

# **BUSINESS AND PERSONAL LIABILITY INSURANCE COVERAGE FORM**

## **(Occurrence Form)**

Throughout this policy the words "you" and "your" refer to the Named Insured shown on the Declaration Page, and any other person or organization qualifying as a Named Insured under Paragraph 3. of Section II – Who Is An Insured. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks 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. We 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. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we 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. We may, at our discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:

1. The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
2. Our right and duty to defend ends when we have 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 or voluntary payments for damage to property under Coverage E.

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 and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

1. Reports all, or any part, of the "bodily injury" or "property damage" to us 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" 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 purposes of liability assumed in an "insured contract", reasonable legal fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be "compensatory damages" because of "bodily injury" or "property damage", provided:
  - a. Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - b. Such legal fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which "compensatory damages" to which this insurance applies are alleged.

### c. Workers' Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment or employment compensation law or any similar law.

### d. Bodily Injury to a Named Insured

"Bodily injury" to:

1. the Named Insured shown on the Declaration Page, nor while living in the same household as the Named Insured:
  - a. the spouse of the Named Insured, or
  - b. the relatives of either the Named Insured or the Named Insured's spouse, or
  - c. any person under the age of 21 who is in the care of the Named Insured or the Named Insured's spouse

This exclusion does not apply if:

- i. the Named Insured is designated on the Declaration Page as an individual, and
- ii. the claim against the Named Insured alleges negligence or other wrongdoing arising out of the conduct of a business of which the Named Insured is the sole owner.

### e. Employer's Liability

"Bodily injury" to:

1. An "employee" of the insured 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, child, parent, brother or sister of that "employee" as a consequence of Paragraph **2. d. 1.** above.

This exclusion applies:

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

This exclusion does not apply to:

- 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 you 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; or
- c. A claim made or an "action" brought by a "residence employee"

**f. Aircraft or Watercraft**

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

- a. Any aircraft, air cushion vehicle or watercraft owned or operated by or rented or loaned to any insured; or
- b. Any premises for the purpose of an airport or aircraft landing area and all operations necessary or incidental thereto.

Use includes operation and "loading or unloading".

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

This exclusion does not apply to:

- 1. A watercraft while ashore on premises you own or rent;
- 2. A watercraft that you own that is:
  - a. Listed on the Declaration Page, or
  - b. Equipped with an outboard motor or motors of not more than 19kW (25 HP) in total when used with or on a single watercraft, or
  - c. Equipped with an inboard or an inboard-outboard motor of not more than 38kW (50 HP), or
  - d. Less than 8 metres long.
- 3. A watercraft you do not own that is:
  - a. Less than 8 metres long; and
  - b. Not being used to carry persons or property for a charge.
- 4. "Bodily injury" to an "employee" of the 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.

**g. 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" that is owned or operated by or on behalf of or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion also applies to any motorized snow vehicle or its trailers and any vehicle while being used in any speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity.

This exclusion also 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 or operated, or on behalf of, or rented or loaned to any insured.

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

This exclusion does not apply to:

- 1. "Bodily injury" to an "employee" of the 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.

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

**h. Damage To Property**

"Property damage" to:

1. Property you own, rent, or occupy, including any costs or expenses incurred by you, 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 you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in your care, custody or control;
5. That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2. of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

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

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**i. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**j. Damage To Your Work**

"Property damage" to "your 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 your behalf by a subcontractor.

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

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

1. A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
2. A delay or failure by you or anyone acting on your 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 "your product" or "your work" after it has been put to its intended use.

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

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

1. "Your product";

2. "Your work"; or
3. "Impaired property";

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

**m. Electronic Data**

"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.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) of this exclusion.

**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 you or on your 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 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. Claims or "actions" based on your practices of "employee" hiring, acceptance of "volunteer workers" or supervision or retention of any person alleged to have committed "abuse".
3. Claims or "actions" alleging knowledge by an insured of, or failure to report, the alleged "abuse" to the appropriate authority(ies).

**q. Communicable Disease**

"Bodily Injury" (other than "incidental medical malpractice injury") by any insured or arising out of the failure of an insured to take steps to prevent the transmission or spread of any communicable disease.

**r. Asbestos** – see Common Exclusions

**s. Fungi or Spores** – see Common Exclusions

**t. Nuclear**– see Common Exclusions

**u. Pollution** – see Common Exclusions

**v. Terrorism** – see Common Exclusions

**w. War Risks** – see Common Exclusions

**COVERAGE B. PERSONAL and ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

**a.** We 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. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we 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. We may, at our discretion, investigate any offense and settle any claim or "action" that may result. But:

1. The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
2. Our right and duty to defend end when we have 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 offense arising out of your business but only if the offense 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 before the beginning of the policy period.

### d. **Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the 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 your "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 with any statement of quality or performance made in your "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 your "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 your "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 **21. a., b.** and **c.** of "personal and advertising injury" under the Definitions Section.

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

### k. **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 control.

## **I. 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 your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

## **m. 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 nonpublic information.

**n. Asbestos** – see Common Exclusions

**o. Fungi or Spores** – see Common Exclusions

**p. Nuclear**– see Common Exclusions

**q. Pollution** – see Common Exclusions

**r. Terrorism** – see Common Exclusions

**s. War Risks** – see Common Exclusions

## **COVERAGE C. MEDICAL PAYMENTS**

### **1. Insuring Agreement**

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

1. On premises you own or rent;
2. On ways next to premises you own or rent; or
3. Because of your operations or personal actions;

provided that:

1. The accident takes place in the "coverage territory" and during the policy period;
2. The expenses are incurred and reported to us within one year of the date of the accident; and
3. The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

**b.** We 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. We 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**

We 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 except "residence employees".

#### **c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent 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.

**COVERAGE D. TENANTS' LEGAL LIABILITY**

**1. Insuring Agreement**

a. We 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 you or occupied by you. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we will have no duty to defend the insured against any "action" seeking "compensatory damages" for "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:

- 1. The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
- 2. Our right and duty to defend ends when we have 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 or voluntary payments for damage to property under Coverage E.

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 and no "employee" authorized by you 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 you 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 you to give or receive notice of an "occurrence" or claim:

- 1. Reports all, or any part, of the "property damage" to us 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 the 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. Asbestos** – see Common Exclusions

**d. Fungi or Spores** – see Common Exclusions

**e. Nuclear** - see Common Exclusions

**f. Pollution** – see Common Exclusions

**g. Terrorism** – see Common Exclusions

**h. War Risks** – see Common Exclusions

**COVERAGE E. VOLUNTARY PAYMENT FOR DAMAGE TO PROPERTY**

**1. Insuring Agreement**

**a.** We will pay for direct "property damage" caused by an insured provided that:

1. The "property damage" is the unintentional result of an action by an insured; or
2. The "property damage" is the intentional result of an action by an insured who is 12 years of age or under; and
3. The incident takes place in the "coverage territory" and during the policy period;
4. A Proof of Loss form is submitted to "us" within 60 days of the incident.

**b.** We will make this payment regardless of fault. This payment will not exceed the applicable limit of insurance as described in Section III – Limits of Insurance and will be further limited by the amount represented by whichever is the least of the following:

1. The actual cash value of the damaged property at the time of the incident; or
2. What it would cost to repair or replace the property with materials of similar quality at the time of the incident;

**2. Exclusions**

We will not pay for "property damage":

**a. Owned Property**

To any property owned or rented to any insured or resident of the household of the insured named on the Declaration Page.

**b. Tenant's Property**

To any property owned or rented to any tenant of an insured.

**c. "Automobile", Recreational Vehicle or Watercraft**

Resulting from the use of operation of any "automobile", recreational vehicle or watercraft.

**d. Athletic Activities**

To damage done to property during practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

**e. Products-Completed Operations**

Included within the "products-completed operations hazard".

**f. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS – COVERAGES A, B and D**

**1.** We will pay, with respect to any claim we investigate or settle, or any "action" against an insured we defend:

- a.** All expenses we incur.

- b. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- c. All reasonable expenses you incur at our request to assist us in the investigation or defense 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 you in the "action".
- e. Any interest accruing after entry of judgment upon that part of the judgment which is within the applicable limit of insurance and before we have 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 we defend an insured against an "action" and an indemnitee of the insured is also named as a party to the "action", we 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 defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "action" and the information we know 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 us to conduct and control the defense of that indemnitee against such "action" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:
    1. Agrees in writing to:
      - a. Cooperate with us in the investigation, settlement or defense of the "action";
      - b. Immediately send us 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 us with respect to coordinating other applicable insurance available to the indemnitee; and
    2. Provides us with written authorization to:
      - a. Obtain records and other information related to the "action"; and
      - b. Conduct and control the defense of the indemnitee in such "action".

So long as the above conditions are met, legal fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b. 2. of Section I – Coverage A – Bodily Injury and Property Damage Liability, such payments will not be deemed to be "compensatory damages" for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for legal fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have 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.

## **COMMON EXCLUSIONS – COVERAGE A, B, C, D and E**

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:

1. "Property damage" means physical injury to animals.
2. "Products-completed operations hazard" means all "bodily injury" and "property damage" that arises out of "your product" provided the "bodily injury" or "property damage" occurs after you have relinquished physical possession of "your 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, "your product", and you intend "your product" to be:

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

## **3. 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 is also insured under a contract of nuclear energy liability insurance (whether the insured is unnamed in such contract and whether or not it is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability;
- c. "Bodily injury", "property damage" or "personal 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";
  3. The possession, consumption, use, handling, disposal or transportation of "fissionable substances", or of other "radioactive material" (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an insured.

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

#### 4. Pollution

1. "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" arising from an insured farm or other business operation:
  - a. 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:
    1. "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;
    2. "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your 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
    3. "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
  - b. 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;
  - c. Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    1. Any insured; or
    2. Any person or organization for whom you may be legally responsible; or
  - d. 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:
    1. 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;
    2. "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 you or on your behalf by a contractor or subcontractor; or
    3. "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
  - e. 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".
2. Any loss, cost or expense arising out of any:
  - a. Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

- b. 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 2. 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.

## 5. 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".

## 6. 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".

## SECTION II – WHO IS AN INSURED

### 1. If you are designated on the Declaration Page as:

- a. An individual, you and your spouse are insureds, but only with respect to your personal liability and the conduct of a business of which you are the sole owner. In addition the following are insureds while living in your household but only with respect to their personal liability:
  - 1. The relatives of either you or your spouse,
    - a. Including any "student" who is temporarily living outside of the household for the purpose of attending a school, college or university, or
  - 2. Any person in your care who is under the age of 21.
- b. A partnership, limited liability partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, limited liability partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your shareholders are also insureds, but only with respect to their liability as shareholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, limited liability partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
  - 1. "Bodily injury" or "personal and advertising injury":
    - a. To you, to your partners or members (if you are a partnership, limited liability partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

- b. To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **1 a** above;
  - c. For which there is any obligation to share "compensatory damages" with or repay someone else who must pay "compensatory damages" because of the injury described in Paragraphs **1a** or **b** above;
  - d. Arising out of his or her providing or failing to provide professional health care services; or
  - e. To any person who at the time of injury is entitled to benefits under any workers' compensation or disability benefits law or a similar law.
2. "Property damage" to property that is:
- a. Owned, occupied or used by,
  - b. Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by,  
you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership, limited liability partnership or joint venture), or any member (if you are a limited liability company).
- b.** Any person or organization legally liable for damages caused by a watercraft or animal owned by you and to which this insurance applies. This does not include anyone using or having custody of the watercraft or animal without your permission
  - c.** Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
  - d.** Any person or organization having proper temporary custody of your property if you die, but only:
    - 1. With respect to liability arising out of the maintenance or use of that property; and
    - 2. Until your legal representative has been appointed.
  - e.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
  - f.** Your 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 you newly acquire or form, other than a partnership, limited liability partnership or joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- 1. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - 2. Coverage **A** and **D** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - 3. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you 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 or limited liability company that is not shown as a Named Insured on the Declaration Page.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown on the Declaration Page and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "actions" brought; or
  - c. Persons or organizations making claims or bringing "actions".
2. The General Aggregate Limit is the most we 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**;

- c. Medical expenses under Coverage **C**; and
  - d. Payments under Coverage **E**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for "compensatory damages" because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
  4. Subject to **2** or **3** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
    - a. "Compensatory damages" under Coverage **A**;
    - b. Medical expenses under Coverage **C**; and
    - c. Payments under coverage **E**.

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

5. Subject to **2** above, the Personal and Advertising Injury Limit is the most we 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.
6. The Tenants' Legal Liability Limit is the most we will pay under Coverage **D** for "compensatory damages" because of "property damage" to any one premises.
7. Subject to **4** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.
8. Subject to **4** above, the Voluntary Payment for Damage to Property Limit is the most we will pay under Coverage **E** for all payments because of "property damage" sustained by any one person or business.

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

#### **9. Deductible**

- a. Our obligation under Property Damage Liability and Tenants' Legal Liability to pay "compensatory damages" on your behalf applies only to the amount of "compensatory damages" in excess of any deductible amounts stated on the Declaration Page as applicable to such coverages, and the limits of insurance applicable to each "occurrence" for Property Damage Liability and any one premises for Tenants' Legal Liability will be reduced by the amount of such deductible.
- b. The deductible amount applies as follows:
  1. Under Coverage **A**: To all "compensatory damages" because of "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
  2. Under Coverage **D**: 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. our right and duty to defend any "action" seeking those "compensatory damages"; and
  2. your duties in the event of an "occurrence", claim or "action"
 apply irrespective of the application of the deductible amount.
- d. We 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, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

#### **SECTION IV – CONDITIONS**

If any portion of these conditions are found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our 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 you and us concerning the insurance afforded. The first Named Insured shown on the Declaration Page is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### **4. Duties In The Event Of Occurrence, Offense, Claim or Action**

- a.** You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - 1. How, when and where the "occurrence" or offense 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 offense.
- b.** If a claim is made or "action" is brought against any insured, you must:
  - 1. Immediately record the specifics of the claim or "action" and the date received; and
  - 2. Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "action" as soon as practicable.

- c.** You and any other involved insured must:
  - 1. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "action";
  - 2. Authorize us to obtain records and other information;
  - 3. Cooperate with us in the investigation or settlement of the claim or defense against the "action"; and
  - 4. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d.** No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### **5. Examination Of Your Books and Records.**

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### **6. Inspections and Surveys**

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

### **7. Legal Action Against Us**

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into an "action" asking for "compensatory damages" from an insured; or



- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we 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 us, the insured and the claimant or the claimant's legal representative.

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

## 8. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A, B, D** or **E** of this policy, our obligations are limited as follows:

### a. Primary Insurance

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

### b. Excess Insurance

This insurance is excess over:

1. Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - a. That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - b. That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
  - c. If the loss arises out of the maintenance or use of watercraft or "automobile" to the extent not subject to either Exclusion **f.** or **g.** of Section **I** – Coverage **A** – Bodily Injury and Property Damage Liability.
2. Any other primary insurance available to you covering liability for "compensatory damages" arising out of the premises or operations or products-completed operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we 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, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our 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.

We 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 on the Declaration Page of this policy.

### c. Method Of Sharing

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

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

## 9. Premium Audit

- a. We will compute all premiums for this policy in accordance with our rules and rates.

- b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured subject to the retention of the minimum retained premium shown on the Declaration Page of this policy.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

#### **10. Premiums**

The first Named Insured shown on the Declaration Page:

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

#### **11. Representations**

By accepting this policy, you agree:

- a. The statements on the Declaration Page are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

#### **12. Separation of Insureds, Cross Liability**

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

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

#### **13. Termination**

- a. The first Named Insured shown on the Declaration Page may terminate this policy by mailing or delivering to us advance written notice of termination.
- b. We may terminate this policy by mailing or delivering to the first Named Insured written notice of termination at least:
  - 1. 5 days before the effective date of termination if personally delivered;
  - 2. 15 days before the effective date of termination if we terminate for nonpayment of premium; or
  - 3. 30 days before the effective date of termination if we terminate 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.

In Quebec, paragraph 1. of this condition does not apply and termination takes effect either 15 or 30 days after receipt of the notice at the last known address of the first Named Insured, depending upon the reason for termination.

- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. The policy period will end on the date termination takes effect.
- e. If this policy is terminated, we will send the first Named Insured any premium refund due. If we terminate, 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 we have not made or offered a refund.

#### **14. Transfer Of Rights Of Recovery Against Others To Us**

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

#### **15. Transfer Of Your Rights and Duties Under This Policy**

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

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

## SECTION V – DEFINITIONS

1. "**Abuse**" means any act or threat involving molestation, harassment, corporal punishment or any other form of physical, sexual or mental 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 our consent; or
  - b. Any other alternative dispute resolution proceeding in which such "compensatory damages" are claimed and to which the insured submits with our consent.
3. "**Advertisement**" means a notice that is broadcast or published to the general public or specific market segments about your 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 your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
4. "**Automobile**" means a land motor vehicle, trailer or semitrailer that is required by law to be insured under a contract evidenced by a motor vehicle liability policy, or any vehicle insured under such a contract, including any attached machinery or equipment.
5. "**Bodily injury**" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
6. "**Compensatory damages**" means damages 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 you 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 your 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 we agree 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" and a "residence employee".
10. "**Executive officer**" means a person holding any of the officer positions created by your 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 "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have 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 "your product" or "your work"; or
- b. Your 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 you or temporarily occupied by you 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 bylaw, to indemnify a municipality, except in connection with work for a municipality;
- f. An elevator maintenance agreement;
- g. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) or premises under which you assume 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 you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **g.** does not include that part of any contract or agreement:

- 1. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- 2. Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render "professional services", including those listed in **1.** above and supervisory, inspection, architectural or engineering activities.

17. "**Leased worker**" means a person leased to you by a labour leasing firm under an agreement between you and the labour leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

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

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, 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".

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

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

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

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

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

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

- 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 your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

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

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

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
  - 1. Products that are still in your physical possession; or
  - 2. Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
    - a. When all of the work called for in your contract has been completed.
    - b. When all of the work to be done at the job site has been completed if your 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 you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
2. The existence of tools, uninstalled equipment or abandoned or unused materials.

**25. "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, chiropody, 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.

**26. "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.

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

**28. "Residence Employee"** means a person employed by you to perform duties in connection with the maintenance or use of the insured dwelling. This includes persons who perform household or domestic services or duties of a similar nature for you. This does not include persons while performing duties in connection with your business operation.

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

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

**31. "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.

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

**33. "Your product":**

**a. Means:**

1. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - a. You;
  - b. Others trading under your name; or
  - c. A person or organization whose business or assets you have 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 "your 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.**

**34. "Your work":**

**a. Means:**

1. Work or operations performed by you or on your 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 "your work", and
2. The providing of or failure to provide warnings or instructions.