1, 1954 and arising out of operations covered by the old policy, interpret the old policy as affording, subject to certain conditions, the same coverage as if the contracts had been written on the new form. It is not necessary for an insured to have his old policy cancelled and his coverage written on the new policy in order to get the coverage advantages of the new policy.

At this point some comments with respect to the major provisions of the new policy, with remarks explaining changes from the old policy, seem to be desirable.

DECLARATIONS

The makeup of the declaration page permits the carriers in general to follow existing policy writing and policy issuing practices and facilitates the use of established accounting and statistical procedures.

Item 1 of the declarations is for the name, address and type of organization of the insured. It is drawn so as to require a minimum of typed entries for the very large number of policies covering single location risks. This item also calls for a listing of the usual or fixed locations of the risk if other than the address shown.

Item 2, "Policy Period," establishes a policy period relating to standard time at the address of the insured and is unlike the old policy wherein the policy period is not necessarily the same for all operations or for all injuries because of time differentials. It will be temporarily necessary to use an endorsement to eliminate overlapping of coverage, or gaps in coverage, which might occur where a new policy replaces or renews an old one and where coverage extends to more than one time zone.

In Item 3 of the declarations is listed the name of each state in

which the insured conducts operations which are to be covered under the policy and entries in this Item control policy coverage.

In Item 4, "Classification of Operations", provision is made for indicating the manual classifications applicable to the operations of the insured, the premium bases and rates, loss and expense constants, etc. and the method, if any, of interim premium adjustment. This is in accordance with existing practices. Introductory language to be noted at the head of this item reading as follows: "Entries in this item, except as specifically provided elsewhere in this policy, do not modify any of the other provisions of the policy", is intended to prevent an interpretation that typewritten entries therein override other provisions of the policy.

Item 5 is the "Limit of Liability for Coverage B" and provides for the entry in the declarations of the actual amount of the limit of liability for that coverage. In certain states employers' liability cannot be limited at present. It is hoped that someday it may be possible to specify a limit for employers' liability coverage which will be effective in all states. In the meantime, endorsements which remove this limit are necessary with respect to certain states. It is not possible under the new policy (see Manual Rules) to provide different limits of liability for accident and for disease.

Item 6, which may be included at the option of the company, calls for a statement of those operations of the insured which are not intended to be covered under the policy and is for the purpose of including in the declarations underwriting information with respect to operations which are otherwise insured. It should be understood that this declaration does not exclude coverage and may not be relied upon to affect such an exclusion.

Provision is also made in the declarations for other underwriting information which may be incorporated at the option of the company.

INSURING AGREEMENTS

Insuring Agreement I, Coverage A, "Workmen's Compensation", states the company's undertaking to insure the entire obligation of the insured under the workmen's compensation law of any state specified in the appropriate item of the declarations, including the insured's obligations under the law with respect to employees of uninsured subcontractors. If a state, having separate workmen's compensation and occupational disease laws and coverage, is to be afforded for only one of these laws, coverage for the other law must be excluded by endorsement.

Insuring Agreement I, Coverage B, "Employers' Liability", states the company's undertaking, subject to the applicable limit of liability stated in the declarations, to cover the liability imposed by law upon the insured because of bodily injury by accident or disease sustained by his employees arising out of and in the course of their employment. Such coverage applies only with respect to operations of the insured in any state specified in Item 3 of the declarations and with respect

to operations necessary or incidental to such operations. Basically, the employers' liability coverage has been revised to bring it into line with similar provisions of other liability policies. In certain instances, such as in the "employee exclusion" in the general liability and automobile liability policies, these other liability policies have been revised to complement this coverage.

Insuring Agreement II is the "Defense, Settlement, Supplementary Payments" agreement which, with appropriate editorial changes, follows the corresponding standard provisions in use in other forms of liability policies.

Insuring Agreement III, "Definitions", the definition of "Workmen's Compensation Law" is so devised as to bring within Coverage A the workmen's compensation and occupational disease law of each state listed in the declarations. This does not, however, include those provisions of such laws which provide non-occupational disability benefits, as for example, the New York Disability Benefits Law. This definition also does not include the provisions of the U. S. Longshoremen's and Harbor Worker's Compensation Act, coverage for which will continue to be afforded by endorsement. Definition (c) defines "Bodily Injury by Accident and Bodily Injury by Disease" and is necessary to make clear that for the purpose of applying the limits of liability, the same injury cannot be both a "bodily injury by accident" and a "bodily injury by disease." Furthermore, it makes effective an exclusion from the policy of coverage for bodily injury by accident or for bodily injury by disease where such an exclusion is desired.

Insuring Agreement IV, "Application of Policy", provides that in a disease case the insurance company covering the employer at the time of the last injurious exposure of the employee in the employment of the employer is the carrier liable. A special endorsement is necessary in California and Connecticut as respects contribution in disease cases between successive insurance carriers of the same employer.

EXCLUSIONS

The new policy contains exclusions "a" through "f". The old policy contained no exclusions.

Because coverage is provided for all operations within a state designated in Item 3 of the declarations, exclusion (a) which reads, "This policy does not apply to operations conducted at or from any workplace not described in Item 1 or 4 of the declaration if the insured has, under the workmen's compensation law, other insurance for such operations or is a qualified self-insurer therefor;" is necessary to exclude coverage for any operations in such state which are otherwise insured or are self-insured. If further restriction of coverage is desired by a carrier in any state the attachment of a special endorsement is necessary.

Exclusion (b) which reads, "This policy does not apply unless required by law or described in the declaration, to domestic employment or to farm or agricultural employment;" prevents automatic applica-

tion of the policy to such employments. This gives recognition to the fact that insureds having commercial operations often have domestic servants or farm labor, but do not wish to secure compensation for such employees unless required to do so by the statute. With the exclusion such coverage is eliminated, but it can be afforded, except in California where the workmen's compensation law includes farm laborers, by describing such employments in the "Classification of Operations" section of the declarations.

Exclusion (c), the contractual exclusion which reads, "This policy does not apply under Coverage B, to liability assumed by the insured under any contract or agreement;" speaks for itself and is as expressed in other forms of liability policies.

Exclusion (d) reads, "This policy does not apply under Coverage B, (1) to punitive or exemplary damages on account of bodily injury to or death of any employee employed in violation of law, or (2), with respect to any employee employed in violation of law with the knowledge or acquiescence of the insured or any executive officer thereof;" and is also typical of other liability policies.

Under the endorsements used with the old policy no coverage for common law liability for disease was afforded unless incapacity resulted within twelve months after the end of the policy period. Exclusion (e), of the new policy, which reads, "This policy does not apply under Coverage B, to bodily injury by disease unless prior to thirty-six months after the end of the policy period written claim is made or suit is brought against the insured for damages because of such injury or death resulting therefrom", rules out coverage for any common law disease claims unless brought within thirty-six months after the end of the policy period and eliminates the requirement in the old policy that incapacity must result within twelve months after the policy terminates. This change has the effect of broadening somewhat the common law disease coverage.

Exclusion (f) reads as follows: "This policy does not apply under Coverage B, to any obligation for which the insured or any carrier as his insurer may be held liable under the workmen's compensation or occupational disease law of a state designated in Item 3 of the declarations, any other workmen's compensation or occupational disease law, any unemployment compensation or disability benefits law, or under any similar law". This eliminates from employers' liability all cases coming within the scope of any workmen's compensation law and cases coming under any unemployment compensation law or disability benefits law. Although the old policy contained no such exclusion this serves to carry out the presently accepted practices and makes for no change in coverage.

CONDITIONS

Throughout the new policy and particularly in Condition 1, the "Premium" condition, complete reliance is placed on the words "manuals in use by the company". This expresses the policy provisions

with respect to the application of premium bases, the determination of premiums and the effect of changes in classifications, rates and rating plans, including rate changes required to compensate for law amendments affecting benefits. This device makes unnecessary numerous provisions formerly appearing in the several state and other endorsements by including by reference the basic manual rules for premium computation, etc. in the policy itself.

With some minor exceptions premium discount and retrospective rating endorsements are the only endorsements for premium computation to be used and this because of the special nature of these programs.

Condition 2, incorporates special provisions applicable to policies written for a term in excess of one year and its use is optional with each company.

Condition 3, entitled "Partnership or Joint Venture as Insured", is designed to remove from the coverage afforded under a policy written for a partnership or joint venture any other operations of a partner or member of the joint venture which are not operations of the partnership or joint venture itself.

With respect to Condition 4-7 which include "Inspection and Audit", "Notice of Injury", "Notice of Claim or Suit", "Assistance and Cooperation of the Insured", they all follow, with such editorial changes as were necessary, the corresponding standard provisions adopted for use in other forms of liability policies.

Condition 8, "Statutory Provisions", sets forth the statutory obligations of the company under each of the workmen's compensation laws with respect to which coverage is afforded under the policy.

In the first sentence of Condition 9, which is the "Limits of Liability" condition, it is made clear that damages for "care and loss of services" and recoveries from the insured in "third party indemnity cover" actions growing out of bodily injuries to employees of the insured are within the coverage of employer's liability. The limit of liability for bodily injury by accident is expressed on an "any one accident" basis. The limit of liability for bodily injury by disease is expressed as a policy year limit by state. For the present the policy must be endorsed to eliminate the application of the limit of liability stated in the declarations with respect to injuries growing out of operations subject to the workmen's compensation laws of certain states where no limit of liability applies.

The "Other Insurance" provision embodied in Condition 11, makes the insurance afforded by the policy contributing insurance with other valid and collectible insurance. The language of this condition gives recognition to the fact that with respect to certain types of cases in some states the limit of liability applicable to Coverage B is not recognized and, further, provides for a more equitable distribution of losses among carriers.

Condition 16, which reads, "Terms of this policy which are in con-

flict with the provisions of the workmen's compensation law are hereby amended to conform to such law", guarantees conformity of the policy with each workmen's compensation law and eliminates the need for endorsements to correct conflicts created by the lack of uniformity in the workmen's compensation laws.

The remaining conditions all follow, with such editorial changes as were necessary, the corresponding standard provisions adopted for use nationally in other forms of liability policies. Condition 15, "Cancellation", however, contains an additional provision requiring compliance with any statutory provisions respecting cancellation of policies which provide coverage under the workmen's compensation law.

ENDORSEMENTS

It is to be remembered that one major purpose of the new policy was to eliminate a large number of endorsements which were formerly required to adapt the old policy to the different coverage needs of individual employers, the administrative regulations of the various supervising authorities, the various state laws and the requirements of the underwriting and rating manuals. This was accomplished by incorporating in the policy, wherever possible, the provisions of "State" and other standard endorsements. The new policy, therefore, can be used in many states for the majority of risks without attaching a single endorsement.

At the outset the endorsement problem fell into the following general sub-divisions:

1. Previously used endorsements made unnecessary by language of the new policy.
2. Previously used endorsements which could be used with the new policy without change.
3. Previously used endorsements which had to be amended in order to be used with the revised policy.
4. New endorsements which had to be drafted to be used with the new policy.

A review was made of all statutory endorsements to determine what portions of them could be eliminated as not necessary because of the provisions being included in the new policy itself. The result was that state endorsements as such were eliminated. In more than half of the jurisdictions which approved the new program, the policy itself provides the complete contract. In the other jurisdictions only one short endorsement is necessary to form the basic contract and make it conform with special state requirements. A review of all other endorsements was made in line with the general sub-divisions mentioned above. Some endorsements were eliminated, some were revised and in some cases new ones were drafted.

As previously pointed out, certain endorsements became necessary to tailor the policy to meet the statutory requirements which could not be incorporated in the policy itself and because of the elimination of the regular state endorsements previously used. Examples of such endorsements are those which include or exclude from the policy executive officers, working partners and relatives of the insured. Other endorsements designed to take care of underwriting rules in the manuals and other special situations were drafted. Most of these endorsements are "Standard" under the National Council filing program.

Although it was necessary to draft a rather large number of endorsements, most of them are necessary only on a relatively few policies to satisfy specific requirements of one sort or another.

LEGISLATIVE PROGRAM

Many people have expressed interest in the program which is being undertaken to attain further simplification and to make for the most effective and efficient use of the policy. Actually, the primary objective of this program is to make it possible to write a basic workmen's compensation contract in every state without endorsement. To accomplish this, some legislation will need to be enacted in several states. Through a cooperative effort the Policy Forms Committee of the National Council is working with the various bureaus throughout the country in an effort to develop a program designed to achieve these goals.

It can be said that attempts are being made to encourage the states to consider whatever may be necessary in the way of law changes to make possible the elimination of some of the enabling endorsements.

The present requirement in several states is that in order to come within the compensation law employers or carriers must make certain filings with state authorities. It is planned to encourage legislation in these states, to provide that the purchase of insurance by an employer is an election to be bound by the compensation law. If successful, much greater simplification with consequent reduction in costs will be achieved.

It is also hoped that amendments can be made to certain compensation laws which will make it unnecessary to quote in the policy (or endorsements), word for word, portions of such laws.

These examples merely illustrate the type of action contemplated under the legislative program. 1955 should be an appropriate year in which to introduce these actions since the legislatures of most of the states will meet during the year and will have an opportunity to consider the various questions.

STATUS OF PROGRAM

The Standard Provisions Policy, including the enabling endorsements, after approval by all of the workmen's compensation bureaus, was filed by the National Council with the supervising authorities in all states where the National Council is a rating organization and has

authority to file. It was recommended to other rating organizations for filing in the so-called Independent Bureau states. In addition, in Alaska, Idaho, Illinois, Rhode Island, Montana and California, test filings of the proposed policy were made.

In several states questions were raised requesting clarification of certain elements of the policy. After due consideration, each of these questions has been answered through the Policy Forms Committee.

With the exception of Arizona, the policy and endorsements have been approved in all states in which private carriers are permitted to write workmen's compensation insurance and have been approved also by the Bureau of Employees' Compensation, Department of Labor.

The new policy became effective October 1, 1954.

**STANDARD PROVISIONS FOR WORKMEN'S COMPENSATION
AND EMPLOYERS' LIABILITY POLICIES
GENERAL INSTRUCTIONS**

1. Standard Language

This form is expressed in standard language which may not be amended and no part of which may be omitted except (a) as indicated by these instructions, or (b) as indicated in reference notes shown below referring to specific portions of the form, or (c) by an endorsement which states an amendment or exclusion of some provision of the form in accordance with the provisions of a manual rule, the form of which endorsement has been approved, if required, by the supervising authority of each state in which such endorsement is applicable.

2. Optional Sequence and Arrangement

The several parts of the form, viz., "Insuring Agreements," "Exclusions," "Conditions" and "Declarations" may appear in the policy in such sequence as the company may elect and the sequence and arrangement of the several provisions of those parts are also optional with the company.

3. Descriptive Headings—Identifying or Indexing Designations

The descriptive headings of the parts of the form (as quoted above) and of the major insuring agreements ("Workmen's Compensation" and "Employers' Liability") are standard expressions which may not be amended or omitted, but all identifying or indexing designations (such as "Coverage A," "Defense, Settlement, Supplementary Payments," "Cancellation," etc.), including literal or numerical designations of paragraphs or phrases may be amended or omitted at the company's option. When such identifying or indexing designations, used for the purpose of reference in the text of the form or any endorsement form applicable thereto, are amended or omitted, descriptive designations shall be substituted therefor.

4. Definition of "Standard Language"

"Standard language" when used in these instructions means the form and endorsements either prescribed or approved by the insurance supervising authority of the state in which policy forms and endorsements are approved or prescribed. In those states where supervising authorities do not have the authority to approve or prescribe policies, forms and endorsements, the term means the forms and endorsements adopted by the companies for use in such states.

5. Special Conditions for Mutuals, Reciprocals and Participating Stock Companies

When the policy is issued by a mutual company, a reciprocal association or a participating stock company having special provisions applicable to its membership or policyholders, such provisions, when approved by the supervising authority of the state in which the policy is issued if such approval is required, may be inserted in the policy.

REFERENCE NOTES

- 1—Matter in brackets may be included, omitted or amended at the option of the company.
- 2—The effective hour and date of the policy may be typed or printed in this space.
- 3—Matter in brackets may be omitted.
- 4—The applicable classifications, including the standard exceptions, may be typed or printed in this space.
- 5—The capacity of the person countersigning may be stated.
- 6—Declarations of this type calling for underwriting data and general information may be used at the option of the company.
- 7—The name and location of the company are to be stated. The type of the company and the word used throughout the policy suitably to designate the company are to be stated.
- 8—The exclusions may be combined into one or any other number of paragraphs.
- 9—The language of this paragraph is optional with the company.

BLANK INSURANCE COMPANY

[Workmen's Compensation and
Employers' Liability]¹ Policy No. _____

DECLARATIONS

Item 1. Name of insured _____

Address _____
(No. Street Town or City County State)¹

Individual Partnership Corporation _____
(Other)

Locations—All usual workplaces of the insured at or from which operations covered by this policy are conducted are located at the above address unless otherwise stated herein: _____

Item 2. Policy Period: From _____ [See Reference Note 2.] to _____
12:01 A.M., standard time at the address of the insured as stated herein.

Item 3. Coverage A of this policy applies to the workmen's compensation law and any occupational disease law of each of the following states: _____

Item 4. Classification of Operations		Premium Basis	Rate	Estimated Annual Premiums } ³
Entries in this item, except as specifically provided elsewhere in this policy, do not modify any of the other provisions of this policy.	Code No.	Estimated Total Annual Remuneration	Per \$100 of Remuneration	
{ Loss Constant Expense Constant Loss and Expense Constant Policy Fee } ³				

(See Reference Note 4.)

Minimum Premium \$ _____ Total Estimated Annual Premium \$ _____

If indicated below, interim adjustments of premium shall be made: _____ Deposit Premium \$ _____
Semi-Annually Quarterly Monthly }³

Item 5. Limit of Liability for Coverage B—Employers' Liability: \$ _____, subject to all the terms of this policy having reference thereto.

Item 6. The insured is not conducting other operations at or from the locations described herein or any operations at or from any other location in a state designated in Item 3; exception, if any _____ }¹

[Date and Place of Issue _____]¹

Countersigned [_____ 19____, at _____]¹ by _____
(See Reference Note 5.)

- | | | |
|---|---------------------------------------|----------------|
| { A. Renewal of policy number.
B. Endorsement serial numbers.
C. Rating plan or premium discount. | D. Record of past experience. | } ⁶ |
| | E. Cancellation of similar insurance. | |
| | | |

BLANK INSURANCE COMPANY

[A. _____ insurance company, herein called the company.]⁷

Agrees with the insured, named in the declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the declarations and subject to the limits of liability, exclusions, conditions and other terms of this policy:

INSURING AGREEMENTS

I Coverage A—Workmen's Compensation

To pay promptly when due all compensation and other benefits required of the insured by the workmen's compensation law.

Coverage B—Employers' Liability

To pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of bodily injury by accident or disease, including death at any time resulting therefrom, sustained in the United States of America, its territories or possessions, or Canada by any employee of the insured arising out of and in the course of his employment by the insured either in operations in a state designated in Item 3 of the declarations or in operations necessary or incidental thereto.

II Defense, Settlement, Supplementary Payments

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

- (a) defend any proceeding against the insured seeking such benefits and any suit against the insured alleging such injury and seeking damages on account thereof, even if such proceeding or suit is groundless, false or fraudulent; but the company may make such investigation, negotiation and settlement of any claim or suit as it deems expedient;
- (b) pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy, all premiums on appeal bonds required in any such defended proceeding or suit, but without any obligation to apply for or furnish any such bonds;
- (c) pay all expenses incurred by the company, all costs taxed against the insured in any such proceeding or suit and all interest accruing after entry of judgment until the company has paid or tendered or deposited in court such part of such judgment as does not exceed the limit of the company's liability thereon;

- (d) reimburse the insured for all reasonable expenses, other than loss of earnings, incurred at the company's request.

The amounts incurred under this insuring agreement, except settlements of claims and suits, are payable by the company in addition to the amounts payable under coverage A or the applicable limit of liability under coverage B.

III Definitions

- (a) **Workmen's Compensation Law.** The unqualified term "workmen's compensation law" means the workmen's compensation law and any occupational disease law of a state designated in Item 3 of the declarations, but does not include those provisions of any such law which provide non-occupational disability benefits.
- (b) **State.** The word "state" means any State or Territory of the United States of America and the District of Columbia.
- (c) **Bodily Injury by Accident; Bodily Injury by Disease.** The contraction of disease is not an accident within the meaning of the word "accident" in the term "bodily injury by accident" and only such disease as results directly from a bodily injury by accident is included within the term "bodily injury by accident." The term "bodily injury by disease" includes only such disease as is not included within the term "bodily injury by accident."
- (d) **Assault and Battery.** Under coverage B, assault and battery shall be deemed an accident unless committed by or at the direction of the insured.

IV Application of Policy

This policy applies only to injury (1) by accident occurring during the policy period, or (2) by disease caused or aggravated by exposure of which the last day of the last exposure, in the employment of the insured, to conditions causing the disease occurs during the policy period.

[EXCLUSIONS]⁸

This policy does not apply:

- (a) to operations conducted at or from any workplace not described in Item 1 or 4 of the declarations if the insured has, under the workmen's compensation law, other insurance for such operations or is a qualified self-insurer therefor;
- (b) unless required by law or described in the declarations, to domestic employment or to farm or agricultural employment;
- (c) under coverage B, to liability assumed by the insured under any contract or agreement;
- (d) under coverage B, (1) to punitive or exemplary damages on account of bodily injury to or death of any employee employed in vio-

lation of law, or (2) with respect to any employee employed in violation of law with the knowledge or acquiescence of the insured or any executive officer thereof;

(e) under coverage B, to bodily injury by disease unless prior to thirty-six months after the end of the policy period written claim is made or suit is brought against the insured for damages because of such injury or death resulting therefrom;

(f) under coverage B, to any obligation for which the insured or any carrier as his insurer may be held liable under the workmen's compensation or occupational disease law of a state designated in Item 3 of the declarations, any other workmen's compensation or occupational disease law, any unemployment compensation or disability benefits law, or under any similar law.

CONDITIONS

[The conditions, except conditions 8, 9, 10 and 16, apply to all coverages.]¹
[Conditions 8, 9, 10 and 16, apply only to the coverage noted thereunder.]¹

1. Premium The premium bases and rates for the classifications of operations described in the declarations are as stated therein and for classifications not so described are those applicable in accordance with the manuals in use by the company. This policy is issued by the company and accepted by the insured with the agreement that if any change in classifications, rates or rating plans is or

becomes applicable to this policy under any law regulating this insurance or because of any amendments affecting the benefits provided by the workmen's compensation law, such change with the effective date thereof shall be stated in an endorsement issued to form a part of this policy.

When used as a premium basis, "remuneration" means the entire remuneration, computed in accordance with the manuals in use by the company, earned during the policy period by (a) all executive officers and other employees of the insured engaged in operations covered by this policy, and (b) any other person performing work which may render the company liable under this policy for injury to or death of such person in accordance with the workmen's compensation law. "Remuneration" shall not include the remuneration of any person within division (b) foregoing if the insured maintains evidence satisfactory to the company that the payment of compensation and other benefits under such law to such person is secured by other valid and collectible insurance or by any other undertaking approved by the governmental agency having jurisdiction thereof.

If the declarations provide for adjustment of premium on other than an annual basis, the insured shall pay the deposit premium to the company upon the inception of this policy and thereafter interim premiums shall be computed in accordance with the manuals in use by the company and paid by the insured promptly after the end of each interval specified in the declarations. The deposit premium shall be retained by the company until termination of this policy and credited to the final premium adjustment.

The insured shall maintain records of the information necessary for premium computation on the bases stated in the declarations, 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. If the insured does not furnish records of the remuneration of persons within division (b) of the definition of remuneration foregoing, the remuneration of such persons shall be computed in accordance with the manuals in use by the company.

The premium stated in the declarations is an estimated premium only. Upon termination of this policy, the earned premium shall be computed in accordance with the rules, rates, rating plans, premiums and minimum premiums applicable to this insurance in accordance with the manuals in use by the company. If the earned premium thus computed exceeds the premium previously paid, the insured shall pay the excess to the company; if less, the company shall return to the insured the unearned portion paid by the insured. All premiums shall be fully earned whether any workmen's compensation law, or any part thereof, is or shall be declared invalid or unconstitutional.

2. Long Term Policy If this policy is written for a period longer than one year, all the provisions of this policy shall apply separately to each consecutive twelve months period, or, if the first or last consecutive period is less than twelve months, to such period of less than twelve months, in the same manner as if a separate policy had been written for each consecutive period. The earned premium for each such period shall be computed as provided by Condition 1 of this policy, subject, except as otherwise provided in the manuals in use by the company with respect to classifications of operations for which this policy provides a per capita premium basis, to the following provisions:

- (a) The premium rates for the first consecutive period shall be those stated in the declarations and those applicable for such period in accordance with the manuals in use by the company;
- (b) The premium bases, classifications of operations, rates, rating plans, premiums and minimum premiums for each such subsequent period shall be those applicable for such period in accordance with the manuals in use by the company.³

3. Partnership or Joint Venture as Insured If the insured is a partnership or joint venture, such insurance as is afforded by this policy applies to each partner or member thereof as an insured only while he is acting within the scope of his duties as such partner or member.

4. Inspection and Audit The company and any rating authority having jurisdiction by law shall each be permitted to inspect the workplaces, machinery and equipment covered by this policy and to examine and audit the insured's books, vouchers, contracts, documents and records of any and every kind at any reasonable time during the policy period and any extension thereof and within three years after termination of this policy, as far as they relate to the premium bases or the subject matter of this insurance.

5. Notice of Injury When an injury occurs written notice shall be given by or on behalf of the insured to the company or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the insured and also reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses.

6. Notice of Claim or Suit If claim is made or suit or other proceeding 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.

7. Assistance and Cooperation of the Insured The insured shall cooperate with the company and, upon the company's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than such immediate medical and other services at the time of injury as are required by the workmen's compensation law.

8. Statutory Provisions The company shall be directly and primarily liable to any person entitled to the benefits of the workmen's compensation law under this policy. The obligations of the company may be enforced by such person, or for his benefit by any agency authorized by law, whether against the company alone or jointly with the insured. Bankruptcy or insolvency of the insured or of the insured's estate, or any default of the insured, shall not relieve the company of any of its obligations under coverage A.

As between the employee and the company, notice or knowledge of the injury on the part of the insured shall be notice or knowledge, as the case may be, on the part of the company; the jurisdiction of the insured, for the purposes of the workmen's compensation law, shall be jurisdiction of the company and the company shall in all things be bound by and subject to the findings, judgments, awards, decrees, orders or decisions rendered against the insured in the form and manner provided by such law and within the terms, limitations and provisions of this policy not inconsistent with such law.

All of the provisions of the workmen's compensation law shall be and remain a part of this policy as fully and completely as if written herein, so far as they apply to compensation and other benefits provided by this policy and to special taxes, payments into security or other special funds, and assessments required of or levied against compensation insurance carriers under such law.

The insured shall reimburse the company for any payments required of the company under the workmen's compensation law, in excess of the benefits regularly provided by such law, solely because of injury to (a) any employee by reason of the serious and willful misconduct of the insured, or (b) any employee employed by the insured in violation of law with the knowledge or acquiescence of the insured or any executive officer thereof.

Nothing herein shall relieve the insured of the obligations imposed upon the insured by the other terms of this policy.

9. Limits of Liability The words "damages because of bodily injury by accident or disease, including death at any time resulting therefrom," in coverage B in-

ter is liable for care and loss of services and damages for which the insured is liable by reason of suits or claims brought against the insured by others to recover the damages obtained from such others because of such bodily injury sustained by employees of the insured arising out of and in the course of their employment. The limit of liability stated in the declarations for coverage B is the total limit of the company's liability for all damages because of bodily injury by accident, including death at any time resulting therefrom, sustained by one or more employees in any one accident. The limit of liability stated in the declarations for coverage B is the total limit of the company's liability for all damages because of bodily injury by disease, including death at any time resulting therefrom, sustained by one or more employees of the insured in operations in any one state designated in Item 3 of the declarations or in operations necessary or incidental thereto.

The inclusion herein of more than one insured shall not operate to increase the limits of the company's liability.

10. Action Against Company No action shall lie against the company unless, as a condition precedent thereto, the insured shall have fully complied with all 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. Nothing contained in this policy shall give

any person or organization any right to join the company as a co-defendant in any action against the insured to determine the insured's liability.

Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the company of any of its obligations under coverage B.

11. Other Insurance If the insured has other insurance against a loss covered by this policy, the company shall not be liable to the insured hereunder for a greater proportion of such loss than the amount which would have been payable under this policy, had no such other insurance existed, bears to the sum of said amount and the amounts which would have been payable under each other policy applicable to such loss, had each such policy been the only policy so applicable.

12. Subrogation In the event of any payment under this policy, the company shall be subrogated to all rights of recovery therefor of the insured and any person entitled to the benefits of this policy 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.

13. 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 [signed by _____ (here insert titles of authorized company officials or representatives); provided, however, changes may be made in the written portion of the declarations by _____ (here insert titles of authorized company representatives) when initiated by such _____ (here insert titles of authorized company representatives) or by endorsement issued to form a part of this policy signed by such _____ (here insert titles of authorized company representatives)]¹.

14. Assignment Assignment of interest under this policy shall not bind the company until its consent is endorsed hereon. If, however, during the policy period the insured shall die, and written notice is given to the company within thirty days after the date of such death, this policy shall cover the insured's legal representative

as insured; provided that notice of cancellation addressed to the insured named in the declarations and mailed or delivered, after such death, to the address shown in this policy shall be sufficient notice to effect cancellation of this policy.

15. Cancellation This policy may be canceled by the insured [by surrender thereof to the company or any of its authorized agents or] ² by mailing to the company written notice stating when thereafter the cancellation shall be effective. This policy may be canceled by the company by mailing to the 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 the surrender or the] ³ effective date [and hour] ³ of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the insured or by the company shall be equivalent to mailing.

If the insured cancels, unless the manuals in use by the company otherwise provide, earned premium shall be (1) computed in accordance with the customary short rate table and procedure and (2) not less than the minimum premium stated in the declarations. If the company cancels, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The company's check or the check of its representative mailed or delivered as aforesaid shall be a sufficient tender of any refund of premium due to the insured.

When the insurance under the workmen's compensation law may not be canceled except in accordance with such law, this condition so far as it applies to the insurance under this policy with respect to such law, is amended to conform to such law.

16. Terms of Policy Conformed Terms of this policy which are in conflict with the provisions of the **Coverage A** workmen's compensation law are hereby amended to conform to such law.

17. Declarations By acceptance of this policy the 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 Blank Insurance Company has caused this policy to be signed by its president and a secretary at _____ and countersigned on the declarations page by a duly authorized agent of the company.

(FACSIMILE OF SIGNATURE) Secretary (FACSIMILE OF SIGNATURE) President