



- b. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

#### CLAIMS FOR RELIEF

7. The Plaintiff is an individual who purchased an accidental disability plan through Ameriprise Financial Services, Inc., through its successor in interest, American Express Financial Advisors, Inc.
8. At all relevant times, the Defendants were engaged in business of writing or administering accidental disability income in foreign jurisdictions and were authorized to transact this business in the State of Texas.
9. On March 1, 2002, Defendant Ameriprise Financial Services, Inc., through its successor in interest, American Express Financial Advisors, Inc issued the accidental disability plan, Policy Number 4752611, to Plaintiff. A true and correct copy of the policy is attached to this complaint and incorporated by reference in it as Exhibit "A".
10. The contract of insurance was a result of the defendant's solicitation through its card members through an aggressive marketing plan.
11. The Plaintiff paid the initial premium at the time of submitting the application for the policy, and paid all subsequent premiums as and when they became due.
12. The Plaintiff fulfilled all other conditions of the policy and the policy was in full force and effect at all relevant times.
13. Subsequent to the issuance of the policy, Plaintiff was injured while jogging. As a result of the injuries, the Plaintiff sought medical care and saw numerous medical providers for the condition. Recently, Plaintiff has been told that the condition resulted in a total and permanent disability involving inability to perform his job. Specifically, Plaintiff has been unable to effectively use his arms and legs as a result of neurological injuries suffered as a result of the fall and despite aggressive medical treatment.
14. As a result, the Plaintiff is totally and permanently disabled within the meaning of the accidental disability plan.
15. The Plaintiff's injury was accidental, occurred during the term of the policy, and resulted directly and independently of all other causes, in the loss of the Plaintiff's ability to use his limbs.
16. The Defendants have refused to pay full benefits under the policy despite requests for payment by Plaintiff.
17. The Plaintiff has performed all of the terms and conditions required to collect benefits under the policy, including making demand for payment and the furnishings of

all required proof of loss, attending physicians' statements, and the furnishing of all other information required by the Defendants.

18. The Defendants do not and cannot deny that, since the accident, the Plaintiff cannot now and will never be able to perform substantial segments of the duties of the Plaintiff's previous job and job requirements.

19. Under the terms of the policy and by reason of the Plaintiff's total and permanent disability within the meaning of the policy and its riders, the Plaintiff is entitled to recover disability payments in the amount of \$1,500,000.00.

20. The repudiation of the policy obligations by the Defendants without just cause amounted to a breach of its contract with the Plaintiff, and a breach of the Defendants duties of good faith and fair dealing. As a result of the bad faith of the Defendants, the Plaintiff has:

- a. Been forced to hire an attorney, at the Plaintiff's personal expense, to enforce the clear obligations of the policy and collect proceeds clearly due; and
- b. Suffered severe emotional distress.

21. In refusing to pay the benefits clearly due under the policy, with no reasonable basis for denial, the Defendants engaged in despicable conduct in conscious disregard for the rights of Plaintiff, and was guilty of intentional cruelty and oppression towards an insured that the Defendants knew was already in a fragile emotional state from the loss of a valued occupation and the financial distress that this loss of occupation has caused. Therefore, the Plaintiff is entitled to punitive and exemplary damages from the Defendants in an amount to be determined by the trier of fact.

#### JURY DEMAND

22. Plaintiff demands a trial by jury.

#### PRAYER

Plaintiff prays that Defendants be cited to appear and answer, and that on final trial and hearing, Plaintiff has judgment against the Defendants:

1. For the sum of \$1,500,000.00 due the Plaintiff under the policy;
2. For pre-judgment interest on the sums due under the policy as allowed by law;
3. For the reasonable attorney's fees expended by the Plaintiff to secure payment of the policy benefits;

4. For a sum to be determined by the trier of fact as sufficient to compensate the Plaintiff for the emotional distress caused by the bad faith of the Defendants;
5. For punitive or exemplary damages in an amount to be determined by the trier of fact;
6. For postjudgment interest as allowed by law;
7. For costs of suit; and
8. For all other relief that may be just and right.

Respectfully submitted,

**AMSLER & AMSLER**  
A Professional Corporation

By: 

David Dumas  
Bar Card No. 06200990  
412 West Third Street  
McGregor, Texas 76657-2306  
Telephone: (254) 840-3291  
Telecopier: (254) 840-4261

**EXHIBIT "A"**

**American Express  
Accidental Disability Plan**

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**Benefit Plan Description**

NOTE: Read carefully and keep with your valuable documents.



Please read this and, if you enroll, please keep it in a safe place with your other insurance documents. This summary is not a contract of insurance but is simply an informative statement of the principal provisions of the insurance while in effect. Complete provisions pertaining to this plan of insurance are contained in the master policies on file with the policyholder. If this insurance plan does not conform to your state statutes, it will be amended to comply with such laws. If a statement in this booklet and any provision in the policy differ, the policy will govern

**Plan arranged by**

*The Sklover Group, Inc.*  
 400 Post Avenue, Suite 103  
 Westbury, NY 11590-2226

**Accidental Disability and Accidental Loss of Life Insurance  
 underwritten by**

Federal Insurance Company  
 A member insurer of the  
**Chubb Group of Insurance Companies**  
 15 Mountain View Road, P.O. Box 1615  
 Warren, NJ 07061

**\$2,500 Emergency Accident and Sickness Medical Expense Benefit  
 underwritten by**

Virginia Surety Company, Inc.  
 Executive Offices  
 123 North Wacker Drive  
 Chicago, IL 60606

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**American Express Accidental Disability Plan  
 Benefit Plan Description Overview**

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Under your plan, you are offered the following benefits:

- ❖ **\$1.5 Million Accidental Disability Plan**  
 (Permanent Total Disability Lump Sum Benefit)
- ❖ **Additional Benefits**
  - \$5,000 Accidental Loss of Life (AD&D) Benefit
  - \$2,500 Emergency Accident and Sickness Medical Expense Benefit
  - Emergency Evacuation, Repatriation and Return of Mortal Remains

This overview was developed to help you understand your benefits (including the Certificate of Insurance Declarations, the Certificate of Insurance Contract and other sections that follow). Please read carefully.

<u>SECTION</u>	<u>PAGE</u>
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<b><i>Certificate of Insurance Declarations</i></b> Defines Insured Person and lists benefit amounts for your Permanent Total Disability Lump Sum Benefit and your AD&D Benefit.	<b>1</b>
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<b><i>Certificate of Insurance Contract</i></b> Sections I – VII (pages 4-16) contain the major provisions of your Permanent Total Disability Lump Sum and AD&D Benefits. It describes the coverage, definitions, exclusions, limitations and payment should you suffer a loss under this plan.	<b>4</b>
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<b><i>\$2,500 Emergency Accident and Sickness Medical Expense Benefit</i></b> Contains the major provisions of your \$2,500 Emergency Accident and Sickness Medical Expense Benefit. It describes the coverage, definitions, exclusions, limitations and payment terms under this plan.	<b>17</b>
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<b><i>Emergency Evacuation, Repatriation and Return of Mortal Remains</i></b> Includes a description of each of these services.	<b>22</b>
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# Certificate of Insurance Declarations

**Policyholder's Name and Mailing Address**  
 Citizens Bank of Rhode Island, as Trustee for G.A.R.D. Trust  
 for the Account of HealthExtras/American Express  
 One Citizens Plaza  
 Providence, RI 02903-1339

**Policy Number** 6475-26-11  
**Effective Date** August 1, 2000  
**Anniversary Date** August 1  
**Producer Number** 63342  
**Agent** The Slovter Group, Inc.  
 400 Post Avenue, Suite 103  
 Westbury, NY 11590-2226

### Section I - Policy Period

From: August 1, 2000 To: until terminated  
 12:01 A.M. standard time at the Policyholder's address shown above.

### Section II - Insured Persons

The following are the Insured Persons under this policy:

Class	Description
1	All eligible Accountholders of the Policyholder who have elected Individual coverage and pay the required premium.
2	All eligible Accountholders of the Policyholder and their spouses for whom the Accountholder elects Individual plus Spouse coverage and pays the required premium.

If a person has coverage for a specific Loss as both an Insured Person and a Primary Insured Person, only one Benefit Amount applicable to that Loss will be paid. If one Benefit Amount is larger, the larger Benefit Amount will be paid and premium for the lesser Benefit Amount will be refunded. If the Benefit Amounts are equal, one Benefit Amount will be paid and premium for the remaining Benefit Amount will be refunded.

### Section III - Hazard(s)

The following are the Hazard(s) for which coverage applies:

**Hazard(s)** 24 Hour Business and Pleasure  
**Form Number** 44-02-1062 (Ed. 6/96)

### Section IV - Benefit Amounts

The following are Losses covered and subject to the Multiple Losses Maximum Payment provision.

#### A. PERMANENT TOTAL DISABILITY LUMP SUM BENEFIT

Benefit Amount	Elimination Period
\$1,500,000	365 days

#### PERMANENT BENEFIT AMOUNTS

The following are Permanent Total Disability Lump Sum Benefit Amounts:

Permanent:	Percent of Loss of Use Benefit Amount
Loss of Use of One Hand and One Foot	100%
Loss of Use of Both Hands or Both Feet	100%
Loss of Sight of Both Eyes	100%
Loss of Hearing of Both Ears	100%
Loss of Speech	100%

#### B. ACCIDENTAL LOSS OF LIFE (AD&D) BENEFIT AMOUNTS

The following are AD&D Benefit Amounts for each Class:

Class	Benefit Amounts
1	\$5,000
2	\$5,000

#### ACCIDENTAL BENEFIT AMOUNTS

The following are Accidental Loss Benefit Amounts:

Accidental:	Percent of AD&D Benefit Amount
Loss of Life	100%
Loss of Speech and Loss of Hearing	100%
Loss of Speech and Loss of One of: Hand, Foot or Sight of an Eye	100%
Loss of Hearing and Loss of One of: Hand, Foot or Sight of an Eye	100%
Loss of Both Hands, Loss of Both Feet, Loss of Sight of Both Eyes or a Combination of Any Two of a Loss of Hand, a Loss of Foot or Loss of Sight of an Eye	100%
Loss of One Hand, Loss of One Foot or Loss of Sight of an Eye	50%
Loss of Speech or Loss of Hearing	50%
Loss of Thumb and Index Finger of the Same Hand	25%

**DOMESTIC PARTNER**

Whenever the term "spouse" is used in the policy, the term includes Domestic Partner. The Primary Insured Person and the Domestic Partner agree to provide additional information and documentation as may be required to substantiate the relationship and eligibility for coverage under the policy.

**Domestic Partner Coverage applies.**

Coverage only applies for the Class(es), Hazard(s), Benefit Amounts and Losses that are specifically indicated as covered.

44-02-1087 (Ed 6/96)

**Certificate of Insurance  
Contract**

**READ YOUR CERTIFICATE CAREFULLY.**

This certificate contains the major provisions of the policy. It describes the coverage, definitions, exclusions, limitations and payment of loss. This certificate replaces all prior certificates issued to the Insured Person for the policy.

Words and phrases that appear in bold print have special meanings and are defined in the Definitions section(s) of this certificate. Defined terms include the plural.

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

**Section I - Coverage**

We will pay the applicable Benefit Amount if an Accident results in a Loss not otherwise excluded. The Accident must result from a covered Hazard and occur during the policy period. The Loss must occur within one (1) year of the Accident.

**Effective Date of Individual Coverage**

- Coverage for the Insured Person becomes effective on the latest of:
- 1) the effective date of the policy; or
  - 2) the beginning of the period for which premium is paid for the Insured Person; or
  - 3) the date on which a person meets the definition of Insured Person.

**Termination of Individual Coverage**

- Coverage for the Insured Person automatically terminates on the earliest of:
- 1) the termination date of the policy; or
  - 2) the expiration of the period for which premium has been paid for the Insured Person; or
  - 3) the date on which a person no longer meets the definition of Insured Person.

**Section II - Extensions of Coverage**

Extensions of Coverage are subject to the provisions of Section I of the Contract, Coverage, and all other policy terms and conditions:

**Permanent Total Disability Lump Sum**

If Accidental Bodily Injury causes the Primary Insured Person to have a Permanent Total Disability that is continuous during the period for which Permanent Total Disability Benefit Amounts are payable, after the Elimination Period we will pay the Permanent Total Disability Lump Sum Benefit Amount shown in the Declarations.

never the term "Primary Insured Person" is used in the Permanent Total Disability Lump Endorsement, the term includes Covered Person.

**11**  
**Appearance**

Insured Person has not been found within one (1) year of the disappearance, stranding, missing, or breakdown of any conveyance in which the Insured Person was covered as an insured Person at the time of the Accident, it will be assumed, subject to all other terms of the policy, that the Insured Person has suffered Loss of Life covered under the policy.

**12**  
**Accident**

Accident resulting from a Hazard causes the Insured Person to be unavoidably exposed to elements and as a result of such exposure the Insured Person has a Loss, such Loss will be covered under the policy.

**13**  
**Multiple Losses Maximum Payment**

Losses identified in the Declarations as subject to the Multiple Losses Maximum Payment shall, if an Insured Person has multiple Losses as the result of one Accident, be limited to the single largest Benefit Amount applicable.

**14**  
**Territory**

Insurance applies worldwide.

**15**  
**Exclusions**

Total Disability coverage does not apply to persons age seventy (70) or older on the date of the Loss.

**16**  
**Owned, Leased or Operated**

Insurance does not apply to Loss occurring while an Insured Person is in, entering, or exiting an aircraft owned, leased or operated by the Policyholder or on behalf of the Policyholder.

**17**  
**Pilot or Crew**

Insurance does not apply to Loss occurring while an Insured Person is in an aircraft while acting as a pilot or crew member.

Insurance does not apply to passengers who temporarily perform pilot or crew functions in a rescue or emergency.

**18**  
**Intoxication**

Insurance does not apply to Loss occurring while the Insured Person is committing a criminal act or attempting to commit a criminal act.

**19**  
**Disease or Illness**

This insurance does not apply to Loss caused by or resulting from an Insured Person's emotional trauma, mental or physical illness, disease, pregnancy, childbirth or miscarriage, bacterial or viral infection, or bodily malfunctions.

This exclusion does not apply to Loss resulting from an Insured Person's bacterial infection caused by an Accident or from Accidental consumption of a substance contaminated by bacteria.

**20**  
**Intoxication and Narcotic Influence**

This insurance does not apply to Loss caused by or resulting from the Insured Person being intoxicated, as defined by the laws of the jurisdiction where the Loss occurred, or under the influence of any narcotic unless taken on the advice of a Physician and used in accordance with the prescription.

**21**  
**Military Service**

This insurance does not apply to Loss occurring while the Insured Person is participating in military service duties of any state, country, or international authority.

**22**  
**Parachute Jumping**

This insurance does not apply to Loss caused by or resulting from the Insured Person participating in parachute jumping from an aircraft.

**23**  
**Pre-Existing Condition**

This insurance does not apply to Loss caused by or resulting from a Pre-Existing Condition. A Pre-Existing Condition means illness, disease or Accidental injury of the Insured Person for which medical advice, diagnosis, care or treatment was recommended or received within the six (6) months prior to the effective date of Insured Person's coverage under this policy. A Pre-Existing Condition will not be excluded after twelve (12) months has elapsed from the effective date of the Insured Person's coverage.

**24**  
**Professional Sporting Activity**

This insurance does not apply to a Loss caused by or resulting from the Insured Person participating in any professional sporting activity for which the Insured Person received a salary or prize money as a substantial part of their income.

**25**  
**Suicide or Intentional Injury**

This insurance does not apply to suicide, attempted suicide or loss that is intentionally self-inflicted.

**26**  
**War**

This insurance does not apply to Loss caused by or resulting from a declared or undeclared War. Declared or undeclared War does not include acts of terrorism.

**on VI – Definitions**

**Senior Accidental**

Senior Accidental means a sudden, unforeseen, and unexpected event which happens by accident, arises from a source external to the Insured Person, is independent of illness, disease or bodily malfunction and is the direct cause of loss.

**Senior Bodily Injury**

Senior Bodily Injury means bodily injury, which is Accidental and the direct cause of a Loss.

**Insured(s)**

Insured(s) means a holder, authorized by the Policyholder, of a valid credit card account, account, or mortgage with the Policyholder.

**Face Amount**

Face Amount is the amount shown in Section IV of the Declarations applicable to the Loss: at the time of the Accident; and to the Insured Person who has the Loss.

Insured Person means the persons described in Section II of the Declarations, Insured Persons.

**Insurer**

Insurer means Federal Insurance Company.

**Adopted Child or Children**

Adopted Child or Children means those children, including adopted children and those children in legal adoption, who are primarily dependent upon the Insured Person for maintenance and support, who are:

- (a) under the age of nineteen (19) and reside with the Insured Person; or
- (b) beyond the age of nineteen (19), permanently mentally or physically challenged, and incapable of self-support; or
- (c) under the age of twenty-five (25) and classified as full-time students at an institution of higher learning

**Spouse**

Spouse means a person designated in writing at enrollment by the Primary Insured Person, who is at least eighteen (18) years of age, and who throughout the past twelve (12) months: has been in a committed relationship with the Primary Insured Person; and has been the Primary Insured Person's sole spousal equivalent; and

- 3) has resided in the same household as the Primary Insured Person; and
- 4) has been jointly responsible with the Primary Insured Person for each other's financial obligations,

and who intends to continue the relationship described above indefinitely.

**Elimination Period**

Elimination Period means the number of consecutive days of the Primary Insured Person's Permanent Total Disability that must elapse before Permanent Total Disability benefits become payable. The Elimination Period is shown in the Declarations. Permanent Total Disability benefits are not payable, nor do they accrue, during an Elimination Period.

**Hazard**

Hazard means the covered circumstances for which this insurance is provided as stated in Section III of the Declarations and described in the Hazard form.

**Insured Person**

Insured Person means a person described as a Class member in Section II of the Declarations:

- 1) who elects coverage; or
- 2) for whom coverage is elected,

and on whose behalf premium is paid.

**Loss of Use**

Loss of Use means the permanent and total inability of the specified body part to function, as determined by a Physician.

The following definitions of Loss of Use apply to Section IV.A of the Declarations, PERMANENT TOTAL DISABILITY LUMP SUM BENEFIT:

**Loss of Use of Hand**

Loss of Use of Hand means the Loss of Use at or above the knuckle joints of at least four (4) fingers on the same hand or at least three (3) fingers and the thumb of the same hand.

**Loss of Use of Foot**

Loss of Use of Foot means the Loss of Use of the foot at or above the ankle joint.

**Loss of Sight of Both Eyes**

Loss of Sight of Both Eyes means the permanent loss of vision in both eyes. Remaining vision in both eyes must be no better than 20/200 using a corrective aid or device, as determined by a Physician.

**Loss of Hearing of Both Ears**

Loss of Hearing of Both Ears means the permanent, irrecoverable and total deafness of both ears to the extent that the deafness cannot be corrected by any aid or device, as determined by a Physician.

**Loss of Speech**

Loss of Speech means the permanent, irrecoverable and total loss of the capability of speech without the aid of mechanical devices, as determined by a Physician.

**Loss**

Loss means the types of Accidental Bodily Injuries listed in Section IV of the Declarations for which the policy provides coverage.

The following definitions of Loss apply to Section IV.B of the Declarations, AD&D BENEFIT AMOUNTS:

**Loss of Foot**

Loss of Foot means the complete severance through or above the ankle joint. We will consider it a Loss of Foot even if the foot is later reattached.

**Loss of Hand**

Loss of Hand means complete severance through or above the knuckle joints of at least 4 fingers on the same hand or at least 3 fingers and the thumb on the same hand. We will consider it a Loss of Hand even if the fingers and/or thumb are later reattached.

**Loss of Hearing**

Loss of Hearing means the permanent, irrecoverable and total deafness of both ears to the extent that the deafness cannot be corrected by any aid or device, as determined by a Physician.

**Loss of Life**

Loss of Life means death, including clinical death, determined by the local governing medical authorities.

**Loss of Sight of an Eye**

Loss of Sight of an Eye means the permanent loss of vision in one eye. Remaining vision in that eye must be no better than 20/200 using a corrective aid or device, as determined by a Physician.

**Loss of Speech**

Loss of Speech means the permanent, irrecoverable and total loss of the capability of speech without the aid of mechanical devices, as determined by a Physician.

**Loss of Thumb and Index Finger**

Loss of Thumb and Index Finger means complete severance through or above the knuckle joints of the thumb and index finger of the same hand. We will consider it a Loss of Thumb and Index Finger even if one or both are later reattached.

**Permanent Total Disability**

Permanent Total Disability means Accidental Bodily Injuries that solely and directly cause the Primary Insured Person's:

Loss of:

- Use of One Hand and One Foot; or
- Use of Both Hands or Both Feet; or
- Sight of Both Eyes; or
- Hearing of Both Ears; or
- Speech,

which solely and directly:

- 1) prevent the Primary Insured Person from engaging in any gainful occupation for which the Primary Insured Person is qualified, or could be qualified, by reason of education, training, experience, or skill; and
- 2) cause a condition which is medically determined by a Physician, approved by the Company, to be of continuous and indefinite duration; and
- 3) require the continuous care of a Physician, unless the Primary Insured Person has reached his/her maximum point of recovery.

**Physician**

Physician means a person who is licensed as a medical doctor or a doctor of osteopathy under the laws of the jurisdiction in which treatment is given and who is qualified to provide the medical treatment. Physician does not include a family member of the Insured Person, a social worker or a physical therapist.

**Policyholder**

Policyholder means the entity identified in the Insuring Agreement who is responsible for the collection and remittance of premium.

**Primary Insured Person**

**Primary Insured Person** means an **Insured Person** who:  
is offered coverage by the **Policyholder** and elects coverage under the policy; and  
pays the premium for the coverage selected.

or

**War Means:**

Hostilities following a declaration of **War** by a government authority;  
if there is no declaration of **War**, then armed, open and continuous hostilities between two  
countries; or  
armed, open and continuous hostilities between two factions, each in control of territory, or  
claiming jurisdiction over the site of the area of hostility.

**Section VII – Common Policy Conditions**

**Policy Assignment**

**Insured Person's** rights under the policy may be irrevocably assigned. However, we will only  
recognize an assignment if the **Insured Person** has given us prior written notice and has our written  
acknowledgement of this assignment.

**Arbitration**

In the event of a dispute under the policy, either we, the **Insured Person**, or in the event of **Loss of**  
Life, the **Insured Person's** beneficiary may make a written demand for arbitration. In that case, we  
and the **Insured Person**, or in the event of **Loss of Life**, the **Insured Person's** beneficiary, will each  
select an arbitrator. The two arbitrators will select a third. If they cannot agree within fifteen (15)  
days, either we or the **Insured Person**, or in the event of **Loss of Life**, the **Insured Person's**  
beneficiary, may request that the choice of arbitrator be submitted to the American Arbitration  
Association. The arbitration will be held in the state of the **Insured Person's** principal residence.

**Waiver**

**Life benefit** will be paid to the beneficiary designated by the **Insured Person**. This  
benefit must be in writing and filed with the **Policyholder**.

If the **Insured Person** has not chosen a beneficiary or if there is no beneficiary alive when the  
**Insured Person** dies, we will pay the **Benefit Amount** to the first surviving party in the following  
order:

- to the **Insured Person's** spouse;
- to equal shares to the **Insured Person's** surviving children;
- to equal shares to the **Insured Person's** surviving parents;
- to equal shares to the **Insured Person's** surviving brothers and sisters;
- to the **Insured Person's** estate.

All other **Benefit Amounts** are paid to the **Insured Person**, unless otherwise directed by the  
**Insured Person** or the **Insured Person's** designee.

**Beneficiary Changes**

The **Insured Person**, and no one else, has the right to change the beneficiary. The **Insured Person**  
does not need the consent of anyone to do so. Changes must be in writing and filed with the  
**Policyholder**. We do not assume any responsibility for the validity of the changes.

**Cancellation, Nonrenewal and Grace Period**

The **Policyholder** may cancel the policy or any of its individual coverages by sending us written  
notice stating when cancellation is to take effect. The effective date of cancellation may not be  
earlier than the date notice is mailed or transmitted.

We may cancel the policy or any of its individual coverages if the **Policyholder** fails to pay the  
premium within the grace period of thirty-one (31) days after the premium due date, except for the  
first premium due during the policy term. We will send written notice stating the effective date of  
cancellation, which will be no earlier than thirty-one (31) days from the premium due date.

The **Policyholder** is entitled to a grace period of thirty-one (31) days for the payment of premium  
due. The policy will continue in force during the grace period. The grace period does not apply to  
the first premium payable during the policy term. Failure to pay the first premium on or before the  
due date will immediately terminate the policy as of inception. We are not required to provide  
notification of such termination.

We may cancel or nonrenew the policy for reasons other than non-payment of premium by sending  
written notice at least forty-five (45) days before the Anniversary Date shown in the Insuring  
Agreement.

We will send notice of cancellation or nonrenewal to the **Policyholder** at its last known address. If  
the notice is mailed, proof of mailing will be considered proof of cancellation or nonrenewal. The  
**Policyholder** is required to provide notice of cancellation to all **Insured Persons**.

The **Primary Insured Person** may cancel the insurance described in this policy by returning to us or  
our authorized representative the **Benefit Plan Description** with a written request for cancellation  
within ninety days of receipt. The premium will be fully refunded.

**Claim Forms**

When we receive notice of a claim we will send the **Insured Person** or the **Insured Person's**  
designee, within fifteen (15) days, forms for giving us **Proof of Loss**. If the **Insured Person** or the  
**Insured Person's** designee does not receive the forms, the **Insured Person** or the **Insured Person's**  
designee should send us a written description of the **Loss**. This written description should include  
information detailing the occurrence, type and extent of the **Loss** for which claim is made.

**Claim Notice**

Written **Claim Notice** must be given to us or any of our appointed agents or brokers within twenty  
(20) days after the occurrence or commencement of any **Loss** covered by the policy or as soon as

nably possible. Notice must include enough information to identify the **Insured Person** and **Beneficiary**. Failure to give Claim Notice within twenty (20) days will not invalidate or reduce claim if notice is given as soon as reasonably possible.

#### **Payment**

benefits payable involving disability, we will pay the **Insured Person** or beneficiary the **Benefit Amount** no less frequently than monthly during the continuance of the period for which we are liable. All payments by us are subject to receipt of written Proof of Loss.

All benefits payable under the policy except those for disability, we will pay the **Insured Person** or beneficiary the applicable **Benefit Amount** within sixty (60) days after we receive a complete Proof of Loss if the **Insured Person** and **Policyholder** have complied with all the terms of the policy.

#### **Proof of Loss**

Statements involving disability, written Proof of Loss must be given to us within thirty (30) days after commencement of the period for which we are liable. Subsequent written proof of the occurrence of such disability must be given to us at such intervals as we may reasonably require.

We may require you to give written Proof of Loss within these timeframes will not invalidate or reduce any claim if the Proof of Loss is given as soon as reasonably possible, and in no event, except in cases where the claimant is under a legal incapacity, later than one (1) year after the deadline to submit written Proof of Loss.

All claims except those involving disability, written Proof of Loss must be given to us within thirty (30) days after the date of Loss, or as soon as reasonably possible.

#### **Medical and Suit Cooperation**

In the event of a claim under the policy, the **Policyholder**, the **Insured Person** and the beneficiary, if applicable, must fully cooperate with us in handling of the claim, including, but not limited to, the submission of all medical and other reports, and full cooperation with all physical examinations and autopsies that we may require.

The **Policyholder** is sued in connection with a claim under the policy, the **Policyholder** will promptly give us copies of every demand, notice and summons which the **Policyholder** receives in connection with the lawsuit. The **Policyholder** must fully cooperate with us in the handling of the lawsuit. At the request of the **Policyholder** we will assist in the settlement or conduct of the suit. The **Policyholder** and designee will attend all hearings and trials and assist in giving evidence and securing the attendance of witnesses. The **Policyholder** must not, except at its own expense, voluntarily make payment or assume any obligation in connection with the suit without our prior written consent.

#### **Waiver of Subrogation and Release by Policyholder and Insured Person**

We have no duty to provide coverage under the policy unless the **Policyholder** and the **Insured Person** have fully complied with all the terms and conditions of the policy.

#### **Conformance With Statutes**

Any terms of the policy which are in conflict with the applicable statutes, laws or regulations of the state or territory in which the policy is issued are amended to conform to such statutes, laws or regulations.

#### **Conversion Privilege**

In the event the **Insured Person's** coverage under the policy ceases for any reason other than termination of the policy, the **Insured Person** is eligible for an individual accident policy.

To convert to an individual accident policy, the **Insured Person** must submit to us or our authorized representative:

- 1) a complete, written application; and
- 2) the required premium

for the individual accident policy within thirty-one (31) days after the **Insured Person's** coverage ended.

The individual accident policy will:

- 1) be issued without evidence of insurability;
- 2) provide insurance only for **AD&D** that is most similar to, but not greater than, the terminated coverage;
- 3) not pay for the same Loss for which benefits have already been paid under the policy;
- 4) provide a **Benefit Amount** for the **Insured Person** which will be the lesser of the following:
  - a) the **Insured Person's Benefit Amount** under the policy; or
  - b) \$100,000; and
- 5) be subject to current rates for age and **Class** at the time of conversion.

#### **Examination Under Oath**

We have a right to examine under oath, as often as we may reasonably require, the **Insured Person**, the **Policyholder** or the beneficiary. We may also require the **Insured Person**, the **Policyholder** or the beneficiary to provide a signed description of the circumstances surrounding the Loss and their interest in the Loss. The **Insured Person**, the **Policyholder** and the beneficiary will also produce all records and documents requested by us, and will permit us to make copies of such records or documents.

#### **Inadvertent Error**

The insurance provided under the policy will not be prejudiced by the failure on the part of the **Policyholder** to transmit reports, collect and remit premium or comply with any of the terms and conditions of the policy when such failure is due to inadvertent error or clerical mistake.

#### **Legal Action Against Us**

No legal action may be brought to recover on the policy until sixty (60) days after we have been given complete, written Proof of Loss. No such action may be brought after three (3) years from the

time complete. Written Proof of Loss is required to be given. No such action may be brought unless these has been full compliance with all of the terms of the policy.

In no case will we be liable for benefits that are not payable under the terms of the policy or that exceed the applicable **Benefit Amounts**.

**Liberalization**

If we adopt any changes:

- 1) within forty-five (45) days prior to the effective date shown in the Insuring Agreement; or
- 2) during the policy period,

which could broaden this insurance without an additional premium charge, the **Insured Person** will actually receive the benefit of the broadened coverage.

**Physical Examination and Autopsy**

We have the right to have the **Insured Person** examined by a **Physician** approved by us, as often as reasonably necessary while a claim is pending. We may also have an autopsy done by a **Physician**, unless prohibited by law. Any examinations or autopsies that we require will be done at our expense.

**Premium Payment**

The **Policyholder** will collect and remit to us all premiums due under the policy, subject to the grace period specified in the Cancellation, Nonrenewal and Grace Period condition.

Premium is auditable. We will calculate the earned premium for each audit Reporting Period based on the applicable rates and exposures shown in the Premium Summary. The **Policyholder** must keep records of the information we need to calculate the premium and send us copies of these records for each Reporting Period.

The earned premium will be computed on a pro-rata basis. Any unearned premium will be remitted to the **Policyholder** for return to the **Primary Insured Person** as soon as practicable.

**Premium Rate Changes**

We may change the premium rates for the policy on the Anniversary Date. We will give the **Policyholder** at least forty-five (45) days prior written notice.

**Statement by Policyholder or Insured Person and Incontestability**

We will not use any statements, except fraudulent misstatements, made by the **Policyholder** or an **Insured Person** to void the insurance or reduce benefits payable under the policy, or to otherwise contest the validity of the policy, unless such statements are contained in a written document signed by the **Policyholder** or the **Insured Person**. If we rely on such statements for this purpose, we will provide a copy of the written document to the **Policyholder**, the **Insured Person**, or the **Insured Person's** designee or beneficiary, as appropriate.

We will consider all statements made by the **Policyholder** and the **Insured Person** to be representations and not warranties.

Except for nonpayment of premium, we will not use statements made by the **Policyholder** or an **Insured Person** regarding insurability to contest the validity of the policy when the statements are made more than two (2) years after the policy has been in force during the **Insured Person's** lifetime.

Nothing in this section will preclude us from asserting at any time defenses based upon a claimant's ineligibility for coverage under the policy, or upon any other policy provision or condition.

**Titles of Paragraph**

The titles of the various paragraphs of this certificate and any endorsements attached are inserted solely for the convenience of reference and do not limit or affect in any way the provisions to which they relate.

**Workers' Compensation**

The benefits payable under the policy are not in lieu of and do not affect any requirement for **Workers' Compensation** Insurance.

44-10-0443 (Ed 6/96)

**HAZARD**

**24 Hour Business and Pleasure**

**24 Hour Business and Pleasure Hazard** means all circumstances, subject to the terms and conditions of the policy, to which the **Insured Person** may be exposed anywhere in the world.

44-02-1062 (Ed 6/96)

# \$2,500 Emergency Accident and Sickness Medical Expense Benefit

15 of 17

**USED BY**  
The Surety Company, Inc. under the Travel Protection Policy Number HTP00137

## DESCRIPTION OF COVERAGE

Item of Coverages	Maximum Annual Benefits Per Person
Accident and Sickness Medical Expense	\$2,500
Benefit payable with other Insurance	
Benefit payable without other Insurance	\$100/day; maximum of \$2,500

## Emergency Accident and Sickness Medical Expense

Company will pay benefits, up to the maximum shown on the Schedule of Coverages, if as the result of an Accidental Injury or Sickness while on Your Trip, You incur necessary covered medical expenses for Emergency Treatment. Covered medical expenses are necessary services and supplies, which are recommended by the attending Physician. They include the services of a legally qualified physician; charges for Hospital confinement and use of operating rooms; charges for anesthetics including administration; x-ray examinations or treatments, and laboratory tests; ambulance hire; drugs, medicines, prosthetics and therapeutic services and supplies. The Company will not pay benefits in excess of the reasonable and customary charges commonly used by providers of medical care in the locality in which the care is furnished.

## ATTENTIONS AND EXCLUSIONS

Following exclusions apply to Emergency Accident and Sickness Medical Expense coverage. Nothing does not cover any loss caused by or resulting from:

- 1. Existing Conditions, as defined below;
- 2. Suicide or attempted suicide;
- 3. Intentionally self-inflicted injuries;
- 4. War, invasion, acts of foreign enemies, hostilities between nations (whether declared or not), civil war;
- 5. Any loss starting while You are in the service of the armed forces of any country. Orders to active military service for training purposes of two months or less will not constitute service in the armed forces;
- 6. Piloting or learning to pilot or acting as a member of the crew of any aircraft;
- 7. Mental or emotional disorders, unless hospitalized;
- 8. Participation as a professional in athletics or underwater activities;
- 9. Being under the influence of drugs or intoxicants unless prescribed by a Physician;
- 10. Commission or the attempt to commit a criminal act;
- 11. Participating in bodily contact sports; skydiving; hang gliding; parachuting; mountaineering; any race; bungee cord jumping; or speed contest;

- 12) Dental treatment except as a result of an Accidental Injury to sound, natural teeth within twelve (12) months of the Accidental Injury;
- 13) Any non-emergency treatment or surgery, routine physical examinations, hearing aids, eye glasses or contact lenses;
- 14) Pregnancy and childbirth (except for complications of pregnancy);
- 15) Confinement or treatment in a government Hospital; however, the U.S. government may recover or collect benefits under certain conditions;
- 16) Care or treatment which is not medically necessary;
- 17) Care or treatment for which compensation is payable under Workers Compensation law, any Occupational Disease law, the 4800 Time Benefit plan or similar legislation;
- 18) Care or treatment that is payable under any insurance policy that does not require deductible and/or coinsurance payments by the Eligible Person;
- 19) Injury or Sickness when traveling against the advice of a Physician; and
- 20) Cosmetic surgery except for: reconstructive surgery incidental to or following surgery for trauma, or infection or other covered disease of the part of the body reconstructed, or to treat a congenital malformation of a child.

## DEFINITIONS

"Accident" means a sudden, unexpected, unusual, specific event which occurs at an identifiable time and place, but shall also include exposure resulting from a mishap to a conveyance in which You are traveling.

"Accidental Injury" means Injury caused by an Accident (of external origin) occurring during a Covered Trip being the direct and independent cause in the loss.

"Eligible Person" means You, Your spouse, and Your unmarried dependent child(ren) who are under 19 years of age (24, if a full-time student). Dependent children include stepchildren, legally adopted or children who have been placed in Your home for adoption, and foster children. If a mental or physical handicap prevents an unmarried dependent child from self-support when he/she reaches the termination age, he/she may remain as an Eligible Person under this policy. Proof of such incapacity and dependency must be furnished to the Company within 31 days of the child's attainment of the termination age and not more frequently than annually thereafter. Coverage will continue as long as coverage remains in force and the dependent child is incapable of self-support.

"Emergency Treatment" means necessary medical treatment, including services and supplies, which must be performed during Your Trip due to the serious and acute nature of the Accidental Injury.

"Family Member" means the Eligible Person's or Traveling Companion's legal or common law spouse, parent, legal guardian, step-parent, grandparent, grandchild, in law, natural or adopted child, step-child, brother, sister, step-brother, step-sister, aunt, uncle, niece or nephew, who reside in the United States or Canada.

"Hospital" means a facility that:

- a) holds a valid license if it is required by the law;
- b) operates primarily for the care and treatment of sick or injured persons as in-patients;
- c) has a staff of one or more Physicians available at all times;

provides 24 hour nursing service and has at least one registered professional nurse on duty or call; has organized diagnostic and surgical facilities, either on the premises or in facilities available to the hospital on a pre-arranged basis; and is not, except incidentally, a clinic, nursing home, rest home, or convalescent home for the aged, or similar institution.

**Original Coverage Term** means the period of time beginning when the Eligible Person has enrolled for coverage under the policy and for whom the required premium has been paid.

**Injury** means bodily injury caused by an Accident occurring while this policy is in force, and indirectly and independently of all other causes in loss covered by the policy. The Injury must be certified by a Physician.

**Insurance** means any one of the following types of policies or plans which provide benefits for confinement for You on Your effective date of coverage, and such policy or plan requires that You pay a deductible and/or portion of coinsurance: Individual, group or blanket insurance plans; Blue Cross, Blue Shield, or other group prepayment coverage plans; coverage under labor agreement trustee plans, union welfare plans, employer organization plans, employee benefit organizational plans, or other arrangements of benefits for persons of a group. Insurance does not include Medicare or Medicaid.

**Physician** means a licensed practitioner of medical, surgical or dental services acting within the scope of his/her license. The treating Physician may not be You, a Traveling Companion or a Family Member.

**Existing Condition** means any Injury or Sickness which has been diagnosed by a legally qualified Physician, with consultation, advice or treatment occurring within twelve (12) months immediately prior to an Eligible Person's Individual Coverage Term. Pre-Existing Condition also includes symptoms of a condition that would have led an ordinarily prudent person to seek diagnosis, or treatment. Such an Injury or Sickness will continue to be a Pre-Existing condition until the expiration of the term of the policy.

**Grace Period** means the period of twelve (12) consecutive months beginning with the Individual Coverage Term, for which the Eligible Person has not received any medical care, consultation, diagnosis or treatment, or has not taken any prescribed drug or medicine on account of such condition, or the expiration of twenty-four (24) consecutive months, beginning with the Individual Coverage Term.

**Sickness** means an illness or disease which is diagnosed or treated by a Physician after the effective date of this plan and while You are covered under this policy.

**Company** means Virginia Surety Company, Inc.

**Traveling Companion** means a person who is sharing travel arrangements with You (to a maximum of four (4) persons including You).

**"Trip"** means any trip taken by an Eligible Person, to age 70 only, for which the required premium has been paid and which is 100 or more miles away from the Eligible Person's primary residence. Travel must be solely for business or for pleasure, not for the procurement of medical treatment or advice.

**"You and Your"** means an Eligible Person.

## GENERAL PROVISIONS

**Legal Actions.** No legal action for a claim can be brought against us until sixty (60) days after we receive proof of loss. No legal action for a claim can be brought against us more than two (2) years after the time required for giving proof of loss.

**Controlling Law.** Any part of this Policy that conflicts with the state law where the Policy is issued is changed to meet the minimum requirements of that law.

**Misrepresentation and Fraud.** Coverage as to an Eligible Person shall be void if, whether before or after a loss, the Eligible Person has concealed or misrepresented any material fact or circumstance concerning this Policy or the subject thereof, or the interest of the Eligible Person therein, or if the Eligible Person commits fraud or false swearing in connection with any of the foregoing.

**Subrogation.** To the extent the Company pays for a loss suffered by an Eligible Person, the Company will take over the rights and remedies the Eligible Person had relating to the loss. This is known as subrogation. The Eligible Person must help the Company to preserve its rights against those responsible for the loss. This may involve signing any papers and taking any other steps the Company may reasonably require. If the Company takes over an Eligible Person's rights, the Eligible Person must sign an appropriate subrogation form supplied by the Company.

**Assignment.** This Policy is not assignable but benefits may be assigned.

**When an Eligible Person's coverage begins.** All coverage will take effect on the first day of the following month in which the required premium has been paid.

**When an Eligible Person's coverage ends.** An Eligible Person's coverage will end on the date which is the earliest of the following:

- the date the Policy is terminated;
- the date on which You no longer meet the definition of "Eligible Person";
- the date coverage is ended by You; or
- the due date of a premium when due, subject to the Grace Period. The Company will allow a period of 31 days after the premium due date for payment of each premium after the first premium payment. The Policy is in force during this period. Termination of insurance of any Eligible Person will be without prejudice to any claim that begins before the date of termination.

**Notice of Claim.** Written notice of claim must be given to the Company or its designated representative within twenty (20) days after a covered loss first begins or as soon as reasonably possible. Notice should include the Eligible Person's name and Policy number. To obtain claim forms call 1-888-668-9035.

17 **Proof of Loss.** The Claimant must send the Company, or its designated representative, proof of loss within ninety (90) days after a covered loss occurs or as soon as reasonably possible.

16 **Payment of Claims.** The Company, or its designated representative, will pay the claim after receipt of acceptable proof of loss. All claims will be paid to the Eligible Person or the Eligible Person's estate. In the event the Eligible Person is a minor, incompetent or otherwise unable to give a valid release, the Company may make arrangements to pay claims to the Eligible Person's legal guardian, Committee or other qualified representative.

15 **Physical Examination and Autopsy.** The Company, or its designated representative, at their own expense, have the right to have the Eligible Person examined as often as reasonably necessary while a claim is pending. The Company, or its designated representative, also has the right to have an autopsy made unless prohibited by law.

14 **TE.** Problems of distance, information and communication make it impossible for Virginia Society Company, Inc., HealthExtras, or The Sklower Group, Inc. to assume any responsibility for the availability, quality, use or result of any emergency service. In all cases, You are still responsible for obtaining, using and paying for Your own required services of all types.

13 This insurance, under Policy HTP00137, is underwritten by Virginia Surety Company, Inc. Executive Offices: 123 North Wacker Drive, Chicago, Illinois 60606

12 Policy terms and conditions are briefly outlined in this Plan Description. Complete provisions pertaining to this insurance are contained in the Master Policy on file with the trustee, Marine Bank, Springfield and HealthExtras. In the event of any conflict between this Plan Description and the Master Policy, the Policy will govern.

## **Emergency Evacuation, Repatriation and Return Of Mortal Remains**

The following services are provided for You, Your Spouse and Dependent Children (Household). You may obtain these services by calling 1-800-246-5249. Outside the U.S., call collect 1-603-898-9159. (Service provided by On Call International.)

### **EMERGENCY EVACUATION**

If a Member of the Household is involved in an Accident or suffers a sudden illness and adequate medical facilities are not available, We will provide Emergency Evacuation to the nearest facility capable of providing adequate care.

### **MEDICALLY SUPERVISED REPATRIATION**

If determination is made that it is medically advisable to bring the Household Member to a facility nearer his/her permanent residence following stabilization, We will make the arrangements for Repatriation under medical supervision.

### **REPATRIATION OF MORTAL REMAINS**

In the event of a household member's demise, We will render every assistance possible to obtain necessary clearances and arrangements for the return of the Mortal Remains and pay such reasonable expenses, up to \$4,000, associated with the return.

#### **Benefits will be paid up to the limits indicated:**

- Emergency Medical Evacuation, Repatriation, and Return of Mortal Remains. Up to \$50,000 combined single limit
- Return of minor Children. Up to \$1,000 coverage limit
- Return of Traveling companion. Up to \$1,000 coverage limit
- Transportation to join a disabled patient. Up to \$1,000 coverage limit
- Repatriation of Mortal Remains. Up to \$4,000 coverage limit.

*Please note that the Benefit Plan Description is not the master policy. Actual coverage is subject to the language of the master policies issued.*