



COMMERCIAL GENERAL LIABILITY POLICY

Throughout this Policy 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 Trisura Guarantee Insurance Company.

Other words and phrases that appear in **bold type** have special meaning. Refer to SECTION V - DEFINITIONS.

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

SECTION I – COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

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 sole 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 – COVERAGES A, B and D.

- 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 or any **Employee** authorized by the Named Insured to give or receive notice of an **Occurrence**, claim or **Action**, knew or reasonably could have known 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**, claim or **Action**, 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**, claim or **Action**:

- (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 the 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 the 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 purpose 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** are alleged to apply to this insurance.

c. Workers' Compensation and Similar Laws

Any obligation of the Insured under a workers' compensation, disability benefits or unemployment or employment compensation law(s) or any similar law(s).

d. Employer's Liability

Bodily Injury to:

- (1) an **Employee** arising out of and in the course of:
 - (a) employment by the Insured; or
 - (b) performing duties related to the conduct of the Insured's business; or
- (2) The spouse, common law partner, domestic partner, child, parent, brother or sister of that **Employee** as a consequence of Paragraph 2. d. (1).

This exclusion applies:

- (i) whether the Insured may be liable as an employer or in any other capacity; and
- (ii) 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:

- (a) liability assumed by the Insured under an **Insured Contract**; or
- (b) a claim made or an **Action** brought by a Canadian resident **Employee** on whose behalf contributions are made by or 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. Aircraft or Watercraft

Bodily Injury or **Property Damage** arising directly or indirectly, in whole or in part, out of the ownership, maintenance, operation, use or entrustment to others by or on behalf of any Insured of:

- (1) any aircraft, air cushion vehicle or watercraft that is owned, operated by, rented or loaned to any Insured; or
- (2) any premises for the purpose of an airport or aircraft landing area and all operations necessary or incidental thereto.

Use noted above includes **Loading or Unloading**.

This exclusion applies even if the claims made 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 aircraft, air cushion vehicle or watercraft.

This exclusion does not apply to:

- (1) a watercraft while ashore on premises the Named Insured owns or rents;
- (2) a watercraft 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 required to be made by the Insured under the provisions of any Canadian provincial or territorial workers' compensation law, if the **Bodily Injury** results from an **Occurrence** involving watercraft.

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**.

f. Automobile

Bodily Injury or **Property Damage** arising directly or indirectly, in whole or in part, out of the ownership, maintenance, use or entrustment to others of any **Automobile** owned, operated by, on behalf of, rented or loaned to any Insured.

This exclusion also applies to:

- (1) any motorized snow vehicle or its trailers; and
- (2) 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 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 **Automobile** that is owned, operated by, on behalf of, rented or loaned to any Insured.

Use in this exclusion includes all operations and any **Loading or Unloading**.

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 Named Insured on whose behalf contributions are made by or required to be made by the Named Insured under the provisions of any Canadian provincial or territorial workers' compensation law.
- (2) **Bodily Injury** or **Property Damage** arising out of a defective condition in, or improper maintenance of, any **Automobile** that is owned by the Named 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. This exception however does not apply when such equipment is mounted on or attached to any **Automobile** and such equipment is used for the purpose of **Loading or Unloading**.
- (4) **Bodily Injury** or **Property Damage** arising out of **Loading or Unloading** if such operations are precluded from coverage under the motor vehicle section of any provincial or territorial act or regulation.

g. Damage to Property

Property Damage to:

- (1) property that is owned or occupied by or rented to the Named Insured, including any costs or expenses incurred by the Named Insured, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) premises the Named Insured sells, gives away or abandons, if the **Property Damage** arises out of any part of those premises;
- (3) property loaned to the Named Insured;
- (4) tools or equipment used by the Named Insured or on the Named Insured's behalf in performing **The Named Insured's Work**;
- (5) property held by the Named Insured for sale or entrusted to the Named Insured for storage or safekeeping;
- (6) 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;
- (7) that particular part of real property on which the Named Insured or any contractors or subcontractors working directly or indirectly on the Named Insured's behalf are performing operations, if the **Property Damage** arises out of those operations; or
- (8) 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 Insured.

Paragraphs (3), (5), (6), (7) and (8) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (7) and (8) of this exclusion does not apply to **Property Damage** included in the **Products-Completed Operations Hazard**.

h. 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.

i. Damage to The Named Insured's Work

Property Damage to **The Named Insured's Work** arising out of it or any part of it and included in the **Products-Completed Operations Hazard**.

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.

j. 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.

k. 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.

l. Explosion, Vibration, Removal or Weakening of Support

Property Damage arising out of, in whole or in part:

- (1) the use of any 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 to:

- (1) **Property Damage** arising out of work performed on behalf of the Named Insured by any contractor or subcontractor; or
- (2) **Property Damage** included within the **Products-Completed Operations Hazard**.

m. Electronic Data and Access or Disclosure of Confidential or Personal Information

Compensatory Damages arising out of:

- (1) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **Electronic Data**; or
- (2) any access to or disclosure of any person's or organization's confidential or personal information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

n. Personal and Advertising Injury

Bodily Injury arising out of **Personal and Advertising Injury**.

o. 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 of any **Professional Services** for others, or any error or omission, malpractice or mistake in providing those services.

p. Abuse

- (1) Claims or **Actions** arising directly or indirectly, in whole or in part from any **Abuse** committed or alleged to have been committed by any Insured, including the transmission of disease arising out of any act of **Abuse**;
- (2) Claims or **Actions** based on the Named Insured's practices of **Employee** hiring, acceptance of **Volunteer Workers** or any supervision, investigation or retention of any person alleged to have committed **Abuse**; or
- (3) Claims or **Actions** alleging knowledge by an Insured of, or failure to report, the alleged **Abuse** to the appropriate authority(ies).

q. Employment Related Practices

Bodily Injury to:

- (1) a person arising out of any employment related act, omission, policy, practice, representation, or direction at such person occurring in whole or in part at any time including any:
 - (a) failure or refusal to advance, compensate, employ or promote;
 - (b) termination of that person's employment;
 - (c) policies, acts or omissions such as coercion, criticism, prosecution, retaliation, demotion, evaluation, reassignment, discipline, defamation, disparagement, harassment, segregation, humiliation or discrimination directed at that person;
 - (d) invasion or other violation of any right of privacy or publicity;
 - (e) breach of any implied or express covenant; or
 - (f) proceedings or actions under any Canadian federal, territorial, or provincial human rights code or under Title VII of the 1964 Civil Rights Act of the United States of America, including any amendments thereto; and

- (2) the spouse, common law partner, domestic partner, child, parent, brother or sister of that person as a consequence of any injury or damage to the person in respect of whom any of the employment-related practices described in Paragraphs (a), (b), (c), (d), (e) or (f) above are directed.

This exclusion applies:

- (1) whenever the Insured may be held liable as an employer or in any other capacity; and
- (2) to any obligation to share **Compensatory Damages** with or repay someone else who must pay **Compensatory Damages** because of the injury.

r. Recording and Distribution of Material or Information in Violation of Law

Bodily Injury or Property Damage arising directly or indirectly out of any act or omission that violates or is alleged to violate:

- (1) any federal, provincial or territorial Consumer Protection Act, The Telephone Consumer Protection Act (TCPA), including any similar laws and any amendments thereto;
- (2) any federal, provincial or territorial Canadian Anti-Spam Law or The CAN-SPAM Act of 2003, including any similar laws and any amendments thereto;
- (3) any federal, provincial or territorial Credit Reporting Act or The Fair Credit Reporting Act (FCRA), including any similar laws and any amendments thereto;
- (4) any other federal, provincial or territorial statute, ordinance, regulation, law, and any amendments made thereto, that address, prohibit or limit the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

s. Asbestos – see Common Exclusions.

t. Fungi or Spores – see Common Exclusions.

u. Lead – see Common Exclusions.

v. Nuclear Energy Liability – see Common Exclusions.

w. Pollution Liability – see Common Exclusions.

x. Silica – see Common Exclusions.

y. Terrorism – see Common Exclusions.

z. War Risks – see Common Exclusions.

COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as **Compensatory Damages** because of **Personal and 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 and 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
 - (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 – COVERAGES A, B and D.

- b. This insurance applies to **Personal and Advertising Injury** caused by an offence arising out of the Named Insured's business but only if the offence was committed in the **Coverage Territory** during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation of Rights of Another

Personal and Advertising Injury caused by or at the direction of the Insured with the knowledge that the act would violate the rights of another and would inflict **Personal and Advertising Injury**.

b. Material Published With Knowledge of Falsity

Personal and Advertising Injury arising out of oral or written publication of material, if done by or at the direction of the Insured with knowledge of its falsity.

c. Material Published Prior to Policy Period

Personal and Advertising Injury arising out of oral or written publication of material whose first publication took place prior to the policy period.

d. Criminal Acts

Personal and Advertising Injury arising out of a criminal act which is committed by or at the direction of any Insured.

e. Contractual Liability

Personal and Advertising Injury for which the 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.

f. Breach of Contract

Personal and Advertising Injury arising out of a breach of contract, except an implied contract to use another's advertising idea in the Named Insured's **Advertisement**.

g. Quality or Performance of Goods – Failure to Conform to Statements

Personal and Advertising Injury arising out of the failure of goods, products or services to conform to any statement of quality, use, warranty, durability, fitness or performance made in the Named Insured's **Advertisement**.

h. Wrong Description of Prices

Personal and Advertising Injury arising out of the wrong description of the price of goods, products or services stated in the Named Insured's **Advertisement**,

i. Infringement of Copyright, Patent, Trademark or Trade Secret

Personal and Advertising Injury arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in the Named Insured's **Advertisement**, of copyright, trade dress or slogan.

j. Insureds in Media and Internet Type Businesses

Personal and 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 Paragraphs 24. a., b. and c. of **Personal and Advertising Injury** under SECTION V - DEFINITIONS.

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.

k. Unauthorized Use of Another's Name or Product

Personal and Advertising Injury arising out of the unauthorized use of another's name or product in the Named Insured's e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

l. Interactive Websites, Electronic Chatrooms, Interactive Forums or Bulletin Boards

Personal and Advertising Injury arising out of an electronic interactive website, chatroom, interactive forum or bulletin board the Insured hosts, owns, or over which the Insured exercises any control.

m. Employment-Related Practices

Personal and Advertising Injury to:

- (1) a person arising out of any employment related act, omission, policy, practice, representation, or direction at such person occurring in whole or in part at any time including any:
 - (a) failure or refusal to advance, compensate, employ or promote;
 - (b) termination of that person's employment;
 - (c) policies, acts or omissions such as coercion, criticism, prosecution, retaliation, demotion, evaluation, reassignment, discipline, defamation, disparagement, harassment, segregation, humiliation or discrimination directed at that person;
 - (d) invasion or other violation of any right of privacy or publicity;
 - (e) breach of any implied or express covenant; or
 - (f) proceedings or actions under any Canadian federal, territorial, or provincial human rights code or under Title VII of the 1964 Civil Rights Act of the United States of America, including any amendments thereto; and
- (2) the spouse, common law partner, domestic partner, child, parent, brother or sister of that person as a consequence of any injury or damage to the person in respect of whom any of the employment-related practices described in Paragraphs (a), (b), (c), (d), (e) or (f) above are directed.

This exclusion applies:

- (1) whenever the Insured may be held liable as an employer or in any other capacity; and
- (2) to any obligation to share **Compensatory Damages** with or repay someone else who must pay **Compensatory Damages** because of the injury.

n. Recording and Distribution of Material or Information in Violation of Law

Personal and Advertising Injury arising directly or indirectly out of any act or omission that violates or is alleged to violate:

- (1) any federal, provincial or territorial Consumer Protection Act, The Telephone Consumer Protection Act (TCPA), including any similar laws and any amendments thereto;
- (2) any federal, provincial or territorial Canadian Anti-Spam Law or The CAN-SPAM Act of 2003, including any similar laws and any amendments thereto;
- (3) any federal, provincial or territorial Credit Reporting Act or The Fair Credit Reporting Act (FCRA), including any similar laws and any amendments thereto;
- (4) any other federal, provincial or territorial statute, ordinance, regulation, law, and any amendments made thereto, that address, prohibit or limit the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

o. Data-Related Liability and Access or Disclosure of Confidential or Personal Information

Personal and Advertising Injury arising out of any access to or disclosure of any person's or organization's confidential or personal information, including but not limited to patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of non-public information.

p. Asbestos – see Common Exclusions.

q. Fungi or Spores – see Common Exclusions.

- r. Lead – see Common Exclusions.
- s. Nuclear Energy Liability – see Common Exclusions.
- t. Pollution Liability – see Common Exclusions.
- u. Silica – see Common Exclusions.
- v. Terrorism – see Common Exclusions.
- w. War Risks – see Common Exclusions.

COVERAGE C. MEDICAL PAYMENTS

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:
 - (1) the accident takes place in the **Coverage Territory** and during the policy period;
 - (2) the expenses are incurred and reported to the **Insurer** within one (1) year of the date of the accident; and
 - (3) 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 a 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. BODILY INJURY AND PROPERTY DAMAGE LIABILITY.

COVERAGE D. TENANTS' LEGAL LIABILITY

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 those **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 – COVERAGES A, B and D.

- 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 or any **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 the 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. Wear and Tear

Property Damage for wear and tear, gradual deterioration, normal up-keep, sudden or latent defect or inherent vice.

d. Faulty Workmanship, Design and Material

Property Damage for the cost for making good:

- (1) faulty or improper material(s);
- (2) faulty or improper workmanship; or
- (3) faulty or improper design.

Provided, however, to the extent otherwise insured and not otherwise excluded under this Policy, resultant **Property Damage** is insured.

e. Asbestos – see Common Exclusions.

f. Fungi or Spores – see Common Exclusions.

g. Lead – see Common Exclusions.

h. Nuclear Energy Liability – see Common Exclusions.

i. Pollution Liability – see Common Exclusions.

j. Silica – see Common Exclusions.

k. Terrorism – see Common Exclusions.

l. War Risks – see Common Exclusions.

COMMON EXCLUSIONS – COVERAGES A, B, C and D

This insurance does not apply to:

1. Asbestos

Bodily Injury, Property Damage, or Personal and Advertising 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 and Advertising Injury**.

2. Fungi or Spores

- a. **Bodily Injury, Property Damage or Personal and Advertising 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 and Advertising Injury**.

For the purpose of the following exception:

- (i) **Property Damage** means physical injury to animals.
- (ii) **Products-Completed Operations Hazard** means all **Bodily Injury** or **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:

- (1) applied topically to; or
 - (2) ingested by;
- humans or animals.

3. Lead

Bodily Injury, Property Damage, or Personal and Advertising Injury or medical expenses related or attributed to, arising out of, in whole or in part either directly or indirectly caused by the ingestion, use, mining, distribution, handling, sale, abatement, enclosure, exposure or removal, inhalation or absorption of **Lead** or **Lead** based products in any form.

This exclusion applies to any costs, including any Supplementary Payments, loss or expenses arising out of the presence, ingestion, inhalation, or absorption of or exposure to **Lead** in any form or any products containing **Lead**. The Insurer has no duty to defend the Insured or investigate any **Action**, claim or **Occurrence** which may arise.

This exclusion applies, but is not limited to:

- a. any liability assumed by the Insured under any written or oral contract or agreement;
- b. any obligation to pay or comply with any request, demand, order or statutory or regulatory requirement, or any other action authorized or required by law, or any loss cost or expense arising out of or relating to the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or responding to or assessing the effects of **Lead** as well as any cost, fees, expenses, penalties, judgements, fines or sanctions arising from or relating thereto;
- c. any actual, alleged, or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of **Lead** in any manner or form whatsoever, either directly or indirectly or in whole or in part;
- d. any actual or alleged failure to advise, warn or instruct related to any **Lead** in any manner or form whatsoever, either indirectly or indirectly or in whole or in part; and
- e. any actual or alleged presence of **Lead** in any manner or form whatsoever, in any place whatsoever including, but not limited to, within a building, product, building component or building structure including any contents.

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 and Advertising Injury** with respect to which an Insured under this Policy who 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 limits of insurance;
- c. **Bodily Injury, Property Damage** or **Personal and Advertising 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**; or

- (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 also 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 and Advertising Injury**.

5. Pollution Liability

- a. **Bodily Injury, Property Damage or Personal and Advertising Injury** arising out of the actual, alleged 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 or neutralize, or in any way respond to, or assess the effects of, **Pollutants**;
- (7) to the extent that any **Bodily Injury or Property Damage** is included in the **Products-Completed Operations Hazard**.

- 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, or any other action authorized or required by law, that any Insured or others investigate, test for, monitor, clean up, remove, dispose of, contain, treat, abate, remediate, detoxify 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 or neutralizing, or in any way responding to, or assessing the effects of **Pollutants**.

However, this section 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. Silica

Bodily Injury, Property Damage, or Personal and Advertising Injury or medical expenses that arise out of, relate to or result from:

- a. the actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of or absorption of, **Silica**, either directly or indirectly;
- b. the actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of **Silica Dust** either directly or indirectly;
- c. the actual or alleged failure to warn, advise or instruct related to **Silica** in any manner or form whatsoever; or
- d. the actual or alleged failure to prevent exposure to **Silica**.

This exclusion includes but is not limited to compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other claim, **Action**, demand, loss, cost or expense directly or indirectly arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or in any way responding to, or assessing the effects of **Silica**, as well as any costs, fees, expenses, penalties, judgments, fines, or sanctions arising or resulting therefrom or relating thereto.

This exclusion also 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 and Advertising Injury**.

7. Terrorism

Bodily Injury, Property Damage or Personal and Advertising 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 and Advertising Injury**.

8. War Risks

Bodily Injury, Property Damage or Personal and Advertising 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 and Advertising Injury**.

SUPPLEMENTARY PAYMENTS – COVERAGES A, B and D

- 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 Insured at the Insurer's request to assist in the investigation or defence of the claim or **Action**, including actual loss of earnings up to \$250 a day because of time off from work.
- d. All costs assessed or awarded against the Named Insured in the **Action**.
- e. Any interest accruing after the 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 1 – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY, such payments will not be deemed to be **Compensatory Damage** 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:

- a. the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. 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 listed in the Declarations is:
 - 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** only while performing duties related to the conduct of the Named Insured's business, or the Named Insured's **Employees**, other than either the Named Insured's **Executive Officers** (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 for acts within the scope of their employment by the Named Insured or while performing duties related to the conduct of the Named Insured's business.

However, none of these **Employees** or **Volunteer Workers** is an Insured for:

(1) **Bodily Injury or Personal and Advertising Injury:**

- (a) to the Named Insured, to 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) the Named Insured's trustees and **Executive officers**;
- (b) to a co-**Employee** while in the course of his or her employment or performing duties related to the conduct of the Named Insured's business, or to the Named Insured's other **Volunteer Worker(s)** while performing duties related to the conduct of the Named Insured's business;
- (c) to the spouse, common law partner, domestic partner, child, parent, brother or sister of any **Employee**, co-**Employee** or **Volunteer Worker** as a consequence of Paragraph (1)(a) above;
- (d) 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;
- (e) to any person who at the time of injury is entitled to benefits under any workers' compensation or disability benefits law or similar law; or
- (f) arising out of his or her providing or failing to provide professional health care services.

(2) **Property Damage** to property that is:

- (a) owned, occupied or used by; or
- (b) rented to, loaned to, in the care, custody or control of, or over which physical control is being exercised for any purpose by:
 - (i) the Named Insured;
 - (ii) any of the Named Insured's **Employees, Volunteer Workers**;
 - (iii) any partner or member (if the Named Insured is a partnership, limited liability partnership or joint venture);
 - (iv) the Named Insured's trustees and **Executive Officers**; or
 - (v) 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 such duties. That representative will have all of the Named Insured's rights and duties under this Policy.
- 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.

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 majority interest, 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 ninetieth (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 and 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, trust or limited liability company that is not shown as a Named Insured in the Declarations.

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, as shown in the Declarations, 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, as shown in the Declarations, 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 Paragraph 2. above, the Personal and Advertising Injury Limit, as shown in the Declarations, is the most the Insurer will pay under COVERAGE B for the sum of all **Compensatory Damages** because of all **Personal and Advertising Injury** sustained by any one person or organization.
5. Subject to Paragraphs 2. or 3. above, whichever applies, the Each Occurrence Limit, as shown in the Declarations is the most the Insurer will pay for the sum of:
 - a. **Compensatory Damages** under COVERAGE A; and
 - b. medical expenses under COVERAGE Cbecause of all **Bodily Injury** and **Property Damage** arising out of any one **Occurrence**. Any sums the Insurer pays will reduce the amount of applicable aggregate limit available for any other payment.
6. The Tenants' Legal Liability Limit, as shown in the Declarations, is the most the Insurer will pay under COVERAGE D for **Compensatory Damages** because of **Property Damage** to any one premises.
7. Subject to Paragraph 5. above, the Medical Payments Limit, as shown in the Declarations, 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 twelve (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 twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

8. Deductible

- a. The Insurer's obligation under Property Damage Liability, Bodily Injury 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, Bodily Injury Liability and any one premises for Tenants' Legal Liability coverage will be reduced by the amount of such deductible.

- b. The deductible amounts stated in the Declarations apply as follows:
 - (1) under COVERAGE A: to all **Compensatory Damages** because of **Bodily Injury** and **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.

All damages arising out of one lot of goods or products prepared or acquired by the Named Insured, the Named Insured's **Employees** or by another trading under the Named Insured's name, shall be considered as arising out of one **Occurrence** as regards to **Bodily Injury** and **Property Damage**.

The Insurer may pay all or part of the applicable 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. The Named Insured's duties in the event of a claim or **Action** apply irrespective of the application of the deductible amount.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

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

2. Canadian Currency Clause

All limits of insurance, premiums and other amounts as expressed in this Policy are in Canadian currency.

3. Changes

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

- a. The Named Insured must see to it that the Insurer is notified as soon as practicable of an **Occurrence** or an offence, regardless of the amount, 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.Notice of an **Occurrence** or an offence is not notice of a claim or **Action**.
- 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 Insured must see to it that the Insurer receive written notice of the claim or **Action** as soon as practicable.

Any notice shall be deemed to have been given and received on the day and at the time it is so received by the Insurer at the following address:

Casualty Claims Department
Trisura Guarantee Insurance Company
333 Bay Street, Suite 1610, Box 22
Toronto, Ontario M5H 2R2

Fax: (416) 214-9597
Email: claims@trisura.com

c. The Named Insured and any other involved Insured must:

- (1) immediately send the Insurer copies of any demands, notices, summonses or any 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 any insured because of injury or damage to which this insurance may also apply.

d. No Insured will, except solely 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 (3) years afterward.

6. Governing Law and Service of Action

This Policy shall be construed according to the laws of the province or territory in Canada in which the Named Insured has its head office.

In the event of the failure by the Insurer to pay any amount claimed to be due under this Policy or any dispute whatsoever between any Insured and the Insurer relating to, arising from or involving this Policy (including but not limited to, the interpretation or meaning of any defined or undefined terms or any other issue(s) of interpretation impacting either the nature or scope of coverage provided by this Policy), it is hereby agreed and understood that both the Insurer and all Insureds irrevocably submit and attorn to the jurisdiction of the provincial or territorial superior court in Canada where either the Named Insured has its head office as listed in the Declarations or where the Insurer has its head office in Canada.

Nothing in this condition constitutes or should be understood to constitute a waiver of the Insurer's right to commence a proceeding in any provincial or territorial superior court in Canada or to seek the stay or dismissal of any proceeding against the Insurer to have the issues in that proceeding determined in a different provincial or territorial superior court in Canada.

Further, no objection as to applicable law, forum or jurisdiction shall be raised by any Insured regardless of where an **Occurrence** takes place, where the resulting **Bodily Injury, Property Damage or Personal and Advertising Injury** is sustained or where the **Action** is commenced against any Insured.

Service of process in any **Action** may be made upon the Insurer's Chief Executive Officer in Canada at the Insurer's address specified in Paragraph 10 of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS of this Policy.

7. Inspection

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. The Insurer does not warrant that conditions:
 - (1) are safe or healthful; or
 - (2) comply with any 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.

8. 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 any 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 Named 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.

9. Named Insureds and Premiums

- a. The first Named Insured shown in the Declarations:
 - (1) is responsible for all premiums due;
 - (2) is authorized to act on behalf of all persons or organizations insured under this Policy with respect to all matters pertaining to their insurance afforded by this Policy; and
 - (3) will be the payee for any return premiums the Insurer pays;
- b. Each Named Insured is jointly and severally liable for:
 - (1) all premiums due under this Policy;
 - (2) all obligations that arise due to any deductible or reimbursement amounts (as may be applicable) including any claim expenses; and
 - (3) any other financial obligations of any Named Insured to the Insurer arising out of any agreements contained in this Policy.

10. Notices

All notices, other than notice of occurrence, offence, claim or **Action**, shall be given in writing addressed to:

Casualty Solutions Department
Trisura Guarantee Insurance Company
333 Bay Street, Suite 1610, Box 22
Toronto, Ontario M5H 2R2
Fax: (416) 214-9597

11. Other Insurance

If other valid and collectible insurance is available to the Named Insured for a loss the Insurer covers under COVERAGES A, B or D of 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 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 Property Insurance, including but not limited to Fire, Extended Coverage, Builder's Risk, Installation Floater 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 aircraft, **Automobiles** or watercraft to the extent not subject to Exclusions e. or f. of SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY; or
 - (d) that is Professional or Medical Malpractice insurance.
- (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.

When this insurance is excess, the Insurer will have no duty under COVERAGES A, B or D 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 Insurer's share of the amount of the loss, if any, that exceeds the sum of:

- (1) the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) 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 each insurer 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.

12. Premium Adjustment

- 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 considered a deposit premium only. At the end of each policy period the Insurer will compute the earned premium for that period, if such earned premium is greater than the liability premium initially charged, the first Named Insured shall pay the excess to the Insurer. If, however the earned premium is less than the liability premium initially charged, the Insurer will return the excess to the first Named Insured subject to the minimum retained premium shown in the Declarations.
- c. The first Named Insured in the Declarations 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.

13. Representations or Fraud

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;
- c. the Insurer has issued this Policy in reliance upon the Named Insured's representations; and
- d. this Policy is void in any case of fraud by the Named Insured as it relates to this Policy or any claim under this Policy.

14. 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.

15. 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) fifteen (15) days before the effective date of termination if the Insurer terminates for non-payment of premium; or
- (2) thirty (30) days before the effective date of termination if the Insurer terminates for any other reason.

Except in Quebec if notice is mailed, termination takes effect 15 or 30 days after receipt of the letter by the post office to which it is addressed depending upon the reason for termination. Proof of mailing will be sufficient proof of notice.

- c. The Insurer will mail the Insurer's notice to the first Named Insured's last known mailing address to the Insurer.
- d. Notice of termination will state the effective date of termination. The policy period will end on that date.
- 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.

16. Transfer Of Rights Of Recovery Against Others To the Insurer

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 the Insurer's rights. At the Insurer's request, the Insured will bring **Action** or transfer those rights to the Insurer and help the Insurer enforce them.

17. Transfer of the Named Insured's Rights and Duties Under This Policy

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.

SECTION V – DEFINITIONS

1. **Abuse** means, but is not limited to, any act or threat involving molestation, harassment, corporal punishment, assault, battery, or any other form of physical, sexual, mental, psychological or emotional abuse.
2. **Action** means a civil proceeding in which **Compensatory Damages** because of **Bodily Injury, Property Damage** or **Personal and Advertising Injury** 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. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about the Named Insured's goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. notices that are published include material placed on the Internet or on similar electronic means of communication; and

- b. regarding web-sites, only that part of a web-site that is about the Named Insured's goods, products or services for the purposes of attracting customers or supporters is considered an **Advertisement**.
4. **Automobile** means a self-propelled land motor vehicle, trailer or semitrailer (including machinery, apparatus or equipment attached thereto) required by law to be insured under a contract evidenced by a motor vehicle liability policy or any vehicle insured under such a contract.
5. **Bodily Injury** means bodily injury, sickness or disease sustained by a person and if arising out of the foregoing, disability, emotional distress, mental anguish, mental injury, shock or death.
6. **Compensatory Damages** means damages 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 other 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;
 - (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; or
 - (3) **Personal and Advertising Injury** offenses 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.
8. **Electronic Data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including but not limited to 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 one 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 fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. the repair, replacement, adjustment or removal of **The Named Insured's Product** or **The Named Insured's Work**; or
 - b. 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 any Insured or any indemnitee causing the **Incidental Medical Malpractice Injury** who is not engaged in the business or occupation of providing any of the services described in a. and b. above.

16. **Insured Contract** means:

- a. a contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to the Named Insured or temporarily occupied by the Named Insured with permission of the owner is not an **Insured Contract**;
- 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 by-law, 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 Named Insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the Named Insured's rendering or failure to render **Professional Services**, including those listed in (1) above and any supervisory, inspection, architectural or engineering activities.

17. **Lead** means, but is not limited to, **Lead** in any form, lead leachate, lead in any property or materials, heavy, ductile, soft, solid, naturally occurring metallic element used in paints, pipes, solder, pottery and batteries and in any substance, on land, in air, in water or any dust containing **Lead**.

18. **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**.

19. **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, watercraft or **Automobile**;
- b. while it is in or on an aircraft, watercraft or **Automobile**; or
- c. while it is being moved from an aircraft, watercraft or **Automobile** 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, watercraft or **Automobile**.

20. **Nuclear Energy Hazard** means the radioactive, toxic, explosive, or other hazardous properties of **Radioactive Material**.

21. **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:
 - (1) separating the isotopes of plutonium, thorium and uranium or any one or more of them;
 - (2) processing or utilizing spent fuel; or
 - (3) handling, processing or packaging waste;
- c. any equipment or device used for the processing, fabricating or alloying of 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.

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

23. **Personal and Advertising 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;
- f. the use of another's advertising idea in the Named Insured's **Advertisement**; or
- g. infringing upon another's copyright, trade dress or slogan in the Named Insured's **Advertisement**.

All **Personal and Advertising Injury** arising out of the same or similar material, regardless of the mode in which such material is communicated, including but not limited to publication by means of Internet, extra-net, email or website, will be considered as arising solely out of one offence.

24. **Pollutants** means 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.

25. **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 the 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:
 - (1) the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle that is not owned or operated by the Named Insured, and that condition was created by the **Loading or Unloading** of that vehicle by the Named Insured; or
 - (2) the existence of tools, uninstalled equipment or abandoned or unused materials.

26. **Professional Services** shall include but not be limited to:

- a. medical, surgical, dental, x-ray or nursing service or treatment, or the furnishing of food or beverages in connection therewith;
- b. any professional service or treatment conducive to health;
- c. professional services of a pharmacist;
- d. the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;
- e. the handling or treatment of deceased human bodies including autopsies, organ donations or other procedures;
- f. any cosmetic, body piercing, tonsorial, massage, physiotherapy, chiropraxy, hearing aid, optical or optometrical services or treatments;
- g. the preparation or approval of maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications;
- h. supervisory, inspection, architectural, design or engineering services;
- i. accountant's, advertiser's, notary's (Quebec), public notary's, paralegal's, lawyer's, real estate broker's or agent's, insurance broker's or agent's, travel agent's, financial institution's, or consultant's professional advices or activities;
- j. any computer programming or re-programming, consulting, advisory or related services; or
- k. claim investigation, adjustment, appraisal, survey or audit services.

27. **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.

28. **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 or pursuant to any law, act or statute, or 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.

29. **Silica** means, but is not limited to, any substance containing silicon dioxide (SiO₂), including, but not limited to, crystalline or non-crystalline silica, silica particles, silica compounds, **Silica Dust** or synthetic silica, including but not limited to precipitated silica, silica gel, fumed silica or silica flour.

30. **Silica Dust** means dust containing **Silica** alone or mixed with any other dust or fiber(s).

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

32. **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.

33. **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.

34. **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.

35. **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 of or failure to provide warnings or instructions.

36. **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 VI – DESCRIPTION OF TERMS USED FOR PREMIUM BASIS

- 1. **Area** - the total number of 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.
Rates apply per 100 square metres of area.
- 2. **Cost of Work** - 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.
Rates apply per \$1,000 of cost of work.
- 3. **Revenue** - 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.
Rates apply per \$1,000 of revenue.
- 4. **Payroll** - 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.
Rates apply per \$1,000 of payroll.
- 5. **Other** - rates apply per designated article (i.e. person, object, event).



COVERAGE TERRITORY ENDORSEMENT (CANADA ONLY)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

The following replaces the definition of **Coverage Territory** in SECTION V – DEFINITIONS of this Policy:

7. **Coverage Territory** means:

- a. the territorial limits of Canada;
- 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 other 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;
 - (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; or
 - (3) **Personal and Advertising Injury** offenses 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.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.



EMPLOYEE BENEFITS LIABILITY POLICY

Throughout this Policy 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 Trisura Guarantee Insurance Company.

Other words and phrases that appear in **bold type** have special meaning. Refer to SECTION V – DEFINITIONS.

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

SECTION I – COVERAGES

1. Insuring Agreement

- a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as **Compensatory Damages** because of any act, error or omission of the Insured, or of any person for whom the Insured is legally liable, 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 in any **Action** seeking **Compensatory Damages** to which this insurance does not apply. The Insurer may, at the Insurer's discretion, investigate any report of an act, error or omission 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
- (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 this Policy.

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 **Compensatory Damages** only if:

- (1) the act, error or omission is negligently committed in the **Administration** of the Insured's **Employee Benefit Program** and takes place in the **Coverage Territory**;
- (2) the act, error or omission did not take place after the end of the policy period; and
- (3) a **Claim** for **Compensatory Damages**, because of an act, error or omission is first made against any Insured, in accordance with Paragraph c. below, during the policy period or an Extended Reporting Period the Insurer provides under SECTION V – EXTENDED REPORTING PERIOD.

- c. A **Claim** seeking **Compensatory Damages** will be deemed to have been made at the earlier of the following times:

- (1) when notice of such **Claim** is received and recorded by any Insured or by the Insurer, whichever comes first; or
- (2) when the Insurer makes settlement in accordance with Paragraph 1.a. above.

- d. All **Claims** for **Compensatory Damages** made by an **Employee** because of any act, error or omission, or a series of related acts, errors or omissions, including **Compensatory Damages** claimed by such **Employee's** dependents and beneficiaries, will be deemed to have been made at the time the first of those **Claims** is made against any Insured.

2. Exclusions

This insurance does not apply to:

- a. Any **Compensatory Damages** arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any Insured, including the wilful or reckless violation of any statute.
- b. **Bodily Injury, Property Damage or Personal and Advertising Injury.**

- c. **Compensatory Damages** arising out of failure of performance of contract by any Insurer.
- d. **Compensatory Damages** arising out of an insufficiency of funds to meet any obligations under any plan included in the **Employee Benefit Program**.
- e. Any **Claim** based upon:
 - (1) failure of any investment or stock to perform;
 - (2) errors in providing information on past performance of investment vehicles; or
 - (3) advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the **Employee Benefit Program**.
- f. Any **Claim** arising out of the Insured's failure to comply with any workers' compensation, unemployment or employment insurance, social security, federal or provincial pension plans, disability benefits law or any similar law.
- g. **Compensatory Damages** for which any Insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974 or amendments hereto or any regulations as are promulgated there under.
- h. Any **Claim** for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the Insured, from the applicable funds accrued or other collectible insurance.
- i. **Compensatory Damages** arising out of wrongful termination of employment, discrimination, or other employment-related practices.
- j. Any **Claim**, the result of circumstances which any Insured had knowledge at the effective date of this insurance.
- k. Any **Claim**, the result of circumstances which any Insured could reasonably have foreseen at the effective date of this insurance.
- l. Any **Claim** for **Compensatory Damages** arising out of the loss of, loss of use of, damage to, corruption of, inability to access, erroneously entering, deleting or amending **Electronic Data** or inability to manipulate **Electronic Data**.
- m. Any **Claim** for **Compensatory Damages**:
 - (1) 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**.
 - (2) based on the Named Insured's practices of **Employee** hiring, acceptance of **Volunteer Workers** or any supervision, investigation or retention of any person alleged to have committed **Abuse**; or
 - (3) alleging knowledge by an Insured of, or failure to report, the alleged **Abuse** to the appropriate authority(ies).

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**.
- n. Any **Claim** for **Compensatory Damages** 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 **Compensatory Damages**.

- o. Any **Claim** for **Compensatory Damages**:
 - (1) 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**;

- (2) any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. above; or
- (3) 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 also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**

- p. Any **Claim** for **Compensatory Damages** related or attributed to, arising out of, in whole or in part either directly or indirectly caused by the ingestion, use, mining, distribution, handling, sale, abatement, enclosure, exposure or removal, inhalation or absorption of **Lead** or **Lead** based products in any form.

This exclusion applies to any costs, including any Supplementary Payments, loss or expenses arising out of the presence, ingestion, inhalation, or absorption of or exposure to **Lead** in any form or any products containing **Lead**. The Insurer has no duty to defend the Insured or investigate any **Action**, claim or **Occurrence** which may arise.

This exclusion applies, but is not limited to:

- (1) any liability assumed by the Insured under any written or oral contract or agreement;
 - (2) any obligation to pay or comply with any request, demand, order or statutory or regulatory requirement, or any other action authorized or required by law, or any loss cost or expense arising out of or relating to the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or responding to or assessing the effects of **Lead** as well as any cost, fees, expenses, penalties, judgements, fines or sanctions arising from or relating thereto;
 - (3) any actual, alleged, or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of **Lead** in any manner or form whatsoever, either directly or indirectly or in whole or in part;
 - (4) any actual or alleged failure to advise, warn or instruct related to any **Lead** in any manner or form whatsoever, either indirectly or indirectly or in whole or in part; and
 - (5) any actual or alleged presence of **Lead** in any manner or form whatsoever, in any place whatsoever including, but not limited to, within a building, product, building component or building structure including any contents.
- q. (1) Any **Claim** for **Compensatory Damages** imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof;
- (2) Any **Claim** for **Compensatory Damages** with respect to which an Insured under this Policy who is also 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 limits of insurance;
- (3) Any **Claim** for **Compensatory Damages** resulting directly or indirectly from the **Nuclear Energy Hazard** arising from:
- (a) the ownership, maintenance, operation or use of a **Nuclear Facility** by or on behalf of an Insured;
 - (b) 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; or
 - (c) 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 also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**.

- r. Any **Claim** for **Compensatory Damages** arising out of the actual, alleged or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of **Pollutants** arising out of any:
- (1) request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, that any Insured or others investigate, test for, monitor, clean up, remove, dispose of,

contain, treat, abate, remediate, detoxify 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 or neutralizing, or in any way responding to, or assessing the effects of **Pollutants**

This exclusion also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**

- s. Any **Claim** for **Compensatory Damages** arising out of:

- (1) the actual, alleged or threatened exposure to, consumption of, ingestion of, inhalation of or absorption of, **Silica** or **Silica Dust**, either directly or indirectly;
- (2) the actual or alleged failure to warn, advise or instruct related to **Silica** in any manner or form whatsoever; or
- (3) the actual or alleged failure to prevent exposure to **Silica**.

This exclusion includes but is not limited to compliance with any request, demand, order, or statutory or regulatory requirement, or any other action authorized or required by law, or any other **Claim**, **Action**, demand, loss, cost or expense directly or indirectly arising out of, relating to or resulting from the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or in any way responding to, or assessing the effects of **Silica**, as well as any costs, fees, expenses, penalties, judgments, fines, or sanctions arising or resulting therefrom or relating thereto.

This exclusion also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**.

- t. Any **Claim** for **Compensatory Damages** 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 also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**.

- u. Any **Claim** for **Compensatory Damages** 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 also applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **Compensatory Damages**.

SUPPLEMENTARY PAYMENTS

The Insurer will pay, with respect to any **Claim** the Insurer investigates or settles, or any **Action** against an Insured the Insurer defends:

1. All expenses the Insurer incurs.
2. 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.
3. All reasonable expenses incurred by the Insured at the Insurer's request to assist in the investigation or defence of the **Claim** or **Action**, including actual loss of earnings up to \$250 a day because of time off from work.
4. All costs assessed or awarded against the Insured in the **Action**.
5. Any interest accruing after the 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.

SECTION II – WHO IS AN INSURED

1. If the Named Insured listed in the Declarations is:
 - 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, joint venture, limited liability partnership 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. Each of the Named Insured's **Employees** who is authorized to administer the Named Insured's **Employee Benefit Program**.
 - b. Any persons, organizations or **Employees** having proper temporary authorization to administer the Named Insured's **Employee Benefit Program** if the Named Insured dies, but only until the Named Insured's legal representative is appointed.
 - c. The Named Insured's legal representative if the Named Insured dies, but only with respect to duties as such. That representative will have all of the Named Insured's rights and duties under this Policy.
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 majority interest, 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 ninetieth (90th) day after the Named Insured acquires or forms the organization or the end of the policy period, whichever is earlier; and
 - b. coverage under this provision does not apply to any act, error or omission that was committed before the Named Insured acquired or formed the organization.

No person or organization is an Insured with respect to the conduct of any current or past partnership limited liability partnership, joint venture, trust or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. a. The Limits of Insurance shown in the Declarations and the rules below fix the most the Insurer will pay regardless of, as may be applicable, the number of:
 - (1) Insureds;
 - (2) **Claims** made or **Actions** brought;
 - (3) persons or organizations making **Claims** or bringing **Actions**;
 - (4) acts, errors or omissions; or
 - (5) benefits included in the Insured's **Employee Benefit Program**.
- b. The Aggregate Limit shown in the Declarations is the most the Insurer will pay for all **Compensatory Damages** because of acts, errors or omissions negligently committed in the **Administration** of the Insured's **Employee Benefit Program**.
- c. Subject to the Aggregate Limit shown in the Declarations, the Each Employee Limit is the most the Insurer will pay for all damages sustained by any one **Employee**, including damages sustained by such **Employee's** dependents and beneficiaries, as a result of:
 - (a) an act, error or omission; or
 - (b) a series of related acts, errors or omissions

negligently committed in the **Administration** of the Insured's **Employee Benefit Program**.

However, any amounts paid under this Policy shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the **Employee Benefit Program**.

2. a. The Insurer's obligation to pay **Compensatory Damages** on behalf of the Insured applies only to the amount of **Compensatory Damages** in excess of the deductible amount stated in the Declarations as applicable to Employee Benefits Liability. The Employee Benefits Each Employee Limit will be reduced by this amount. The Employee Benefits Aggregate Limit shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in the Declarations applies to all **Compensatory Damages** sustained by any one **Employee**, including such **Employee's** dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.
- c. The terms of this insurance, including those with respect to:
 - (1) the Insurer's right and duty to defend any **Actions** seeking those damages; and
 - (2) the Named Insured's duties, and the duties of any other involved Insured, in the event of an act, error or omission, or **Claim**apply irrespective of the application of the deductible amount.
- d. The Insurer may pay all or part of the applicable deductible amount to effect settlement of any **Claim** or **Action** and, upon notification to the Named Insured of any such step by the Insurer, the Named Insured shall promptly reimburse the Insurer for such part of the deductible amount that has been paid by the Insurer.

SECTION IV – EMPLOYEE BENEFITS LIABILITY CONDITIONS

1. Bankruptcy

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

2. Canadian Currency Clause

All limits of insurance, premiums and other amounts as expressed in this Policy are in Canadian currency.

3. Changes

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 an Act, Error or Omission, or Claim or Action

- a. The Named Insured must see to it that the Insurer is notified as soon as practicable of an act, error or omission, which may result in a **Claim**. To the extent possible, notice should include:
 - (1) what the act, error or omission was and when it took place; and
 - (2) the names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- 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.
- c. The Named Insured and any other Insured involved 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 defense 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 an act, error or omission 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 without the Insurer's consent.

5. 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**, loss, costs or other expenses 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 Named 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.

6. Other Insurance

If other valid and collectible insurance is available to the Insured for a loss the Insurer covers under 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 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

- (1) This insurance is excess over any of the other valid and collectible 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 an act, error or omission on other than a claims-made basis, if the other insurance has a policy period which continues after the effective date shown in the declarations of this insurance.
- (2) 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.
- (3) When this insurance is excess over other insurance, the Insurer will pay only the Insurer's share of the amount of the loss, if any, that exceeds the sum of:
 - (a) the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (b) the total of all deductible and self-insured amounts under all that other insurance.
- (4) 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 each insurer 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.

7. Premiums and Named Insureds

The first Named Insured shown in the Declarations:

- a. is responsible for all premiums due;

- b. is authorized to act on behalf of all persons or organizations insured under this Policy with respect to all matters pertaining to their insurance afforded by this Policy; and
- c. will be the payee for any return premiums the Insurer pays.

8. Representations or Fraud

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;
- c. the Insurer has issued this Policy in reliance upon the Named Insured's representations; and
- d. this Policy is void in any case of fraud by the Named Insured as it related to this Policy or any **Claim** or **Action** under this Policy.

9. 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.

10. Termination

- a. The first Named Insured shown in the Declarations may solely terminate this policy by mailing or delivering to the Insurer advance written notice of termination.
- b. The Insurer may terminate this Policy by giving to the first Named Insured, written notice of termination at least:

- (1) fifteen (15) days before the effective date of termination if the Insurer terminates for non-payment of premium; or
- (2) thirty (30) days before the effective date of termination if the Insurer terminates for any other reason.

Except in Quebec if notice is mailed, termination takes affect 15 or 30 days after receipt of the letter by the post office to which it is addressed depending upon the reason for termination. Proof of mailing will be sufficient proof of notice.

- c. The Insurer will mail or deliver the Insurer's notice to the first Named Insured's last known mailing address to the Insurer.
- d. Notice of termination will state the effective date of termination. The policy period will end on that date.
- 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 the customary short rate. The termination will be effective even if the Insurer has not made or offered a refund.

11. Transfer Of Rights Of Recovery Against Others To the Insurer

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 any loss to impair the Insurer's rights. At the Insurer's request, the Insured will bring **Action** or transfer those rights to the Insurer and help the Insurer enforce them.

12. Transfer of the Named Insured's Rights and Duties Under This Policy

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.

SECTION V – EXTENDED REPORTING PERIOD

- 1. The Insurer will provide an Extended Reporting Period as described below, if this Policy is cancelled or not renewed for any reason except non-payment of premium.

2. The Extended Reporting Period starts with the end of the policy period and lasts for sixty (60) days.
The Extended Reporting Period does not apply to **Claims** that are covered under any subsequent insurance the Insured may purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such **Claims**.
3. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to **Claims** for acts, errors or omissions that were first committed before the end of the policy period.
Claims for such act, errors or omissions, which are first received and recorded during the Extended Reporting Period, will be deemed to have been made on the last day of the policy period.
4. The Extended Reporting Period does not reinstate or increase the Limits of Insurance applicable to any **Claim** to which this Policy applies.

SECTION VI - DEFINITIONS

1. **Abuse** means, but is not limited to, any act, threat or allegation involving molestation, harassment, corporal punishment, assault, battery, or any other form of physical, sexual, mental, psychological or emotional abuse.
2. **Action** means a civil proceeding in which **Compensatory Damages** because of an act, error or omission to which this insurance applies are alleged. **Action** includes:
 - a. an arbitration proceeding in which such **Compensatory Damages** are claimed and to which any 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 any Insured submit with the Insurer's consent.
3. **Administration** means:
 - a. providing information to **Employees**, including their dependents and beneficiaries, with respect to eligibility for or scope of **Employee Benefit Programs**;
 - b. handling records in connection with the **Employee Benefit Program**; or
 - c. effecting, continuing or terminating any **Employee's** participation in any benefit included in the **Employee Benefit Program**.However, **Administration** does not include handling payroll deductions.
4. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about the Named Insured's goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. regarding web-sites, only that part of a web-site that is about the Named Insured's goods, products or services for the purposes of attracting customers or supporters is considered an **Advertisement**.
5. **Bodily Injury** means bodily injury, sickness or disease sustained by a person and if arising out of the foregoing, disability, emotional distress, mental anguish, mental injury, shock or death.
6. **Claim** means any demand or **Action**, made by an **Employee** or an **Employee's** dependents and beneficiaries, for damages as the result of an act, error or omission.
7. **Compensatory Damages** means damages due or awarded in payment for actual injury or economic loss. **Compensatory Damages** does not include punitive or exemplary damages, fines, taxes, penalties or the multiple portion of any multiplied damage award.
8. **Coverage Territory** means Canada.
9. **Electronic Data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software or otherwise communicated in digital or other intangible or tangible forms, 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.

10. **Employee** either in the singular or plural means a person actively employed, formerly employed, on leave of absence or disabled, or retired. **Employee** includes a **Leased Worker**. **Employee** does not include a **Temporary Worker**.
11. **Employee Benefit Program** means a program providing some or all of the following benefits to **Employees**:
- Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an **Employee** may subscribe to such benefits and such benefits are made generally available to those **Employees** who satisfy the plan's eligibility requirements;
 - Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an **Employee** may subscribe to such benefits and such benefits are made generally available to all **Employees** who are eligible under the plan for such benefits;
 - Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - Vacation plans, including buy and sell programs; leave of absence programs; tuition assistance plans; transportation and health club subsidies.
12. **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.
13. **Fissionable Substance** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
14. **Fungi or Spores** 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.
15. **Lead** means, but is not limited to, **Lead** in any form, lead leachate, **Lead** in any property or materials, heavy, ductile, soft, solid, naturally occurring metallic element used in paints, pipes, solder, pottery and batteries and in any substance, on land, in air, in water or any dust containing **Lead**.
16. **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**.
17. **Nuclear Energy Hazard** means the radioactive, toxic, explosive, or other hazardous properties of radioactive material.
18. **Nuclear Facility** means:
- (1) 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;
 - (2) any equipment or device designed or used for:
 - (a) separating the isotopes of plutonium, thorium and uranium or any one or more of them;
 - (b) processing or utilizing spent fuel; or
 - (c) handling, processing or packaging waste;
 - (3) 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;
 - (4) 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.
19. **Personal and Advertising Injury** means injury, including consequential **Bodily Injury**, arising out of one or more of the following offences:
- false arrest, detention or imprisonment, defamation of character;
 - 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 of material, in any manner, that violates a person's right of privacy;
 - f. the use of another's advertising idea in the Named Insured's **Advertisement**; or
 - g. infringing upon another's copyright, trade dress or slogan in the Named Insured's **Advertisement**.
20. **Pollutants** include but are not limited to 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.
21. **Property Damage** means:
- a. physical injury to tangible property, including all resulting loss of use of that property; or
 - b. loss of use of tangible property that is not physically injured.
22. **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 or pursuant to any law, act or statute, or 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.
23. **Silica** means, but is not limited to, any substance containing silicon dioxide (SiO₂), including, but not limited to, crystalline or non-crystalline silica, silica particles, silica compounds, **Silica Dust** or synthetic silica, including but not limited to precipitated silica, silica gel, fumed silica or silica flour.
24. **Silica Dust** means dust containing **Silica** alone or mixed with any other dust or fiber(s).
25. **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.
26. **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.
27. **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.



EMPLOYERS' BODILY INJURY LIABILITY COVERAGE EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

The following changes are made in the Insured's Policy but only with respect to claims or **Actions** because of **Bodily Injury** to an **Employee** of the Named Insured arising out of and in the course of employment by the Named Insured in the business described in the Declarations:

1. Paragraph 2. d. under SECTION 1 – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of this Policy is deleted in its entirety.
2. This extension of insurance does not apply to **Bodily Injury** to an employee while employed in violation of the law with the Named Insured's actual knowledge or the actual knowledge of any of the Insured's executive officers.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.

NON-ACCUMULATION CLAUSE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

The following is added to SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS of this Policy:

Non-Accumulation Clause

1. It is hereby understood and agreed that if any other insurance coverage is provided in favour of the Insured by the Insurer, including but not limited to prior policies issued to the Named Insured or any Insured by the Insurer, then the most the Insurer will pay under all such policies covering the **Occurrence**, accident, loss, **Action** or claim, as may be applicable, is the single highest available applicable limit of liability of any one of the policies which cover the **Occurrence**, accident, loss, **Action** or claim. Provided, however, that this provision does not apply to any policies issued by the Insurer to the Named Insured or any Insured specifically as insurance that applies excess of this policy.
2. The deductible amount, as may be applicable, under the Policy with the single highest available applicable Limit of Insurance which covers the **Occurrence**, accident, loss, **Action** or claim, shall be the applicable deductible amount that applies in respect of such **Occurrence**, accident, loss, **Action** or claim and shall be reduced to the extent of any payment made towards the deductible amount under any other such policy.
3. This endorsement applies regardless of which policy period applies to the **Occurrence**, accident, loss, **Action** or the number of claimants.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.



PLACEMENT AGENCY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

This Policy shall not apply to **Compensatory Damages** for **Bodily Injury**, **Property Damage** or **Personal and Advertising Injury** arising from any **Leased Worker(s)**, **Temporary Worker(s)** or **Volunteer Worker(s)** leased or loaned by the Named Insured to others under a labour leasing agreement, labour placement agreement or similar labour agreement.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.



PROFESSIONAL SERVICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

- A. Paragraph 2 o. Professional Services of SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY of this Policy is deleted in its entirety.
- B. The following exclusion is added to SECTION I – COVERAGES, COMMON EXCLUSIONS – COVERAGES A, B, C and D of this Policy:

Professional Services

Bodily Injury (other than **Incidental Medical Malpractice Injury**), **Property Damage**, or **Personal and Advertising Injury** due to the rendering of or failure to render by the Named Insured or on the Named Insured's behalf, of any **Professional Services** for others, or any error or omission, malpractice or mistake in providing those services.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.

REDUCTION OF COVERAGE FOR LESSEES OR DRIVERS OF LEASED VEHICLES ENDORSEMENT
– O.E.F. No. 98B

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:

- a. 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).
- b. 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.
- c. 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 form, all terms, provisions and conditions of the Policy shall have full force and effect.

LEGAL LIABILITY FOR DAMAGE TO HIRED AUTOMOBILES ENDORSEMENT– S.E.F. No. 94
(for attachment only to a Non-Owned Policy S.P.F. No. 6)

In consideration of the premium charged, it is hereby understood and agreed that the Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured or assumed by the Insured under any contract or agreement for loss or damage arising from the care, custody or control of **Automobiles** hired or leased from others with or without drivers, used under the control of the Insured in the Insured's business as known to the Insurer, 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.

LIMITS OF INSURANCE

The Insurer shall not be liable under this endorsement for any amount in excess of the limit shown on the Declarations (exclusive of interest and costs) for any one **Occurrence**.

DEDUCTIBLE CLAUSE

Each **Occurrence** causing loss or damage covered including loss or damage caused by fire or lightning or theft of the entire **Automobile** shall give rise to a separate claim in respect of which the Insurer's liability shall be limited to the amount of loss or damage in excess of the deductible amount shown on the Declarations.

TWO OR MORE AUTOMOBILES

A motor vehicle and one or more trailers or semi-trailers attached thereto shall be held to be separate **Automobiles** with respect to the Limits of Insurance, including the Deductible provision under this Insuring Agreement.

EXCLUSIONS

The Insurer shall not be liable:

- (1) for loss or damage to any **Automobile** while personally driven by the Insured if the Insured is an individual; or
- (2) for loss or damage:
 - (a) to tires or consisting of or caused by mechanical fracture or breakdown of any part of an **Automobile** or by rusting, corrosion, wear and tear, freezing or explosion within the combustion chamber, unless the loss or damage is coincident with other loss or damage caused by fire, theft or malicious mischief; or
 - (b) to any **Automobile** while being used without the consent of the owner thereof; or
 - (c) caused directly or indirectly by contamination by radioactive material; or
 - (d) to contents of trailers or to rugs or robes; or
 - (e) to tapes and equipment for use with a tape recorder when detached therefrom; or
 - (f) caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by the operation or armed forces while engaged in hostilities, whether war be declared or not; or
 - (g) for any amount in excess of the limit stated in the applicable subsection hereof and expenditures provided for in the Additional Agreements of the Policy in which this endorsement is attached; or
- (3) The Insurer shall not be liable under this endorsement for liability assumed by the Insured under any contract or agreement exceeding 30 consecutive days for any one specific **Automobile**.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.



CONTRACTUAL LIABILITY ENDORSEMENT – S.E.F. No. 96
(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 exclusion (c) of the Insuring Agreement of the Policy to which this endorsement is attached is amended to read as follows:

- (c) for any liability assumed by any person insured by this Policy voluntarily under any contract or agreement other than those stated below:

All written contracts or written agreements entered into by the Named Insured that are signed prior to the accident.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.



EXCLUDING LONG TERM LEASED VEHICLE ENDORSEMENT – S.E.F. No. 99
(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 General Provisions and Definitions of the Policy to which this endorsement is attached is hereby amended to read as follows:

The term "Hired **Automobile**" 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 form, all terms, provisions and conditions of the Policy shall have full force and effect

STANDARD NON-OWNED AUTOMOBILE POLICY – S.P.F. No. 6

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 ITEMS

1. Full Name and Postal Address of the Insured: AS SHOWN ON THE POLICY DECLARATIONS
2. **Policy Period:** AS SHOWN ON THE POLICY DECLARATIONS
12:01 a.m. standard time at the address stated in Item 1.
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 Insured used in the Insured's business as known to the Insurer.
4. The Insured's partners, officers, employees and agents as of the date of this application are as known to the Insurer.
5. "Hired **Automobiles**" – The **Automobiles** hired by the Insured are as known to the Insurer.
6. "**Automobiles** Operated Under Contract" on behalf of the Insured are as known to the Insurer.
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:

Insuring Agreements	Perils	Limit of Liability	
SECTION A Third Party Liability	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 Insured.	As per limit shown on 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.

8. Has any Insurer cancelled, declined or refused to renew or issue, **Automobile** insurance to the Insured within three years preceding this application? If so, state name of insurer.

AS KNOWN TO THE INSURER

9. State particulars of all accidents or claims arising out of the use or operation in his business of non-owned **Automobiles** by the Insured within the three years preceding this application.

Injury to Persons

Damage to Property of Others

AS KNOWN TO THE INSURER

10. All the statements in this application are true and the Insured 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

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
 - (3) for any liability assumed by any person insured by this Policy voluntarily under any contract or agreement; or
 - (4) 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
 - (5) 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.

Paragraph (b) of this section is not applicable in the Province of Ontario.

ADDITIONAL AGREEMENT 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 of 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 injury; 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 delivers 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 bases or the subject matter of this Policy.

STATUTORY CONDITIONS

(COMMON LAW JURISDICTIONS EXCEPT NEWFOUNDLAND AND NEW BRUNSWICK)

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 in writing of any change in the risk material to the contract and within his 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 is for the time being either authorized by law or qualified to drive or operate the **Automobile**; or
 - (b) while his licence to drive or operate an **Automobile** is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an **Automobile**; or
 - (c) while he is under the age of sixteen years or under such either age as is prescribed by the law of the province in which he 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
 - (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 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

- (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 right to obtain a licence is suspended or while he 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 from or on behalf of the claimant.
- (2) The Insured shall not,
 - (a) voluntarily assume any liability or settle any claim except at his 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 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 sub-condition (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 possession or control that relate to the matters in question, and he 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 affected, 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* 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 therefore 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) Limitation 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, Manitoba and New Brunswick, the one year limitation period in sub-condition (3) should read "2 years". In the case of Nova Scotia and Prince Edward Island sub-condition (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 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

This Policy may be cancelled by the Insured named on the Declarations page or the Insurer in accordance with the provisions of the Cancellation clause set out in the Commercial General Liability Conditions of this Policy.

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 by registered mail addressed to him at his 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.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect



BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY POLICY

SECTION II – WHO IS AN INSURED of this Policy is amended to include the following:

Any person(s) or organization(s) whom the Named Insured is required to add as an additional insured to this Policy under a written contract, agreement or permit that is:

1. currently in effect or which will become effective during the Policy Period; and
2. executed prior to the **Occurrence** which results in **Bodily Injury** or **Property Damage** under Coverage A, or the offence which results in **Personal and Advertising Injury** under Coverage B.

It is further understood and agreed that:

- A. The insurance provided to this additional insured is limited as follows:
 - (i) That person or organization is an additional insured only with respect to liability:
 - (a) arising out of premises the Named Insured owns, rents, leases or occupies; or
 - (b) caused by the Named Insured's ongoing operations performed for that additional insured as specified in the written contract, agreement or permit.
 - (ii) The limits of insurance applicable to the additional insured are those specified in the contract, agreement, permit or in the Declarations of this Policy, whichever is less. These limits of insurance are inclusive of and are not in addition to the Limits of Insurance shown in the Declarations.
 - (iii) Coverage is not provided for **Bodily Injury**, **Property Damage**, or **Personal and Advertising Injury** arising out of the sole negligence of the additional insured.
 - (iv) A person or organization's status as an additional insured ends when the Named Insured's operations for that additional insured is completed.
- B. The insurance provided to the additional insured does not apply to **Bodily Injury**, **Property Damage**, or **Personal and Advertising Injury** arising out of an architect's, engineer's or surveyor's rendering or failure to render any professional services including:
 - (i) the preparing, approving or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field order, change orders, or drawings and specifications; and
 - (ii) supervisory, inspection, architectural or engineering activities.
- C. Coverage provided by this endorsement is excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis.

When this insurance is excess, the Insurer will have no duty under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY OR COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** to defend the additional insured against any **Action** if any other insurer has a duty to defend the additional insured against that **Action**. If no other insurer defends, the Insurer may undertake to do so but they will be entitled to the additional insured's rights against all those other insurers.

Except as otherwise provided in this form, all terms, provisions and conditions of the Policy shall have full force and effect.