

Intact Insurance Company  
700 University Avenue, Suite 1500  
Toronto, ON M5G 0A1

**Insured name and postal address**

Ganaraska Freewheelers  
713 Henderson Drive  
Cobourg, ON K9A 0J1

**Broker** 67203

W. B. White Insurance Limited  
110 King Street East Oshawa, Ontario  
L1H 7L1  
Phone No. 905 576 6400

**General Information**

Intact Insurance Company hereinafter called the Insurer.

Type of Document	RENEWAL
Policy Period	<b>From</b> March 26, 2018 <b>To</b> March 26, 2019 12:01 A.M. local time at the postal address of the Insured shown above
Insured's Business Operations	Non-Profit Cycling Club - No Racing
Billing Method	Agency Bill

<b>Total Policy Premium</b>	<b>\$1,682</b>
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Minimum Retained Policy Premium	\$500
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Save paper, add convenience!  
Ask your broker to send your insurance documents electronically.



This policy contains a clause(s) that may limit the amount payable

Senior Vice President, Ontario

In consideration of the premium stated, the insurer will indemnify the Insured with the terms and conditions of the Policy.

The Policy is issued subject to the declarations, coverage agreements, exclusions, definitions, conditions, and limits as well as the riders or endorsements to the policy which may from time to time be added to form part of the policy.

In accepting the present policy, the Insured and the Beneficiary, if any, recognize that from the effective date of this policy, any previous policy stated in the Declarations is replaced by this policy, including all renewals attaching thereto.

CANCELLATION

In consideration of the return premium, if any, this Policy and Renewal (if any) are cancelled and surrendered to the Insurer.

Date of Cancellation (Day, month, year): \_\_\_\_\_

Reason: \_\_\_\_\_

Signature: \_\_\_\_\_  
Insured Date

## General Liability

Coverage	Form	Deductible \$	Limit of Insurance \$
Commercial General Liability	LR02-2		
Coverage A - Bodily Injury and Property Damage Liability (Each Occurrence Limit)			5,000,000
Coverage A - Bodily Injury and Property Damage Liability (General Aggregate Limit)			5,000,000
Coverage A - Products-Completed Operations (Aggregate Limit)			5,000,000
Coverage A - Property Damage Deductible: Per Occurrence		1,000	
Coverage B - Personal Injury and Advertising Injury Liability			5,000,000
Coverage C - Medical Payments (Per Person)			25,000
Coverage D - Tenants' Legal Liability		1,000	100,000
Limited Fungi or Spores Coverage Extension	L199-1		
Aggregate Limit			250,000
Per Occurrence			250,000
S.E.F. No. 99 Excluding Long term Leased Vehicle Endorsement	L221-1		
S.P.F. No. 6 - Supplementary Non-Owned Automobile Coverage	L222-1		5,000,000
United States of America Sales and Operations - Exclusion	L238-1		
O.E.F. 98B - Reduction of Coverage for Lessees or Drivers of Leased Vehicles Endorsement	L257-1		
Liability Conditions	L300-2		

### Rating Information(s)

Premises, Property and Operations	Rating Base
Non-Profit Cycling Club	Flat premium

Professional Liability

Coverage	Form	Deductible \$	Limit of Insurance \$
Non-Profit Organization Liability Insurance Policy	D002-3		
A- Insured Person Non-Indemnifiable Liability - Aggregate Limit of Liability		1,000	2,000,000
B- Insured Person Indemnifiable Liability: Aggregate Limit of Liability		1,000	2,000,000
C- Insured Organization Liability: Aggregate Limit of Liability			500,000
Employment Practices Wrongful Act: Aggregate Limit of Liability		1,000	1,000,000
Fiduciary Wrongful Act: Aggregate Limit of Liability		1,000	1,000,000
Total Aggregate Limit of Liability per Policy Period		1,000	2,000,000
Abuse Exclusion	D150-2		

Professional Services Non-Profit Cycling Club



**Additional Conditions**

**Form**

Declaration of Emergency Endorsement

2485-1

**Emergency number**

If you have a serious loss after regular business hours,  
please call:

**1 866 464 2424**



## **Changes to your Directors and Officers Liability Insurance Policy Non-Profit Organization**

We recently revised and redesigned our Directors and Officers (D&O) Liability Insurance Policy wording to extend your coverage and make it easier to read and understand. The new version of the policy is still called "Non-Profit Organization – Liability Insurance Policy" (Form 350.2e/D002 Version 3) and features the following changes:

### **Insuring Agreements**

- The insuring agreements have been redesigned, we now offer the traditional D&O policy structure:  
Coverage A: Insured person non-indemnifiable liability  
Coverage B: Insured person indemnifiable liability  
Coverage C: Insured organization liability
- The Insuring Agreements include Directors and Officers Liability and Employment Practices Liability, and now also cover Third Party Employment Liability, Fiduciary Liability, Employed Lawyer's Liability, and Personal Injury and Publishers Liability.

### **Extensions of Coverage**

- We have created a new section in the form to offer more extensions of coverages: Dedicated Additional Limit of Liability for Insured Person, Workplace Violence, Crisis Consulting Expense and Derivative Demand Evaluation Coverage.
- The Outside Directorship Liability coverage is now offered as an extension, as well as the Spouse, Domestic Partner and Estate coverages.
- We have moved the Retired Executives coverage to this section and expanded it to offer coverage up to six (6) years after retirement instead of one (1) year.
- The coverage territory has been broadened to worldwide.
- The defence costs are now offered in addition to the limits of liability stated in the Declarations Page.

### **Extended Reporting Period**

- We are now offering options for up to six (6) years instead of solely one (1) year. We are also extending the post-policy reporting window to ninety (90) days from sixty (60) days, provided no other policy renews the coverage.

### **Exclusions**

- We have removed several exclusions, such as the pollution and professional liability exclusions.
- As a result of the newly-added coverages, some exclusions applicable to those coverages were added to Part – 4 Exclusions.

### **Conditions**

- The term "Serial Loss" has been replaced with "Related Claims". Related Claims are claims arising out of the same Wrongful Act, interrelated circumstances, transaction or event and are all now considered a single claim.
- A notice of Claim must now be given to Intact Insurance no later than ninety (90) days after the expiry or termination date of the policy, if no renewal or Extended Reporting Period is purchased.

### **Definitions**

- We have added several definitions in order to clarify the wording; for example, the Wrongful Act definition has been updated to encompass all types of wrongful acts related to the new coverages, such as Employment Practices Wrongful Act and Fiduciary Wrongful Act.

The modifications mentioned above are only an overview of the changes to your policy. Please read your new Non-Profit Organization – Liability Insurance Policy carefully. If you would like more information regarding these changes, or if you have any other questions regarding your coverage, please contact your insurance broker.



## DECLARATION OF EMERGENCY ENDORSEMENT - EXTENSION OF TERMINATION OR EXPIRY DATE

The effective date of termination of this policy by the Insurer or the expiry date of this policy is extended, subject to the conditions and definitions set out below, as follows when an "emergency" is declared by a Canadian public authority designated by statute for the purpose of issuing such an order.

1. The "emergency" must have a direct effect or impact on:
  - i) the Insured, the insured site or insured property located in the declared emergency area; or
  - ii) the operations of the Insurer or its agent/broker located in the declared emergency area.
2.
  - A. Any time limitation described in the Termination condition of this policy, with respect to termination of this policy by the Insurer, will not continue to run until the "emergency" is terminated plus the lesser of:
    - i) 30 days; or
    - ii) the number of days equal to the total time the "emergency" order was in effect.
  - B. If this policy is due to expire during an "emergency", it will continue in force until the "emergency" is terminated plus the lesser of:
    - i) 30 days; or
    - ii) the number of days equal to the total time the "emergency" order was in effect.
3. In no event shall the total term of this extension exceed 120 consecutive days

The Insured agrees to pay the pro rata premium earned for the additional time the Insurer remains on risk as a result of the above.

**"Emergency"** means the first statutory declaration of an emergency:

- a) with respect to a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise; or
- b) as provided for by the relevant governing legislation if different from a), but does not include any subsequent statutory declaration(s) that may be issued relating to the same event.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

## NON-PROFIT ORGANIZATION

# LIABILITY INSURANCE POLICY

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**IMPORTANT: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OFFERED UNDER THIS INSURANCE POLICY APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ YOUR POLICY CAREFULLY.**

Please read this form carefully to determine rights, duties, coverage and limitations.

Words and phrases in bold in this Policy have special meaning as defined in PART 9 – DEFINITIONS.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the Insurer shown in the Declarations (hereinafter called the "Insurer") including the statements made in the **Application** and its attachments which form part of this Policy, and subject to all the terms, conditions and limitations of this Policy, the Insurer agrees as follows:

## PART 1 – INSURING AGREEMENTS

### A – INSURED PERSON NON-INDEMNIFIABLE LIABILITY

The Insurer agrees to pay on behalf of the **Insured Person** all **Loss** for which the **Insured Person** are not indemnified by the **Insured Organization** and shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.

### B – INSURED PERSON INDEMNIFIABLE LIABILITY

The Insurer agrees to pay on behalf of the **Insured Organization** all **Loss** which the **Insured Person** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act** and for which the **Insured Organization** provided indemnification.

### C – INSURED ORGANIZATION LIABILITY

The Insurer agrees to pay on behalf of the **Insured Organization** all **Loss** for which the **Insured Organization** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.

## PART 2 – EXTENSIONS OF COVERAGE

With the exception for Extension 1. **DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON**, the following extensions are part of and included in the Aggregate Limit per **Policy Period**:

### 1. DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON

The Insurer agrees to pay on behalf of the **Insured Person** all **Loss** for which an **Insured Person** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act** and provided such **Claim**:

- 1.1. is not indemnified by the **Insured Organization** or an **Outside Organization**; and
- 1.2. the current Policy's applicable Aggregate Limit per **Policy Period** is exhausted; and
- 1.3. any other valid insurance, including excess policies, is also exhausted.

The maximum Limit of Liability provided under this extension shall not exceed \$1,000,000 per **Policy Period**.

### 2. SPOUSE, DOMESTIC PARTNER AND ESTATE

The Insurer agrees to pay on behalf of the persons named hereinafter all **Loss** for which such person shall become obligated to pay on account of any **Claim** first made against them during the **Policy Period** because of an **Insured Person's Wrongful Act** where damages are being sought from:

- 2.1. the lawful spouse or domestic partner of such **Insured Person**, through the recovery from jointly held property or property transferred by the **Insured Person** to such person; or
- 2.2. the estate, heirs, legal representatives or assignees of such **Insured Person** who is deceased or who has become legally incompetent, insolvent or bankrupt; provided that no coverage under this extension shall apply with respect to any **Wrongful Act** committed by such persons.

### 3. RETIRED EXECUTIVES

The Insurer agrees that, in the event an **Executive** of the **Insured Organization** retires and no longer serves in their capacity as such during the **Policy Period**, the coverage provided by **Insuring Agreement A – Insured Person Non-Indemnifiable Liability** shall be automatically extended for a maximum period of six (6) years from the official retirement date for any **Claim** against such **Executive** based on **Wrongful Acts** committed prior to the official retirement date. However, no coverage shall be provided by this automatic extension if either a replacement policy or **Extended Reporting Period** is obtained by the **Insured Organization** and in force during this period or if such retirement is due to or occurs during a Change in Control as outlined in Section 5. of **PART 8 – GENERAL CONDITIONS**.

### 4. WORKPLACE VIOLENCE EXPENSES

The Insurer agrees to reimburse the **Insured Organization** for **Workplace Violence Expenses** incurred by the **Insured Organization** during the **Policy Period**, resulting from any **Workplace Violence Incident** in an amount not to exceed \$250,000 per **Policy Period**.

### 5. CRISIS CONSULTING EXPENSES

The Insurer agrees to pay on behalf of the **Insured Organization** for **Crisis Consulting Expenses** incurred as a direct result of a **Claim** covered under this policy, in an amount not to exceed \$100,000 per **Policy Period**.

### 6. DERIVATIVE DEMAND EVALUATION EXPENSES

The Insurer agrees to pay on behalf of the **Insured Organization** for **Derivative Demand Evaluation Expenses** incurred on account of any derivative action first commenced during the **Policy Period**, alleging a **Wrongful Act** by an **Insured Person**. The Insurer shall pay such **Derivative Demand Evaluation Expenses** if prior written consent is given by the Insurer and in an amount not to exceed \$500,000 per **Policy Period**.

### 7. OUTSIDE DIRECTORSHIP LIABILITY

The Insurer agrees to pay on behalf of the **Insured** all **Loss** which the **Outside Organization Executive** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.



## PART 3 – EXTENDED REPORTING PERIOD

In the event this Policy is cancelled, non-renewed or terminated for any reason (including a Change in Control as set forth in Section 5. of **PART 8 – GENERAL CONDITIONS**) other than non-payment of a premium, the **Insured** shall have the right to an extension of the coverage granted by this Policy (but shall not include any **Expense Coverage**) for a period selected in the options below, with respect to any **Claim** first made against them during this **Extended Reporting Period**, but only with respect to any **Wrongful Act** committed prior to the effective date of termination of this Policy.

The additional premium for the **Extended Reporting Period** shall be calculated at a percentage of the last annual premium, according to the options as follows:

1. 50% for an **Extended Reporting Period** of 1 year;
2. 125% for an **Extended Reporting Period** of 3 years;
3. 150% for an **Extended Reporting Period** of 6 years;

The right to purchase the **Extended Reporting Period** shall lapse unless written notice together with payment of the additional premium (including any applicable taxes) is given by the **Insured** to the Insurer within sixty (60) days after the effective date of termination of this Policy. Such additional premium shall be fully earned at the issuance of the **Extended Reporting Period** endorsement.

The **Extended Reporting Period** is not intended, nor shall be construed to increase the Aggregate Limit per **Policy Period**.

## PART 4 – EXCLUSIONS

This Policy does not apply to:

### 1. PRIOR NOTICE

A **Claim Based Upon** any fact, situation, circumstance or event prior to the effective date of this Policy which has been the subject of any written notice accepted under any Policy of which this Policy is a direct or indirect renewal or replacement.

### 2. PRIOR OR PENDING PROCEEDINGS

A **Claim Based Upon** any civil, criminal, administrative or regulatory demand, suit, pending proceeding or investigation which the **Insured** has been given notice and was commenced, or order, decree, judgment or settlement pending on or prior to the **Prior and Pending Proceedings Date** or derived from, arising out of or resulting from or alleging the same or similar facts as those alleged in such pending or prior litigation.

### 3. PERSONAL CONDUCT

A **Claim Based Upon**:

- 3.1. intentional dishonest, fraudulent or criminal acts of any **Insured**;
- 3.2. any **Insured** gaining in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled; or
- 3.3. the return of any remuneration paid to any **Insured Person** by the **Insured Organization**, if such remuneration was illegally paid.

However, this exclusion shall not apply until a final judgement or non-appealable adjudication establishes that such **Insured** (other than a declaratory proceeding or action brought by or against the Insurer) committed any such above noted acts in an underlying proceeding.

### 4. INSURED ORGANIZATION VS. INSURED PERSON

A **Claim** which is brought against an **Insured Person**, made directly or indirectly by or on behalf of the **Insured Organization**.

However, this exclusion does not apply to a **Claim**:

- 4.1. that is a derivative action brought without the solicitation, assistance or active participation of any **Insured** or with the solicitation, assistance or active participation of an **Insured Person** that benefits from "whistleblower" legal protection;
- 4.2. against an **Insured Person** that is brought or maintained by a trustee in Bankruptcy, liquidator, receiver or receiver-manager as defined in the *Bankruptcy and Insolvency Act*, R.S. 1985, c. B-3, in the *United States Bankruptcy Code* or in any similar federal, provincial, state, territorial or local legislation or any similar legislation of another country who has been appointed in relation to the financial affairs of the **Insured Organization**; or
- 4.3. against an **Insured Person** who was not serving the **Insured Organization** in such duties on the date a **Claim** is first made and where such **Claim** is brought without the solicitation, assistance or active participation of an **Insured Person**.
- 4.4. **Defence Costs**.

### 5. OUTSIDE ORGANIZATION VS. OUTSIDE ORGANIZATION EXECUTIVE

A **Claim** which is brought against an **Outside Organization Executive**, made directly or indirectly by or on behalf of the **Outside Organization**.

However, this exclusion does not apply to a **Claim**:

- 5.1. made directly or indirectly by or on behalf of the **Outside Organization**, where such **Claim** is a derivative action;
- 5.2. made by any director, officer, trustee, observer or equivalent executive position of the **Outside Organization**, where such **Claim** is for contribution or indemnity or where such **Claim** is for an **Employment Practices Wrongful Act**; or
- 5.3. made against an **Outside Organization Executive** that is brought or maintained by a trustee in Bankruptcy, liquidator, receiver or receiver-manager as defined in the *Bankruptcy and Insolvency Act*, R.S. 1985, c. B-3, in the *United States Bankruptcy Code* or in any similar federal, provincial, state, territorial or local legislation or any similar legislation of another country who has been appointed in relation to the financial affairs of the **Outside Organization**.

### 6. BODILY INJURY AND PROPERTY DAMAGE

A **Claim** for bodily injury, emotional distress, mental anguish, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use of such property.

However, this exclusion shall not apply to:

- 6.1. **Claims** for emotional distress or mental anguish, resulting directly from an **Employment Practice Wrongful Act**;
- 6.2. **Defence Costs** on account of a **Claim** that is a criminal proceeding, pursuant to section 217.1 of the *Criminal Code* of Canada (as amended by Bill C-45) or equivalent foreign corporate manslaughter legislation; or
- 6.3. **Defence Costs** on account of a **Claim** pursuant to *Part XX of the Canada Occupational Health and Safety Regulations* or similar provisions of any provincial, territorial, or local legislation or foreign equivalent (including the *Ontario Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)* 2007).

### 7. CONTRACT

A **Claim** for any actual or alleged breach of any oral or written contract or agreement, or for liabilities of others assumed by the **Insured Organization** under such contract or agreement.

However, this exclusion shall not apply to:

- 7.1. the extent the **Insured Organization** would have been liable in the absence of such contract or agreement;
- 7.2. an **Employment Practices Wrongful Act**;
- 7.3. the liability assumed in accordance with the agreement or declaration of trust of the **Employee Benefit Plan**; or
- 7.4. **Defence Costs**.

#### 8. OCCUPATIONAL HEALTH AND SAFETY, WORKERS' COMPENSATION, UNEMPLOYMENT INSURANCE, SOCIAL INSURANCE, SOCIAL SECURITY, DISABILITY BENEFITS

Solely with respect to an **Employment Practices Wrongful Act** or a **Fiduciary Wrongful Act**, a **Claim** for any actual or alleged violation of an obligation imposed by any act, or regulation related to pay equity, worker's compensation, industrial accidents and occupational disease, occupational health and safety, employment insurance, welfare and social welfare, social security or old age security, disability benefits, or by any similar act or regulation, including the *Canada Labour Code* and in particular its Parts II, III [Division XIII.1], the *Employment Insurance Act*, the *Old Age Security Act*, the *Canadian Human Rights Act*, or similar provisions of any provincial, territorial, or local legislation or foreign equivalent.

However, this exclusion does not apply to a **Claim** for any actual or alleged:

- 8.1. discrimination or employment-related harassment under Division XV.1 of Part III of the *Canada Labour Code* or under the *Canadian Human Rights Act*, under its rules or regulations and under its amendments, or similar provisions of any constitutional, federal, provincial, territorial or local statutory or, common law or civil law;
- 8.2. retaliatory treatment against the claimant by the **Insured** on account of the claimant's exercise of rights pursuant to any such laws; or
- 8.3. violation of the *Canadian Human Rights Act* section 11 or the *United States Equal Pay Act*, or similar provincial, territorial or local legislation or foreign equivalent.

#### 9. PENSION AND EMPLOYMENT BENEFIT PLAN CONTRIBUTIONS

Solely with respect to a **Fiduciary Wrongful Act**, a **Claim Based Upon** the failure to collect the **Insured Organization's** contributions owed to the **Employee Benefit Plan**, unless the failure is due to a **Wrongful Act** of the **Insured**.

#### 10. ASBESTOS

- 10.1. A **Claim Based Upon** the actual or alleged inhalation of, contact with, exposure to, use of, existence of, presence of, asbestos or any material containing asbestos in whatever form or quantity, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, clean up, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of asbestos or any material containing asbestos;
- 10.2. A **Claim** made by or on behalf of a governmental authority or arising out of any order or demand under any legislation or regulation that **Insured** or others perform or assume liability for the following:
  - 10.2.1. operations to evaluate or assess the presence or absence of asbestos, its effects or quantity;
  - 10.2.2. operations to test for, monitor, contain, treat, detoxify, neutralize, identify, clean up, sample, remove, abate, mitigate, or dispose of asbestos; or
  - 10.2.3. any other actions to respond to situations involving asbestos;
- 10.3. any supervision, instructions, recommendations, warnings, or advice given or that should have been given in connection with exclusions 10.1. or 10.2. above; or
- 10.4. any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in Exclusions 10.1., 10.2. or 10.3. above.

#### SEVERABILITY OF EXCLUSIONS

With respect to the above exclusions of this Policy, no fact pertaining to or conduct by any **Insured Person** shall be imputed to any other **Insured Person**. Any **Wrongful Acts** of any past, present or future Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** shall be imputed to the **Insured Organization** to determine if coverage is available.

## PART 5 – LIMITS OF LIABILITY AND DEDUCTIBLES

#### 1. LIMITS OF LIABILITY

- 1.1. The Limits stated in the Declarations Page for each Insuring Agreement and the limits stated for each Extensions of Coverage, where applicable, the most the Insurer will pay regardless of the number of:
  - 1.1.1. **Insureds**;
  - 1.1.2. persons or organizations making a **Claim**;
  - 1.1.3. **Claims** made; or
  - 1.1.4. events.
- 1.2. The Total Aggregate Limit per **Policy Period** is the most the Insurer will pay for all **Claims** made during the **Policy Period** under all Insuring Agreements and Extensions of Coverage, except for **EXTENSION 1 – DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON**.
- 1.3. Subject to the clause 1.2. above, the Limit of Liability stated in the Declarations Page for an Insuring Agreement is the most the Insurer will pay for all **Claims** made during the **Policy Period** under such Insuring Agreement. If no amount is stated, then no coverage shall be available for such Insuring Agreement.

#### 2. APPLICABILITY OF THE LIMITS OF LIABILITY

The Limits of Liability shall apply separately to each **Policy Period**. If the **Policy Period** is extended for an additional period of less than twelve (12) months, the additional period shall be deemed part of the last preceding **Policy Period** for purposes of determining the Limits of Liability. In addition, **PART 3 – EXTENDED REPORTING PERIOD**, if exercised, shall be part of and not in addition to, the immediate preceding **Policy Period**, for the purposes of determining Limits of Liability.

#### 3. RELATED CLAIMS

**Claims** arising out of the same **Wrongful Act**, interrelated circumstances, transaction, or event shall be considered a single **Claim** (hereinafter called **Related Claims**). Such **Related Claims** shall have been deemed to have been first made during the **Policy Period** where the earliest **Claim** was first made against any **Insured**.

#### 4. DEDUCTIBLES

- 4.1. The obligation of the Insurer to pay on behalf of or to reimburse the **Insured** applies only to the amount of **Loss** in excess of any deductible amount stated in the Declarations Page as applicable to such coverages.
- 4.2. In the event that a single **Loss**, including **Related Claims**, is covered in part under several Insuring Agreements, the deductible amounts stated in the Declarations Page shall be applied separately by each Insuring Agreement to that part of the **Loss**. The total deductible amount shall in no event exceed the highest deductible amount applicable to each **Loss**.
- 4.3. No deductible shall apply to Part 1 – INSURING AGREEMENTS, Insuring Agreement A.

#### 5. DEFENCE COSTS

**Defence Costs** shall be in addition to the Limit of Liability stated in the Declarations Page. No deductible shall apply to **Defence Costs**.

## 6. INCREASE OF THE LIMITS OF LIABILITY

If the Insurer has agreed to increase the Limits of Liability under this Policy or any prior policy (if this Policy forms a part of a continuous series of renewals), such increase shall not apply to:

- 6.1. **Claim** first made against the **Insured** before the effective date of the increase;
- 6.2. any fact, circumstance, situation or event known to the **Insured** on the effective date of the increase and likely to give rise to a **Claim**.

## 7. REDUCTION OF THE LIMITS OF LIABILITY

If the Limit of Liability has been reduced, the reduced Limit of Liability shall apply to a **Claim** first made against the **Insured** after the effective date of the reduction, whether or not the **Insured** has prior knowledge of the **Claim** or any fact, circumstance, situation or event likely to give rise to a **Claim**.

# PART 6 – DEFENCE AND SETTLEMENT

## 1. RIGHT AND DUTY TO DEFEND

The Insurer shall have the right and duty to defend any **Claim** covered under this Policy, even if the **Claim** is groundless, false or fraudulent.

## 2. INSURER'S CONSENT

The **Insured** shall not, except at their own cost, admit any liability, settle or attempt to settle a **Claim**, pay any **Loss**, incur any **Defence Costs** or assume any contractual obligation without the Insurer's consent.

## 3. INSURED'S CONSENT TO SETTLEMENTS

The Insurer shall have the right to investigate any **Claim** and negotiate the settlement thereof, as it deems expedient, but the Insurer shall not make any settlement without the consent of the **Insured**.

## 4. TERMINATION OF THE RIGHT AND DUTY TO DEFEND

Notwithstanding Section 5. **DEFENCE COSTS** contained under **PART 5 – LIMITS OF LIABILITY AND DEDUCTIBLES**, the Insurer's right and duty to defend a **Claim** shall end when the applicable Limit of Liability is exhausted by payment of **Loss**.

## 5. ALLOCATION

If the **Insured** incur both **Loss** which is covered by this Policy and also **Loss** which is not covered by this Policy, either because a **Claim** includes both covered and uncovered matters, or because a **Claim** is made against both covered and uncovered parties, then coverage shall apply as follows:

- 5.1. one hundred percent (100%) of **Defence Costs** will be allocated to covered **Loss**;
- 5.2. all **Loss** other than **Defence Costs**, will be allocated between covered **Loss** and uncovered **Loss** based on an assessment of the relative legal and economic exposures of the **Insured** in connection with the covered and uncovered matters and/or covered and uncovered parties.

If the Insurer and the **Insured** cannot agree on any allocation, no presumption as to allocation shall exist in any arbitration, suit or other proceeding. The Insurer, if requested by the **Insured**, shall submit the allocation dispute to a binding arbitration in accordance with the principles set forth under Section 16. **ARBITRATION CLAUSE, PART 8 – GENERAL CONDITIONS** of the Policy.

## 6. PRIORITY OF PAYMENTS

- 6.1. In the event of a **Loss** arising from a **Claim** whose settlement exceeds the available Limits of Liability, the Insurer agrees, up to the Aggregate Limit of the Policy for each **Policy Period**:
  - 6.1.1. first, to commence by settling the **Losses** presented against **Insured Person** which are non-indemnified by the **Insured Organizations**; then
  - 6.1.2. to settle, up to any applicable balance, all other **Losses** for the benefit of other **Insured Persons**; then
  - 6.1.3. to settle, up to any applicable balance, all other **Losses**.
- 6.2. In determination of the amounts allocated to the Insuring Agreements in the event of a shared judgment or settlement, the Limits of Liability will be allocated in priority to the settlement of such **Claims** in the order provided for in paragraphs 6.1.1., 6.1.2. and 6.1.3. above, unless a judge has instructed otherwise.
- 6.3. This clause applies even if the Insurer receives a formal notice of the **Insured Organization's Insolvency**.
- 6.4. The **Insured** designated in 6.1.1., like those designated in 6.1.2. and 6.1.3. and within their respective orders of priority, each have the same rights.

# PART 7 – NOTICE OF CLAIMS/ NOTICE OF FACTS & CIRCUMSTANCES

## 1. NOTICE OF CLAIMS

The **Insured** shall, as a condition precedent to their rights under this Policy, give written notice of a **Claim** to the Insurer as soon as practicable after the Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** (or equivalent positions) first become aware of such **Claim**, but no later than:

- 1.1. Ninety (90) days after expiry or termination of this Policy (hereinafter called the **Reporting Window**), if no renewal or **Extended Reporting Period** is purchased;
- 1.2. Expiry of the **Extended Reporting Period**, if purchased.

Any interested person may give such notice.

In the event of a **Claim**, the **Insured** must immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the **Claim**, authorize the Insurer to obtain records and other information, cooperate with the Insurer in the investigation, settlement or defense of the **Claim** and upon the Insurer's request, assist the Insurer in the enforcement of any right against any person or organization which may be liable to the **Insured**.

## 2. NOTICE OF FACTS & CIRCUMSTANCES

If, during the **Policy Period**, the **Insured** becomes aware of facts or circumstances which may reasonably be expected to give rise to a **Claim** and if the **Insured** gives written notice thereof to the Insurer before the expiry of the **Reporting Window** or the expiry of the **Extended Reporting Period**, then any **Claim** which may subsequently arise out of such facts or circumstances shall be considered to have been made during the **Policy Period** in which they were first reported to the Insurer. The **Insured** shall give the Insurer such information as it may require regarding such facts or circumstances.

## 3. WORKPLACE VIOLENCE EXPENSE REPORTING

Notwithstanding the foregoing, the reporting with respect to the **Workplace Violence Expense** coverage requires the following:

- 3.1. a **Workplace Violence Incident** shall be sustained or communicated by or to an **Insured**; and
- 3.2. the **Insured Organization** must file a detailed proof of the loss, duly sworn to, with the Insurer within six (6) months after such incident is communicated or sustained.

## PART 8 – GENERAL CONDITIONS

### 1. POLICY CHANGES

This Policy contains all the agreements between the **Insured** or the **Insured Organization** and the Insurer concerning the insurance afforded. The terms of this Policy shall not be waived or changed, except by endorsement issued by the Insurer and made a part of this Policy.

### 2. DECLARATIONS, REPRESENTATIONS AND SEVERABILITY

- 2.1. By acceptance of this Policy, the person who signed the **Application** agrees; that the statements in the **Application** and the Declarations Page are accurate and complete, and are based upon those statements shall constitute representations they made to the Insurer; and that this Policy has been issued in reliance upon such representations. Except with respect to the Limits of Liability and any rights or duties specifically assigned to the **Insured**, this insurance shall apply in the same manner and to the same extent as if a separate policy had been issued to each **Insured**.
- 2.2. With respect to the Exclusions and to the representations contained in the **Application**, to determine if the coverage provided by this Policy applies:
  - 2.2.1. no statements, declarations made or information detained by an **Insured Person** will be imputed to another **Insured Person**;
  - 2.2.2. statements, declarations made or information held by Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** (or equivalent positions) will be imputed to the **Insured Organization**.
- 2.3. If the representations contained in the **Application** were not accurate and/or completed such that the Insurer would not have accepted to issue a policy, no coverage shall be available to the **Insured** who had knowledge of such inaccurate and/or incomplete representations.
- 2.4. If the representations contained in the **Application** were not accurate and/or completed such that the Insurer would still have accepted to issue a policy, coverage shall be available to the proportion of the premium the Insurer collected to the premium it should have collected if the representations were accurate and complete.

### 3. NON-RESCINDABILITY

The coverage afforded under this Policy shall be non-rescindable by the Insurer.

### 4. ASSIGNMENT

Assignment of interest under this Policy shall not bind the Insurer unless the Insurer gives its consent in writing to such assignment.

### 5. CHANGE OF CONTROL

In the event the **Insured Organization** ceases its operations, merges into or consolidates with another organization, or if another organization, person, group of organizations or persons acquires more than 50% of the voting rights or management control of the **Insured Organization**, then coverage under this Policy will continue until its expiry, but only with respect to a **Claim** for a **Wrongful Act** committed or any **Expense Coverage** incurred prior to such cessation of operations, merger, consolidation or acquisition. The **Insured Organization** will give written notice of the cessation of its operations, merger, consolidation or acquisition to the Insurer as soon as practicable together with such information as the Insurer may request.

### 6. NOTICE OF NON-RENEWAL

If the Insurer elects not to renew the Policy, the Insurer will provide the **Insured** written notice of non-renewal, at least ninety (90) days prior to the expiry of the Policy. Renewal terms which differ in any manner from the terms, conditions and premium of the expiring Policy shall not constitute a refusal to renew.

### 7. CANCELLATION

- 7.1. The **Parent Organization** may cancel this Policy by mailing or delivering to the Insurer written notice stating when the cancellation will be effective. If no date is specified, cancellation is effective upon receipt of the notice.
- 7.2. The Insurer may only cancel this Policy because of non-payment of premium by giving the **Parent Organization** at the last mailing address known to it, written notice of cancellation by registered mail or personally delivered at least fifteen (15) days before the effective date of such cancellation.
- 7.3. Except in Québec, if notice is mailed, cancellation takes effect fifteen (15) days after receipt of the letter by the post office to which it is addressed. Proof of mailing will be sufficient proof of notice. In Québec, cancellation takes effect fifteen (15) days after receipt of the notice at the last known address of the **Parent Organization**.
- 7.4. If this Policy is canceled by the **Parent Organization**, the Insurer will send the **Parent Organization** any premium refund due, such refund will be computed pro rata. The cancellation is effective even if the Insurer has not made or offered a refund.
- 7.5. If the Insurer cancels for non-payment of premium, the Insurer shall have the right to require payment for the pro-rated amount owed by the **Parent Organization**.

### 8. PAYMENT OF PREMIUM

The **Parent Organization** is responsible for the payment of all premiums and will be the payee for any return premiums payable by the Insurer.

### 9. NOTICE

- 9.1. Notices by the **Insured** to the Insurer will be mailed to the Insurer's address shown in the Declarations Page.
- 9.2. Notices by the Insurer to the **Insured Person** or the **Insured Organization** will be mailed to the **Parent Organization** named in the Declarations Page at the address shown therein or any other address notified in writing to the Insurer.
- 9.3. Notice by the **Parent Organization** as provided hereunder shall constitute notice by the **Insured**. The **Insured** agree that the **Parent Organization** named in the Declarations Page will act on their behalf with respect to any action required or permitted, the giving and receiving of notice of **Claim** or cancellation, the payment of premiums and the receiving of any return premiums that may be due under this Policy or the acceptance of endorsements. Proof of receipt of the notices is the responsibility of the sender.

### 10. OTHER INSURANCE

- 10.1. If the **Insured** has other valid and collectible insurance against **Loss** covered by this Policy, other than another insurance policy issued by the Insurer, then this Policy will be excess over such other insurance and will not contribute, unless such other insurance is written only as specific excess insurance, in which case this Policy shall be primary.
- 10.2. If the **Insured** has other valid and collectible insurance against **Loss** covered by this Policy, under another policy issued the Insurer, the policy that applies most specifically to the **Claim** will be primary and the other insurance will be excess. The Insurer's liability for any one **Loss**, however, will in no event exceed the highest Limit of Liability applicable to the **Loss** under all policies.
- 10.3. In the event of a **Claim** against an **Outside Organization Executive**, coverage shall apply as excess over any valid or collectible insurance or indemnification provided by the **Outside Organization** or by any other source other than the **Insured Organization**. However, in no event shall the Insurer's liability for any one **Loss** exceed the highest Limit of Liability applicable to the **Loss** under all policies.

### 11. SUBROGATION

In the event of any payment under this Policy, the Insurer will be subrogated to the extent of such payment to all rights of recovery of the **Insured** against any person or organization, except the **Insured Person**. The Insurer may be fully or partly released from its obligation towards the **Insured** where, owing to any act of the **Insured**, it cannot be so subrogated.

### 12. CURRENCY



All Limits of Liability, premiums, deductibles and other amounts as expressed in this Policy are in Canadian currency. With respect to the payment of premium, if a judgment is rendered or if a settlement is denominated in a currency other than Canadian dollars, payment under this Policy will be made in Canadian dollars at the noon rate of the exchange set by the Bank of Canada on the date upon which the final judgment is rendered, date of billing or settlement agreed upon, respectively.

#### 13. BANKRUPTCY AND INSOLVENCY

**Bankruptcy or Insolvency** of the **Insured Organization** shall not relieve the Insurer of its obligations under this Policy.

#### 14. ACTION AGAINST THE INSURER

No action shall lie against the Insurer, unless a condition precedent thereto, there shall have been full compliance by the **Insured** with all the terms of this Policy.

#### 15. STATUTORY CONFORMITY

The terms of this insurance that are in conflict with the terms of any applicable laws construing this insurance are amended to conform to such laws.

#### 16. ARBITRATION CLAUSE

Any dispute between the **Insured** and the Insurer based upon, arising from or in connection with any actual or alleged coverage under this Policy shall be submitted to binding arbitration.

Except with respect to the selection of the arbitration panel, an arbitration shall be governed by the law of the province or territory of the address of the **Insured Organization** and relating to arbitration, including rules, orders, orders in council or regulation promulgated under such law and its amendments or, upon the agreement of both the Insurer and the **Insured** unless the **Insured** and the Insurer expressly agree otherwise in writing. The arbitration panel shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the Insurer, and a third independent arbitrator selected by the first two arbitrators. The decisions of the panel are final and will not be contested.

#### 17. TERRITORY

This insurance shall apply anywhere in the world.

#### 18. LIBERALISATION CLAUSE

If during the **Policy Period**, the Insurer creates a succeeding version of this form that broadens the coverage, then the succeeding version of this form shall immediately apply to this Policy.

Nothing herein shall be construed, in any manner, to increase or change the Limits of Liability afforded under this Policy as stated in the Declarations Page or change the applicability of the attached endorsements. The Limits of Liability and deductible amounts stated in the Declarations Page, as well as the terms and conditions of this current Policy shall apply to such **Claims**.

## PART 9 – DEFINITIONS

#### 1. Administration means:

- 1.1. giving counsel to **Employees**, members and beneficiaries with respect to the **Employment Benefit Plans**;
- 1.2. interpreting the **Employment Benefit Plans**;
- 1.3. handling the records in connection with the **Employment Benefit Plans**;
- 1.4. enrollment, termination or cancellation of **Employees** under the **Employment Benefit Plan**.

#### 2. Antipollution Measures means the testing for, remediation, monitoring, removal, containment, treatment, detoxification, decontamination, stabilization or neutralization of **Pollutants** and also means corrective measures, decontamination or clean up operations with respect to **Pollutants**.

#### 3. Application means all application forms or portions of thereof, including any attachments, addendums, annexes and other information and material provided to the Insurer in connection to the underwriting of this Policy or for any renewal or replacement of this Policy. All such information shall be deemed attached to and incorporated as a part of this Policy.

#### 4. Bankruptcy means the state of the **Insured Organization** which occurs at the time or date of the granting of a receiving order against the **Insured Organization**, the filing of an assignment of property by or in respect of the **Insured Organization** or the event that causes an assignment by the **Insured Organization** to be deemed. **Bankruptcy** shall also include any similar position of the **Insured Organization** under similar legislation of any other country.

#### 5. Based upon means based upon, arising out of, in relation to, directly or indirectly resulting from.

#### 6. Benefits means perquisites, fringe benefits and other payments in connection with an **Employee Benefit Plan** and any other payment, other than salary or wages, to or for the benefit of an **Employee** arising out of the employment relationship.

#### 7. Claim means:

- 7.1. any written demand or allegations seeking monetary or non-monetary relief, including injunctive relief;
- 7.2. any civil proceeding commenced by the filing of a complaint, demand letter, notice of claim or similar pleading;
- 7.3. any penal or criminal proceeding against an **Insured** commenced by notice of charges, statement of allegations, laying of information, the return of an indictment or similar document;
- 7.4. any civil, criminal, administrative or regulatory investigation commenced by the service upon or other receipt by the **Insured** of a written notice from the investigating authority specifically identifying the **Insured** against whom formal charges may be commenced;
- 7.5. **Extradition Expenses** that are related directly to a formal request, claim, arrest warrant or other proceedings pursuant to the *Extradition Act* of Canada (including its amendments and regulations) or pursuant to the similar legislation of other jurisdictions;
- 7.6. any arbitration or mediation proceeding commenced by receipt of notice to appoint an arbitrator or mediator, an arbitration or mediation petition or similar document; against any **Insured** for a **Wrongful Act**, including an appeal therefrom;
- 7.7. any written request received by an **Insured** to toll or waive a limitation period, relating to any matter outlined in items 7.1. to 7.6. above.

#### 8. Crisis Consulting Expenses means the reasonable costs, charges, fees and expenses, incurred by the **Insured Organization** during the **Policy Period** with prior consent of the Insurer, for an independent public relations consultant, crisis management consultant or law firm to make public communication or prevent or minimize business disruption and adverse publicity.

#### 9. Defence Costs means reasonable costs, charges, fees (including but not limited to lawyers', accountants' and experts' fees) and expenses (other than regular overtime wages, salaries, fees, and benefit expenses of any **Insured Person**) incurred in defending or investigating **Claims** and shall not include **Derivative Demand Evaluation Expenses**.

The term **Defence Costs** shall also include:

- 9.1. all premiums on bonds to release attachments for an amount not in excess of the Limit of Liability, but without any obligation to apply for or furnish such bonds;
- 9.2. all reasonable expenses (other than loss of earnings) incurred by the **Insured** at the Insurer's request in assisting the Insurer in the investigation or defence of any **Claim** or suit;
- 9.3. all costs taxed against the **Insured** in any civil action defended by the Insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the applicable Limit of Liability and before the Insurer has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Liability

- 10. Derivative Demand Evaluation Expenses** means reasonable costs and necessary legal accounting, audit or investigating expenses incurred by the **Insured Organization**, its Board of Directors or any of the committees of the Board of Directors, in connection with a derivative demand (excluding salaries, wages or fees of the members of the board, the **Executives** or the **Employees** of the **Insured Organization**) strictly with regards to an evaluation required to determine if its in the best interests of the **Insured Organization** to prosecute the allegations in the derivative demand, and prior to any **Claim** first made that results from or for such derivative demand. **Derivative Demand Evaluation Expenses** do not include any costs, fees or expenses incurred in a **Claim** or any damages.
- 11. Employee** means any person whose labour of service was, is or will be directed by the **Insured Organization**. This includes any full-time, part-time, seasonal, temporary worker, volunteer or dependent contractor that works solely for the **Insured Organization** and does not include an independent contractor.
- 12. Employee Benefit Plan** means:
- 12.1. any employee benefit plan as outlined in the *Pension Benefits Standards Act*, R.S.C. 1985, c.32 (2nd Supp.) for any plan constituted within the territorial limits and jurisdictions of Canada, or as defined by the *Employee Retirement Income Security Act of 1974* of the United States of America for any plan constituted within the territorial limits and jurisdiction of the United States of America, which is operated solely by the **Insured Organization**, or jointly by the **Insured Organization** and labour organization, for the benefit of any **Employee** or **Executive** of the **Insured Organization**.
  - 12.2. any government mandated insurance program for workers compensation, employment, unemployment, social security or disability benefits for any **Employee**.
  - 12.3. any other employee benefit plan sponsored solely by the **Insured Organization** for the benefit of any **Employee** or **Executive** of the **Insured Organization**.
- 13. Employed Lawyer** means any **Employee** who is admitted to practice law within the jurisdiction in which they are providing such services and in good standing with its professional order or association and who was, now is or will be, at the time of the alleged **Employed Lawyers Wrongful Act**, employed as a lawyer for and salaried by the **Insured Organization**.
- 14. Employed Lawyers Wrongful Act** means any error, omission, negligence, breach of duty, misstatement, misleading statement, or any other act, actually or allegedly committed during the performance of legal services by the **Employed Lawyer** on behalf of any **Insured**. **Employed Lawyers Wrongful Act** does not include legal services:
- 14.1. not rendered on behalf of the **Insured** at the **Insured Organization's** request;
  - 14.2. performed by the **Employed Lawyers** for others for a fee;
  - 14.3. arising out of the actual or alleged infringement of copyright, a patent, a trademark, a trade secret, the presentation of a product, a slogan or prejudice to any other intellectual property right;
  - 14.4. attributed by an **Employed Lawyer** in their capacity as an owner, principal, partner, director, officer, member, manager, employee or any equivalent position of an entity that is not the **Insured Organization**; or
  - 14.5. in connection with a trust or estate when such **Employed Lawyer** is also a beneficiary of such trust or estate.
- 15. Employment Practices Wrongful Act** means any of the following acts related to employment or the application of employment:
- 15.1. wrongful dismissal, discharge or termination of employment, whether actual or constructive;
  - 15.2. breach of any oral or written employment contract;
  - 15.3. violation of any law concerning discrimination;
  - 15.4. employment-related harassment, including sexual harassment or other harassment in the workplace;
  - 15.5. wrongful deprivation of employment or wrongful deprivation of promotion (including failure to hire and wrongful demotion);
  - 15.6. retaliation;
  - 15.7. wrongful discipline;
  - 15.8. failure to grant tenure;
  - 15.9. negligent evaluation, supervision or training;
  - 15.10. invasion of privacy;
  - 15.11. defamation, libel, slander or humiliation;
  - 15.12. wrongful infliction of emotional distress, humiliation, mental anguish or mental distress; or
  - 15.13. misrepresentation.
- However, **Employment Practices Wrongful Act** shall not include any actual or alleged labour or grievance dispute, negotiation, arbitration, violation or other proceeding pursuant to a collective bargaining agreement.
- 16. Executive** means any person who was, now is or will be a duly elected, appointed, deemed or "de facto" director, officer, trustee, observer, member of the board of managers or member of any duly constituted committee or an in house General Counsel, Risk Manager or foreign equivalent of the **Insured Organization**.
- 17. Executive Wrongful Act** means any error, omission, negligence, breach of duty, misstatement, misleading statement or any other act actually or allegedly committed by:
- 17.1. any **Insured Person** in the discharge of their duties, or any other matter claimed against an **Insured Person** solely by reason of their being an **Insured Person**;
  - 17.2. the **Insured Organization**.
- 18. Expense Coverage** means expenses and costs afforded under **Workplace Violence Expense Coverage**, **Crisis Consulting Expense Coverage** and **Derivative Demand Evaluation Expenses**.
- 19. Extended Reporting Period** means the period selected from **PART 3 – EXTENDED REPORTING PERIOD** from the termination of the Policy until the expiry date shown on the endorsement issued after exercise of such clause.
- 20. Extradition Expenses** means, in direct relation to an order for the extradition of an **Insured Person** the reasonable and necessary legal fees, costs and expenses that are incurred (with the Insurer's approval and consent beforehand) by an **Insured Person** to obtain legal advice or to initiate, appeal or defend proceedings including such proceedings that are by way of judicial review or other challenge.
- 21. Fiduciary** means any person who was, now is or will be a member of any pension committee or board of trustee of the **Employee Benefit Plan**.
- 22. Fiduciary Wrongful Act** means any error, omission, negligence or misleading statement actually or allegedly committed by the **Insured**, while engaged in the discharge of his duties:
- 22.1. in the **Administration** of the **Employee Benefit Plan**;
  - 22.2. for any breach of responsibilities, obligations or duties imposed upon the **Insured** with respect to an **Employee Benefit Plan**, by the *Pensions Benefits Standards Act*, 1985, R.S. (1985), c.32 (2nd Supp.), as amended, or similar provisions of any federal, provincial, territorial or local legislation or foreign equivalent;
  - 22.3. by an **Insured Person**, pension committee or board of trustees, in their capacity as a settlor of the **Employee Benefit Plan**;
  - 22.4. against an **Insured** solely because of the **Insured** status as a **Fiduciary** with respect to an **Employee Benefit Plan**.
- 23. Insolvency** means:
- 23.1. the financial position of the **Insured Organization** or **Outside Organization** as a debtor as that term is defined and used in Canada within the provisions of the *Bankruptcy and Insolvency Act*, R.S. (1985), c. B-3 and, without limiting the generality of the foregoing, shall occur when any receiver, conservator, liquidator, trustee, sequestrator, court or similar provincial or federal official or a creditor takes control of, supervises, manages or liquidates the **Insured Organization** or **Outside Organization**;
  - 23.2. a reorganization proceeding of the **Insured Organization** or **Outside Organization** under the *Companies' Creditors Arrangement Act*, R.C.S., 1985, c. C-36;

- 23.3. the **Insured Organization** or **Outside Organization** becoming a debtor in possession under Chapter 11 of the *United States Bankruptcy Code*;
- 23.4. the **Insured Organization** or **Outside Organization** being unable to meet its obligations under the **Employee Benefit Plan**; or
- 23.5. any similar position of the **Insured Organization** or **Outside Organization** under similar legislation of any other country.
- 24. Insured means:**
- 24.1. the **Insured Organization**;
- 24.2. the **Insured Person**;
- 24.3. the **Employee Benefit Plan**.
- 25. Insured Organization means:**
- 25.1. **Parent Organization**;
- 25.2. any **Subsidiary**.
- 26. Insured Person** either in the singular or the plural, means any person who was, now is or will be an **Executive, Employed Lawyer, Fiduciary, Employee** or volunteer of the **Insured Organization** and includes an **Outside Organization Executive** serving an **Outside Organization**.
- 27. Loss means:**
- 27.1. compensatory, punitive, exemplary or multiplied damages, judgments (including pre-judgment and post judgment interest) or settlement arising from a **Claim**, within the limits of the Insurer's liability;
- 27.2. civil fines or civil penalties assessed against an **Insured Person**, including *Corruption of Foreign Public Officials Act*, S.C. 1998, c. 34 *Canadian Anti-Spam Act*, S.C. 2010, c. 23 or any foreign equivalent;
- 27.3. all costs assessed against the **Insureds** in any civil action defended by the Insurer and any interest accruing after entry of all judgment upon that part of the judgment which is within the applicable Limit of Liability and before the Insurer has paid, offered to pay or deposited in court the part of the judgment that is within the applicable Limit of Liability;
- 27.4. **Defense Costs**.
- Loss** shall not include:
- 27.5. fines or penalties against the **Insured Organization**;
- 27.6. any taxes the **Insured Organization** or the **Outside Organization** owe, or have failed to pay, other than those taxes for which an **Insured Person** (including those serving an **Outside Organization**) becomes personally liable under statutory law;
- 27.7. with respect to a **Claim** for an **Employment Practices Wrongful Act**, salaries, wages or commissions payable to a claimant for services performed for an **Insured Organization** while employed with the **Insured Organization**;
- 27.8. with respect to a **Claim** for an **Employment Practices Wrongful Act** against an **Outside Organization Executive**, salaries, wages or commissions payable to a claimant for services performed for an **Outside Organization** while employed with the **Outside Organization**;
- 27.9. cost of compliance with any order for, grant of or agreement to provide injunctive or non-monetary relief;
- 27.10. the salary, wages, commissions or **Benefits** of a claimant:
- 27.10.1. who has been or shall be hired, promoted or reinstated to employment;
- 27.10.2. whose employment has been or shall be continued;
- 27.10.3. whose salary or Benefits have been increased pursuant to a settlement, order or other resolution;
- 27.10.4. which constitutes a statutory mandated notice period with respect to an **Employment Practices Wrongful Act**.
- 27.11. any costs incurred in connection with cleaning up, removing, eliminating, abating, remediating, containing, treating, detoxifying, decontaminating, neutralizing **Pollutants** or implementation of any **Antipollution Measures**;
- 27.12. matters uninsurable by law under which this Policy is construed.
- 28. Outside Organization** means any not for profit organization having no share capital other than any **Insured Organization**.
- 29. Outside Organization Executive** means the position of director, officer, trustee, governor, observer or equivalent **Executive** position held by an **Insured Person** in an **Outside Organization**, provided that service in such position was at the request of the **Insured Organization**.
- 30. Parent Organization** means the entity named on the Policy Declarations Page.
- 31. Personal Injury Wrongful Act** means libel, slander or defamation of character other than such libel, slander or defamation that is employment-related or that arises from an **Insured** in the business of publishing, advertising or broadcasting.
- 32. Policy Period** means the period from the effective date of this Policy to the Policy expiration date as set forth in the Declarations Page, or its earlier cancellation in accordance with Section 6. **NOTICE OF NON-RENEWAL** or Section 7. **CANCELLATION** of **PART 8 – GENERAL CONDITIONS**. Policy Period shall also include the **Extended Reporting Period** if exercised.
- 33. Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalies, chemicals and waste including materials to be recycled, reconditioned or reclaimed.
- 34. Premises** means the buildings, facilities or properties occupied by the **Insured Organization** in conducting its business.
- 35. Prior and Pending Proceedings Date** means the effective date of this policy (or the first policy issued by the Insurer if this policy forms part of a continuous series of renewals).
- 36. Publishers Wrongful Act** means any infringement of copyright, trademark, unauthorized use of title, plagiarism or misappropriation of ideas by the **Insured**.
- 37. Stalking Threat** means any conduct by a person who is subject of a temporary restraining order, injunction or similar court order that demonstrates intent to harm an **Employee** or the **Insured Organization**.
- 38. Subsidiary** means any non-profit association or organization in which more than 50% of the control or voting rights that is owned by the **Parent Organization** named in the Declarations Page or by one or more of its subsidiaries, including any similar non-profit association or organization which was created or acquired by the **Parent Organization** after the inception date of the policy.
- 39. Third Party Employment Practices Wrongful Act** means any **Claim** brought and maintained by or on behalf of a customer, patient, service provider or other business invitee of the **Insured Organization** against any **Insured** for any actual or alleged violation of any law concerning the discrimination or harassment of such customer, patient, service provider or other business invitee, and while such **Insured** is acting within the capacity of their duties for the **Insured Organization**.
- 40. Workplace Violence Expenses** means the reasonable and necessary fees and expenses, or cost of:
- 40.1. an independent security consultation for ninety (90) days following the date the **Workplace Violence Incident** occurs;
- 40.2. an independent public relations consultant for ninety (90) days following the date the **Workplace Violence Incident** occurs;
- 40.3. a counseling seminar for all **Employees** conducted by an independent consultant following a **Workplace Violence Incident** occurs;
- 40.4. an independent security guard services for fifteen (15) days following the date a **Workplace Violence Incident** occurs;
- 40.5. an independent forensic analyst;

40.6. an independent security consultant to assess the **Stalking Threat**.

**41. Workplace Violence Incident** means any intentional and unlawful act:

- 41.1. of deadly force involving the use of a lethal weapon; or
- 41.2. the threat of deadly force involving the display of a deadly weapon; or
- 41.3. of a **Stalking Threat**.

which occurs on or in the **Premises** and which did or could result in the bodily injury or death to an **Insured Person**.

**Workplace Violence Incident** shall not include:

- 41.4. any use of, threat of force, or violence occurring on the **Premises** of the **Insured Organization** for the purpose of a robbery or demanding money, securities or property; or
- 41.5. **Claims Based Upon** any civil or foreign war, invasion, hostilities (whether declared or not), act of foreign enemy, rebellion, insurrection, revolution, military or usurped power, marital law or confiscation by order of any government or any public authority.

**42. Wrongful Act** means including, but not limited to:

- 42.1. any **Executive Wrongful Act**;
- 42.2. any **Employment Practices Wrongful Act**;
- 42.3. any **Third Party Employment Practices Wrongful Act**;
- 42.4. any **Fiduciary Wrongful Act**;
- 42.5. any **Personal Injury Wrongful Act**;
- 42.6. any **Publishers Liability Wrongful Act**;
- 42.7. any **Employed Lawyers Wrongful Act**.



## ABUSE EXCLUSION

This Endorsement changes the policy. Please read it carefully.

It is agreed that the following exclusion is added to **PART 4 – EXCLUSIONS** of this Policy.

### ABUSE

Except with respect to **Claims for Employment Practices Wrongful Acts**, this policy shall not apply to **Claims Based Upon**:

1. **Abuse** committed or alleged to have been committed by an **Insured**, including the transmission of disease arising out of any act of **Abuse**;
2. the **Insured's** practices of **Employee** hiring, acceptance of volunteer workers or supervision or retention of any person alleged to have committed **Abuse**;
3. The actual or alleged knowledge or the failure to report by the **Insured**, the alleged **Abuse** to the appropriate authorities.

It is also agreed that the following definition is added to **PART 9 – DEFINITIONS**:

**Abuse** means any act or threat involving molestation, harassment, corporal punishment, assault or battery or any other form of physical, sexual, emotional, psychological, or mental abuse.

All terms of this policy shall remain unchanged except as otherwise provided in this Endorsement.

## LIMITED FUNGI OR SPORES – COVERAGE EXTENSION

**This Endorsement Changes the Policy. Please Read It Carefully.**

Attached to and forming part of The Commercial General Liability Form to which this Endorsement is attached.

Section I, COMMON EXCLUSIONS – **Fungi or Spores**, does not apply to “bodily injury”, “property damage” or “personal injury” included in the “products-completed operations hazard” and which is not otherwise excluded by this Form;

Subject to the Each Occurrence and the Products - Completed Operations Aggregate Limit, the Fungi or Spores Liability Aggregate Limit is \$250,000 and is the most the Insurer will pay under this extension unless a higher Fungi or Spores Liability Aggregate Limit is shown in the Declarations.

Except as otherwise provided in this endorsement all terms and conditions of the Form to which this endorsement is attached shall remain unchanged.

**FOR ATTACHMENT ONLY TO A NON-OWNED POLICY S.P.F. NO. 6**

**EXCLUDING LONG TERM LEASED VEHICLE ENDORSEMENT  
(FOR ATTACHMENT ONLY TO A NON-OWNED POLICY S.P.F. NO. 6)**

In consideration of the premium for which this policy is issued, it is understood and agreed that Item 3 (Hired Automobiles Defined) of the General Provisions and Definitions of the policy to which this endorsement is attached is hereby amended to read as follows:

The term "Hired Automobiles" as used in this policy means (a) automobiles hired or leased from others with drivers or (b) hired or leased by the Named Insured from others without driver for periods not exceeding 30 days, used under the control of the Insured in the business stated in Item 3 of the application but shall not include any automobile owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured.

Except as otherwise provided in this endorsement all terms and conditions of this policy shall remain unchanged.

# S.P.F. 6 (UNIFORM PROVINCES) SUPPLEMENTARY NON-OWNED AUTOMOBILE LIABILITY POLICY

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This insurance applies only when a Limit of Insurance is indicated on the Declarations.

The limits, terms, provisions and conditions of the above policy are superseded by those of the sub-joined policy so far as they are appropriate to the indemnity herein provided.

Whereas an application has been made by the Applicant (hereinafter called the Insured) to the Insurer for a contract of automobile Insurance and the said application forms part of this contract of insurance and is as follows:

### APPLICATION

1. Full Name and Postal Address of the Applicant (including County or District) As per Declarations								Insured is As per Declarations (state whether individual, partnership, corporation, municipality or estate)							
2. Policy Period		As per Declarations								12:01 A.M. Local Time at the Applicant's Postal Address.					
3. The automobiles in respect of which insurance is to be provided are those not owned in whole or in part by, nor licensed in the name of the applicant, used in the applicant's business of: As per Declarations															
4. The applicant's partners, officers, employees and agents as of the date of the application are as follows:															
Location	Partners, Officers and Employees who regularly use automobiles not owned by the Applicant in his business						All other Partners, Officers and Employees			All Applicant's Agents					
	Class "A1" Private Passenger			Class "A2" Commercial			Class "B"			Class "C"					
	Number	Rate	Premium	Number	Rate	Premium	Number	Rate	Premium		Rate	Premium			
As known to the Insured	COVERED		INCLUDED	To be reported if any		To be determined	To be reported if any		To be determined	To be reported if any		To be determined			
5. "Hired Automobiles" – The Automobiles hired by the applicant are as follows:															
Type of Automobile				Estimated Cost of Hire				Rates per \$100 of Cost to Hire				Advance Premium			
COVERED – TO BE REPORTED IF ANY												INCLUDED			
<i>The advance premium is subject to adjustment at the end of the policy period as provided in the policy.</i>															
6. "Automobiles operated under contract" on behalf of the applicant are as follows:															
Type of Automobile				Estimated Contract Cost				Rates per \$100 of Contract Cost				Advance Premium			
COVERED – TO BE REPORTED IF ANY												INCLUDED			
<i>The advance premium is subject to adjustment at the end of the policy period as provided in the policy.</i>															
7. This application is made for insurance against the perils mentioned in this item and upon the terms and conditions of the Insurer's corresponding standard policy form and for the following Specified Limit.												Combined Premiums			
Insuring Agreement		Section A Third Party Liability													
Perils		Legal Liability for Bodily Injury to or Death of any person or damage to property of others not in the care, custody or control of the applicant.													
Limit		\$ As per Declarations (Exclusive of interest and costs) for loss or damage resulting from bodily injury to or the death of one or more persons, and for loss or damage to property, regardless of the number of claims arising from any one accident.													
Endorsements		As per Declarations													
Minimum Retained Premium		\$ As per Declarations										Total Premium		\$ Included	
8. Has any Insurer cancelled, declined or refused to renew or issue, automobile insurance to the applicant within three years preceding this application? If so, state name of Insurer.															
NO															
9. State particulars of all accidents or claims arising out of the use or operation in his business of non-owned automobiles by the applicant within the three years preceding this application.															
Injury to Persons						Damage to Property of Others									
NONE						NONE									
10. All the statements in this application are true and the applicant hereby applies for a contract of automobile insurance to be based on the truth of the said statements.															
11. Where, (a) an applicant for a contract gives false particulars of the described automobile to be insured to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the insured contravenes a term of the contract or commits a fraud; or (c) the insured wilfully makes a false statement in respect of a claim under the contract, a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.															

## INSURING AGREEMENT

Now, Therefore, in Consideration of the payment of the premium specified and of the statements contained in the application and subject to the limits, terms, conditions, provisions, definitions and exclusions herein stated

### SECTION A – THIRD PARTY LIABILITY

The Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured for loss or damage arising from the use or operation of any automobile not owned in whole or in part by or licensed in the name of the Insured, and resulting from

**BODILY INJURY TO OR THE DEATH OF ANY PERSON OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED:**

Provided always the Insurer shall not be liable under this policy:

- (a) for any liability which arises from the use or operation of any automobile while personally driven by the Insured if the Insured is an individual; or
- (b) \* for any liability imposed upon any person insured by this policy:
  - (1) by any workmen's compensation law; or
  - (2) by any law for bodily injury to or the death of the Insured or any partner, officer or employee of the Insured while engaged in the business of the Insured; or
- (c) for any liability assumed by any person insured by this policy voluntarily under any contract or agreement; or
- (d) for loss or damage to property carried in or upon an automobile personally driven by any person insured by this policy or to any property owned or rented by, or in the care, custody or control of any such person; or
- (e) for any amount in excess of the limit stated in Item 7 of the application, and expenditures provided for in the Additional Agreements of this policy; subject always to the provisions of the section of the Insurance Act (Automobile Insurance Part) relating to the nuclear energy hazard.

\* Not applicable in the Province of Ontario.

### ADDITIONAL AGREEMENTS OF INSURER

Where indemnity is provided by this policy, the Insurer further agrees:

- (1) upon receipt of notice of loss or damage caused to persons or property to serve any person insured by this policy by such investigation thereof, or by such negotiations with the claimant, or by such settlement or any resulting claims, as may be deemed expedient by the Insurer; and
- (2) to defend in the name and on behalf of any person insured by this policy and at the cost of the Insurer any civil action which may at any time be brought against such person on account of such loss or damage to persons or property; and
- (3) to pay all costs taxed against any person insured by this policy in any civil action defended by the Insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limits of the Insurer's liability; and
- (4) in case the injury be to a person, reimburse any person insured by this policy for outlay, for such medical aid as may be immediately necessary at the time of such liability; and
- (5) be liable up to the minimum limit(s) prescribed for that province or territory of Canada in which the accident occurred, if that limit(s) is higher than the limit stated in section A of Item 7 of the application; and
- (6) not set up any defence to a claim that might not be set up if the policy were a motor vehicle liability policy issued in the province or territory of Canada in which the accident occurred.

### AGREEMENTS OF INSURED

Where indemnity is provided by this section, every person insured by this policy

- (a) by the acceptance of this policy, constitutes and appoints the Insurer his irrevocable attorney to appear and defend in any province or territory of Canada in which action is brought against the Insured arising out of the use or operation of an automobile with respect to which insurance is provided hereunder;
- (b) shall reimburse the Insurer, upon demand, in the amount which the Insurer has paid by reason of the provisions of any statute relating to automobile insurance and which the Insurer would not otherwise be liable to pay under this policy.

### GENERAL PROVISIONS AND DEFINITIONS

#### 1. ADDITIONAL INSURED

The Insurer agrees to indemnify in the same manner and to the same extent as if named herein as the Insured, every partner, officer or employee of the Insured who, with the consent of the owner thereof, personally drives (a) in the business of the Insured stated in Item 3 of the application, any automobile not owned in whole or in part by or licensed in the name of (i) the Insured, or (ii) such additional Insured person, or (iii) any person or persons residing in the same dwelling premises as the Insured or such additional insured person, or (b) any automobile hired or leased in the name of the Insured except an automobile owned in whole or in part or licensed in the name of such additional insured person.

#### 2. TERRITORY

This policy applies only to the use or operation of automobiles within Canada or the United States of America or upon a vessel plying between ports of those countries.

#### 3. HIRED AUTOMOBILES DEFINED

The term "Hired Automobiles" as used in this policy means automobiles hired or leased from others with or without drivers, used under the control of the Insured in the business stated in Item 3 of the application but shall not include any automobile owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured.

#### 4. AUTOMOBILES OPERATED UNDER CONTRACT DEFINED

The term "Automobiles Operated under Contract" as used in this policy shall mean automobiles operated in the business of the Insured stated in Item 3 of the application where the complete supervision, direction and control of such automobiles remain with the owner thereof, but shall not include any automobile owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured.

#### 5. TWO OR MORE AUTOMOBILES

When two or more automobiles are insured hereunder the terms of this policy shall apply separately to each, but a motor vehicle and a trailer or trailers attached thereto shall be held to be one automobile as respects limits of liability under Section A.

#### 6. PREMIUM ADJUSTMENT

The Advance Premium stated in Item 5 of the application is computed on the estimated total "cost of hire" for the Policy Period. The words "cost of hire" as used herein mean the entire amount incurred for "Hired Automobiles" and drivers when such automobiles are hired with drivers or the amount incurred for hired automobiles and the wages paid to drivers when such drivers are employees of the Insured.

The Advance Premium stated in Item 6 of the application is computed on the estimated total "contract cost" for the Policy period. The words "contract cost" as used herein mean the entire amount paid by the Insured for "Automobiles Operated under Contract" to the owners thereof.

The Advance Premiums are subject to adjustment at the end of the Policy Period when the Insured shall deliver to the Insurer a written statement of the total amounts expended for cost of hire during the Policy Period. If such amounts exceed the estimates stated in the application, the Insured shall immediately pay additional premium at the rates stated

therein; if less, the Insurer shall return to the Insured the unearned premium when determined but the Insurer shall, in any event, receive or retain not less than the Minimum Retained Premium stated therein.

The Insurer shall have the right and opportunity, whenever the Insurer so desires, to examine the books and records of the Insured to the extent they relate to the premium or the subject matter of this policy.

## STATUTORY CONDITIONS FOR NON-OWNED AUTOMOBILE

(YUKON TERRITORY, NORTHWEST TERRITORIES, ALBERTA, ONTARIO, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND AND NEWFOUNDLAND)

In these statutory conditions, unless the context otherwise requires, the word "Insured" means a person insured by this contract whether named or not.

*NOTE: All of the Statutory Conditions contain the above wording, however,*

- *in all of the Provinces and Territories using these standard, approved forms, only Statutory Conditions 1, 8 and 9 are made applicable to accident benefits insurance and uninsured motorist insurance where it is provided by the contract.*
- *in the Northwest Territories the definition of "insured person" must be read as containing in addition the words "and includes any person to whom benefits may be payable under the accident benefits set out in the Schedule to the Insurance Ordinance."*

### 1. MATERIAL CHANGE IN RISK:

- (1) The Insured named in this contract shall promptly notify the Insurer or its local agent or broker in writing of any change in the risk material to the contract and within his or her knowledge.
- (2) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" include:
  - (a) any change in the insurable interest of the Insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act* (Canada);  
and in respect of insurance against loss of or damage to the automobile;
  - (b) any mortgage, lien or encumbrance affecting the automobile after the application for this contract;
  - (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by this contract or any portion thereof.

*Note: In Prince Edward Island Statutory Condition 1, sub-conditions 2 and 3 are identical with the above quoted Statutory Condition relating to material change in risk.*

### 2. PROHIBITED USE BY INSURED:

- (1) the Insured shall not drive or operate the automobile,
  - (a) unless he or she is for the time being either authorized by law or qualified to drive or operate the automobile; or
  - (b) while his or her licence to drive or operate an automobile is suspended or while his or her right to obtain a licence is suspended or while he or she is prohibited under order of any court from driving or operating an automobile; or
  - (c) while he or she is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he or she resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him or her; or
  - (d) for any illicit or prohibited trade or transportation; or
  - (e) in any race or speed test.

### PROHIBITED USE BY OTHERS

- (2) The Insured shall not permit, suffer, allow or connive at the use of the automobile,
  - (a) by any person,
    - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile; or
    - (ii) while that person is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he or she resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him or her; or
  - (b) by any person who is a member of the household of the Insured while his licence to drive or operate an automobile is suspended or while his or her right to obtain a licence is suspended or while he or she is prohibited under order of any court from driving or operating an automobile; or
  - (c) for any illicit or prohibited trade or transportation; or
  - (d) in any race or speed test.

### 3. REQUIREMENTS WHERE LOSS OR DAMAGE TO PERSONS OR PROPERTY:

- (1) The Insured shall,
  - (a) promptly give to the Insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident;
  - (b) verify by statutory declaration, if required by the Insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract; and
  - (c) forward immediately to the Insurer every letter, document, advice or writ received by him or her from or on behalf of the claimant.
- (2) The Insured shall not,
  - (a) voluntarily assume any liability or settle any claim except at his or her own cost; or
  - (b) interfere in any negotiations for settlement or in any legal proceeding.
- (3) The Insured shall, whenever requested by the Insurer, aid in securing information and evidence and the attendance of any witness and shall co-operate with the Insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

### 4. REQUIREMENTS WHERE LOSS OR DAMAGE TO AUTOMOBILE:

- (1) Where loss of or damage to the automobile occurs, the Insured shall, if the loss or damage is covered by this contract,
  - (a) promptly give notice thereof in writing to the Insurer with the fullest information obtainable at the time;
  - (b) at the expense of the Insurer, and as far as reasonably possible, protect the automobile from further loss or damage; and
  - (c) deliver to the Insurer within ninety days after the date of the loss or damage a statutory declaration stating, to the best of his or her knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the Insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the Insured.
- (2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition (1) of this condition is not recoverable under this contract.
- (3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,
  - (a) without the written consent of the Insurer; or

(b) until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

**(4) EXAMINATION OF INSURED**

The Insured shall submit to examination under oath, and shall produce for examination at such reasonable place and time as is designated by the Insurer or its representative all documents in his or her possession or control that relate to the matters in question, and he or she shall permit extracts and copies thereof to be made.

**(5) INSURER LIABLE FOR CASH VALUE OF AUTOMOBILE**

The Insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile, or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the Insurer in respect thereof shall be limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

**(6) REPAIR OR REPLACEMENT**

Except where an appraisal has been made, the Insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost, with other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so.

**(7) NO ABANDONMENT; SALVAGE**

There shall be no abandonment of the automobile to the Insurer without the Insurer's consent. If the Insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, shall vest in the Insurer.

**(8) IN CASE OF DISAGREEMENT**

In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by the appraisal as provided under *The Insurance Act* (in Newfoundland, *The Insurance Contracts Act*) before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

**5. INSPECTION OF AUTOMOBILE:**

The Insured shall permit the Insurer at all reasonable times to inspect the automobile and its equipment.

**6. TIME AND MANNER OF PAYMENT OF INSURANCE MONEY:**

(1) The Insurer shall pay the insurance money for which it is liable under this contract within sixty days after the proof of loss has been received by it or, where an appraisal is made under subcondition (8) of statutory condition 4., within fifteen days after the award is rendered by the appraisers.

**(2) WHEN ACTION MAY BE BROUGHT**

The Insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as therein provided or by a judgment against the Insured after trial of the issue or by agreement between the parties with the written consent of the Insurer.

**(3) LIMITATIONS OF ACTIONS**

Every action or proceeding against the Insurer under this contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose and not afterwards.

*Note: In Yukon Territory, Northwest Territories and New Brunswick, the one year limitation period in subcondition (3) should read "2 years".*

*In the case of Nova Scotia, Newfoundland and Prince Edward Island, subcondition (3) reads as follows:*

(3) *"Every action or proceeding under this contract against the Insurer in respect of a claim for indemnification for liability of the Insured for loss or damage to property of another person or for personal injury to or death of another person shall be commenced within two years after the liability of the Insured is established by a court of competent jurisdiction and not afterwards. Every other action or proceeding against the Insurer under this contract in respect of loss or damage to the automobile shall be commenced within two years from the time the loss or damage was sustained and not afterwards."*

**7. WHO MAY GIVE NOTICE AND PROOFS OF CLAIM:**

Notice of claim may be given and proofs of claim may be made by the agent or broker of the Insured named in this contract in case of absence or inability of the Insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.

**8. TERMINATION:**

(1) This contract may be terminated,

(a) by the Insurer giving to the Insured

(i) 30 days' written notice of termination by registered mail;

(ii) 5 days' written notice of termination personally delivered;

(iii) 15 days' written notice of termination by registered mail when cancelling for non-payment of premium;

(b) by the Insured at any time on request.

(2) Where this contract is terminated by the Insurer,

(a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but in no event shall the pro rata premium for the expired term be deemed to be less than any minimum retained premium specified; and

(b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable.

(3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

(4) The refund may be made by money, postal or express company money order or cheque payable at par.

(5) The thirty days mentioned in clause (a) of subcondition (1) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

*Note: In the Northwest Territories, paragraph (a) of subcondition 1. has the following words added:*

*"and by notifying the registrar of motor vehicles as required by the Vehicles Ordinance".*

**9. NOTICE:**

Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the Province. Written notice may be given to the Insured named in this contract by letter personally delivered to him or her or by registered mail addressed to him or her at his or her latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

*Note: In the Northwest Territories, the reference is to Territories and in the Yukon Territory the reference is to Territory rather than Province.*



## **UNITED STATES OF AMERICA SALES AND OPERATIONS EXCLUSION**

This Endorsement Changes the Policy. Please Read it Carefully.

Attached to and forming part of The Commercial General Liability Form to which this Endorsement is attached.

This insurance does not apply to "bodily injury" or "property damage" arising out of operations in or sales to the United States of America, its territories or possessions.

Except as otherwise provided in this endorsement all terms and conditions of this policy shall remain unchanged.

## O.E.F.98B

### REDUCTION OF COVERAGE FOR LESSEES OR DRIVERS OF LEASED VEHICLES ENDORSEMENT (FOR ATTACHMENT ONLY TO A NON-OWNED POLICY S.P.F. NO. 6)

**1. Purpose of this endorsement:**

This endorsement alters the coverage provided by this policy with respect to claims in Ontario for loss or damage arising directly or indirectly from the use or operation of a motor vehicle that is leased.

**2. How the policy coverage is changed:**

- The Insurer also agrees to pay on behalf of every partner, officer or employee of the Insured who, in the business of the Insured stated in Item 3 of the application, leases an automobile **for a period of not more than 30 days** in their own name, all sums which such partner, officer or employee is legally obligated to pay as a result of liability imposed by law arising from the negligence of the driver of such leased automobile(s).
- The insurance provided under this policy with respect to leased automobiles is in excess of the underlying coverage available to the Insured or to the partner, officer or employee of the Insured.
- Underlying coverage available to the Insured or to the partner, officer or employee of the Insured includes any motor vehicle liability insurance that is required to respond to the liability of the driver or lessee of the leased automobile.

The terms leased, lease and lessee are used as equivalent to rented, rent and renter.

Except as otherwise provided in this endorsement, all limits, terms, conditions, provisions, definitions and exclusions of the policy shall have full force and effect.

# LIABILITY CONDITIONS

Throughout this Form the word "Insured" refers to the Named Insured shown in the Declarations. The word "Insurer" refers to the company providing this insurance. Other words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS of Liability Insurance form attached to this policy. If this policy is subject to the Civil Code of Quebec, reference to Quebec Civil Code (CcQ) articles is for easier reading only and should not be construed as exact quotations. If any portion of these conditions are found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

## SECTION I: LIABILITY CONDITIONS – ALL PROVINCES

### 1. BANKRUPTCY

Bankruptcy or insolvency of the Insured or of the Insured's estate will not relieve the Insurer of the Insurer's obligation under this policy.

### 2. CANADIAN CURRENCY CLAUSE

All limits of insurance, premiums and other amounts are in Canadian currency.

### 3. CHANGES (CcQ 2405)

This policy contains all the agreements between the Named Insured and the Insurer concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with the Insurer's consent. This policy's terms can be amended or waived only by endorsement issued by the Insurer and made a part of this policy.

### 4. DUTIES IN THE EVENT OF OCCURRENCE, OFFENCE, CLAIM OR ACTION (CcQ 2504, 2470 and CcQ 2471)

- a. The Named Insured must see to it that the Insurer is notified as soon as practicable of an "occurrence" or an offence which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offence took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offence.
- b. If a claim is made or "action" is brought against any Insured, the Named Insured must:
  - (1) Immediately record the specifics of the claim or "action" and the date received; and
  - (2) Notify the Insurer as soon as practicable.The Named Insured must see to it that the Insurer receives written notice of the claim or "action" as soon as practicable.
- c. The Named Insured and any other involved Insured must:
  - (1) Immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the claim or "action";
  - (2) Authorize the Insurer to obtain records and other information;
  - (3) Cooperate with the Insurer in the investigation or settlement of the claim or defence against the "action"; and
  - (4) Assist the Insurer, upon the Insurer's request, in the enforcement of any right against any person or organization which may be liable to the Insured because of injury or damage to which this insurance may also apply.
- d. No Insured will, except at that Insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without the Insurer's consent.

### 5. EXAMINATION OF THE NAMED INSURED'S BOOKS AND RECORDS

The Insurer may examine and audit the Named Insured's books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### 6. INSPECTIONS AND SURVEYS

- a. The Insurer has the right to:
  - (1) Make inspections and surveys at any time;
  - (2) Give the Named Insured reports on the conditions the Insurer finds; and
  - (3) Recommend changes.
- b. The Insurer is not obligated to make any inspections, surveys, reports or recommendations and any such actions the Insurer does undertake relate only to insurability and the premiums to be charged. The Insurer does not make safety inspections. The Insurer does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And the Insurer does not warrant that conditions:
  - (1) Are safe or healthful; or
  - (2) Comply with laws, regulations, codes or standards.
- c. Paragraphs **a.** and **b.** of this condition apply not only to the Insurer, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
- d. Paragraph **b.** of this condition does not apply to any inspections, surveys, reports or recommendations the Insurer may make relative to certification, under provincial or municipal statutes, ordinances, bylaws or regulations, of boilers, pressure vessels or elevators.

### 7. LEGAL ACTION AGAINST THE INSURER

No person or organization has a right under this policy:

- a. To join the Insurer as a party or otherwise bring the Insurer into an "action" asking for "compensatory damages" from an Insured; or
- b. To sue the Insurer on this policy unless all of its terms have been fully complied with.

A person or organization may sue the Insurer to recover on an agreed settlement or on a final judgment against an Insured; but the Insurer will not be liable for "compensatory damages" that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by the Insurer, the Insured and the claimant or the claimant's legal representative.

Every action or proceeding against an Insurer for the recovery of insurance money payable under contract is absolutely barred unless commenced within the time set out in the Insurance Act or other applicable legislation.

#### **8. OTHER INSURANCE (CcQ 2496)**

If other valid and collectible insurance is available to the Insured for a loss the Insurer covers by this policy, the Insurer's obligations are limited as follows:

##### **a. Primary Insurance**

This insurance is primary except when **b.** below applies. If this insurance is primary, the Insurer's obligations are not affected unless any of the other insurance is also primary. Then, the Insurer will share with all that other insurance by the method described in **c.** below.

##### **b. Excess Insurance**

This insurance is excess over:

(1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "the Named Insured's work";
- (b) That is Fire insurance for premises rented to the Named Insured or temporarily occupied by the Named Insured with permission of the owner;
- (c) If the loss arises out of the maintenance or use of watercraft or "automobile" not otherwise excluded under this policy.

(2) Any other primary insurance available to the Named Insured covering liability for "compensatory damages" arising out of the premises or operations or products-completed operations for which the Named Insured has been added as an additional insured by attachment of an endorsement.

##### **(3) Excess Insurance (Claims Made Form)**

If this Policy provides claims-made coverage, this insurance is excess over any of the other insurance (whether primary, excess, contingent or on any other basis) that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to "bodily injury", "property damage", "personal injury" or "advertising injury" on other than a claims-made basis.

When this insurance is excess, the Insurer will have no duty to defend the Insured against any "action" if any other insurer has a duty to defend the Insured against that "action". If no other insurer defends, the Insurer will undertake to do so, but the Insurer will be entitled to the Insured's rights against all those other insurers.

When this insurance is excess over other insurance, the Insurer will pay only the Insured's share of the amount of the loss, if any, that exceeds the sum of:

- i. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- ii. The total of all deductible and self-insured amounts under all that other insurance.

The Insurer will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

##### **c. Method of Sharing**

If all of the other insurance permits contribution by equal shares, the Insurer will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, the Insurer will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### **9. PREMIUM AUDIT**

a. The Insurer will compute all premiums for this policy in accordance with the Insurer's rules and rates.

b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period the Insurer will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, the Insurer will return the excess to the first Named Insured subject to the retention of the minimum retained premium shown in the Declarations of this policy.

c. The first Named Insured must keep records of the information the Insurer needs for premium computation, and send the Insurer copies at such times as the Insurer may request.

#### **10. PREMIUMS**

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums the Insurer pays.

#### **11. REPRESENTATIONS (CcQ 2496)**

By accepting this policy, the Named Insured agrees:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations the Named Insured made to the Insurer; and
- c. The Insurer has issued this policy in reliance upon the Named Insured's representations.

#### **12. SEPARATION OF INSUREDS, CROSS LIABILITY**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each Insured against whom claim is made or "action" is brought.

#### **13. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO THE INSURER (CcQ 2474)**

If the Insured has rights to recover all or part of any payment the Insurer has made under this policy, those rights are transferred to the Insurer. The Insured must do nothing after loss to impair them. At the Insurer's request, the Insured will bring "action" or transfer those rights to the Insurer and help the Insurer enforce them.

#### **14. TRANSFER OF THE NAMED INSURED'S RIGHTS AND DUTIES UNDER THIS POLICY (CcQ 2475 and 2476)**

The Named Insured's rights and duties under this policy may not be transferred without the Insurer's written consent except in the case of death of an individual Named Insured.

If the Named Insured dies, the Named Insured's rights and duties will be transferred to the Named Insured's legal representative but only while acting within the scope of duties as the Named Insured's legal representative. Until the Named Insured's legal representative is appointed, anyone having proper temporary custody of the Named Insured's property will have the Named Insured's rights and duties but only with respect to that property.

## 15. PROVISIONAL PREMIUM

If the premium shown in this policy is a provisional premium, the Insurer will, at the end of each audit period, compute the earned premium for that period. Audit premiums are due and payable on notice to the Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, the Insurer will return the excess to the Named Insured subject to the retention of the minimum premium shown in the Declarations of this policy.

## SECTION II: LIABILITY CONDITIONS – ALL PROVINCES EXCLUDING ALBERTA, BRITISH COLUMBIA, MANITOBA AND QUEBEC

### TERMINATION

- a. The first Named Insured shown in the Declarations may terminate this policy by mailing or delivering to the Insurer advance written notice of termination.
- b. The Insurer may terminate this policy by mailing or delivering to the first Named Insured written notice of termination at least:
  - (1) 5 days before the effective date of termination if personally delivered;
  - (2) 15 days before the effective date of termination if the Insurer terminates for non-payment of premium; or
  - (3) 30 days before the effective date of termination if the Insurer terminates for any other reason.
- c. The Insurer will mail or deliver the notice to the first Named Insured's last mailing address known to the Insurer.
- d. The policy period will end on the date termination takes effect.
- e. If this policy is terminated, the Insurer will send the first Named Insured any premium refund due. If the Insurer terminates, the refund will be pro rata. If the first Named Insured terminates, the refund may be less than pro rata. The termination will be effective even if the Insurer has not made or offered a refund. If the premium is provisional, a premium audit will take place as per **SECTION I, Paragraph 15 – Provisional Premium**.

## SECTION III: LIABILITY CONDITIONS – PROVINCE of QUEBEC

### 1. MATERIAL CHANGE IN RISK (ARTICLES 2466 AND 2467)

The Named Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty (30) days of the proposal, the policy ceases to be in force.

### 2. MISREPRESENTATION OR CONCEALMENT (ARTICLES 2410, 2411 AND 2466)

Any misrepresentation or concealment of relevant facts mentioned in **SECTION I Paragraph 11. Representations** and **SECTION III – Paragraph 1. Material Change in Risk** by the Applicant or the Insured nullifies the contract at the instance of the Insurer, even in respect to losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the Applicant or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

### 3. WARRANTIES (ARTICLE 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Named Insured.

### 4. INTENTIONAL FAULT (ARTICLE 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect to those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

### 5. RIGHT OF ACTION (ARTICLE 2502)

The Insurer may set up against the injured third person any grounds he could have invoked against the Named Insured at the time of loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right against the Named Insured in respect of facts that occurred after the loss.

### 6. CANCELLATION (ARTICLES 2477 AND 2479)

This policy may be cancelled at any time:

- a. By any of the Named Insureds giving written notice. Termination takes effect upon receipt of the notice and the Insured shall be entitled to a refund of the excess of the premium actually paid over the short-term for the expired time. If the premium is provisional, a premium audit will take place as per **SECTION I, Paragraph 15 – Provisional Premium**.
- b. By the Insurer giving written notice to each Named Insureds at their last know address, at least:
  - (1) fifteen (15) days before the effective date of cancellation by reason of non payment of premium, or
  - (2) thirty (30) days before the effective date of cancellation by any other reason.Cancellation takes effect fifteen (15) or thirty (30) days after receipt of such notice, depending upon the reason for cancellation. The Named Insured is entitled to refund of the excess premium actually paid over the prorated premium for the expired time. If the premium is provisional, a premium audit will take place as per **SECTION I, Paragraph 15 – Provisional Premium**.
- c. Where one or more of the Named Insureds have been mandated to receive or sent the notices provided for under Paragraph **a.** or **b.** above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.
- d. In this Condition, the words "premium actually paid" means the premium actually paid by the Named Insured to the Insurer or its representative, but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

### 7. NOTICE

Any notice to the Insurer may be sent by any recognized means of communications to the Insurer or its authorized representative. Notice may be given to the Named Insured by letter personally delivered to him or by mail addressed to him at his last know address.

It is incumbent upon the sender to prove that such notice was received.

# COMMERCIAL GENERAL LIABILITY

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The words "Insured" and "Named Insured" mean any person or organization qualifying as such under SECTION II – WHO IS AN INSURED. The word "Insurer" refers to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION IV – DEFINITIONS.

Various provisions in this Form restrict coverage. Read the entire Form carefully to determine rights, duties and what is and is not covered.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

This insurance applies only when an Each Occurrence Limit is indicated in the Declarations.

#### 1. INSURING AGREEMENT

- a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as "compensatory damages" because of "bodily injury" or "property damage" to which this insurance applies. The Insurer will have the right and duty to defend the Insured against any "action" seeking those "compensatory damages". However, the Insurer will have no duty to defend the Insured against any "action" seeking "compensatory damages" for "bodily injury" or "property damage" to which this insurance does not apply. The Insurer may, at the Insurer's discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:
  - (1) The amount the Insurer will pay for "compensatory damages" is limited as described in SECTION III – LIMITS OF INSURANCE and is subject to the Deductible Clause shown in SECTION III – LIMITS OF INSURANCE; and
  - (2) The Insurer's right and duty to defend end when the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements under COVERAGES A, B or D or medical expenses under COVERAGE C.No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS.
- b. This insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED and no "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed Insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED or any "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED or any "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim:
  - (1) Reports all or any part, of the "bodily injury" or "property damage" to the Insurer or any other Insurer;
  - (2) Receives a written or verbal demand or claim for "compensatory damages" because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. "Compensatory damages" because of "bodily injury" include "compensatory damages" claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

#### 2. EXCLUSIONS

This insurance does not apply to:

- a. **Expected or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of any Insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.
- b. **Contractual Liability**

"Bodily injury" or "property damage" for which an Insured is obligated to pay "compensatory damages" by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages":

  - (1) That the Insured would have in the absence of the contract or agreement; or
  - (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable legal fees and necessary litigation expenses incurred by or for a party other than an Insured are deemed to be "compensatory damages" because of "bodily injury" or "property damage", provided:
    - (a) Liability to such party for, or for the cost of, that party's defence has also been assumed in the same "insured contract"; and
    - (b) Such legal fees and litigation expenses are for defence of that party against a civil or alternative dispute resolution proceeding in which "compensatory damages" to which this insurance applies are alleged.
- c. **Workers' Compensation and Similar Laws**

Any obligation of the Named Insured under a workers' compensation, disability benefits or unemployment or employment compensation law or any similar law.
- d. **Employer's Liability**

"Bodily injury" to an "employee" of the Insured arising out of and in the course of:

  - (1) Employment by the Insured; or
  - (2) Performing duties related to the conduct of the Insured's business.

This exclusion applies:

  - (a) Whether the Insured may be liable as an employer or in any other capacity; and
  - (b) To any obligation to share "compensatory damages" with or repay someone else who must pay "compensatory damages" because of the injury.

This exclusion does not apply to:

  - i. Liability assumed by the Insured under an "insured contract"; or
  - ii. A claim made or an "action" brought by a Canadian resident "employee" on whose behalf contributions are made by or are required to be made by the Insured under the provisions of any Canadian provincial or territorial workers' compensation law, if cover or benefits have been denied by any Canadian Workers' Compensation Authority.



**e. Automobile**

"Bodily injury" or "property damage" arising out of the use, ownership or operation of any "automobile" that is owned or operated by, on behalf of, rented or loaned to any Insured.

This exclusion also applies to any motorized snow vehicle or its trailers, except when being used by an Insured for the Named Insured's business, and any vehicle while being used in any speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury" or "property damage".

This exclusion does not apply to:

- (1) "Bodily injury" to an "employee" of the Insured.
- (2) "Bodily injury" or "property damage" arising out of a defective condition in, or improper maintenance of, any "automobile" that is owned by the Insured while leased to others for a period of 30 days or more provided the lessee is obligated under contract to ensure that the "automobile" is insured.
- (3) "Bodily injury" or "property damage" arising out of the ownership, use or operation of machinery, apparatus or equipment mounted on or attached to any vehicle while at the site of the use or operation of such equipment.

**f. Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others by or on behalf of any Insured of any watercraft that is owned, operated by, rented or loaned to any Insured.

Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any watercraft that is owned, operated by, rented or loaned to any Insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises the Named Insured owns or rents;
- (2) A watercraft the Named Insured does not own that is:
  - (a) Less than 8 metres long; and
  - (b) Not being used to carry persons or property for a charge.
- (3) "Bodily injury" to an "employee" of the Named Insured on whose behalf contributions are made by or are required to be made by the Named Insured under the provisions of any Canadian provincial or territorial workers' compensation law, if the "bodily injury" results from an "occurrence" involving watercraft.

**g. Aircraft**

(1) "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others by or on behalf of any Insured of:

- (a) Any aircraft, that is owned, operated by rented or loaned to any Insured; or
- (b) Any air cushion vehicle that is owned, operated by rented or loaned to any Insured.

(2) "Bodily injury" or "property damage" arising out of the ownership, existence, use or operation by or on behalf of any Insured of any premises for the purpose of an airport or aircraft landing area and all operations necessary or incidental thereto.

Use includes operation and "loading and unloading" of any aircraft or air cushion vehicle.

**h. Damage to Property**

"Property damage" to:

- (1) Property that is owned or occupied by or rented to the Named Insured;
- (2) Premises the Named Insured sells, gives away or abandons, if the "property damage" arises out of any part of those premises;
- (3) Property held by the Named Insured for sale or entrusted to the Named Insured for storage or safekeeping;
- (4) Property being on premises that is owned or rented by the Named Insured for the purpose of having operations performed on such property by the Insured;
- (5) That particular part of property on which the Named Insured or any contractor or subcontractor working directly or indirectly on the Named Insured's behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "the Named Insured's work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "the Named Insured's work" and were never occupied, rented or held for rental by the Named Insured.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (5) and (6) of this exclusion do not apply to "property damage" included in the "products-completed operations hazard".

**i. Damage to the Named Insured's Product**

"Property damage" to "the Named Insured's product" arising out of such product or any part of such product.

If the Named Insured is in the business of selling, repairing or servicing "automobiles", this exclusion applies only if the "property damage" is caused by a defect existing at the time "the Named Insured's product" was sold or transferred to another.

**j. Damage to the Named Insured's Work**

"Property damage" to that particular part of "the Named Insured's work" arising out of it or any part of it and included in the "products-completed operations hazard" provided the cause of the "property damage" is a defect in "the Named Insured's work". This exclusion applies only to that part of "the Named Insured's work" that is defective.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on the Named Insured's behalf by a subcontractor.

**k. Damage to Impaired Property or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "the Named Insured's product" or "the Named Insured's work"; or
- (2) A delay or failure by the Named Insured or anyone acting on the Named Insured's behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "the Named Insured's product" or "the Named Insured's work" after it has been put to its intended use.

**l. Recall of Products, Work or Impaired Property**

"Compensatory damages" claimed for any loss, cost or expense incurred by the Named Insured or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "The Named Insured's product";



(2) "The Named Insured's work"; or

(3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**m. Explosion, Vibration, Removal or Weakening of Support**

"Property damage" arising out of:

(1) The use of explosives for blasting;

(2) Vibration from pile driving or caisson work; or

(3) The removal or weakening of support of any property, building or land whether such support be natural or otherwise.

This exclusion does not apply:

(a) To "property damage" arising out of work performed on behalf of the Named Insured by any contractor or subcontractor;

(b) To "property damage" included within the "products-completed operations hazard".

**n. Electronic Data**

"Compensatory damages" arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

**o. Personal Injury and Advertising Injury**

"Bodily injury" arising out of "personal injury" or "advertising injury".

**p. Professional Services**

"Bodily injury" (other than "incidental medical malpractice injury") or "property damage" due to the rendering of or failure to render by the Named Insured or on the Named Insured's behalf any professional service.

This exclusion does not apply when the professional service is:

(1) Performed by an architect or engineer in his or her capacity as an "employee" of the Named Insured and is an integral part of "the Named Insured's product" or "the Named Insured's work". This exemption does not provide coverage for "property damage" to "the Named Insured's product" or "the Named Insured's work".

(2) Designing or testing by an "employee" of "the Named Insured's product".

**q. Abuse** – See COMMON EXCLUSIONS

**r. Asbestos** – See COMMON EXCLUSIONS.

**s. Fungi or Spores** – See COMMON EXCLUSIONS.

**t. Nuclear Liability** – See COMMON EXCLUSIONS.

**u. Pollution Liability** – See COMMON EXCLUSIONS.

**v. Terrorism** – See COMMON EXCLUSIONS.

**w. War Risks** – See COMMON EXCLUSIONS.

## **COVERAGE B – PERSONAL INJURY AND ADVERTISING INJURY LIABILITY**

This insurance applies only when a Personal Injury and Advertising Injury Liability Limit is indicated in the Declarations.

### **1. INSURING AGREEMENT**

a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as "compensatory damages" because of "personal injury" or "advertising injury" to which this insurance applies. The Insurer will have the right and duty to defend the Insured against any "action" seeking those "compensatory damages". However, the Insurer will have no duty to defend the Insured against any "action" seeking "compensatory damages" for "personal injury" or "advertising injury" to which this insurance does not apply. The Insurer may, at the Insurer's discretion, investigate any offence and settle any claim or "action" that may result. But:

(1) The amount the Insurer will pay for "compensatory damages" is limited as described in SECTION III – LIMITS OF INSURANCE and is subject to the Deductible Clause shown in SECTION III – LIMITS OF INSURANCE; and

(2) The Insurer's right and duty to defend end when the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements under COVERAGES A, B or D or medical expenses under COVERAGE C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS.

b. This insurance applies to "personal injury" and "advertising injury" caused by an offence arising out of the conduct of the Named Insured's business, but only if the offence was committed in the "coverage territory" and during the policy period.

### **2. EXCLUSIONS**

This insurance does not apply to:

**a. Material Published With Knowledge of Falsity**

"Personal injury" or "advertising injury" arising out of oral or written publication of material, if done by or at the direction of an Insured with knowledge of its falsity.

**b. Material Published Prior To Policy Period**

"Personal injury" or "advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

**c. Criminal Acts**

"Personal injury" or "advertising injury" arising out of a criminal act committed by or at the direction of an Insured.

**d. Contractual Liability**

"Personal injury" or "advertising injury" for which an Insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages" that the Insured would have in the absence of the contract or agreement.

**e. Breach of Contract**

"Advertising injury" arising out of a breach of contract, except an implied contract allowing the use of another's advertising idea by the Named Insured.

**f. Quality or Performance of Goods – Failure to Conform to Statements**

"Advertising injury" arising out of the failure of goods, products or services to conform with any advertising statement of quality or performance made by the Named Insured.

**g. Wrong Description of Prices**

"Advertising injury" arising out of the wrong description of the price of goods, products or services, including any claim or suit based upon comparative advertising or alleged, false, misleading, deceptive, fraudulent or misrepresentative advertising committed by the Named Insured.

h. **Infringement of Patent**

"Advertising injury" arising out of infringement of patent.

i. **Insureds in Media and Internet Type Businesses**

"Personal injury" or "advertising injury" committed by an Insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to:

- (a) False arrest, detention or imprisonment;
- (b) Malicious prosecution;
- (c) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for the Named Insured or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

j. **Interactive Websites, Electronic Chat Rooms, Interactive Forums or Bulletin Boards**

"Personal injury" or "advertising injury" arising out of an electronic interactive website, chat room interactive forum or bulletin board an Insured hosts, owns, or over which the Insured exercises control.

k. **Abuse** – see COMMON EXCLUSIONS

l. **Asbestos** – see COMMON EXCLUSIONS

m. **Fungi or Spores** – see COMMON EXCLUSIONS

n. **Nuclear Liability** – see COMMON EXCLUSIONS

o. **Pollution Liability** – see COMMON EXCLUSIONS

p. **Terrorism** – see COMMON EXCLUSIONS

q. **War Risks** – see COMMON EXCLUSIONS

## COVERAGE C – MEDICAL PAYMENTS

This insurance applies only when a Medical Payments Limit is indicated in the Declarations.

### 1. INSURING AGREEMENT

a. The Insurer will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises the Named Insured owns or rents;
- (2) On ways next to premises the Named Insured owns or rents; or
- (3) Because of the Named Insured's operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to the Insurer within one year of the date of the accident; and
- (c) The injured person submits to examination, at the Insurer's expense, by physicians of the Insurer's choice as often as the Insurer reasonably requires.

b. The Insurer will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance as described in SECTION III – LIMITS OF INSURANCE. The Insurer will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

### 2. EXCLUSIONS

The Insurer will not pay expenses for "bodily injury":

a. **Any Insured**

To any Insured, except "volunteer workers".

b. **Hired Person**

To a person hired to do work for or on behalf of any Insured or a tenant of any Insured.

c. **Injury on Normally Occupied Premises**

To a person injured on that part of premises the Named Insured owns or rents that the person normally occupies.

d. **Workers Compensation and Similar Laws**

To a person, whether or not an "employee" of any Insured, if benefits for the "bodily injury" are payable or must be provided under any workers' compensation or disability benefits law or a similar law.

e. **Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. **Products – Completed Operations Hazard**

Included within the "products-completed operations hazard".

g. **COVERAGE A Exclusions**

Excluded under COVERAGE A.

## COVERAGE D – TENANTS' LEGAL LIABILITY

This insurance applies only when a Tenants' Legal Liability Limit is indicated in the Declarations.

### 1. INSURING AGREEMENT

a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as "compensatory damages" because of "property damage" to which this insurance applies. This insurance applies only to "property damage" to premises of others rented to the Named Insured or occupied by the Named Insured. The Insurer will have the

right and duty to defend the Insured against any "action" seeking "compensatory damages". However, the Insurer will have no duty to defend the Insured against any "action" seeking "compensatory damages" for "property damage" to which this insurance does not apply. The Insurer may, at the Insurer's discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:

- (1) The amount the Insurer will pay for "compensatory damages" is limited as described in SECTION III – LIMITS OF INSURANCE and is subject to the Deductible Clause shown in SECTION III – LIMITS OF INSURANCE; and
- (2) The Insurer's right and duty to defend ends when the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements under COVERAGES A, B or D or medical expenses under COVERAGE C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS.

b. This insurance applies to "property damage" only if:

- (1) The "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED and no "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim, knew that the "property damage" had occurred, in whole or in part. If such a listed Insured or authorized "employee" knew, prior to the policy period, that the "property damage" occurred, then any continuation, change or resumption of such "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED or any "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "property damage" after the end of the policy period.

d. "Property damage" will be deemed to have been known to have occurred at the earliest time when any Insured listed under Paragraph 1. of SECTION II – WHO IS AN INSURED or any "employee" authorized by the Named Insured to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "property damage" to the Insurer or any other insurer;
- (2) Receives a written or verbal demand or claim for "compensatory damages" because of the "property damage"; or
- (3) Becomes aware by any other means that "property damage" has occurred or has begun to occur.

## 2. EXCLUSIONS

This insurance does not apply to:

a. **Expected or Intended Injury**

"Property damage" expected or intended from the standpoint of any Insured.

b. **Contractual Liability**

"Property damage" for which an Insured is obligated to pay "compensatory damages" by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages" that the Insured would have in the absence of the contract or agreement.

c. **Abuse** – See COMMON EXCLUSIONS.

d. **Asbestos** – See COMMON EXCLUSIONS.

e. **Fungi or Spores** – See COMMON EXCLUSIONS.

f. **Nuclear Energy Liability** – See COMMON EXCLUSIONS.

g. **Pollution Liability** – See COMMON EXCLUSIONS.

h. **Terrorism** – See COMMON EXCLUSIONS.

i. **War Risks** – See COMMON EXCLUSIONS.

## COMMON EXCLUSIONS

This insurance does not apply to:

### 1. ABUSE

- a. Claims or "actions" arising directly or indirectly from "abuse" committed or alleged to have been committed by an Insured, including the transmission of disease arising out of any act of "abuse".
- b. Claims or "actions" based on the Named Insured's practices of "employee" hiring, acceptance of "volunteer workers" or supervision or retention of any person alleged to have committed "abuse".
- c. Claims or "actions" alleging knowledge by an Insured of, or failure to report, the alleged "abuse" to the appropriate authority(ies).

### 2. ASBESTOS

"Bodily injury", "property damage" or "personal injury" related to or arising from any actual or alleged liability for any legal remedy of any kind whatsoever (including but not limited to damages, interest, mandatory or other injunctive relief, statutory orders or penalties, legal or other costs, or expenses of any kind) in respect of actual or threatened loss, damage, cost or expense directly or indirectly caused by, resulting from, in consequence of or in any way involving, asbestos or any materials containing asbestos in whatever form or quantity.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal injury".

### 3. FUNGI OR SPORES

- a. "Bodily injury", "property damage" or "personal injury" or any other cost, loss or expense incurred by others, arising directly or indirectly, from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of any "fungi" or "spores" however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of "fungi" or "spores";
- b. any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. above; or
- c. any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in a. or b. above.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal injury".

For the purpose of the following exception:

- (1) "Property damage" means physical injury to animals.
- (2) "Products-completed operations hazard" means all "bodily injury" and "property damage" that arises out of "the Named Insured's product" provided the "bodily injury" or "property damage" occurs after the Named Insured has relinquished physical possession "the Named Insured's product".  
This exclusion does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" arising directly or indirectly from "fungi" or "spores" that are found in or on, or are, "the Named Insured's product", and the Named Insured intends "the Named Insured's product" to be:

- (a) applied topically to; or
  - (b) ingested by;
- humans or animals.

#### 4. NUCLEAR ENERGY LIABILITY

- a. Liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof.
- b. "Bodily injury", "property damage" or "personal injury" with respect to which an Insured under this Form is also Insured under a contract of nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the Insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability.
- c. "Bodily injury", "property damage", or "personal injury" resulting directly or indirectly from the "nuclear energy hazard" arising from:
  - (1) The ownership, maintenance, operation or use of a "nuclear facility" by or on behalf of an Insured;
  - (2) The furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility";
  - (3) The possession, consumption, use, handling, disposal or transportation of "fissionable substances", or of other "radioactive material" (except radioactive isotopes, away from a "nuclear facility", which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal injury".

#### 5. POLLUTION LIABILITY

- a. "Bodily injury", "property damage" or "personal injury" arising out of the actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants":
  - (1) Which occurred prior to the policy period shown in the Declarations;
  - (2) At, or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any Insured. However, this subparagraph does not apply to:
    - (a) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapour or soot from equipment used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (b) "Bodily injury" or "property damage" for which the Named Insured may be held liable, if the Named Insured is a contractor and the owner or lessee of such premises, site or location has been added to the Named Insured's policy as an additional insured with respect to the Named Insured's ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any Insured, other than that additional insured; or
    - (c) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from, or fire extinguishing substances used to fight, a "hostile fire";
  - (3) At or from any premises, site or location which is or was at any time used by or for any Insured or others for the handling, storage, disposal, processing or treatment of waste;
  - (4) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - (a) any Insured; or
    - (b) any person or organization for whom the Insured may be legally responsible; or
  - (5) At or from any premises, site or location on which any Insured or any contractors or subcontractors working directly or indirectly on any Insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site, or location in connection with such operations by such Insured, contractor, or subcontractor. However, this subparagraph does not apply to:
    - (a) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of mobile equipment or its parts, if such fuels, lubricants or other operating fluids escape from a permanent and integral mobile equipment part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - (b) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapours from materials brought into that building in connection with operations being performed by the Named Insured or on the Named Insured's behalf by a contractor or subcontractor; or
    - (c) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from, or fire extinguishing substances used to fight, a "hostile fire".
  - (6) At or from any premises, site or location on which any Insured or any contractors or subcontractors working directly or indirectly on any Insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate or neutralize, or in any way respond to, or assess the effect of "pollutants".
- b. Any fines or penalties assessed against or imposed upon any Insured arising out of the actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".
- c. Any loss, cost or expense arising out of any:
  - (1) Request, demand, order or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (2) Claim or "action" by or on behalf of a governmental authority for "compensatory damages" because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, decontaminating, stabilizing, remediating or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this Paragraph c. does not apply to liability for "compensatory damages" because of "property damage" that the Insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "action" by or on behalf of a governmental authority.

#### 6. TERRORISM

"Bodily injury", "property damage" or "personal injury" arising directly or indirectly, in whole or in part, out of "terrorism" or out of any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism". This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal injury".

#### 7. WAR RISKS

"Bodily injury", "property damage" or "personal injury" arising directly or indirectly, in whole or in part, out of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal injury".

### SUPPLEMENTARY PAYMENTS

- 1. The Insurer will pay, with respect to any claim the Insurer investigates or settles, or any "action" against an Insured that the Insurer defends:

- a. All expenses the Insurer incurs.
- b. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. The Insurer does not have to furnish these bonds.
- c. All reasonable expenses incurred by the Named Insured at the Insurer's request to assist the Insurer in the investigation or defence of the claim or "action", including actual loss of earnings because of time off from work.
- d. All costs taxed against the Named Insured in the "action".
- e. Any interest accruing after entry of judgment upon that part of the judgment which is within the applicable limit of insurance and before the Insurer has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If the Insurer defends an insured against an "action" and an indemnitee of the Insured is also named as a party to the "action", the Insurer will defend that indemnitee if all of the following conditions are met:
  - a. The "action" against the indemnitee seeks "compensatory damages" for which the Insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the Insured;
  - c. The obligation to defend, or the cost of the defence of, that indemnitee, has also been assumed by the Insured in the same "insured contract";
  - d. The allegations in the "action" and the information the Insurer knows about the "occurrence" are such that no conflict appears to exist between the interests of the Insured and the interests of the indemnitee;
  - e. The indemnitee and the Insured ask the Insurer to conduct and control the defence of that indemnitee against such "action" and agree that the Insurer can assign the same counsel to defend the Insured and the indemnitee; and
  - f. The indemnitee:
    - (1) Agrees in writing to:
      - (a) Cooperate with the Insurer in the investigation, settlement or defence of the "action";
      - (b) Immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the "action";
      - (c) Notify any other insurer whose coverage is available to the indemnitee; and
      - (d) Cooperate with the Insurer with respect to coordinating other applicable insurance available to the indemnitee; and
    - (2) Provides the Insurer with written authorization to:
      - (a) Obtain records and other information related to the "action"; and
      - (b) Conduct and control the defence of the indemnitee in such "action".

So long as the above conditions are met, legal fees incurred by the Insurer in the defence of that indemnitee, necessary litigation expenses incurred by the Insurer and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b. (2) of SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, such payments will not be deemed to be "compensatory damages" for "bodily injury" and "property damage" and will not reduce the limits of insurance.

The Insurer's obligation to defend an Insured's indemnitee and to pay for legal fees and necessary litigation expenses as SUPPLEMENTARY PAYMENTS ends when:

- i. The Insurer has used up the applicable limit of insurance in the payment of judgments or settlements; or
- ii. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

- 1. If the Named Insured is designated in the Declarations as:
  - a. An individual, the Named Insured and the Named Insured's spouse are Insureds, but only with respect to the conduct of a business of which the Named Insured is the sole owner.
  - b. A partnership, limited liability partnership or joint venture, the Named Insured is an Insured. The Named Insured's members, the Named Insured's partners, and their spouses are also Insureds, but only with respect to the conduct of the Named Insured's business.
  - c. A limited liability company, the Named Insured is an Insured. The Named Insured's members are also Insureds, but only with respect to the conduct of the Named Insured's business. The Named Insured's managers are Insureds, but only with respect to their duties as the Named Insured's managers.
  - d. An organization other than a partnership, limited liability partnership, joint venture or limited liability company, the Named Insured is an Insured. The Named Insured's "executive officers" and directors are Insureds, but only with respect to their duties as the Named Insured's officers or directors. The Named Insured's shareholders are also Insureds, but only with respect to their liability as shareholders.
  - e. A trust, the Named Insured is an Insured. The Named Insured's trustees are also Insureds, but only with respect to their duties as trustees.
- 2. Each of the following is also an Insured:
  - a. The Named Insured's "volunteer workers" or "employees", other than the Named Insured's "executive officers", but only with respect to acts performed on behalf of the Named Insured (if the Named Insured is an organization other than a partnership, limited liability partnership, joint venture or limited liability company) or the Named Insured's managers (if the Named Insured is a limited liability company), but only with respect to acts performed on behalf of the Named Insured. However, none of these "employees" or "volunteer workers" is an Insured for:
    - (1) "Bodily injury", "personal injury" or "advertising injury":
      - (a) To the Named Insured, the Named Insured's partners or members (if the Named Insured is a partnership, limited liability partnership or joint venture), to the Named Insured's members (if the Named Insured is a limited liability company), to a co-"employee" but only with respect to acts performed on behalf of the Named Insured, or to the Named Insured's other "volunteer workers" but only with respect to acts performed on behalf of the Named Insured except with respect to "incidental medical malpractice injury";
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
      - (c) For which there is any obligation to share "compensatory damages" with or repay someone else who must pay "compensatory damages" because of the injury described in Paragraphs (1)(a) or (b) above;
      - (d) Arising out of his or her providing or failing to provide professional health care services; or
      - (e) To any person who at the time of injury is entitled to benefits under any workers' compensation or disability benefits law or a similar law.
    - (2) "Property damage" to property that is:
      - (a) Owned or occupied by; or
      - (b) Rented to or loaned to:
        - i. that "employee" or "volunteer worker"; or



- ii. any other "employee" or "volunteer worker" of the Named Insured; or
  - iii. any of the Named Insured's partners or members (if the Named Insured is a partnership, limited liability partnership or joint venture); or
  - iv. any manager (if the Named Insured is a limited liability company).
- b. Any person (other than the Named Insured's "employee" or "volunteer worker"), or any organization while acting as the Named Insured's real estate manager.
- c. Any person or organization having proper temporary custody of the Named Insured's property if the Named Insured dies, but only:
  - (1) With respect to liability arising out of the maintenance or use of that property; and
  - (2) Until the Named Insured's legal representative has been appointed.
- d. The Named Insured's legal representative if the Named Insured dies, but only with respect to duties as such. That representative will have all the Named Insured's rights and duties under this Form.
- e. The Named Insured's unit or strata lot owners and any tenants, but only with respect to the conduct of the corporation for liability arising out of the common property, excluding liability arising out of the owner's or tenant's possession, occupation or use of property designated for exclusive use.
- f. Any person or organization under the Named Insured's management control and for which the Named Insured is responsible for arranging insurance, but only with respect to the Named Insured's premises, the Named Insured's operations, "the Named Insured's products" or "the Named Insured's work".
- g. Any person, firm or organization (other than an architect or engineering firm) for whom the Named Insured has contracted to provide liability insurance. Coverage under this provision is afforded as per the present policy terms, limits and conditions and only with respect to the Named Insured's premises, "the Named Insured's product" or "the Named Insured's work".
- 3. Any organization the Named Insured newly acquires or forms, other than a partnership, limited liability partnership or joint venture or limited liability company, and over which the Named Insured maintains ownership or management control, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the 90th day after the Named Insured acquires or forms the organization or the end of the policy period, whichever is earlier;
  - b. COVERAGES A and D do not apply to "bodily injury" or "property damage" that occurred before the Named Insured acquired or formed the organization; and
  - c. COVERAGE B does not apply to "personal injury" or "advertising injury" arising out of an offence committed before the Named Insured acquired or formed the organization.
- 4. No person or organization is an Insured with respect to the conduct of any current or past partnership, limited liability partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.
- 5. Any breach of condition of this policy by any Named Insured shall not affect the protection given to any other Named Insured who does not have knowledge of such breach of condition.

### SECTION III – LIMITS OF INSURANCE

- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most the Insurer will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "actions" brought; or
  - c. Persons or organizations making claims or bringing "actions".
- 2. The General Aggregate Limit is the most the Insurer will pay for the sum of:
  - a. "Compensatory damages" under COVERAGE A, except "compensatory damages" because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
  - b. "Compensatory damages" under COVERAGE B; and
  - c. Medical expenses under COVERAGE C.
- 3. The Products-Completed Operations Aggregate Limit is the most the Insurer will pay under COVERAGE A for "compensatory damages" because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
- 4. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most the Insurer will pay for the sum of:
  - a. "Compensatory damages" under COVERAGE A; and
  - b. Medical expenses under COVERAGE C
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
- 5. Subject to 2. above, the Personal Injury and Advertising Injury Limit is the most the Insurer will pay under COVERAGE B for the sum of all "compensatory damages" because of all "personal injury" and "advertising injury" sustained by any one person or organization.
- 6. The Tenants' Legal Liability Limit is the most the Insurer will pay under COVERAGE D for "compensatory damages" because of "property damage" to any one premises.
- 7. Subject to 4. above, the Medical Payments Limit is the most the Insurer will pay under COVERAGE C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limit of Insurance.

#### 8. DEDUCTIBLE

- a. The Insurer's obligation under Property Damage Liability and Tenants' Legal Liability to pay "compensatory damages" on behalf of the Named Insured applies only to the amount of "compensatory damages" in excess of any deductible amounts stated in the Declarations as applicable to such coverages, and the limit of insurance applicable to each "occurrence" for Property Damage Liability and any one premises for Tenants' Legal Liability coverage will be reduced by the amount of such deductible.
- b. The deductible amount applies as follows:
  - (1) Under COVERAGE A: To all "compensatory damages" because of "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
  - (2) Under COVERAGE D, Tenants' Legal Liability to all "compensatory damages" because of "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
- c. The terms of this insurance, including those in respect to:
  - (1) the Insurer's right and duty to defend any "action" seeking those "compensatory damages"; and
  - (2) the Named Insured's duties in the event of an "occurrence", claim or "action";
 apply irrespective of the application of the deductible amount.
- d. The Insurer may pay any part or all of the deductible amount to effect settlement of any claim or "action" and, upon notification of the action taken, the Named Insured shall promptly reimburse the Insurer for such part of the deductible amount as has been paid by the Insurer.

## SECTION IV – DEFINITIONS

Whenever used in this Form and its endorsements:

1. **"Abuse"** means, but is not limited to, any act or threat involving molestation, harassment, corporal punishment, assault or battery or any other form of sexual, physical, mental, psychological or emotional abuse.
2. **"Action"** means a civil proceeding in which "compensatory damages" to which this insurance applies are alleged. "Action" includes:
  - a. An arbitration proceeding in which such "compensatory damages" are claimed and to which the Insured must submit or does submit with the Insurer's consent; or
  - b. Any other alternative dispute resolution proceeding in which such "compensatory damages" are claimed and to which the Insured submits with the Insurer's consent.
3. **"Advertising injury"** means injury arising out of one or more of the following offences:
  - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's products or services; or
  - b. Oral or written publication of material that violates a person's right of privacy; or
  - c. Misappropriation of advertising ideas or style of doing business; or
  - d. Infringement of copyright, title or slogan.
4. **"Automobile"** means a self-propelled land motor vehicle, trailer or semi-trailer that is required by law to be insured under a contract evidenced by a motor vehicle policy, or any vehicle insured under such a contract, including any attached machinery or equipment.
5. **"Bodily injury"** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
6. **"Compensatory damages"** means damages (including prejudgment interest) due or awarded in payment for actual injury or economic loss. "Compensatory damages" does not include punitive or exemplary damages or the multiple portion of any multiplied damage award.
7. **"Coverage territory"** means:
  - a. Canada and the United States of America (including its territories and possessions);
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
  - c. All parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by the Named Insured in the territory described in a. above; or
    - (2) The activities of an insured person whose home is in the territory described in a. above, but is away for a short time on the Named Insured's business; and
    - (3) "Personal injury" or "advertising injury" offences that take place through the Internet or similar electronic means of communication provided the Insured's responsibility to pay "compensatory damages" is determined in an "action" on the merits in the territory described in a. above or in a settlement the Insurer agrees to in writing.
8. **"Electronic data"** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
9. **"Employee"** includes a "leased worker" and a "temporary worker".
10. **"Executive officer"** means a person holding any of the officer positions created by the Named Insured's charter, constitution, by-laws or any other similar governing document.
11. **"Fissionable substance"** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
12. **"Fungi"** includes, but is not limited to, any form or type of mould, yeast, mushroom, or mildew whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any "fungi" or "spores" or resultant mycotoxins, allergens, or pathogens.
13. **"Hostile fire"** means a fire which becomes uncontrollable or breaks out from where it was intended to be.
14. **"Impaired property"** means tangible property, other than "the Named Insured's product" or "the Named Insured's work", that cannot be used or is less useful because:
  - a. It incorporates "the Named Insured's product" or "the Named Insured's work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. The Named Insured has failed to fulfil the terms of a contract or agreement;  
if such property can be restored to use by:
    - (1) The repair, replacement, adjustment or removal of "the Named Insured's product" or "the Named Insured's work"; or
    - (2) The Named Insured fulfilling the terms of the contract or agreement.
15. **"Incidental medical malpractice injury"** means "bodily injury" arising out of the rendering of or failure to render, during the Policy Period, the following services:
  - a. Medical, surgical, dental, x-ray or nursing services or treatment or the furnishing of food or beverages in connection therewith; or
  - b. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;by first aid personnel at the time of an accident.
16. **"Insured contract"** means:
  - a. A contract for a lease of premises;
  - b. A sidetrack agreement;
  - c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;
  - d. Any other easement agreement;
  - e. An obligation, as required by ordinance or bylaw, to indemnify a municipality, except in connection with work for a municipality;
  - f. An elevator maintenance agreement;
  - g. That part of any other contract or agreement pertaining to the Named Insured's business (including an indemnification of a municipality in connection with work performed for a municipality) under which the Named Insured assumes the tort liability of another party to pay for "compensatory damages" because of "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by the Named Insured or by those acting on the Named Insured's behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.  
Paragraph g. does not include that part of any contract or agreement:
    - (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
      - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
      - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
    - (2) Under which the Insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the Insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
17. **"Leased worker"** means a person leased to the Named Insured by a labour leasing firm under an agreement between the Named Insured and the labour leasing firm, to perform duties related to the conduct of the Named Insured's business. "Leased worker" does not include a "temporary worker".

18. **"Loading or unloading"** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft or watercraft;
- b. While it is in or on an aircraft or watercraft; or
- c. While it is being moved from an aircraft or watercraft to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft or watercraft.

19. **"Nuclear energy hazard"** means the radioactive, toxic, explosive, or other hazardous properties of "radioactive material".

20. **"Nuclear facility"** means:

- a. any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium, or any one or more of them;
- b. any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them; (ii) processing or packaging waste;
- c. any equipment or device used for the processing, fabricating or alloying of plutonium, thorium, or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste "radioactive material";

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

21. **"Occurrence"** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

22. **"Personal injury"** means injury, including consequential "bodily injury", arising out of one or more of the following offences:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy; or
- f. Defamation of character.

23. **"Pollutants"** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

24. **"Products-completed operations hazard"**

- a. Includes all "bodily injury" and "property damage" occurring away from premises the Named Insured owns or rents and arising out of "the Named Insured's product" or "the Named Insured's work" except:

(1) Products that are still in the Named Insured's physical possession; or

(2) Work that has not yet been completed or abandoned. However, "the Named Insured's work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in the Named Insured's contract has been completed.

(b) When all of the work to be done at the job site has been completed if the Named Insured's contract calls for work at more than one job site.

(c) When that part of work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include "bodily injury" or "property damage" arising out of the existence of tools, uninstalled equipment or abandoned or unused materials.

25. **"Property damage"** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

26. **"Radioactive material"** means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by any nuclear liability act, law or statute, or any law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;

27. **"Spores"** includes, but is not limited to, any reproductive particle or microscopic fragment produced by, emitted from or arising out of any "fungi".

28. **"Temporary worker"** means a person who is furnished to the Named Insured to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

29. **"Terrorism"** means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group(s), organization(s) or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public.

30. **"The Named Insured's product"**

- a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) The Named Insured;

(b) Others trading under the Named Insured's name; or

(c) A person or organization whose business or assets the Named Insured has acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

- b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "the Named Insured's product"; and

(2) The providing of or failure to provide warnings or instructions.

- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

31. **"The Named Insured's work"**

- a. Means:

(1) Work or operations performed by the Named Insured or on the Named Insured's behalf; and



(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "the Named Insured's work"; and

(2) The providing or failure to provide warnings or instructions.

32. **"Volunteer worker"** means a person who is not the Named Insured's "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by the Named Insured, and is not paid a fee, salary or other compensation by the Named Insured or anyone else for their work performed for the Named Insured.

## SECTION V – DESCRIPTION OF TERMS USED FOR PREMIUM BASES

1. **"Area"** means the square footage or square metres of the buildings to be insured excluding that portion of the basement used exclusively for storage or that portion of the premises used for heating or air conditioning plant purposes.
2. **"Cost of work"** means the total cost of all operations performed for the Named Insured during the Policy Period by independent contractors, including materials used or delivered for use by whomsoever supplied, except maintenance or ordinary alterations and repairs on premises owned or rented by the Named Insured.
3. **"Revenue"** means the gross amount of money charged for all work or services performed by or on behalf of the Named Insured or goods and products sold and distributed by the Named Insured or by others trading under the Named Insured's name during the Policy Period.
4. **"Payroll"** means the total earnings during the Policy Period for each owner, partner, "executive officer" or "employee". For Employer's Liability, payroll not to exceed \$5,000.00 for each owner, partner, "executive officer", or "employee" in any one policy year.
5. **"Cost"** means the total cost to any indemnitee, with respect to any contract which is Insured, of all work let or sublet in connection with each specific project, including the cost of all labour, materials and equipment furnished, used or delivered for use in the execution of such work, whether furnished by the owner, contractor or the subcontractor, including all fees, allowances, bonuses or commissions made, paid or due.
6. **"Standard Units"** means the unit of exposure to which the rates apply, and each article is designated (person, object or event), except litre which is per 1,000 litres.

## IMPORTANT

The notice below applies to insurance contracts containing non-automobile legal liability coverages in provinces where statistical data relating to such contracts must be reported to the various Provincial Regulators/Superintendents of Insurance.

## NOTICE TO INSURED

Pursuant to the

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENT ACT, S.C. 2000, c.5.

LEGAL AUTHORITY FOR COLLECTION.

PRINCIPAL PURPOSE FOR WHICH PERSONAL INFORMATION IS INTENDED TO BE USED:

Information collected by Insurers from Insureds or supplied to Insurers pertaining to the attached document will be used:

- to compile aggregate statistical data to be used to monitor trends in the insurance industry;
- to develop statistical exhibits to be used in monitoring the insurance industry;
- to respond to requests for customized statistical information on the insurance industry;
- to respond to inquiries on statistical information made to the various Provincial Regulator/Superintendents of Insurance; and
- to use and disclose such information for purposes which are consistent with the previous clauses.

QUESTIONS RELATING TO THE COLLECTION MAY BE ADDRESSED TO EITHER:

Intact Insurance Company

Privacy Officer

700 University Avenue, Suite 1500

Toronto, Ontario,

M5G 0A1

Telephone No.1-866-941-5094

OR

Provincial Regulator or Superintendent of Insurance in your Province.