



## NON-PROFIT MANAGEMENT AND CORPORATE LIABILITY INSURANCE POLICY

SOUTH WESTERN INSURANCE GROUP LIMITED  
401 The West Mall, Suite 700, Toronto, ON M9C 5J5

BE (20/06/2018) NPCL

### DECLARATIONS

RENEWAL POLICY

POLICY NUMBER

SWG1016688

PRIOR POLICY NUMBER

**Item 1. Name and Address of the Parent Corporation**

INTERNATIONAL WOMEN'S INSOLVENCY & RESTRUCTURING CONFEDERATION – ONTARIO NETWORK

18 YORK STREET, SUITE 2600  
TORONTO, ON M5J 0B2

**Item 2. POLICY PERIOD** From June 18, 2018 To June 18, 2019

12:01 a.m. Standard Time at the Mailing Address of  
the Named Insured as stated herein

**SECTION A – MANAGEMENT LIABILITY**

**Item 3.** Limit of Liability each Claim: \$2,000,000  
Policy Aggregate Limit of Liability: \$2,000,000

**Item 4. Deductible:**

(A) \$ 0 each Claim for all Non-Indemnified Loss  
(B) \$ 0 each Claim for all Indemnified Loss  
(C) \$ 0 each Employment Practices Wrongful Act Claim

**Item 5. Discovery Period:**

(A) Additional Premium: 75%  
(B) Additional Period: One Year

**Item 6. Premium:** \$ 1,650

**Minimum retained:** 10% of the annual premium (minimum \$250)

**Item 7. Endorsements Attached at Issuance:**

DNPE-100 Non-Profit Management and Corporate Liability Policy  
DNPLE-16 Commercial Legal Expense Insurance  
DLEI-16 D&O Legal Expense Endorsement #1  
DNPE-147 Corporate Brand Protection - Crisis Management Event Expenses Coverage  
DNPE-160 Excess Directors & Officers Insurance Extension  
DNPE-165 Order of Payments Endorsement  
DNPE-113 Fiduciary Liability Extension  
DNPE-167 DeFacto Executive Extension Endorsement  
DNPE-163 Waiver of Deductible in the Event of No Liability  
DNPE-168 Deletion of Hammer Clause Endorsement

**Item 8. Schedule of Insurers:** As Per List of Subscribing Companies

**SECTION B – LEGAL EXPENSE**

	<u>Any One Claim</u>	<u>Deductible</u>
1.1 <b>Contract Disputes</b> (Minimum Sum in Dispute of \$5000)	\$10,000	\$500
1.2 <b>Criminal Defence</b>	\$10,000	\$500
1.3 <b>Property Disputes</b>	\$10,000	\$500
1.4 <b>Personal Injury</b>	\$10,000	\$500
1.5 <b>Tax Disputes</b>	\$10,000	\$500

Aggregate Limit - \$50,000 for all Claims notified to the Underwriting Manager during the Policy Period.

**SECTION C – BOARD MEMBERS TRAVEL ACCIDENT**

As Per Attached: BMTA-NP – Board Members Travel Accident Additional Declarations

These Declarations along with the completed and signed **Application** and the Policy with endorsements, if any, shall constitute the entire contract between the **Corporation**, the **Insureds** and the **Insurer**. **THIS POLICY CONTAINS CLAUSES WHICH MAY LIMIT THE AMOUNT PAYABLE**

In witness whereof, the **Insurer** has caused this Policy to be signed by its authorized officer.

**SOUTH WESTERN INSURANCE GROUP LIMITED.**

Per



**John A. Barclay, President & CEO**

**THIS IS A CLAIMS MADE POLICY – PLEASE READ CAREFULLY**

EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD.

## LIST OF SUBSCRIBING COMPANIES

Attached to and forming part of Policy Number: **SWG1016688**

Insurer(s)	Sum Insured	Premium
Effected with Certain Lloyd's Underwriters as evidenced by Contract No. B1921KC000170R	100% Section A	\$1,115
Effected with Certain Lloyd's Underwriters as evidenced by Contract No. B0429BA1700806	100% Section B	\$ 100
Effected with Certain Lloyd's Underwriters as evidenced by Contract No. B1921KC000110S	100% Section C	\$ 435
<b>Total Premium</b>		<b>\$1,650</b>

### SUBSCRIPTION FORM

IN CONSIDERATION OF THE INSURED having paid or agreed to pay to each of the INSURERS named in the List of Subscribing Companies forming part hereof, or to INSURERS whose names are substituted therefore or added thereto by endorsement, hereinafter called 'THE INSURERS', the premium set against its name in the List of Subscribing Companies.

THE INSURERS SEVERALLY AND NOT JOINTLY AGREE, each for the Sum Insured set against its name in the List of Subscribing Companies, (subject to the terms and conditions contained herein or endorsed hereon and which are to be taken as part of this Policy), that if the property insured described in the DECLARATIONS and forms attached hereto, or any part of such property be lost, destroyed or damaged by fire, lightning, or explosion of natural, coal or manufactured gas or such will indemnify THE INSURED against such direct loss or damage. THAT as regards each item of the DECLARATIONS the liability of THE INSURERS individually shall be limited to:

- the proportion of the actual cash value of the property at the time of destruction or damage which the sum set against the name of the individual Insurer in the List of Subscribing Companies, or such other sum as may be substituted therefore by endorsement, bears to the total of the sums respectively set against each item of the Summary of Coverages, or
- that proportion of the interest of THE INSURED in the property which the sum set against the name of the individual Insurer in the List of Subscribing companies, or such other sum as may be substituted therefore by endorsement, bears to the total of the sums respectively set against each item of the Summary of Coverages, or
- the proportion of the sum set opposite the applicable item which the sum set against the name of the individual Insurer in the List of Subscribing Companies, or such other sum as may be substituted therefore by endorsement, bears to the total of the sums respectively set against each item of the Summary of Coverages.

Whichever is the least.

It being further agree that if any of the insured property is necessarily removed from the location(s) specified in the DECLARATIONS to prevent loss or damage thereto, that part of the insured under this Policy that exceed the amount of THE INSURERS' liability for any loss already incurred shall, for seven days only, or for the unexpired term of the Policy if less than seven days, cover the property remaining in the location(s) specified herein the proportions which the value of the property in each of the respective locations bears to the value of the property in them all.

If this policy contains a Co-Insurance Clause or a Guaranteed Amount (Stated Amount) Clause and subject always to the limit of liability of each insurer as set forth in the List of Subscribing Companies, no Insurer shall be liable for a greater proportion of any loss or damage to the property described in the DECLARATIONS, than the Sum Insured by such Insurer bears to:

the percentage, stated in the DECLARATIONS as being the Co-Insurance percentage, of the actual cash value of the said property at the time of loss, or the Guaranteed Amount (Stated Amount) of total insurance stated in the Guaranteed Amount (Stated Amount) Clause, as the case may be.

If the insurance under this Policy is divided into two or more items, the foregoing shall apply to each item separately.

Wherever in the Policy or in any Form or endorsement attached hereto reference is made to 'The Company', 'The Insurer', or 'This Company', reference shall be deemed to have been made to each of the Insurers severally.

This Policy is made and accepted subject to the foregoing provisions and to the provisions, stipulations and conditions contained in the Policy, which are hereby specially referred to and made a part of this Policy, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto. No term or condition of this Policy shall be deemed to be waived by THE INSURERS in whole or in part unless the waiver is clearly expressed in writing signed by the person(s) authorized for that purpose by THE INSURERS.

In Witness Whereof THE INSURERS through their representative(s) duly authorized by them for that purpose have executed and signed this Policy.

### CANCELLATION AGREEMENT

The undersigned Insured named in this Policy hereby acknowledges the cancellation thereof effective as of \_\_\_\_\_, at 12:01 a.m. Standard Time at the Insured's address stated in the DECLARATIONS and agrees that all liability of the Insurer(s) thereunder with respect to accident, losses, or damage occurring on and after that date is hereby terminated.

\_\_\_\_\_  
Loss Payee

\_\_\_\_\_  
Insured

	Laws and Jurisdiction
LMA5180	Intention For AIF To Bind Clause
LMA3100	Sanction Limitation and Exclusion Clause
LMA5185	Insure in Canada A Risk
NMA 2920	Terrorism Exclusion Endorsement
LMA5028	Service of Suit Clause (Canada)
NMA 464	War and Civil War Exclusion Clause
NMA 2802	Electronic Date Recognition Exclusion (EDRE)
NMA 1978	Nuclear Incident Exclusion Clause – Liability Direct (Broad) Canada
LSW-1001	Several Liability Notice
AS625-03	Asbestos Exclusion 2003 (International)
LSW1543C	Notice Concerning Personal Information
LSW1542F	Lloyd's Underwriters' Policyholders' Complaint Protocol
LSW1565C	Code of Consumer Rights and Responsibilities
LYDSTAT	Statutory Conditions and General Conditions

#### **Laws and Jurisdiction**

This insurance will be governed by and interpreted pursuant to the laws of a Canadian province and territory as determined by the relevant Insurance Act(s). Any dispute arising hereunder shall be submitted to the exclusive jurisdiction of the Court of that province or territory.

#### **Intention for AIF to Bind Clause**

Whereas Lloyd's Underwriters have been granted an order to insure in Canada risks under the Insurance companies Act (Canada) and are registered in all provinces and territories in Canada to carry on insurance business under the laws of these jurisdictions or to transact insurance in these jurisdictions.

And whereas applicants for insurance coverage in respect of risks located in Canada and Canadian Cedants wish that Lloyd's insurance and reinsurance coverage be provided in a manner that requires Lloyd's Underwriters to vest assets in trust in respect of their risks pursuant to the Insurance Companies Act (Canada);

- a) This contract shall be in force and shall be the governing contract pending the decision by Lloyd's Underwriters' attorney and chief agent in Canada (the "AIF") to confirm coverage in accordance with both the terms and conditions set out in this contract and applicable Canadian law;
- b) The AIF shall confirm Lloyd's Underwriters' coverage by signing in Canada a policy that will contain the terms and conditions set out in this contract (the "Canadian Policy"), and by communicating from Canada the issuance of that policy to the policyholder or his broker;
- c) This contract shall cease to have effect upon the communication by the AIF from Canada of the Canadian Policy to the policyholder or his broker, and the Canadian Policy will replace and supersede this contract.

01/11/11

LMA5180

#### **Sanction Limitation and Exclusion Clause**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

15/09/10

LMA3100

#### **Insure in Canada A Risk**

For the purpose of the *Insurance Companies Act* (Canada), this Canadian Policy was issued in the course of Lloyd's Underwriters' insurance business in Canada.

The business insured/reinsured herein meets the necessary conditions to qualify as, and is being transacted as, "insuring in Canada a risk" in accordance with Part XIII of the *Insurance Companies Act* (Canada).

01/11/11

LMA5185

### **Terrorism Exclusion Endorsement**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Insurer alleges that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

All other terms and conditions of the policy remain unchanged.

NMA 2920

### **Service of Suit Clause (Canada)**

#### **(Action against Insurer)**

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact In Canada for Lloyd's Underwriters, whose address for such service is 1155, rue Metcalfe, Suite 2220, Montreal, Quebec, H3B 2V6.

LMA5028

### **War and Civil War Exclusion Clause**

(Approved by Lloyd's Underwriters' Non-Marine Association)

Notwithstanding anything to the contrary contained herein this Policy does not cover Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

NMA-464

### **Electronic Date Recognition Exclusion (EDRE)**

This policy does not cover any loss, damage, cost, claim or expense whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a) the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap year calculations, by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not; or
- b) any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such computer system, hardware-programme or software and/or any microchip, integrated circuit or similar device in computer equipment of non-computer equipment, whether the property of the insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

NMA-2802

### **Nuclear Incident Exclusion Clause – Liability Direct (Broad) Canada**

It is agreed that this Policy does not apply:

- (a) to liability imposed by or arising under the Nuclear Liability Act, law or statute or any law amendatory thereof, nor
- (b) to bodily injury or property damage 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; nor
- (c) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:

- (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured; the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, constructions, maintenance, operation or use of any nuclear facility; and
- (ii) 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 usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

As used in the policy:

1. The term "nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of radioactive material;
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
- 3: The term "nuclear facility" means:
  - (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain 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 or uranium or any one or more of them (ii) processing or utilizing spent fuel, or (iii) 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 grains 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.
4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
5. With respect to property, loss of use of such property shall be deemed to be property damage. It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Clause is subject to the terms, exclusions, conditions and limitations of the insurance to which it is attached.

NMA 1978

#### **Several Liability Notice**

The subscribing Insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

08/94  
LSW-1001

#### **Asbestos Exclusion 2003 (International)**

It is agreed that this Policy shall not apply to liability for any claim arising in connection with handling, removal, stripping out, demolition, storage, transportation or disposal of asbestos and/or any other substance or compound that incorporates asbestos.

It is further agreed that this Policy shall not apply to:

- a) liability directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the inhalation and/or ingestion of or the existence of or exposure to asbestos and/or any other substance or compound that incorporates asbestos;
- b) liability which is a result of the removal from any building and/or structure of asbestos and/or any other substance or compound that incorporates asbestos as a consequence of an actual or alleged health hazard situation;

- c) any obligation to defend any claim or suit against the Insured alleging liability resulting from a) or b) above nor to Insurers' liabilities for defence costs arising therefrom.

AS625-03

## Notice Concerning Personal Information

### How we use your information

By purchasing insurance from certain Underwriters at Lloyd's, London ("Lloyd's"), a customer provides Lloyd's with his or her consent to the collection, use and disclosure of personal information. Consent is subject to the customer's understanding of the nature, purpose and consequences of the collection, use or disclosure of their personal information.

Information is collected and stored for the following purposes:

- the communication with Lloyd's policyholders
- the underwriting of policies
- the evaluation of claims
- the analysis of business results
- purposes required or authorized by law

### What personal information we collect about you

We collect, process and store the following personal information about you:

- Name
- Address including postal code and country
- Policy number
- Claim number
- Credit card details
- Bank account details

We also collect information about you when you visit [www.lloyds.com](http://www.lloyds.com). Further details can be found on our online Privacy & Cookies policy at <http://www.lloyds.com/common/privacy-and-cookies-statement>.

We will not use your personal information for marketing purposes and we will not sell your personal information to other parties.

### Who we disclose your information to

For the purposes identified, personal information may be disclosed to Lloyd's related or affiliated organisations or companies, their agents/mandataires, and to certain non-related or unaffiliated organisations or companies, including service providers. These entities may be located outside Canada therefore a customer's information may be processed in a foreign jurisdiction (the United Kingdom and the European Union) and their information may be accessible to law enforcement and national security authorities of that jurisdiction.

### Disclosure without consent

The following are reasonable grounds to permit the disclosure of personal information without the knowledge or consent of a customer:

- Detecting or suppressing fraud
- Investigating or preventing financial abuse
- For communication with the next of kin or authorized representative of an injured, ill or deceased individual
- Investigating a breach of an agreement or a contravention of the laws of Canada or a foreign jurisdiction
- Witness statement necessary to assess, process or settle insurance claims
- Information produced in the course of employment and the disclosure is consistent with the purpose it was produced for

**How to access your information and/or contact us**

To access and request correction or deletion of your information, or to obtain written information about Lloyd's policies and practices in respect of service providers located outside Canada, please contact the Ombudsman at [info@lloyds.ca](mailto:info@lloyds.ca) . The Ombudsman will also answer customer's questions about the collection, use, disclosure or storage of their personal information by such Lloyd's service providers.

Further information about Lloyd's personal information protection policy may be obtained from the customer's broker or by contacting Lloyd's on: 514 861 8361, 1 877 455 6937, or through [info@lloyds.ca](mailto:info@lloyds.ca).

10/15

LSW1543C

## Lloyd's Underwriters' Policyholders' Complaint Protocol

Lloyd's strives to enhance your customer experience with us through superior service and innovative insurance products. We have developed a formal complaint handling protocol in accordance with the Insurance Companies Act of Canada to ensure your concerns as our valued customer are addressed expeditiously by our representatives. This protocol will assist you in understanding the steps we will undertake to help resolve any dispute which may arise with our product or service. All complaints will be handled in a professional manner. All complaints will be investigated, acted upon, and responded to in writing or by telephone by a Lloyd's representative promptly after the receipt of the complaint. If you are not satisfied with our products or services, you can take the following steps to address the issue:

- Firstly, please contact the broker who arranged the insurance on your behalf about your concerns so that he or she may have the opportunity to help resolve the situation.
- If your broker is unable to help resolve your concerns, we ask that you provide us in writing an outline of your complaint along with the name of your broker and your policy number.

Please forward your complaint to:

### **Lloyd's Underwriters**

Attention: Complaints Officer:

1155 rue Metcalfe, Suite 2220, Montréal (Québec) H3B 2V6

Tel: 1-877-455-6937 - Fax: (514) 861-0470

E-mail: [info@lloyds.ca](mailto:info@lloyds.ca)

Your complaint will be directed to the appropriate business contact for handling. They will write to you within two business days to acknowledge receipt of your complaint and to let you know when you can expect a full response. If need be, we will also engage internal staff in Lloyd's Policyholder and Market Assistance Department in London, England, who will respond directly to you, and in the last stages, they will issue a final letter of position on your complaint.

In the event that your concerns are still not addressed to your satisfaction, you have the right to continue your pursuit to have your complaint reviewed by the following organizations:

**General Insurance OmbudService (GIO):** assists in the resolution of conflicts between insurance customers and their insurance companies. The GIO can be reached at:

Toll free number: 1-877-225-0446

[www.giocanada.org](http://www.giocanada.org)

### **For Quebec clients:**

**Autorité des marchés financiers (AMF):** The regulation of insurance companies in Quebec is administered by the AMF. If you remain dissatisfied with the manner in which your complaint has been handled, or with the results of the complaint protocol, you may send your complaint to the AMF who will study your file and who may recommend mediation, if it deems this action appropriate and if both parties agree to it. The AMF can be reached at

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the FCAC.

**Financial Consumer Agency of Canada (FCAC)** provides consumers with accurate and objective information about financial products and services, and informs Canadians of their rights and responsibilities when dealing with financial institutions. FCAC also ensures compliance with the federal consumer protection laws that apply to banks and federally incorporated trust, loan and insurance companies. The FCAC does not get involved in individual disputes. The FCAC can be reached at:

427 Laurier Avenue West, 6th Floor, Ottawa ON K1R 1B9

Services in English: 1-866-461-FCAC (3222)

Services in French: 1-866-461-ACFC (2232)

[www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca)

09/14

LSW1542F

## Code of Consumer Rights and Responsibilities

Insurers (including Lloyd's Underwriters), along with the brokers and agents who sell home, auto and business insurance are committed to safeguarding your rights both when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your insurer and the insurance laws of your province. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to your insurer. Your policy outlines other important responsibilities. Insurers and their distribution networks, and governments also have important roles to play in ensuring that your rights are protected.

### **Right to Be Informed**

You can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how insurers calculate price based on relevant facts. Under normal circumstances, insurers will advise an insurance customer or the customer's intermediary of changes to, or the cancellation of a policy within a reasonable prescribed period prior to the expiration of the policy, if the customer provides information required for determining renewal terms of the policy within the time prescribed, which could vary by province, but is usually 45 days prior to expiry of the policy.

You have the right to ask who is providing compensation to your broker or agent for the sale of your insurance. Your broker or agent will provide information detailing for you how he or she is paid, by whom, and in what ways.

You have a right to be told about insurers' compensation arrangements with their distribution networks. You have a right to ask the broker or agent with whom you deal for details of how and by whom it is being paid. Brokers and agents are committed to providing information relating to ownership, financing, and other relevant facts.

### **Responsibility to Ask Questions and Share Information**

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through one-on-one meetings with your broker or agent. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your broker or agent of any change in your circumstances.

### **Right to Complaint Resolution**

Insurers, their brokers and agents are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access Lloyd's Underwriters' complaint resolution process for Canada. Your agent or broker can provide you with information about how you can ensure that your complaint is heard and promptly handled. Consumers may also contact their respective provincial insurance regulator for information. Lloyd's is a member of an independent complaint resolution office, the General Insurance OmbudService.

### **Responsibility to Resolve Disputes**

You should always enter into the dispute resolution process in good faith, provide required information in a timely manner, and remain open to recommendations made by independent observers as part of that process.

### **Right to Professional Service**

You have the right to deal with insurance professionals who exhibit a high ethical standard, which includes acting with honesty, integrity, fairness and skill. Brokers and agents must exhibit extensive knowledge of the product, its coverages and its limitations in order to best serve you.

### **Right to Privacy**

Because it is important for you to disclose any and all information required by an insurer to provide the insurance coverage that best suits you, you have the right to know that your information will be used for the purpose set out in the privacy statement made available to you by your broker, agent or insurance representative. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada's privacy laws - with respect to their business in Canada.

## Statutory Conditions and General Conditions

Please refer to the Statutory Conditions and/or General Conditions applicable to your Province(s)/Territory(ies)

- All provinces/Territories except Alberta, British Columbia and Quebec
- Alberta
- British Columbia
- Quebec

### **Statutory Conditions (For all provinces except Alberta, British Columbia and Quebec)**

The **Statutory Conditions** apply to the peril of fire and as modified or supplemented by riders or endorsements attached apply as Policy Conditions to all other perils insured in this Policy.

#### **1. Misrepresentation**

Where a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate a circumstance which is material to be made known to the Insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

#### **2. Property of Others**

Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured is stated in the contract.

#### **3. Change of Interest**

The Insurer shall be liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act (Canada) or change of title by succession, by operation of law or by death.

#### **4. Material Change**

A change material to the risk and within the control and knowledge of the Insured shall void the contract as the part affected by it, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion of the premium paid and cancel the contract, or may notify the Insured in writing that, if the Insured desires the contract to continue in force, the Insured shall, within 15 days of the receipt of the notice pay to the Insurer an additional premium; and in default of the payment the contract shall no longer be in force and the Insurer shall return the unearned portion of the premium paid.

#### **5. Termination**

- (1) This contract may be terminated.
  - (a) by the Insurer giving to the Insured 15 days' notice of termination by registered mail or five days written notice of termination personally delivered;
  - (b) by the Insured at any time on request.
- (2) Where this contract is terminated by the Insurer,
  - (a) the Insurer shall refund the excess of premium actually paid by the Insured over the proportional premium for the expired time, but, in no event shall the proportional premium for the expired time be considered to be less than any minimum retained premium specified; and
  - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be considered to be less than a minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or by cheque payable at par.

(5) The 15 days mentioned in clause (1) (a) of this condition start to run on the day following the receipt of the registered letter at the post office to which it is addressed.

## **6. Requirements After Loss**

- (1) Upon the occurrence of a loss of or damage to the insured property, the Insured shall, where the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
- (a) forthwith give notice of the loss or damage in writing to the Insurer;
  - (b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
    - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
    - (ii) stating when and how the loss occurred, and where caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes,
    - (iii) stating that the loss did not occur through a wilful act or neglect or the procurement, means or connivance of the Insured,
    - (iv) showing the amount of other insurances and the names of other insurers,
    - (v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
    - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
    - (vii) showing the place where the property insured was at the time of loss:
  - (c) where required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
  - (d) where required, and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
- (2) The evidence furnished under clauses 1 (c) and (d) of this condition shall not be considered proof of loss within the meaning of conditions 12 and 13.

## **7. Fraud**

A fraud or a wilfully false statement in a statutory declaration in relation to the above particulars, shall vitiate the claim of the person making the declaration.

## **8. Who May Give Notice and Proof**

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

## **9. Salvage**

- (1) The Insured, in the event of any loss or damage to the property insured under the contract, shall take all reasonable steps to prevent further damage to the property so damaged and to prevent damage to other property insured under the contract including, where necessary, its removal to prevent damage or further damage to the property.
- (2) The Insurer shall contribute proportionally towards reasonable and proper expenses in connection with steps taken by the Insured and required under subparagraph (1) of this condition according to the respective interest of the parties.

**10. Entry, Control, Abandonment**

After loss or damage to insured property, the Insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer shall not be entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.

**11. Appraisal**

In the event of a disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the Insurance Contracts Act before there can be a 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 for an appraisal is made in writing and until after proof of loss has been delivered.

**12. When Loss Payable**

The loss shall be payable within 60 days after completion of the proof of loss, unless the contract provides for a shorter period.

**13. Replacement**

- (1) The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention to do so within 30 days after receipt of the proof of loss.
- (2) In that event the Insurer shall start to repair, rebuild, or replace the property within 45 days after receipt of the proofs of loss, and shall after that time proceed with all due diligence to the completion of the property.

**14. Action**

Every action or proceeding against the Insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within 1 year next after the loss or damage occurs.

**15. 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 the contract by letter personally delivered to him or her or by registered mail addressed to him or her at his or her latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

## **Statutory Conditions (applicable in the Province of Alberta)**

Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of Alberta. (**Statutory Conditions** 1 and 6 to 13 apply only to contracts that include insurance against loss or damage to property).

### **1. Misrepresentation**

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

### **2. Property of Others**

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

### **3. Change of Interest**

The insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy and Insolvency Act (Canada) or a change of title by succession, by operation of law or by death.

### **4. Material Change in Risk**

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
  - (a) material to the risk, and
  - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
  - (a) terminate the contract in accordance with Statutory Condition 5, or
  - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3)(b) of this condition, the contract is terminated at that time and Statutory Condition 5(2)(a) applies in respect of the unearned portion of the premium.

### **5. Termination of Insurance**

- (1) The contract may be terminated
  - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
  - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
  - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the

contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.

- (4) The 15-day period referred to in subparagraph (1)(a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

## **6. Requirements After Loss**

- (1) On the happening of any loss or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
- (a) immediately give notice in writing to the insurer,
  - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration
    - (i) giving a complete inventory of that property and showing in detail quantities and costs of that property and particulars of the amount of loss claimed,
    - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
    - (iv) stating the amount of other insurances and the names of other insurers,
    - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
    - (vii) stating the place where the insured property was at the time of loss,
  - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - (d) if required by the insurer and if practicable,
    - (i) produce books of account and inventory lists,
    - (ii) furnish invoices and other vouchers verified by statutory declaration, and
    - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1)(c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

## **7. Fraud**

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

## **8. Who May Give Notice and Proof**

Notice of loss under Statutory Condition 6(1)(a) may be given and the proof of loss under Statutory Condition 6(1)(b) may be made

- (a) by the agent of the insured if
- (i) the insured is absent or unable to give the notice or make the proof, and
  - (ii) the absence or inability is satisfactorily accounted for, or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so, or in the circumstances described in clause (a) of this condition.

**9. Salvage**

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**10. Entry, Control, Abandonment**

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
  - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
  - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

**11. In Case of Disagreement**

- (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the Insurance Act whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
  - (i) a specific demand is made for it in writing, and
  - (ii) the proof of loss has been delivered to the insurer.

**12. When Loss Payable**

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**13. Repair or Replacement**

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss and must proceed with all due diligence to complete the work within a reasonable time.

**14. Notice**

- (i) 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.
- (ii) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

## **Statutory Conditions (applicable in the Province of British Columbia)**

Subject to certain exceptions set out in the Insurance Act and regulations thereunder, the Statutory Conditions are deemed to be part of every contract of insurance in force in the province of British Columbia. (**Statutory Conditions 1 and 6 to 13** apply only to contracts that include insurance against loss or damage to property).

### **1. Misrepresentation**

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

### **2. Property of Others**

The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- (a) otherwise specifically stated in the contract, or
- (b) the interest of the insured in that property is stated in the contract.

### **3. Change of Interest**

The insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy and Insolvency Act (Canada) or a change of title by succession, by operation of law or by death.

### **4. Material Change in Risk**

- (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
  - (a) material to the risk, and
  - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may terminate the contract in accordance with Statutory Condition 5, or notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3)(b) of this condition, the contract is terminated at that time and Statutory Condition 5(2)(a) applies in respect of the unearned portion of the premium.

### **5. Termination of Insurance**

- (1) The contract may be terminated
  - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
  - (b) by the insured at any time on request.
- (2) If the contract is terminated by the insurer,
  - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the

contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.

- (4) The 15-day period referred to in subparagraph (1)(a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

## **6. Requirements after loss**

- (1) On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
- (a) immediately give notice in writing to the insurer,
  - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
    - (i) giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,
    - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
    - (iv) stating the amount of other insurances and the names of other insurers,
    - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
  - (c) detail quantities and cost of that property, and
  - (d) if required by the insurer and if practicable,
    - (i) produce books of account and inventory lists,
    - (ii) furnish invoices and other vouchers verified by statutory declaration, and
    - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

## **7. Fraud**

Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

## **8. Who may give notice and proof**

Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made

- (a) by the agent of the insured, if
- (i) the insured is absent or unable to give the notice or make the proof, and
  - (ii) the absence or inability is satisfactorily accounted for, or
- (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

## **9. Salvage**

- (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**10. Entry, control, abandonment**

After loss or damage to insured property, the insurer has

- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
  - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
  - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

**11. In case of disagreement**

- (a) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the Insurance Act, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (b) There is no right to a dispute resolution process under this condition until
  - (i) a specific demand is made for it in writing, and
  - (ii) the proof of loss has been delivered to the insurer.

**12. When loss payable**

Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**13. Repair or replacement**

- (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

**14. Notice**

- (1) 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.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

## General Conditions

This policy is subject to the Civil Code of the Province of Quebec.

Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.

For all coverages except where inapplicable.

### 1. STATEMENTS

#### 1.1 Representation of risk (Article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

#### 1.2 Material change in risk (Articles 2466 and 2467)

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

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

#### 1.3 Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

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

#### 1.4 Warranties (Article 2412)

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

### 2. GENERAL PROVISIONS

#### 2.1 Insurable interest (Articles 2481 and 2484)

(Applicable only to property insurance)

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

#### 2.2 Changes (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

#### 2.3 Assignment (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

#### 2.4 Books and records

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

## **2.5 Inspection**

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

## **2.6 Currency**

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

# **3. LOSSES**

## **3.1 Notice of loss (Article 2470)**

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

## **3.2 Information to be provided (Article 2471)**

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

## **3.3 False representation (Article 2472)**

Any deceitful representation entails the loss of the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

## **3.4 Intentional Fault (Article 2464)**

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

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

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

## **3.5 Notice to police (applicable to property insurance only)**

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

## **3.6 Safeguarding and examination of property (Article 2495)**

(applicable to property insurance only)

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

### **3.7 Admission of liability and cooperation**

The Insured shall cooperate with the Insurer in the processing of all claims.

(The following two paragraphs are applicable to liability insurance only: article 2504)

No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk.

### **3.8 Right of action (Article 2502)**

(applicable to liability insurance only)

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

## **4. COMPENSATION AND SETTLEMENT**

### **4.1 Basis of settlement (Articles 2490, 2491, 2493)**

(applicable to property insurance only)

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity in the event of partial loss.

### **4.2 Pair and set (applicable to property insurance only)**

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

### **4.3 Parts (applicable to property insurance only)**

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

### **4.4 Replacement (Article 2494)**

(applicable to property insurance only)

Subject to the rights of preferred and hypothecary creditors, the Insurer reserves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

### **4.5 Time of payment (Articles 1591, 2469 and 2473)**

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

### **4.6 Property of others (applicable to property insurance only)**

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

### **4.7 Waiver**

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

#### **4.8 Limitation of actions (Article 2925)**

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

#### **4.9 Subrogation (Article 2474)**

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

### **5. OTHER INSURANCE**

#### **5.1 Property insurance (Article 2496)**

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

#### **5.2 Liability insurance**

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

- **Contribution by equal share:**

If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

- **Contribution by limits:**

If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

### **6. CANCELLATION (Articles 2477 and 2479)**

This policy may be cancelled at any time:

- a. By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.
- b. By the Insurer giving written notice to each Named Insured. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro-rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative, but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

**7. NOTICE**

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

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



# DNPE-100 - NON-PROFIT MANAGEMENT AND CORPORATE LIABILITY INSURANCE POLICY

**IN CONSIDERATION OF** the payment of the premium, and in reliance upon all statements made and information furnished to the **Insurer** including the statements made in the **Application** and subject to all the terms, conditions and limitations of this Policy, the **Insurer** agrees as follows:

## I INSURING AGREEMENT

---

The **Insurer** shall pay on behalf of the **Insureds** all **Loss** they are legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Discovery Period**, if exercised, and reported to the **Insurer** pursuant to the terms of this Policy for any **Wrongful Act**.

## II DEFINITIONS

---

Whenever appearing in this Policy, words and phrases appearing in **bold type** shall have the meanings set forth below. These Definitions apply to the singular and the plural of these terms as circumstances and context require.

**Application** means all signed application forms, including attachments and materials requested therein or submitted therewith, for this Policy or for any policy of which this Policy is a direct or indirect renewal or replacement. All such application forms, attachments and materials are deemed attached to and incorporated into this Policy.

**Claim** means:

- (i) a written demand for monetary damages or non-monetary relief;
- (ii) a civil proceeding commenced by the issuance of a notice of action, statement of claim, writ of summons, complaint or similar pleading;
- (iii) a criminal proceeding commenced by the laying of an information or the return of an indictment or similar legal document;
- (iv) a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar legal document; or
- (v) an arbitration proceeding commenced by receipt of a notice to appoint an arbitrator, an arbitration petition or similar document,

against any **Insured** for a **Wrongful Act**, including any appeal therefrom. A **Claim** shall be deemed to have been first made at the earliest date upon which written notice thereof, or a copy of the **Claim**, was personally received by any **Insured** or received by the **Corporation** by any means including personal delivery, facsimile transmission or email.

**Corporation** means the **Parent Corporation** and any **Subsidiary**.

**Defence Costs** means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to legal fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Insurer** or **Corporation**) incurred solely in defending or investigating **Claims**, and the premium for appeal, attachment or similar bonds.

**Discovery Period** means the period described in Section III, Discovery Period.

**Domestic Partner** means any natural person qualifying as a domestic partner under the provisions of any applicable federal, provincial, territorial, state or local law or under the provisions of any formal program established by the **Corporation**.

**Employment Practices Wrongful Act** means any actual or alleged:

- (i) wrongful dismissal, discharge or termination of employment, either actual or constructive, including breach of any written, oral or implied contract of employment;
- (ii) employment-related misrepresentation;
- (iii) sexual or workplace harassment of any kind;
- (iv) discrimination;
- (v) employment-related libel, slander, humiliation, or invasion of privacy;
- (vi) wrongful failure to employ or promote;
- (vii) wrongful discipline;
- (viii) wrongful demotion;
- (ix) wrongful deprivation of career opportunity including a wrongful failure to hire or promote;
- (x) negligent evaluation;
- (xi) retaliation;
- (xii) failure to grant tenure; or

(xiii) failure to provide or enforce adequate workplace or employment policies and procedures relating to (i) through (xii) above,

but only if the **Employment Practices Wrongful Act** relates to an **Insured Person** or to an applicant for employment with the **Corporation**.

**Executive** means any natural person who was, now is or shall be a duly elected or appointed director, officer, trustee, member of the board of managers or member of any duly constituted committee.

**Financial Impairment** means the status of the **Corporation** resulting from: (i) the appointment by any federal, provincial, territorial or state official, agency or court of any receiver, conservator, liquidator, trustee, rehabilitator or similar official to take control of, supervise, manage or liquidate the **Corporation**; (ii) the appointment of any agent, receiver and/or receiver and manager by a creditor exercising its rights pursuant to a written instrument; (iii) a reorganization proceeding relating to the **Corporation** that has been brought in Canada under the Companies' Creditors Arrangement Act, R.S.C. 1985, c.C-36, or similar federal, provincial, territorial or state legislation; or (iv) the **Corporation** becoming a debtor in possession, as such term is used in Chapter 11 of the United States of America Bankruptcy Code.

**Indemnified Loss** means:

- (i) **Loss** which the **Corporation** becomes legally obligated to pay as a result of **Claims** made against the **Corporation**; and
- (ii) **Loss** for which the **Corporation** grants indemnification to any **Insured Person**,

provided that any **Employment Practices Wrongful Act Claim** shall not be considered **Indemnified Loss**.

**Insured** means:

- (i) the **Corporation**; and
- (ii) the **Insured Person**.

**Insured Person** means any natural person who was, now is or shall be an **Executive**, volunteer, or employee of the **Corporation**.

**Insurer** means the insurance companies whose names appear in Item 8 of the Declarations.

**Interrelated Wrongful Acts** means all **Wrongful Acts** that have as a common nexus any fact, circumstance, situation, event, transaction, cause or series of related facts, circumstances, situations, events, transactions or causes.

**Loss** means any damages, judgments, settlements and **Defence Costs**. In the event of the **Financial Impairment** of the **Corporation**, **Loss** shall also include those liabilities of the **Corporation** which the **Corporation** is unable to pay as a result of its **Financial Impairment** for which **Insureds** are liable under the laws of Canada, the laws of any province or territory of Canada, or the laws of any municipality therein, and which any **Insureds** become legally obligated to pay. **Loss** shall not include fines or penalties imposed by any provision of law, statute, rule or regulation, punitive or exemplary damages, the multiplied portion of multiplied damages or matters which may be deemed uninsurable under the law pursuant to which this Policy shall be construed or by which the **Corporation** is governed; provided, however, that **Loss** shall include punitive or exemplary damages that an **Insured** is legally obligated to pay and:

- (i) are awarded in Canada, if insurable under the law pursuant to which this Policy shall be construed; or
- (ii) are awarded in the United States, if insurable under the law pursuant to which this Policy shall be construed, up to an amount not to exceed \$1,000,000.00 each **Policy Period** which shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Declarations.

**Management Control** means:

- (i) owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the board of directors, board of trustees or equivalent governing body of a corporation;
- (ii) having the right, pursuant to written contract or the by-laws, charter, operating agreement or similar documents of the **Corporation**, to elect, appoint or designate a majority of the board of directors, board of trustees or equivalent governing body of a corporation; or
- (iii) the ability to control or direct the managerial decisions of a corporation.

**Non-Indemnifiable Loss** means **Loss** for which the **Corporation** fails or refuses to indemnify an **Insured**:

- (i) because of **Financial Impairment**; or
- (ii) because it is not permitted to indemnify pursuant to law or contract or the by-laws, charter, operating agreement or similar documents of the **Corporation**.

**Non-Profit Corporation** means any non-profit corporation, organization or charity that is incorporated under Part II of the Canada Corporations Act, R.S.C., 1970, c. C-32, or under other similar provisions of any provincial or territorial legislation.

**Outside Entity** means:

- (i) any **Non-Profit Corporation** other than the **Corporation**; or
- (ii) any other corporation or organization listed as an **Outside Entity** in an endorsement to this Policy.

**Outside Entity Executive** means an **Insured Person** serving in the capacity as an **Executive** in any **Outside Entity**, but only during such time that such service is with the knowledge and consent of, at the direction or request of, or part of the duties regularly assigned to the **Insured Person** by, the **Corporation**.

**Parent Corporation** means the entity named in Item 1 of the Declarations.

**Personal Injury Wrongful Act** means any:

- (i) false arrest, wrongful detention or imprisonment or malicious prosecution;
- (ii) libel, slander, defamation of character, or publication of material in violation of a person's right of privacy; or
- (iii) wrongful entry or eviction or other invasion of the right of privacy.

**Policy Period** means the period of time from the inception date shown in Item 2 of the Declarations to the earlier of the expiration date shown in Item 2 of the Declarations or the effective date of cancellation of this Policy.

**Pollutants** means any substance, located anywhere in the world, exhibiting any hazardous characteristics as defined by, or identified on, a list of hazardous substances issued by or pursuant to the Canadian Environmental Protection Act, 1999, c. 33, the United States of America Environmental Protection Agency or any federal, provincial, territorial, state, county, municipal or local counterpart thereof. Such substances shall include, but are not limited to, solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odour, waste water, oil or oil products, infectious or medical waste, asbestos or asbestos products, lead or lead products, silica or silica products, mould of any type, electric or magnetic or electromagnetic field and noise. Waste materials include materials to be recycled, reconditioned or reclaimed.

**Publishers Liability Wrongful Act** means any:

- (i) infringement of copyright or trademark or unauthorized use of title; or
- (ii) plagiarism or misappropriation of ideas.

**Subsidiary** means any **Non-Profit Corporation** in which the **Parent Corporation** has or had **Management Control**, either directly or indirectly through one or more other **Subsidiaries**:

- (i) on or before the inception date of this Policy;
- (ii) after the inception date of this Policy by reason of being created or acquired by the **Parent Corporation** after such date, and whose assets do not exceed 25% of the consolidated assets of the **Corporation** as of the inception date of this Policy; or
- (iii) after the inception date of this Policy by reason of being created or acquired by the **Parent Corporation** after such date, and whose assets exceed 25% of the consolidated assets of the **Corporation** as of the inception date of this Policy, but only: (i) for a period of 90 days from the date upon which it became a **Subsidiary**; or (ii) until the end of the **Policy Period**, whichever occurs first (referred to as the Auto-Subsidiary Period).

The **Insurer** shall extend coverage to any **Subsidiary** described in (iii) above beyond its respective Auto-Subsidiary Period if during such Auto-Subsidiary Period:

- (i) written notice of the acquisition or creation of such **Subsidiary** is given to the **Insurer** by the **Parent Corporation**;
- (ii) the **Parent Corporation** provides the **Insurer** with such information in connection therewith as the **Insurer** may deem necessary;
- (iii) the **Parent Corporation** accepts any special terms, conditions, exclusions or additional premium charge as may be required by the **Insurer**; and
- (iv) the **Insurer**, at its sole discretion, agrees to provide such coverage and confirms such agreement in writing.

A **Non-Profit Corporation** becomes a **Subsidiary** when the **Parent Corporation** acquires **Management Control** of such **Subsidiary**, either directly or indirectly through one or more other **Subsidiaries**. A **Non-Profit Corporation** ceases to be a **Subsidiary** when the **Parent Corporation** ceases to have **Management Control** of such **Subsidiary**, either directly or indirectly through one or more other **Subsidiaries**.

In all events, coverage as is afforded under this Policy with respect to any **Claim** made against any **Insureds** of any **Subsidiary** shall only apply for **Wrongful Acts** committed or allegedly committed after the effective date upon which the **Parent Corporation** acquired **Management Control** of such **Subsidiary** and prior to the date upon which the **Parent Corporation** ceased to have **Management Control** of such **Subsidiary**.

**Third Party Employment Practices Wrongful Act** means, with respect to any natural person other than an **Insured Person** or to an applicant for employment with the **Corporation**, any actual or alleged violation of any federal, provincial, territorial, state or local statutory, civil or common law anywhere in the world, prohibiting any kind of discrimination or harassment, including discrimination or harassment based on gender, religion, age, disability, race, national origin, pregnancy, marital status and sexual orientation, and

including any type of sexual harassment, such as unwelcome sexual advances, requests for sexual favours, or other verbal, visual or physical conduct of a sexual nature, actually or allegedly committed by any of the **Insureds** in their capacity as such.

**Wrongful Act** means:

- (i) any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any **Insured Person** in his or her capacity as such;
- (ii) any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by any **Insured Person** in his or her capacity as an **Outside Entity Executive**;
- (iii) any other matter claimed against an **Insured Person** in (i) or (ii) solely by reason of his or her status as such; or
- (iv) any actual or alleged act, error, omission, misstatement, misleading statement, neglect or breach of duty by the **Corporation**,

including, but not limited to:

- (a) any **Employment Practices Wrongful Act**;
- (b) any **Third Party Employment Practices Wrongful Act**;
- (c) any **Personal Injury Wrongful Act**; or
- (d) any **Publishers Liability Wrongful Act**.

### III EXTENSIONS

---

#### Estates and Legal Representatives

This Policy shall cover **Loss** arising from any **Claims** made against the estates, heirs, legal representatives or assigns of **Insured Persons** who are deceased or against the legal representatives or assigns of **Insured Persons** who are incompetent, insolvent or bankrupt to the extent that in the absence of such death, incompetency, insolvency or bankruptcy, such **Claims** would have been covered by this Policy.

#### Spousal and Domestic Partner Liability

This Policy shall cover **Loss** arising from any **Claims** made against the lawful spouse (whether such status is derived by reason of statutory law, common law or otherwise of any applicable jurisdiction in the world) or **Domestic Partner** of an **Insured Person** for all **Claims** arising solely out of his or her status as the spouse or **Domestic Partner** of such **Insured Person**, including a **Claim** that seeks damages recoverable from marital community property, property jointly held by the **Insured Person** and the spouse or **Domestic Partner**, or property transferred from the **Insured Person** to the spouse or **Domestic Partner**; provided, however, that this extension shall not afford coverage for any **Claim** for any actual or alleged **Wrongful Act** of the spouse or **Domestic Partner**, but shall apply only to **Claims** arising out of any actual or alleged **Wrongful Acts** of an **Insured Person** and shall be subject to the Policy's terms, conditions and exclusions.

#### Discovery Period

If the **Parent Corporation** shall cancel, or the **Parent Corporation** or the **Insurer** shall refuse to renew, this Policy, the **Parent Corporation** shall have the right, upon payment of the additional premium calculated at that percentage set forth in Item 5(A) of the Declarations of the total annual premium for this Policy, to an extension of the coverage granted by this Policy for the period of time set forth in Item 5(B) of the Declarations following the effective date of such cancellation or non-renewal, but only for any **Wrongful Act** committed prior to the effective date of such cancellation or non-renewal. The rights contained in this paragraph shall terminate unless written notice of such election, together with payment of the additional premium due, is received by the **Insurer** within 30 days following the effective date of cancellation or non-renewal.

In the event of a Transaction, as described in paragraph (E) of Section IX, the **Parent Corporation** shall have the right, within 30 days before the end of the **Policy Period**, to request an offer from the **Insurer** of a **Discovery Period** (with respect to **Wrongful Acts** occurring prior to the effective time of the Transaction) for a period of up to 6 years or for such longer period as the **Parent Corporation** may request. The **Insurer** shall offer such **Discovery Period** on such terms, conditions and premium as the **Insurer** may in its sole discretion decide. In the event of a Transaction, the right to a **Discovery Period** shall not otherwise exist except as indicated in this paragraph.

This extension and the rights contained herein shall not apply to any cancellation resulting from non-payment of premium. The entire premium for the **Discovery Period** shall be fully earned at the inception of the **Discovery Period**. This extension, once effected, is not cancellable. The **Discovery Period**, if exercised, shall form part of the **Policy Period** and shall not increase the Limit of Liability of the **Insurer** for the **Policy Period**.

### IV EXCLUSIONS

---

The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:

- (1) based upon, arising out of, or attributable to any litigation or proceeding commenced prior to, or which was pending as of, the inception date of the first policy purchased by the **Corporation** providing coverage of a similar nature to that afforded by this Policy and which has continued through renewal or reinstatement on an uninterrupted basis since its inception, or which arises from matters substantially the same as alleged or established in such litigation or proceeding;
- (2) based upon, arising out of, or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this Policy is a direct or indirect renewal or replacement;
- (3) based upon, arising out of, or attributable to the gaining of any profit, remuneration or advantage to which a judgment or other final adjudication establishes such **Insured** was not legally entitled;
- (4) based upon, arising out of, or attributable to the **Insured** committing any deliberate criminal or deliberate fraudulent or dishonest act, if a judgment or other final adjudication adverse to the **Insured** establishes that such deliberate criminal or deliberate fraudulent or dishonest act was committed;
- (5) based upon, arising out of, or attributable to the rendering of, or failure to render, any professional services by or on behalf of the **Corporation** for the benefit of any other entity or person, either gratuitously or for a fee;
- (6) for bodily injury, sickness, mental anguish, emotional distress, humiliation, disease or death of any person, or damage to or destruction of any tangible property including loss of use thereof. However, this exclusion shall not apply to any **Employment Practices Wrongful Act Claim** or **Third Party Employment Practices Wrongful Act Claim** in respect of mental anguish, emotional distress or humiliation;
- (7) which is brought by or on behalf of any other **Insured**, in any capacity. However, this exclusion shall not apply to any **Claim**:
  - (i) that is a derivative action brought or maintained on behalf of the **Corporation**, if such action is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of any **Insured Person**, the **Corporation** or any affiliate of the **Corporation**, except for any solicitation, assistance, participation or intervention for which an applicable federal, provincial, territorial, state or local securities law affords "whistleblower" protection to any such **Insured Person**;
  - (ii) brought or maintained by a trustee in bankruptcy of the **Corporation** or an interim receiver appointed pursuant to the provisions of the Bankruptcy and Insolvency Act, R.S.C. 1985, c.B-3, a liquidator appointed pursuant to the provisions of the Winding-up and Restructuring Act, R.S.C. 1985, c.W-11, or a receiver or receiver and manager appointed pursuant to the Courts of Justice Act, R.S.O. 1990, c.C.43, or pursuant to other similar federal, provincial, territorial or state legislation;
  - (iii) brought by any **Executive** of the **Corporation** who has not served as a duly elected or appointed **Executive** of the **Corporation** for at least 4 years preceding the date upon which the **Claim** is first made;
  - (iv) brought by any **Insured Person** where such **Claim** is in the form of a crossclaim, third party claim or otherwise, for contribution or indemnity which is part of, and results directly from, a **Claim** which is not otherwise excluded by the terms of this Policy;
  - (v) brought by any **Insured Person** who is not an **Executive** of the **Corporation** for a **Wrongful Act**; or
  - (vi) brought by any **Insured Person** of the **Corporation** for an **Employment Practices Wrongful Act**;
- (8) for any **Wrongful Act** arising out of an **Insured Person** serving as an **Outside Entity Executive**, if such **Claim** is brought by the **Outside Entity** or any **Executive** thereof. However, this exclusion shall not apply to any **Claim** that is a derivative action brought or maintained on behalf of the **Outside Entity**, if such action is brought and maintained independently of, and without the solicitation, assistance, participation or intervention of any **Executive** of the **Outside Entity**, the **Outside Entity** or any affiliate of the **Outside Entity** except for any solicitation, assistance, participation or intervention for which an applicable federal, provincial, territorial, state or local securities law affords "whistleblower" protection to any such **Executive** of the **Outside Entity**;
- (9) based upon, arising out of, or attributable to an **Insured Person** acting in any capacity for or on behalf of any entity other than the **Corporation** or an **Outside Entity**;
- (10) for any actual or alleged violation of the responsibilities, obligations or duties imposed by the Canada Pension Benefits Standards Act, R.S.C. 1985, c. 32 (2<sup>nd</sup> Supp.), the Ontario Pension Benefits Act, R.S.O. 1990, c. P.8, the Employee Retirement Income Security Act of 1974 of the United States of America and amendments thereto (or any regulations promulgated thereunder) or by similar provisions of any federal, provincial, territorial, state or local statutory, civil or common law;
- (11) based upon, arising out of, or attributable to any actual or alleged nuclear reaction, nuclear radiation, radioactive contamination, or radioactive substance, or the hazardous properties of nuclear or radioactive material;
- (12) based upon, arising out of, or attributable to:
  - (i) the actual, alleged or threatened discharge, dispersal, release, escape, seepage, migration or disposal of **Pollutants** into, in or on real or personal property, water or the atmosphere; or
  - (ii) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**;

However, this exclusion shall not apply to:

- (a) any **Employment Practices Wrongful Act Claim** arising from an employee's actual or threatened disclosure of the matters described in this exclusion; or
- (b) **Defence Costs** for any **Non-Indemnifiable Loss** which is on account of any **Claim** first brought, commenced and conducted within the territorial limits and jurisdiction of Canada.

(13) based upon, arising out of, or attributable to any actual or alleged breach of any oral, written or implied contract or agreement, or for liabilities of others assumed by the **Insured** under any such contract or agreement. However, this exclusion shall not apply to:

- (i) the extent the **Insured** would have been liable in the absence of such contract or agreement; or
- (ii) **Defence Costs** based upon, arising out of, or attributable to an **Employment Practices Wrongful Act**.

**SEVERABILITY OF EXCLUSIONS:** With respect to the exclusions of this Policy, no fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person** to determine if coverage is available. Only facts pertaining to or knowledge possessed by any director, officer or trustee of the **Corporation** shall be imputed to the **Corporation** for purposes of applying any exclusions of this Policy.

## V LIMIT OF LIABILITY / DEDUCTIBLE

---

- (A) The Limit of Liability stated in Item 3 of the Declarations is the maximum aggregate liability of the **Insurer** for all **Loss** with respect to all **Claims** first made against the **Insureds** in each **Policy Period**, including the **Discovery Period**, if exercised.
- (B) The **Insurer** shall pay **Defence Costs** in addition to the Limit of Liability.
- (C) All obligations of the **Insurer** arising from this Policy shall terminate if the Limit of Liability stated in Item 3 of the Declarations has been exhausted by payment of **Loss** in respect of a **Claim**, or aggregation of **Claims** covered under this Policy.
- (D) All **Claims** arising out of the same **Wrongful Act** or **Interrelated Wrongful Acts** shall be deemed one **Claim**, and such **Claim** shall be deemed to have been first made on the date the earliest of such **Claims** was first made against any **Insured**, regardless of whether such date was before or during the **Policy Period**.
- (E) The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Deductible stated in Item 4 of the Declarations; provided, however, no Deductible shall apply to that portion of **Loss** which consists of **Defence Costs** for **Claims** first brought before a court of law having jurisdiction within the territorial limits of Canada. Such Deductible shall be borne by the **Insureds** and/or the **Corporation** uninsured and at their or its own risk. A single Deductible amount shall apply to **Loss** arising from all **Claims** alleging the same **Wrongful Act** or **Interrelated Wrongful Acts**.

## VI DEFENCE AND SETTLEMENT

---

- (A) The **Insurer** shall have the right and the duty to defend, with respect to such insurance as is afforded by this Policy, any **Claim** made against the **Insureds**, even if such **Claim** is groundless, false or fraudulent; provided, however, that the **Insurer** shall not be obligated to defend or to continue to defend any **Claim** after the Limit of Liability under this Policy has been exhausted by payment of **Loss**, excluding **Defence Costs**.
- (B) The **Insureds** agree not to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim**, without the **Insurer's** written consent, which shall not be unreasonably withheld. The **Insurer** shall not be liable for any settlement, **Defence Costs**, assumed obligation or admission to which it has not consented.

Notwithstanding the above, the **Insureds** may settle any **Claim** without prior written consent from the **Insurer**, provided that: (i) the total amount of **Loss** and **Defence Costs** is less than the remaining Deductible; and (ii) such settlement fully resolves the **Claim** with respect to all **Insureds** and the **Insurer**.

The **Insurer** may make any settlement of any **Claim** it deems expedient subject to the written consent of the involved **Insureds**. If any such **Insured** withholds consent to such settlement, the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed:

- (i) the amount for which the **Insurer** could have settled such **Claim** plus **Defence Costs** incurred as of the date such settlement was proposed in writing by the **Insurer**; plus
- (ii) 75% of any **Loss** and/or **Defence Costs** in excess of the amount in clause (i) above, incurred in connection with such **Claim**. The remaining 25% of **Loss** and/or **Defence Costs** in excess of the amount in clause (i) above shall be borne by the **Insured** and/or **Corporation** uninsured and at their or its own risk,

provided that the Limit of Liability of the **Insurer** for such **Claim** shall not exceed the remaining applicable Limit of Liability.

## VII ALLOCATION

---

If, in any **Claim**, the **Insured** incurs both **Loss** that is covered under this Policy and loss that is not because such **Claim** includes covered and non-covered matters or parties, the **Insured** and the **Insurer** shall allocate such amounts as follows:

- (a) 100% of all **Defence Costs** shall be allocated to covered **Loss** and shall be advanced by the **Insurer** on a current basis. However, no **Defence Costs** shall be allocated to the **Corporation** to the extent the **Corporation** is unable to pay by reason of its **Financial Impairment**. This allocation shall be the final and binding allocation of such **Defence Costs** and shall not apply to or create any presumption with respect to the allocation of any other **Loss**;
- (b) with respect to **Loss**, other than **Defence Costs**, the **Insured** and the **Insurer** shall allocate such amounts based upon the relative legal and financial exposures of the parties to such matters, and in the event of a settlement in such **Claim**, based also on the relative benefits to the parties from such settlement. The **Insurer** shall not be liable for the portion of such amount allocated to non-covered loss. If the **Insured** and the **Insurer** cannot agree on an allocation, no presumption as to the allocation shall exist in any arbitration, suit or other proceeding.

## VIII NOTICE OF CLAIM

---

- (A) The **Insureds** shall, as a condition precedent to their rights under this Policy, give written notice to the **Insurer** of a **Claim** as soon as practicable after an **Executive** of the **Corporation** first becomes aware of such **Claim**, but in no event later than 60 days after expiration of the **Policy Period** or **Discovery Period**, if exercised, in which the **Claim** was first made.
- (B) If during the **Policy Period** or **Discovery Period**, if exercised, the **Insureds** first become aware of any facts or circumstances which may reasonably be expected to give rise to a **Claim** and during such period give written notice to the **Insurer** of the facts or circumstances and the reasons for anticipating such a **Claim**, with full particulars as to dates, events, persons and entities involved, then any **Claim** which is subsequently made against the **Insureds** and reported to the **Insurer** alleging, based upon, arising out of, or attributable to such facts or circumstances, or alleging any **Interrelated Wrongful Acts**, shall, for the purpose of this Policy, be treated as a **Claim** made during the **Policy Period** in which such notice was given.
- (C) 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:  
South Western Insurance Group Ltd.  
1.855.801.0299  
swgclaims@scm.ca

## IX GENERAL CONDITIONS

---

- (A) **Policy Territory:** This Policy applies to **Wrongful Acts** committed by the **Insured**, or to **Claims** brought, anywhere in the world.
- (B) **Presumption of Indemnification:** If the **Corporation** fails or refuses to indemnify an **Insured Person** for **Loss**, other than **Non-Indemnifiable Loss**, or to advance **Defence Costs** to the fullest extent permitted by law, then any payment by the **Insurer** of such **Loss** or such **Defence Costs**, shall be subject to the Deductible stated in Item 4 of the Declarations applicable to **Indemnifiable Loss**.
- (C) **Representations and Severability Clause:** In granting coverage under this Policy, it is agreed that the **Insurer** has relied upon the statements and representations contained in the **Application** for this Policy, a copy of which is deemed attached hereto, as being true, accurate and complete. All such statements and representations are the basis of this Policy and are to be considered as incorporated into this Policy. With respect to such statements and representations, no knowledge or information possessed by any **Insured Person** shall be imputed to any other **Insured Person** for the purposes of determining if coverage is available. However, all statements and representations contained in the **Application** for this Policy, and knowledge possessed by any director, officer or trustee of the **Corporation**, shall be imputed to the **Corporation** for the purpose of determining if coverage is available in favour of the **Corporation**. Nothing in this paragraph shall be construed to increase the **Insurer's** maximum liability as set forth in Section V of this Policy.
- (D) **Cooperation and Subrogation:** In the event of a **Claim**, the **Insureds** agree to provide the **Insurer** with all information, assistance and cooperation that the **Insurer** reasonably requests, and will do nothing that may prejudice the **Insurer's** position or potential or actual rights of recovery. In the event of any payment under this Policy, the **Insurer** shall be subrogated to all of the **Insureds'** rights of recovery against any person or organization to the extent of such payment and the **Insureds** shall execute all papers required and do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the **Insurer** effectively to bring suit in its or their name(s). In no event, however, shall the **Insurer** subrogate against any **Insured Person** under this Policy, unless such **Insured Person** has been convicted of a criminal act, or been determined by a judgment or other final

adjudication to have committed a fraudulent or dishonest act, or determined by a judgment or other final adjudication to have obtained any profit or advantage to which such **Insured Person** was not legally entitled.

Any recovery (after payment of expenses incurred to obtain such recovery), whether effected by the **Insurer** or by the **Insured**, shall be applied first to the satisfaction of the **Insured's** loss which would otherwise have been paid but for the fact that it is in excess of the Limit of Liability stated in Item 3 of the Declarations, secondly, to the **Insurer** to reduce the **Loss** ultimately borne by the **Insurer** to what it would have been had the recovery preceded any payment of such **Loss** by the **Insurer**, and thirdly, to the **Insured** in satisfaction of the applicable Retention stated in Item 4 of the Declarations.

The obligations of the **Insureds** under this subsection will survive the termination or expiry of this Policy.

(E) **Reorganization:** If, during the **Policy Period**:

- (i) the **Parent Corporation** shall consolidate with or merge into another entity such that the **Parent Corporation** is not the surviving entity; or
- (ii) any person or entity, or group of persons or entities acting in concert, shall acquire **Management Control** of the **Parent Corporation**,

(either of the above events herein referred to as the "Transaction"),

coverage under this Policy shall continue until termination of this Policy, but only with respect to **Claims** for **Wrongful Acts** committed, attempted, or allegedly committed or attempted, by the **Insureds** prior to the effective time of the Transaction.

The **Parent Corporation** or any **Insured** shall give written notice to the **Insurer** of the Transaction as soon as practicable, but in no event later than 30 days after the effective date of the Transaction. The full annual premium for the **Policy Period** shall be deemed fully earned immediately upon the occurrence of the Transaction and the Policy may not be cancelled. The **Parent Corporation** shall also have the right to request an offer from the **Insurer** of a **Discovery Period**.

(F) **Termination of Policy:** This Policy shall terminate at the earliest of the following times:

- (i) upon receipt by the **Insurer** of a written notice of cancellation from the **Parent Corporation**; provided that this Policy may not be terminated by the **Parent Corporation** after the effective date of a Transaction;
- (ii) upon expiration of the **Policy Period** as set forth in Item 2 of the Declarations of this Policy;
- (iii) 20 days after receipt by the **Parent Corporation** of the **Insurer's** notice of cancellation due to non-payment of premium; or
- (iv) at such other time as may be agreed upon by the **Insurer** and the **Parent Corporation**.

If the Policy is terminated in accordance with item (i) above, the **Insurer** shall refund to the **Parent Corporation** the unearned premium computed at short rate. Short rate shall be pro rata plus 10%, subject to a minimum of 25% of the annual premium. If the Policy is terminated in accordance with item (iii) above, the **Insurer** shall have the right to require payment by the **Parent Corporation** of the premium amount for the portion of the **Policy Period** during which the Policy was in effect.

Payment or tender of any unearned premium by the **Insurer** shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

(G) **Action Against Insurer:** No action shall lie against the **Insurer** unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this Policy, nor until the amount of the **Insureds'** obligation to pay shall have been finally determined: (a) by judgment against the **Insureds** after actual trial; or (b) by written agreement of the **Insureds**, the claimant and the **Insurer**.

No person or entity shall have any right under this Policy to join the **Insurer** as a party to any action against the **Insured** to determine the liability of the **Insured**, nor shall the **Insurer** be impleaded by the **Insureds** or their legal representatives. Bankruptcy or insolvency of any of the **Insureds**, or of their estates, shall not relieve the **Insurer** of any of its obligations hereunder.

(H) **Other Insurance:** This Policy shall apply only as excess over, and shall not contribute with, any other valid and collectible insurance available to any **Insured**, including but not limited to any insurance under which there is a duty to defend, unless such other insurance is written specifically excess of this Policy by reference in such other policy to the Policy Number of this Policy. This Policy will not be subject to the terms of any other insurance.

In the event of a **Claim** against an **Insured Person** arising out of his or her service as an **Outside Entity Executive**, coverage as is afforded by this Policy shall be specifically excess of any: (i) indemnification provided by such **Outside Entity**; and (ii) any other insurance provided to such **Outside Entity**.

In the event that other insurance is provided to the **Outside Entity** by the **Insurer** (or would be provided but for the application of the retention amount, exhaustion of the limit of liability or failure to submit a notice of a **Claim**), the **Insurer's** maximum aggregate limit of liability for all **Loss** combined in connection with a **Claim** covered, in part or in whole, by this Policy and such other insurance policy, shall not exceed the greater of the Limit of Liability of this Policy or the limit of liability of such other insurance policy.

- (I) **Valuation and Currency:** Except as otherwise provided in this Policy, all premiums, limits, Deductibles, **Loss** and any other amounts referred to in this Policy are expressed and payable in the currency of Canada. If judgment is rendered, settlement is agreed upon or another element of **Loss** under this Policy is incurred in a currency other than Canadian dollars, payment under this Policy shall be made in Canadian dollars at the rate of exchange set by the Canadian Imperial Bank of Commerce on the date upon which the final judgment is entered, the amount of the settlement is agreed upon or the other element of **Loss** is due, respectively.
- (J) **Assignment:** This Policy and any and all rights hereunder are not assignable without the prior written consent of the **Insurer**, which consent shall be in the sole and absolute discretion of the **Insurer**.
- (K) **Changes:** Notice to any agent, broker or representative or knowledge possessed by any agent, broker, representative or any other persons shall not effect a waiver or change in any part of this Policy or estop the **Insurer** from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued by the **Insurer** to form a part of this Policy.
- (L) **Notices:** All notices, other than Notice of Claim, shall be given in writing addressed to:  
South Western Group  
401 The West Mall, Suite 700  
Toronto, Ontario M9C 5J5  
Toll Free Fax: 1.877.329.2794
- (M) **Bankruptcy or Insolvency:** Bankruptcy or insolvency of the **Corporation**, or of any of the **Insureds** or their estates, shall not relieve the **Insurer** of any of its obligations hereunder.
- (N) **Non-Renewal:** If the **Insurer** decides not to offer renewal terms for this Policy, the **Insurer** shall provide written notice to the **Parent Corporation** at least 60 days prior to the Policy expiration date.
- (O) **Non-Rescindability:** The coverage provided under this Policy shall be non-rescindable with respect to any **Insured Person** who, as of the inception date of this Policy, had no knowledge that facts required to be disclosed were not truthfully disclosed in or were omitted from the **Application**.
- (P) **Conformity to Statute:** The terms of this Policy which are in conflict with the terms of any applicable laws construing this Policy are hereby amended to conform to such laws.
- (Q) **Interpretation:** This Policy shall be interpreted and construed in accordance with the laws of the Canadian province in which the Policy was issued.

## **X AUTHORIZATION CLAUSE**

---

It is agreed that the **Parent Corporation** shall act on behalf of its **Subsidiaries** and all **Insured Persons** with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receiving of any return premiums that may become due under this Policy, the negotiation, agreement to and acceptance of any endorsement to this Policy and the exercising or declining to exercise any right to a **Discovery Period**.

**IN WITNESS WHEREOF, THE INSURER HAS CAUSED THIS POLICY TO BE EXECUTED ON THE DECLARATIONS PAGE**

# DNPLE-16 - Commercial Legal Expense Insurance

## Section B

The “**Insurer**” agrees to indemnify the “**Insured**”, to the extent specified in the Insuring Clauses, in connection with the “**Operations**” of the “**Insured**” in consideration of the “**Premium**” paid by the “**Insured**”, subject to the terms, conditions, exclusions and limitations in this Policy and its **Declarations and Endorsements**.

### 1. INSURING CLAUSES

#### 1.1 Contract Disputes

The “**Insurer**” agrees to indemnify the “**Insured**” against “**Legal and Professional Expenses**” incurred in the pursuit or defence of any claim or legal proceedings made by or brought against the “**Insured**” within the “**Territorial Limits**” and arising from the “**Operations**” of the “**Insured**” in a dispute with a “**Contracting Party**” arising out of a “**Contract for Services**” obtained or the sale, purchase, lease or rental of any “**Goods**”, provided that the contract was entered into on or after the “**Retroactive Date**” specified in Legal Expense Endorsement #1, and:

- (i) the indemnity for “**Legal and Professional Expenses**” incurred under this clause shall not exceed seventy-five percent (75%) of the “**Sum in Dispute**”;
- (ii) the amount in dispute exceeds the “**Minimum Sum in Dispute**”;
- (iii) where the dispute relates to monies owed to the “**Insured**” notification of the claim to the “**Underwriting Manager**” shall be made at the sooner of:
  - (a) thirty (30) days from the date at which the debt is contested, or
  - (b) ninety (90) days from the “**Due Date**” provided that all reasonable attempts have been made to recover the money owed or negotiate a reasonable settlement within those ninety (90) days; and
- (iv) the claim is or legal proceedings are made by or brought against the “**Insured**” and are notified to the “**Underwriting Manager**” during the “**Policy Period**”.

Exclusions to Insuring Clause 1.1 Contract Disputes:

The “**Insurer**” shall not be liable to indemnify the “**Insured**” in respect of claims arising out of or in connection with:

- (a) Contracts:
  - a. performed outside the “**Territorial Limits**”;
  - b. for the provision or procurement of insurance, credit, secured lending, or guarantee;
  - c. where the liability of the “**Insured**” or the right of recovery is incurred through an agent or by assignment or subrogation;
  - d. where the dispute arising from the contract relates to the collection of any outstanding amount receivable owed to the “**Insured**” by a third party for any goods or service provided, except where there is a dispute involving the liability to pay by the third party;
  - e. of employment;
  - f. for the possession, purchase, sale or use of “**Property**”;
  - g. in connection with or related to a franchise;
  - h. for the ownership, sale, lease, rental or use of any vehicle;
  - i. relating to the planning, construction, structural alteration, conversion or extension of “**Property**” or parts thereof, other than non-structural repair to or renovation of existing “**Property**” or parts thereof;
  - j. containing an arbitration clause.
- (b) Breach or alleged breach of “**Professional Duty**” owed to or by the “**Insured**”.

#### 1.2 Criminal Defence

The “**Insurer**” agrees to indemnify the “**Insured**” against “**Legal and Professional Expenses**” incurred in defending the “**Insured**” against a prosecution arising from “**Criminal or Statutory Proceedings**” brought or commenced against the

“**Insured**” within the “**Territorial Limits**” and arising from the “**Operations**” of the “**Insured**” provided that the prosecution is brought or commenced and notified to the “**Underwriting Manager**” during the “**Policy Period**”.

Exclusions to Insuring Clause 1.2 Criminal Defence:

The “**Insurer**” shall not be liable to indemnify the “**Insured**” in respect of any prosecution arising out of or in connection with:

- (a) The ownership possession or use of any vehicle;
- (b) Any prosecution, legislated investigation, tribunal and/or enquiry relating to any Municipal, Provincial, Federal or other Governmental tax matters pertaining to the “**Operations**” of the “**Insured**”;
- (c) An allegation against the Insured involving:
  - assault, violence, fraud, conspiracy to defraud or dishonesty;
  - malicious falsehood;
  - the manufacture, dealing in or use of alcohol, illegal drugs, indecent or obscene materials;
  - illegal immigration;
  - money laundering or bribery offences and related charges.

### 1.3 Property Disputes

The “**Insurer**” agrees to indemnify the “**Insured**” against “**Legal and Professional Expenses**” incurred in the pursuit or defence of any claim or legal proceedings brought or commenced by or against the “**Insured**” within the “**Territorial Limits**” and arising from the “**Operations**” of the “**Insured**” relating to:

- (i) disputes over the possession of “**Property**” owned, tenanted or occupied by the “**Insured**”;
- (ii) claims or legal proceedings against the “**Insured**” for nuisance or trespass to “**Property**” owned, tenanted or occupied by the “**Insured**”;
- (iii) disputes following physical damage to “**Property**” owned, tenanted or occupied by the “**Insured**”;
- (iv) disputes between the “**Insured**” and landlords or tenants and the obtaining and serving of eviction orders,

Provided that:

- a. the “**Insured**” will suffer financial loss if it fails to pursue or defend the claim or legal proceedings; and
- b. the claim is made or legal proceedings are brought against the “**Insured**” and is or are notified to the “**Underwriting Manager**” during the “**Policy Period**”.

Exclusions to Insuring Clause 1.3 Property Disputes:

The “**Insurer**” shall not be liable to indemnify the “**Insured**” in respect of any claim or legal proceedings arising out of or in connection with any dispute:

- a. concerning “**Property**” relating to mining, subsidence or heave whatever the cause of such mining, subsidence or heave;
- b. arising out of or in connection with a contract other than a lease or a license for the use of “**Property**” and made between the “**Insured**” and a “**Contracting Party**”;
- c. relating to the payment or non-payment or review of rent or service charges;
- d. relating to planning or building regulations or decisions, expropriation or compulsory purchase orders;
- e. relating to the renewal of a lease or other contract to use the “**Property**”.

### 1.4 Personal Injury

The “**Insurer**” agrees to indemnify the “**Insured**” against “**Legal and Professional Expenses**” incurred in the pursuit of any claim or legal proceedings made by the “**Insured**” within the “**Territorial Limits**” and arising out of the “**Operations**” of the “**Insured**” arising from the act or omission by a third party which results in “**Injury**” to the “**Insured**” provided:

- (a) the “**Injury**” was sustained by the “**Insured**” away from the “**Insured’s**” business premises and while engaged in the “**Operations**” of the “**Insured**” and within the “**Territorial Limits**”; and
- (b) the “**Injury**” occurs and is notified to the “**Underwriting Manager**” during the “**Policy Period**”.

### 1.5 Tax Disputes

The “**Insurer**” agrees to indemnify the “**Insured**” against **Legal and Professional Expenses** incurred as a result of a “**Tax Audit**” first initiated against the “**Insured**” and notified to the “**Underwriting Manager**” during the “**Policy Period**” arising out of any tax return submitted by the Insured to the Canadian Revenue Agency or other similar Canadian provincial agency.

## Exclusions to Insuring Clause 1.5 Tax Disputes:

The “**Insurer**” shall not be liable to indemnify the “**Insured**” in respect of any claim or legal proceedings arising directly or indirectly out of or in connection with any dispute relating to:

- (a) the cost of preparation of documents and the cost of submission of a tax return; or
- (b) the cost of preparation of documents for the purpose of calculating and submitting taxes; or
- (c) the cost of preparation of additional documents to support an already submitted tax return; or
- (d) the late submission of any tax return or accounts where the Canadian Revenue Agency or other similar Canadian Provincial Agency levy a penalty or claim for interest because of the late submission; or
- (e) the cost of preparation, appeal or processing of any tax computation, assessment, demand or payment or routine treatment of taxation matters; or
- (f) any audit or investigation, in whole or in part, made by the Special Investigations Division or Criminal Investigations Program; or
- (g) any tax planning arrangements; or
- (h) any tax shelter as defined by the *Income Tax Act, R.S.C. 1985 c.1 (5<sup>th</sup> Supp.)*; or
- (i) the gifting or acquisition of property.

## 2. LIMIT OF INDEMNITY

The **Insurer’s** total liability under this Policy shall not exceed the amounts specified in the **Declarations** for 1, and 2 below:

1. “**Any One Claim**”;
2. in the aggregate for all claims notified to the “**Underwriting Manager**” during the “**Policy Period**”.

## 3. DEDUCTIBLE

The “**Insurer**” shall only be liable under this Policy to the extent that such liability exceeds the “**Deductible**” as specified in the **Declarations**. A separate “**Deductible**” shall apply to “**Any One Claim**”.

## 4. CO-INSURANCE

The “**Insured**” shall be liable in respect of claims for indemnity under all Insuring Clauses of this Policy for the proportion of “**Legal and Professional Expenses**” over and above the amount as specified in **Legal Expense Endorsement #1** under the heading **Co-Insurance**.

## 5. EXCLUSIONS – These apply to all Insuring Clause

1. The “**Insurer**” shall not have any liability under this Policy in respect of:
  - (a) the defence of the “**Insured**” in civil legal proceedings arising from or connected with;
  - (b) death or injury to any person including (without limitation) any sickness, disease or any naturally occurring condition or degenerative process;
  - (c) loss destruction or damage to property owned, occupied or under the control of a third party;
  - (d) alleged breach of “**Professional Duty**”;
  - (e) any tortious liability save as specifically provided in Insuring Clause 1.3 (Property Disputes);
2. any claims related to patents, copyrights, design rights, moral rights, confidential information, other intellectual property rights, trade or service marks or registered designs, trade secrets or passing off actions;
3. any claim arising out of defamation or alleged defamation;
4. any claim made, brought or commenced outside the “**Territorial Limits**”;
5. “**Legal and Professional Expenses**” incurred before the “**Underwriting Manager’s**” consent has been granted in writing or without such consent;
6. any claim relating to or arising from any cause, event or circumstance occurring prior to the “**Retroactive Date**” specified in **Legal Expense Endorsement #1**;
7. any claim in connection with or arising from any cause, event or circumstance occurring prior to or existing at inception of the Policy and which the “**Insured**” knew or ought reasonably to have known might give rise to a claim or legal proceedings by or against the “**Insured**”;
8. awards and/or demands of compensation, repayment, damages, liability, surcharge levies, interest, fines or penalties of any nature including but not limited to those which the “**Insured**” is ordered to pay by any relevant court, board, commission or other tribunal or administrative body;

9. any claim or legal proceedings in respect of which the “**Insured**” is, but for the existence of this Policy, entitled to indemnity under any other insurance policy or certificate or if the “**Insured**” is eligible for legal representation from a provincial legal aid plan;
10. any claim or legal proceedings in respect of which the “**Insured**” is entitled to indemnity under any policy or certificate which the “**Insured**” is required to hold by law or by a regulatory body;
11. any claim arising out of the deliberate, conscious or intentional or reckless or negligent disregard by the “**Insured**” of the need to take all reasonable steps to avoid and prevent claims or legal proceedings. In this context, “reasonable” shall be assessed by the standards of a reasonable person carrying on the “**Operations**” of the “**Insured**”;
12. any costs which the “**Insured**” may be ordered to pay by a court or tribunal adjudicating on “**Criminal or Statutory Proceedings**”;
13. any dispute with government or local authority departments concerning the imposition of regulatory or statutory charges, fees and levies;
14. any dispute between the “**Insured**” and any parent, subsidiary or associated company, or partner;
15. any dispute between the “**Insured**”, and the “**Insurer**”, and/or the “**Underwriting Manager**”, and/or the “**Coverholder**”, and/or the “**Lawyer**” or “**Appointed Representative**”;
16. any dispute relating to or in connection with any franchise agreement;
17. any “**Legal and Professional Expenses**” in connection with the pursuit of an appeal or judicial review;
18. any claims or legal proceedings (including any “**Legal and Professional Expenses**” or other costs or expenses of any description) arising out of or in connection with:
  - (a) war (whether declared or not), invasion, acts of a foreign enemy, hostilities, or any similar act, condition or warlike operation, warlike action by a regular or irregular military force or other authority to hinder or defend against an actual or expected attack;
  - (b) insurrection, rebellion, revolution, riot, attempt to usurp power, popular uprising, or any action taken by any governmental or martial authority in hindering or defending against any of these;
  - (c) discharge, explosion, or use of a weapon of mass destruction, whether or not employing nuclear fission or fusion, or chemical, biological, radioactive or similar agents, by any party at any time for any reason;
19. any claims or legal proceedings (including any “**Legal and Professional Expenses**” or other costs or expenses of any description) arising out of or in connection with any terrorist action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, preventing or suppressing terrorist action. If the “**Insurer**” alleges that by reason of this exclusion any liability or loss is not covered by this Policy, the burden of proving the contrary shall be upon the “**Insured**”;
20. any claims or legal proceedings (including any “**Legal and Professional Expenses**” or other costs or expenses of any description) arising out of or in connection with any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including but not limited to material to be recycled, reconditioned or reclaimed) or contamination of any kind; or ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive.

## 6. CONDITIONS

### 6.1 Notification

It is a condition precedent to the “**Insurer’s**” liability under this Policy that the “**Underwriting Manager**” must be notified in writing immediately the “**Insured**” is aware of any cause, event or circumstance which has given rise or may give rise to a claim or legal proceedings involving the “**Insured**” as soon as that cause event or circumstance shall come to the attention of the “**Insured**”.

In the event that the “**Underwriting Manager**” is notified during the “**Policy Period**” of any cause event or circumstance which in the “**Underwriting Manager’s**” reasonable opinion is likely to give rise to a claim or legal proceedings then any subsequent claim or legal proceedings which arises directly from that cause, event or circumstance shall be deemed to have been made during the “**Policy Period**”.

On receipt of the “**Insured’s**” notification, the “**Underwriting Manager**” will forward to the “**Insured**” a claim form which must be completed and returned immediately.

### 6.2 Underwriting Manager’s Consent

It is a condition precedent to the “**Insurer’s**” liability under this Policy that the “**Underwriting Manager’s**” consent to incur “**Legal and Professional Expenses**” must first be obtained in writing. This consent will be given by the “**Underwriting Manager**” if the “**Insured**” can satisfy the “**Underwriting Manager**” that it is reasonable to incur “**Legal and Professional Expenses**” and:

1. there are in the view of the “**Underwriting Manager**” reasonable prospects of a successful defence or mitigation of the “**Insured’s**” loss;
2. in Criminal Defence claims where the “**Insured**” pleads guilty, there is in the view of the “**Underwriting Manager**” a reasonable prospect of a significant mitigation of the “**Insured’s**” sentence or fine; or
3. there are in the view of the “**Underwriting Manager**” reasonable prospects of a recovery of damages or other remedy.

In making this decision the “**Underwriting Manager**” will have regard (without limitation) to:

- the advice received by the “**Underwriting Manager**” concerning the merits of the “**Insured’s**” case;
- the “**Insured’s**” prospects of securing and enforcing any judgement;
- the amount of money in dispute in relation to the “**Legal and Professional Expenses**” likely to be incurred;
- the alternative methods available for protecting the “**Insured’s**” interests.

The decision to grant or withhold consent will be based on the consideration of the opinion of the “**Lawyer**” or “**Appointed Representative**” and any other adviser the “**Underwriting Manager**” may deem it necessary to consult.

The “**Underwriting Manager**” at its discretion may require the “**Insured**” to participate in mediation or other forms of dispute resolution and provide assistance in settling disputes, the cost of which will be covered under this Policy subject to all other terms, conditions and limitations of this Policy.

The “**Underwriting Manager**” at its discretion may require the “**Insured**” to obtain an opinion from counsel or obtain an expert’s report at the “**Insured’s**” expense as to the merits of a claim or legal proceedings which must have regard to the same criteria as required by the “**Underwriting Manager**”. If that opinion indicates there are reasonable prospects, the “**Insurer**” will pay for the cost of the opinion within the Limit of Indemnity for that claim.

When the “**Underwriting Manager**” grants consent, the “**Insurer**” agrees to provide indemnity to the “**Insured**” within the terms, conditions, limitations, provisos and exclusions of this Policy. Such consent does not imply that all “**Legal and Professional Expenses**” shall be paid but only those which the “**Underwriting Manager**” has expressly agreed to.

If after consent has been granted by the “**Underwriting Manager**” it becomes apparent to the “**Underwriting Manager**” that the claim falls outside the terms, conditions, limitations, provisos and exclusions of the Policy such consent shall be withdrawn and no indemnity provided.

If after consent has been granted by the “**Underwriting Manager**” it ceases to be reasonable in the view of the “**Underwriting Manager**” to incur “**Legal and Professional Expenses**”, the “**Underwriting Manager**” may withdraw consent. “**Legal and Professional Expenses**” incurred up until that time will continue to be indemnified by the **Insurer**”.

Notwithstanding any general consent granted, the **Insurer**” limits its liability to the payment of “**Legal and Professional Expenses**” incurred solely for the purpose of indemnifying the “**Insured**” in respect of the claim or legal proceedings to which consent has been granted. “**Legal and Professional Expenses**” incurred for the routine presentation or administration of the “**Insured’s**” affairs or expenses which would have been incurred in the normal course of the “**Insured’s**” “**Operations**” shall fall outside the indemnity provided under this Policy.

If the “**Insured**” elects to proceed with the pursuit or defence of a claim or legal proceedings to which consent has not been granted by the “**Underwriting Manager**” because there are not reasonable prospects and the “**Insured**” is successful in such a pursuit or defence, then the “**Insurer**” agrees to pay those “**Legal and Professional Expenses**” incurred after the “**Underwriting Manager**” refused consent subject to the terms, conditions and limitations of this Policy.

For the purposes of this clause, success shall mean a cost order or agreement to pay over fifty percent (50%) of incurred costs in favour of the **“Insured”** or an acquittal of the **“Insured”**. In respect of claims under the Employment Disputes Insuring Clause, success shall be where the **“Insured”** is neither ordered to pay nor agrees to pay any compensation.

### 6.3 Conduct of a Claim

(i) Choice of **“Lawyer”** or **“Appointed Representative”**

Where it is necessary that the **“Insured”** has recourse to a lawyer, the **“Insured”** may select the **“Lawyer”** or **“Appointed Representative”** only from the list of approved law firms, as amended from time to time, which shall be provided by the **“Underwriting Manager”** to the **“Insured”** upon request. In all cases the **“Lawyer”** or **“Appointed Representative”** shall be appointed to act in the name and on behalf of the **“Insured”** in any claim or legal proceedings to which the **“Underwriting Manager”** has given written consent. The **“Lawyer”** or **“Appointed Representative”** is not the agent of or employed by the **“Underwriting Manager”** or the **Insurer”**.

The **“Insurer”** shall only be responsible to pay the **“Lawyer”** or **“Appointed Representative’s”** normal hourly rate up to the **Fee Limit** set out in the **Declarations**. The **“Insured”** must pay the **“Lawyer”** or **“Appointed Representative”** any legal fees in excess of this amount. Any **“Lawyer”** or **“Appointed Representative”** the **“Insured”** chooses must disclose his or her chargeable rates and the rates of any staff.

(ii) Access to information

The **“Underwriting Manager”** is entitled to receive from the **“Lawyer”** or **“Appointed Representative”** any information, document or advice in connection with any claim or legal proceedings even if such material is legally privileged. On request the **“Insured”** will give to the **“Lawyer”** or **“Appointed Representative”** any instructions necessary to secure the required access.

(iii) Disclosure and co-operation

The **“Insured”** must give the **“Lawyer”** or **“Appointed Representative”** all necessary help and information including a complete truthful account of the facts of the case and all relevant documentary or other evidence in the **“Insured’s”** possession. The **“Insured”** must search for, provide, obtain sign or execute all documents as required by the relevant court or tribunal rules or as recommended by the **“Lawyer”** or **“Appointed Representative”** and attend all meetings or conferences as requested. Cover may be withdrawn if the **“Insured”** fails to co-operate at all or within a reasonable time with the **“Lawyer”** or **“Appointed Representative’s”** request.

(iv) Payment of “Legal Expenses”

All invoices relating to a claim that the **“Insured”** receives from the **“Lawyer”** or **“Appointed Representative”** should be forwarded to the **“Underwriting Manager”** immediately. If the **“Underwriting Manager”** so requires, the **“Insured”** must ask the **“Lawyer”** or **“Appointed Representative”** to submit their bill of costs for taxation or assessment by the appropriate Law Society, governing body or court.

The **“Insured”** shall be responsible for the payment of **“Legal and Professional Expenses”** invoices. The **Insurer”** will, however, settle these directly with the **“Lawyer”** or **“Appointed Representative”** if requested to do so by the **“Insured”**. All invoices must be certified by the **“Underwriting Manager”** to the effect that all charges have been properly incurred and this will be deemed authority for the **Insurer”** to settle the invoice directly with the **“Lawyer”** or **“Appointed Representative”**.

Only invoices in respect of **“Legal and Professional Expenses”** incurred with the consent of the **“Underwriting Manager”** and in the amount agreed with the **“Underwriting Manager”** shall be paid. The **“Insured”** shall personally pay the **“Lawyer”** or **“Appointed Representative”** the portion of **“Legal and Professional Expenses”** to be borne by the **“Insured”** as the **“Deductible”**, and/or **Co-Insurance** and in excess of the **Limit of Indemnity** pursuant to this Policy.

(v) Instruction of counsel and experts

Where the **“Lawyer”** or **“Appointed Representative”** wishes to obtain the opinion of or instruct other counsel or experts, it must provide its reasons and seek and receive the prior written consent of the **“Underwriting Manager”**.

### 6.4 Settlement

It is a condition precedent to the “**Insurer’s**” liability under this Policy that the “**Insured**” informs the “**Underwriting Manager**” in writing as soon as the “**Insured**” receives a payment into court, an offer to settle a claim or legal proceedings or an invitation to participate in mediation or other form of dispute resolution. The “**Insured**” must not agree to settle any claim without the prior written consent of the “**Underwriting Manager**” which will not be unreasonably withheld or delayed. If the “**Insured**” rejects any offer to settle a claim by way of payment into court or otherwise which the “**Underwriting Manager**” considers reasonable and recommends acceptance of, then no further indemnity will be provided by the “**Insurer**” from the date of rejection by the “**Insured**”.

#### **6.5 Minimizing Costs**

The “**Insured**” must take all reasonable measures to minimize the costs of any claim under this Policy including but not limited to pursuing settlement negotiations and must consider all reasonable settlement offers.

#### **6.6 Recovery of Costs**

Whenever the “**Insured**” is awarded costs or costs are included under the terms of any settlement, those costs are to be repaid to the **Insurer**. In every claim the “**Insured**” and the “**Lawyer**” or “**Appointed Representative**” shall make every effort to make a full recovery of costs. Where a settlement purports to be a global or a without costs settlement, the “**Insured**” agrees that the “**Lawyer**” or “**Appointed Representative’s**” appraisal of a fair and reasonable proportion of that settlement will be deemed costs and shall be due to the “**Insurer**”.

#### **6.7 Dishonest and fraudulent claims**

If the “**Insured**” makes any claim under this Policy (or has made a claim under any other or previous Policy) which the “**Insured**” knows or ought to know to be false or fraudulent in any way, this Policy shall be cancelled ab initio and all rights of the “**Insured**” under this Policy including the premium shall be forfeit. The Underwriter shall be entitled to recover any “**Legal and Professional Expenses**” previously paid.

#### **6.8 Insolvency or liquidation of the “Insured”**

If the “**Insured**” becomes insolvent or bankrupt within the meaning of the Bankruptcy Act (Canada) or had property seized or attached in satisfaction of a judgement, had a receiver appointed, or taken action (if a corporation) with a view to winding up, dissolution or liquidation during the course of any claim or legal proceedings any consent previously given shall automatically be withdrawn unless expressly agreed in writing to the contrary by the “**Underwriting Manager**”.

#### **6.9 Provincial Sales Tax (PST) and/or Goods and Services Act (GST) and/or Harmonized Sales Tax (HST)**

If the “**Insured**” is registered for PST and/or GST and/or HST, the “**Insurer**” will not be liable to indemnify the “**Insured**” for the PST and/or GST and/or HST element of any “**Legal and Professional Expenses**” invoices.

#### **6.10 Premium**

The “**Premium**” and applicable taxes must be paid on or prior to the start of this “**Policy**”.

### **7. GOVERNING LAW**

This Policy shall be governed by and construed in accordance with the laws of Canada. Any terms of this Policy which are in conflict with the statutes of the province where the Policy is issued are amended to conform to such statutes.

### **8. INTERPRETATION**

In this Policy:

- (i) reference to any statute or statutory provision and orders or regulations thereunder shall include a reference to that provision, order or regulation as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this Policy;

reference to any statutory or other body shall include the successor to that body;

- (ii) words importing the singular include the plural and vice versa and references to persons include bodies corporate or unincorporated. Words importing any gender shall include all genders;

- (iii) if any term, condition, exclusion or endorsement or part thereof is found to be invalid or unenforceable the remainder shall remain in full force and effect;
- (iv) the headings are for reference only and shall not be considered when determining the meaning of this Policy.

## 9. NOTIFICATIONS

All communications, documents or notices which this Policy requires the **“Insured”** to deliver must be made to the **“Coverholder”**.

In respect of claims under this Policy the **“Insured”** must contact and send all communications to the **“Underwriting Manager”** at the following address:

The Claims Department  
STERLON Underwriting Managers Ltd.  
27-1300 King Street East, Suite 140  
Oshawa, Ontario L1H 8J4

The **“Insured”** is deemed to have received all correspondence, documents and notices within four days of the date of mailing if sent in writing by ordinary mail to the address as last declared to the **“Insurer”** or in relation to any matters arising out of any claim or legal proceedings if sent to the **“Lawyer”** or **“Appointed Representative”**.

## 10. RESOLUTION OF DISPUTES

Any dispute between the **“Insured”** and the **Insurer”** relating to the application or interpretation of this Policy which is not resolved by the parties within fifteen (15) days written notice thereof given by one party or the other shall be subject to mediation. In this event, the **“Insured”** and the **Insurer”** will mutually agree on the nomination of a mediator or where such agreement is not made the **“Insured”** and the **“Insurer”** will request the court of competent jurisdiction to appoint a person to mediate the dispute. The **“Insured”** and the **“Insurer”** agree to co-operate with the mediator with the view to resolving the dispute. The **“Insured”** and the **“Insurer”** shall share the costs of the mediation services in equal proportions.

## 11. ARBITRATION

Any dispute that cannot be resolved by mediation in accordance with Resolution of Disputes above may be submitted by either party to a single arbitrator who shall be either a lawyer agreed upon by the parties or, failing agreement, a person appointed by a judge of the Supreme Court (or equivalent) of the province or territory in which the **“Insured”** has its principal office. Such arbitration shall be governed by the arbitration legislation in force in the aforesaid province or territory. The decisions of the arbitrator shall be final and binding on the **“Insured”** and the **“Insurer”** and arbitration costs shall be paid in full by the party against whom the decision is made. If the decision is not clearly made against either party, the arbitrator shall have the power to apportion costs. If the decision is made in the **“Insurer’s”** favour, no costs shall be recoverable by the **“Insured”** under this Policy.

## 12. DEFINITIONS

- 12.1 **“Any One Claim”** means all claims or legal proceedings arising from the same originating cause or series of events or occurrences attributable to one originating cause.
- 12.2 **“Appointed Representative”** means an accountant or other suitably qualified person to act on behalf of the **Insured** in respect of an **“Tax Audit”** who is approved by the **“Underwriting Manager”** and is on the list of approved firms provided by the **“Underwriting Manager”**, to act in the name of and behalf of the **“Insured”** in accordance with the terms, conditions, limitations, provisos and exclusions of this Policy.
- 12.3 **“Contract for Services”** means a contract made between the **“Insured”** and a **“Contracting Party”** whereby one of the parties provides a service in connection with the **“Operations”** to the other for monetary consideration.
- 12.4 **“Contracting Party”** means a company, firm or individual who has a direct contractual relationship with the **“Insured”**.
- 12.5 **“Coverholder”** means South Western Insurance Group Ltd. who is responsible for issuing and receiving any or all **“Applications”** and issuing the **“Insured”** with a policy of insurance as agreed by the **“Insurer”**.
- 12.6 **“Criminal or Statutory Proceedings”** means offences pursuant to the *Criminal Code (Canada)*, the *Controlled Drugs and Substances Act*, the *Food and Drugs Act (Canada)*, the *Occupational Health and Safety Act*, the *Environmental Protection Act*

and the *Workplace Hazardous Materials Information Services Act*, and any other provincial, territorial or federal statutes or regulations which prescribe offences punishable on summary conviction or by indictment.

- 12.7 **“Deductible”** means the amount specified in the **Declarations** the **“Insured”** must bear in **“Legal and Professional Expenses”** in respect of **“Any One Claim”** before the **“Insurer”** is liable to provide any indemnity under this Policy.
- 12.8 **“Due Date”** means the date on which monies owed to the **“Insured”** become due and payable.
- 12.9 **“Employee”** means any person in an employee relationship with the **“Insured”** and who is currently on the **“Insured’s”** payroll, and for whom the **“Insured”** remits income tax, employment insurance premiums and Canada Pension Plan payments and have done so during all of or a portion of the **“Policy Period”** or any person whose employment activities are strictly limited and exclusive to the **“Insured’s”** business. This definition shall extend to any person for a period of six months following their departure from the **“Insured’s”** employment.
- 12.10 **“Executive”** means any person who is a duly elected or appointed director, officer, trustee, member of the board of managers or member of any duly constituted committee. This definition shall extend to any person for a period of six months following the cessation of such office or position
- 12.11 **“Goods”** means tangible, moveable property and excluding interests or rights in **“Property”**.
- 12.12 **“Injury”** means bodily injury or death but does not mean any sickness, disease or naturally occurring condition or degenerative process.
- 12.13 **“Insured”** means the corporation named as Parent Corporation in the **Declarations** and any subsidiary including jointly and severally at the **“Insured’s”** request any **“Executive”**, volunteer or **“Employee”** of the **“Insured”** while acting on behalf of the **“Insured”** for acts within the scope of their employment and /or duties.
- 12.14 **“Insurer”** means certain Lloyd’s Underwriters, London, England.
- 12.15 **“Lawyer”** means the legal representative selected by the **“Insured”** and approved by the **“Underwriting Manager”**, who is on the list of approved law firms provided by the **“Underwriting Manager”**, to act in the name of and behalf of the **“Insured”** in accordance with the terms, conditions, limitations, provisos and exclusions of this Policy.
- 12.16 **“Legal and Professional Expenses”** means
- (i) fees, expenses and disbursements including **“Witness Attendance Allowance”** and costs and expenses of expert witnesses reasonably incurred by the **“Lawyer”** or **“Appointed Representative”**, subject to the **Fee Limit** specified in **Legal Expense Endorsement #1**, with the **“Underwriting Manager’s”** prior written consent;
  - (ii) all costs reasonably and properly incurred by the **“Underwriting Manager”** and the costs of providing the **“Telephone Legal Advisory Service”** to the **“Insured”**;
  - (iii) costs incurred by other parties to which the **“Insured”** is held liable in court or tribunal proceedings to pay or which the **“Insured”** agrees to pay with the **“Underwriting Manager’s”** prior written consent but excluding any costs which the **“Insured”** may be ordered to pay by a court or tribunal adjudicating on **“Criminal or Statutory Proceedings”**.
- 12.17 **“Minimum Sum in Dispute”** means the amount specified in **Legal Expense Endorsement #1**.
- 12.18 **“Operations”** means activities of the **“Insured”**.
- 12.19 **“Policy Period”** means the period as specified in the **Declarations**.
- 12.20 **“Premium”** means the amount specified in the **Declarations**.
- 12.21 **“Professional Duty”** means contractual, tortious or fiduciary duties owed to or by the **“Insured”** to or by another company, partner, firm or individual or a director or employee thereof in connection with the provision of professional services or advice, for which there is a requirement to have professional indemnity insurance or an equivalent insurance providing indemnity in the event of a negligent act, error or omission.
- 12.22 **“Property”** means land (including buildings thereon) or an interest in land.
- 12.23 **“Retroactive Date”** means the date specified in **Legal Expense Endorsement #1** after which the cause, event or circumstance giving rise to a claim or legal proceeding by or against the **“Insured”** must have occurred.
- 12.24 **“Sum in Dispute”** means the sum in dispute between the **“Insured”** and a **“Contracting Party”**.

- 12.25 **“Tax Audit”** means the receipt by the **“Insured”** from the Canadian Revenue Agency or other similar Canadian provincial agency of:
- (a) notification of an audit or investigation under *the Income Tax Act, R.S.C. 1985 c.1 (5<sup>th</sup> Supp.)*, *Excise Tax Act, R.S.C. 1985, c. E-15* or any Provincial statute that covers Provincial retail sales tax matters; or
  - (b) a subpoena following an audit or investigation; or
  - (c) a request for additional tax monies to be paid by the **Insured** following its re-assessment;
- arising out of the **“Operations”** of the **“Insured”**.
- 12.26 **“Telephone Legal Advisory Service”** means the telephone advisory service stipulated in **Legal Expense Endorsement #1**.
- 12.26 **“Territorial Limits”** means Canada.
- 12.27 **“Underwriting Manager”** means the company stipulated in **Legal Expense Endorsement #1** or appointed subsequently by the **“Insurer”** which is authorised to handle and administer claims under this Policy on the **Insurer’s** behalf and to whom any notification of a claim must be made.
- 12.28 **“Witness Attendance Allowance”** means costs not to exceed two hundred and fifty (\$250) per day or two thousand five hundred dollars (\$2,500.00) **“Any One Claim”** when any of the **“Insured”** is absent from work consequent upon attending a court or tribunal hearing of a claim to which the **“Underwriting Manager”** has given written consent under this Policy.

***THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.***

**DLEI-16 – D & O Legal Expense Endorsement #1**

**Insuring Clauses 1.1 - 1.5**

- 1.1 Contract Disputes**
- 1.2 Criminal Defence**
- 1.3 Property Defence**
- 1.4 Personal Injury**
- 1.5 Tax Disputes**

**Any Legal and Professional Expenses incurred without the Insurer's prior written consent will not be covered. Call the Underwriting Manager (STERLON) before consulting a lawyer.**

The **Underwriting Manager** under this policy is:

STERLON Underwriting Managers Ltd.  
27-1300 King Street East, Suite 140  
Oshawa ON L1H 8J4  
**1-888-763-7566**  
Attention: The Claims Department

**The Insured must notify the Underwriting Manager in writing immediately they are aware of any cause, event or circumstance which has or could give rise to a claim or legal proceedings which involve the Insured as soon as it comes to their attention.**

Notwithstanding the limits of indemnity listed in the **Declarations**, any fees charged in excess of the **Fee Limit** (below) are the **Insured's** responsibility.

**Territorial Limits:** Canada.

**Lawyer or Appointed Representative:** All or claims arising under all the Insuring Clauses are to be handled by a **Lawyer or Appointed Representative** chosen by the **Insured** only from the list of approved firms, as amended from time to time, which will be provided by the **Underwriting Manager** to the Insured upon request.

**Co-Insurance:** 10% co-insurance will apply to all claims under all Insuring Clauses where the **Legal and Professional Expenses** exceed \$10,000.

**Fee Limit:** Legal fees of the **Lawyer or Appointed Representative** up to a maximum hourly rate of \$350.00 (three hundred and fifty dollars).

**Minimum Sum In Dispute:** \$5000 – Insuring Agreement 1.1 (Contract disputes) only.

**Deductible:** \$500 Any One Claim with respect to **Legal and Professional Expenses** other than the Telephone Legal Advisory.

**Retroactive Date:** Initial inception when the **Legal and Professional Expense Insurance** was included in the **Declarations**.

**Telephone Legal Advisory Service:** A Legal Advisory Service is provided during normal business hours (9:00 A.M. – 5:00 P.M.) in conjunction with this insurance.

To contact the **Telephone Legal Advisory Service**, please phone **1-888-763-7566** (ON, NF, PEI, NB, NS, QC) or **1-800-948-7377** (MB, SK, AB, BC, YT, NT)

***THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.***

**DNPE-147 – Corporate Brand Protection – Crisis Management Event Expenses Coverage**

In consideration of the premium charged, it is hereby noted and agreed that, for the purpose of the coverage provided by this endorsement only, the **Insurer** shall pay on behalf of the **Corporation** all **Crisis Management Event Expenses** incurred by the **Corporation** to avert or mitigate damage to any of the **Corporations** brands caused by:

- (i) a **Claim** that is covered under this Policy; or
- (ii) any **Network and Information Security Failure** first occurring and reported to the **Insurer** during the **Policy Period** or the **Discovery Period**, if exercised,

and that constitutes a **Newsworthy Event**.

It is further noted and agreed that, for the purpose of the coverage provided by this endorsement only, this Policy is amended as follows:

A. The following definitions are inserted in Section II of this Policy:

**Computer Virus** means any malicious code which could destroy, alter, contaminate or degrade the integrity, quality or performance of data of any computer application software, operating system or network, electronic mail or voice mail system, upon the introduction of such malicious code through any computer, communications equipment or communications network that is owned or operated by the **Corporation**.

**Crisis Management Event Expenses** means reasonable fees, costs and expenses incurred, with the prior written consent of the **Insurer**, by the **Corporation** for services provided by a public relations firm to the **Corporation**. **Crisis Management Event Expenses** shall not include any fees, costs and expenses:

- (i) to notify any individual of a **Network and Information Security Failure** or to develop such notification documents or materials;
- (ii) to determine the scope of, or whether any **Network and Information Security Failure** has occurred; or
- (iii) paid by any **Insured** intended as compensation for any individual or entity as a result of a **Network and Information Security Failure**.

**Network and Information Security Failure** means:

- (i) the failure to prevent the transmission of a **Computer Virus**;
- (ii) the failure to provide any authorized user of the **Corporation's** website, or the **Corporation's** computer or communications network, with access to such website, or computer or communications network. However, the failure to provide access to the **Corporation's** website, or the **Corporation's** computer or communications network, that was:

- (a) expected or intended by any **Insured**; or
- (b) caused by any internet interruption or failure that was not caused by the **Insured**,

shall not be considered a **Network and Information Security Failure**;

- (iii) the failure to prevent unauthorized access to, or use of, data containing private or confidential information of others; or
- (iv) the failure to provide notification of any actual or potential unauthorized access to, or use of, data containing private or confidential information of others if such notification is required by any federal, provincial, territorial or state legislation.

**Newsworthy Event** means any actual or alleged negative publicity, that has been publicised through any media channel, including television, print media, radio or the world wide web, resulting from a **Claim** or **Network and Information Security Failure** that is covered under this Policy.

B. The Limit of Liability of the **Insurer** under this endorsement shall be \$100,000 each **Policy Period**, which shall be in addition to, and not part of, the Limit of Liability stated in Item 3 of the Declarations and shall not be subject to any Retention.

All other terms and conditions of this policy remain unchanged.

***THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.***

**DNPE-160 – Excess Directors and Officers Insurance Extension**

In consideration of the premium charged, it is hereby noted and agreed that the following is added to Section III of this Policy:

**Excess Directors or Officers Insurance**

The **Insurer** shall pay up to \$1,000,000 each **Policy Period** on behalf of the **Executives** of the **Corporation** all **Non-Indemnifiable Loss** they are legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Discovery Period**, if exercised, and reported to the **Insurer** pursuant to the terms of this Policy for any **Wrongful Act**.

This extension of coverage shall be specifically excess of any insurance available to the **Executives** of the **Corporation** that is specifically stated to be in excess of this Policy and such excess insurance must be completely exhausted by payment of loss, damages, defence costs, claim expenses or other sums covered thereunder before the **Insurer** shall have any obligation to make any payment for **Non-Indemnifiable Loss** under this extension of coverage.

**Notwithstanding anything in this Policy to the contrary, this extension of coverage shall be in addition to the Limit of Liability stated in Item 3 of the Declarations, and no Retention shall apply to this extension of coverage.**

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DNPE-165 – Order of Payments Endorsement**

In consideration of the premium charged, it is hereby noted and agreed that:

- (A) In the event of **Loss** arising from any **Claims** for which payment is due under the provisions of this Policy, which in the aggregate exceeds the available or remaining available Limit of Liability of this Policy, payment of such **Loss** shall be made under this Policy:
- (i) first to satisfy **Loss**, if any, which is **Non-Indemnified Loss**; then
  - (ii) only to the extent, if any, that there is a remaining amount of the Limit of Liability available after the payment of **Loss** pursuant to paragraph (A)(i) above, to pay **Loss**, if any, which is **Indemnified Loss**; then
  - (iii) only to the extent, if any, that there is a remaining amount of the Limit of Liability available after the payment of **Loss** pursuant to paragraphs (A)(i) and (ii) above, to pay **Loss**, if any, which is attributable to an **Employment Practices Wrongful Act Claim**.
- (B) Upon the written request of the **Parent Corporation**, the **Insurer** shall hold back any payment which would otherwise be made under paragraph (A)(ii) or (iii) above. Any such payment withheld by the **Insurer** shall, upon further written request of the **Parent Corporation** to the **Insurer**, be paid by the **Insurer**:
- (i) to the Parent Corporation, but only if the request for such payment is made within one year of the final resolution of any Claims addressed in paragraph (A) above; or
  - (ii) to or for the benefit of the Insured, but only in the event that the Insured becomes legally obligated to pay Loss which is Non-Indemnified Loss under this Policy which arises from any new Claims, not previously addressed in paragraph (A) above.
- (C) Nothing in this endorsement shall be construed to increase the Limit of Liability of the Insurer under this Policy. The Limit of Liability shall remain the maximum liability of the Insurer for any and all Claims under all coverage provided by this Policy combined.

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DNPE-113 – Fiduciary Liability Extension (Canada)**

In consideration of the premium charged, it is hereby noted and agreed that, for the purpose of the coverage provided by this endorsement only, the **Insurer** shall pay on behalf of the **Insureds** all **Loss** they are legally obligated to pay on account of any **Claim** first made against them during the **Policy Period** or the **Discovery Period**, if exercised, and reported to the **Insurer** pursuant to the terms of this **Policy** for any **Fiduciary Wrongful Act**.

It is further noted and agreed that, for the purpose of the coverage provided by this endorsement only, this **Policy** is amended as follows:

A. The following definition is inserted in Section II of this **Policy**:

**Administration** means:

- (i) giving advice, counsel or interpretation to **Employees** regarding a **Benefit Program**;
- (ii) handling records in connection with any **Benefit Program**; or
- (iii) enrolling, terminating or cancelling **Employees** under any **Benefit Program**.

B. The following definition is inserted in Section II of this **Policy**:

**Benefit Program** means:

- (i) any employee benefit plan, as defined in the Income Tax Act, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.), which is operated solely by the **Corporation**, or jointly by the **Corporation** and a labour organization, for the benefit of the **Employees** of the **Corporation**, if such plan existed before the **Policy Period**;
- (ii) any government-mandated benefit program for workers compensation, employment insurance, unemployment insurance, social insurance, old age security, social security, Canada Pension Plan benefits or disability benefits for **Employees** of the **Corporation**; or
- (iii) any other employee benefit plan if listed as a **Benefit Program** in an endorsement to this **Policy**,

provided that **Benefit Program** shall not include any multi-employer plan as defined in the Canada Pension Benefits Standards Act, R.S.C. 1985, c.32 (2<sup>nd</sup> Supp.), the Ontario Pension Benefits Act, R.S.O. 1990, c. P.8, the Employee Retirement Income Security Act of 1974 of the United States of America and amendments thereto (or any regulations promulgated thereunder) or by similar provisions of any federal, provincial, territorial, state or local statutory, civil or common law, unless such plan is specifically listed as a **Benefit Program** in an endorsement to this **Policy**.

C. The following definition is inserted in Section II of this **Policy**:

**Fiduciary Wrongful Act** means:

- (i) any actual or alleged breach of the responsibilities, obligations or duties imposed upon an **Insured** in their capacity as a fiduciary of a **Benefit Program** by the Canada Pension Benefits Standards Act, R.S.C. 1985, c. 32 (2<sup>nd</sup> Supp.) or by similar provisions of any federal, provincial, territorial, state or local statutory, civil or common law;
- (ii) any actual or alleged negligent act, error or omission solely in the **Administration** of any **Benefit Program**; or
- (iii) any other matter claimed against the **Insured** solely because of their service as a fiduciary of any **Benefit Program**.

D. The following replaces the definition of **Insured** in Section II of this **Policy**:

**Insured** means:

- (i) any natural person who was, now is or shall be a trustee, director, officer, employee or committee member of the **Corporation** or any **Benefit Program**;
- (ii) the **Corporation**; and
- (iii) the **Benefit Programs**.

E. The following replaces paragraph (7) of Section IV of this **Policy**:

- (7) which is brought by or on behalf of any **Insured**, in any capacity. However, this exclusion shall not apply to any **Claim** brought or maintained on behalf of any **Employee** of the **Corporation** for any **Fiduciary Wrongful Act**.

F. The following replaces paragraph (10) of Section IV of this **Policy**:

(10) for any actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 of the United States of America and amendments thereto (or any regulations promulgated thereunder) or by similar provisions of any federal, state or local statutory, civil or common law of the United States of America.

- G. The **Insurer** shall not be liable to make any payment for **Loss** in connection with any **Claim** made against any **Insured**:
- (i) based upon, arising out of, or attributable to any litigation or proceeding commenced prior to, or which was pending as of inception of the first continuous policy, or which arise from matters substantially the same as alleged or established in such litigation or proceeding;
  - (ii) based upon, arising out of, or attributable to liability of others assumed by the **Insured** under any contract or agreement. However, this exclusion shall not apply to the extent:
    - (a) the **Insured** would have been liable in the absence of such contract or agreement; or
    - (b) the liability was assumed in accordance with or under the agreement or declaration of trust pursuant to which the **Benefit Program** was established;
  - (iii) based upon, arising out of, or attributable to any actual or alleged obligation of an **Insured** pursuant to any statute, regulation or common law for, providing or governing workers compensation, employment insurance, unemployment insurance, social insurance, old age security, social security, Canada Pension Plan benefits or disability benefits or any other similar law or statute.
- H. The **Insurer** shall not be liable for that part of **Loss** that constitutes:
- (i) (a) benefits due or to become due under any **Benefit Program**, whether or not such **Benefit Program** complied with all applicable law; or
  - (b) that portion of any settlement or judgment which constitutes benefits; provided this shall not apply to the extent that recovery for such benefits is based upon a covered **Fiduciary Wrongful Act** by an **Insured** who is a natural person and such benefits are payable as a personal obligation of such **Insured**,
- provided that this exclusion shall not apply to **Defence Costs**; or
- (ii) contributions owed by the **Corporation** to any **Benefit Program** for which any of the **Insureds** failed to collect. However, this exclusion shall not apply to **Defence Costs** if such failure is because of the negligent act, error or omission of an **Insured** solely in the **Administration** of a **Benefit Program**.
- I. The following replaces subsection (C) of Section IX of this Policy:
- (C) **Representations and Severability Clause:** In granting coverage under this Policy, it is agreed that the **Insurer** has relied upon the statements and representations contained in the **Application** for this Policy, a copy of which is deemed attached hereto, as being true, accurate and complete. All such statements and representations are the basis of this Policy and are to be considered as incorporated into this Policy. With respect to such statements and representations, no knowledge or information possessed by any **Insured** shall be imputed to any other **Insured** for the purposes of determining if coverage is available. However, all statements and representations contained in the **Application** for this Policy, and knowledge possessed by any director, officer or lead trustee of the **Corporation** or **Benefit Program**, shall be imputed to the **Corporation** for the purpose of determining if coverage is available in favour of the **Corporation**. Nothing in this paragraph shall be construed to increase the **Insurer's** maximum liability as set forth in Section V of this Policy.
- J. The Limit of Liability of the **Insurer** under this endorsement shall be \$1,000,000 each **Policy Period**, which shall be part of, and not in addition to, the Limit of Liability stated in Item 3 of the Declarations and subject to a Retention of \$10,000 each and every **Claim**.

All other terms and conditions of this policy remain unchanged.

***THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.***

**DNPE-167 – DeFacto Executive Extension Endorsement**

In consideration of the premium charged, it is hereby noted and agreed that the following replaces the definition of **Executive** in Section II of this Policy:

**Executive** means any natural person who was, now is or shall be a duly elected or appointed or “de facto” director, officer, trustee, member of the board of managers or member of any duly constituted committee.

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DNPE-163 – Waiver of Deductible In The Event of No Liability**

In consideration of the premium charged, it is hereby noted and agreed that the following replaces subsection (E) of Section V of this Policy:

(E) The **Insurer** shall only be liable for the amount of **Loss** arising from a **Claim** which is in excess of the applicable Deductible stated in Item 4 of the Declarations and such Deductible shall be borne by the **Insureds** and/or the **Corporation** uninsured and at their or its own risk. A single Deductible amount shall apply to **Loss** arising from all **Claims** alleging the same **Wrongful Act** or **Interrelated Wrongful Acts**.

Notwithstanding the foregoing, no Deductible shall apply to a **Claim** in event of a determination of **No Liability**.

The term **No Liability** as used in this endorsement means:

- (i) a final judgment of no liability obtained prior to trial, in favour of each and every **Insured** named in the **Claim**, by reason of a motion to dismiss or a motion for summary judgment, after the exhaustion of all appeals;
- (ii) a final judgment of no liability obtained after trial, in favour of each and every **Insured** named in the **Claim**, after exhaustion of all appeals; or
- (iii) such **Claim** is dismissed without the payment of any monetary consideration by the **Insured**.

In no event shall the term **No Liability** apply to a **Claim** made against an **Insured** for which a settlement has occurred or if an **Insured** pleads guilty or no contest or nolo contendere or enters any similar pleas in a criminal proceeding.

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DNPE-168 – Deletion of Hammer Clause**

In consideration of the premium charged, it is hereby noted and agreed that the following replaces subsection (B) of Section VI of this Policy:

(B) The **Insureds** agree not to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim**, without the **Insurer's** written consent, which shall not be unreasonably withheld. The **Insurer** shall not be liable for any settlement, **Defence Costs**, assumed obligation or admission to which it has not consented.

Notwithstanding the above, the **Insureds** may settle any **Claim** without prior written consent from the **Insurer**, provided that: (i) the total amount of **Loss** and **Defence Costs** is less than the remaining Deductible; and (ii) such settlement fully resolves the **Claim** with respect to all **Insureds** and the **Insurer**.

The **Insurer** may make any settlement of any **Claim** it deems expedient subject to the written consent of the involved **Insureds**.

All other terms and conditions of this policy remain unchanged.



## NON-PROFIT MANAGEMENT AND CORPORATE LIABILITY INSURANCE POLICY

SOUTH WESTERN INSURANCE GROUP LIMITED  
401 The West Mall, Suite 700, Toronto, ON M9C 5J5

### Section C – Board Members Travel Accident

#### Additional Declarations

**Eligibility:** All members of the Board of Directors or clients of the Policyholder while travelling for business purposes on behalf of the Policyholder. Benefits terminate upon the attainment of age 80.

<b>Benefits:</b>	<b>Description</b>	<b>Principal Sum Amount</b>
	All Eligible Insureds	\$100,000

**Coverage:**

<b>A</b>	Enhanced Schedule of Losses	Includes 200% Paralysis Benefits
<b>B</b>	Repatriation up to	\$15,000
<b>C</b>	Rehabilitation up to	\$15,000
<b>D</b>	Family Transportation up to	\$15,000
<b>E</b>	Spousal Occupational Training up to	\$15,000
<b>F</b>	Home Alteration & Vehicle Modification up to	the greater of \$10,000 or 10% of the Principal Sum to a maximum of \$50,000
<b>G</b>	Seat Belt Benefit	10%; up to \$25,000
<b>H</b>	Day Care Benefit	5% / \$5,000 / 4 years
<b>I</b>	Special Education Benefit	15% / \$5,000 / 4 years
<b>J</b>	In-Hospital Indemnity	1%; up to \$2,500
<b>K</b>	Identification Benefit	\$15,000
<b>L</b>	Bereavement Benefit up to	\$1,000

**Aggregate Limit** **NIL**

Address of Notifications

**South Western Insurance Group Ltd.**  
**1.855.801.0299**  
[swgclaims@scm.ca](mailto:swgclaims@scm.ca)

## **BMTA-NP - Board Member Travel Accident**

### **DIRECTORS HAZARDS COVERAGE**

The Insurer(s) will pay the benefits described in the policy for any accident which happens while an Insured Person is participating in the capacity of, or attending as, a Member of the Board of Directors of the Insured. Coverage shall include while on the premises of the Parent Company, including travelling to and from and while at meetings or special events off premises, if so directed by the Parent Company, but shall exclude regular commutation.

The Insurer(s) will not cover claims in any way caused or contributed to by the Insured Person engaging in flying of any kind other than as a passenger.

### **EXPOSURE AND DISAPPEARANCE**

Loss resulting from unavoidable exposure to the elements and arising out of hazards described above shall be covered to the extent of the benefits afforded an Insured Person.

If the body of an insured person has not been found within one (1) year of the disappearance, stranding, sinking or wrecking of the conveyance in which the insured person was riding at the time of the accident, it shall be presumed, subject to all other conditions of the policy, that the Insured Person suffered loss of life resulting from bodily injuries sustained in the accident and covered under this policy.

### **EXCLUSIONS**

This policy does not cover loss caused by or resulting from any one or more of the following:

- a) Intentionally self-inflicted injuries, suicide or any attempt thereat, while sane or insane;
- b) Declared or undeclared war or any act thereof;
- c) Losses occurring while the insured person is serving on full-time active duty in the Armed Forces of any country or international authority (any premium paid to be returned by the Insurer(s) pro-rata for any such period of full-time active duty);
- d) The actual or threatened malicious use of pathogenic or poisonous biological or chemical materials.
- e) Nuclear reaction, nuclear radiation or radioactive contamination.
- f) Venereal disease or Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or Human Immune Deficiency Virus (AIDS), however these have been acquired or named.
- g) The Insured`s deliberate exposure to exceptional danger (except to save a human life).
- h) The Insured Person`s own criminal act.
- i) The Insured Person being under the influence of alcohol or drugs.
- j) Pregnancy or childbirth.

## DESCRIPTION OF COVERAGES

### Coverage A - Loss of Life, Limb, Speech, Hearing, Sight Indemnity Loss of Use and Paralysis

If such injuries shall result in any one of the following specific losses within one year from the date of accident, the Insurer(s) will pay the benefit specified as applicable thereto, based upon the Principal Sum, however, not more than one (the largest) of such benefits shall be paid with respect to all injuries resulting from one accident.

#### Schedule of Losses:

Loss of Life	The Principal Sum
Loss of Entire Sight of Both Eyes	The Principal Sum
Loss of One Hand and One Foot	The Principal Sum
Loss of Use of One Hand and One Foot	The Principal Sum
Loss of One Hand and Entire Sight of One Eye	The Principal Sum
Loss of One Foot and Entire Sight of One Eye	The Principal Sum
Loss of Speech and Hearing in Both Ears	The Principal Sum
Brain Death	The Principal Sum
Loss of Both Arms, Both Hands, Both Legs or Both Feet	Two Times The Principal Sum
Loss of Use of Both Arms, Both Hands, Both Legs or Both Feet	Two Times The Principal Sum
Quadriplegia	Two Times The Principal Sum
Paraplegia	Two Times The Principal Sum
Hemiplegia	Two Times The Principal Sum
Loss of One Arm or One Leg	Three-Quarters of The Principal Sum
Loss of Use of One Arm or One Leg	Three-Quarters of The Principal Sum
Loss of One Hand or One Foot	Three-Quarters of The Principal Sum
Loss of Use of One Hand or One Foot	Three-Quarters of The Principal Sum
Loss of Entire Sight of One Eye	Three-Quarters of The Principal Sum
Loss of Speech or Hearing in Both Ears	Three-Quarters of The Principal Sum
Loss of Thumb and Index Finger of Same Hand	One-Third of The Principal Sum
Loss of Use of Thumb and Index Finger of Same Hand	One-Third of The Principal Sum
Loss of Four Fingers of Same Hand	One-Third of The Principal Sum
Loss of Hearing in One Ear	One-Third of The Principal Sum
Loss of All Toes of Same Foot	One-Quarter of The Principal Sum

**"Loss"** means with respect to hand or foot, the actual severance through or above the wrist or ankle joint; with respect to arm or leg, the actual severance through or above the elbow or knee joint; with respect to eye, the total and irrecoverable loss of sight; with respect to speech, the total and irrecoverable loss of speech which does not allow audible communication in any degree; with respect to hearing, the total and irrecoverable loss of hearing which cannot be corrected by any hearing aid or device; with respect to the "Loss of Thumb and Index Finger of the Same Hand" or "Loss of Four Fingers of Same Hand", the actual severance through or above the metacarpophalangeal joints of the same hand (the joints between the fingers and the hand); with regard to toes, the actual severance through or above the metatarsophalangeal joints (the joints between the toes and the foot) of the same foot.

**"Loss"** as used with reference to quadriplegia (paralysis of both upper and lower limbs), paraplegia (paralysis of both lower limbs), and hemiplegia (paralysis of upper and lower limbs of one side of the body), means the complete and irrecoverable paralysis of such limbs, provided such loss of function is continuous for twelve consecutive months and such loss of function is hereafter determined on evidence satisfactory to the Insurer(s) to be permanent.

**"Loss of Use"** means the total and irrecoverable loss of function of an arm, hand, foot or leg, provided such loss of function is continuous for twelve (12) consecutive months and such loss of function is thereafter determined on evidence satisfactory to The Insurer(s) to be permanent.

**"Brain Death"** means irreversible unconsciousness with total loss of brain function; and complete absence of electrical activity of the brain, even though the heart is still beating.

Quadriplegia, Paraplegia, Hemiplegia and Loss of Use losses are subject to an all policy combined maximum benefit amount of ONE MILLION DOLLARS (\$1,000,000).

#### Surgical Reattachment Benefit:

If an insured person suffers complete severance of a hand, foot, arm or leg as described under Coverage A, then the Insurer(s) will pay the amount specified above even if the affected (severed) limb is surgically reattached whether successful or not.

#### Coverage B - Repatriation Benefit

When an injury covered results in loss of life of an insured person outside one hundred fifty (150) km from their city of permanent residence or outside Canada and within three hundred sixty-five (365) days from the date of the accident, The Insurer(s) will pay the actual expense incurred for preparing the deceased for burial and shipment of the body to the city of residence of the deceased, but not to exceed FIFTEEN-THOUSAND DOLLARS (\$15,000).

#### **Coverage C - Rehabilitation Benefit**

When injuries shall result in a payment being made by the Insurer(s) under any benefit EXCLUDING the loss of life benefit provided by the policy, The Insurer(s) will pay in addition:

The reasonable and necessary expenses actually incurred up to the maximum of FIFTEEN-THOUSAND DOLLARS (\$15,000), for special training of the insured person, provided:

- a) such training is required because of such injuries and in order for the insured person to be qualified to engage in an occupation in which he/she would not have been engaged except for such injuries;
- b) expenses are incurred within two (2) years from the date of the accident;
- c) no payment will be made for ordinary living, traveling or clothing expenses.

#### **Coverage D - Seat Belt Benefit**

This benefit is only payable in the event an insured person sustains an injury which results in one of the losses payable under Coverage A. The insured person's amount of Principal Sum will be increased by ten percent (10%), to a maximum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000), if, at the time of the accident, the insured person was driving or riding in a vehicle and wearing a properly fastened seat belt.

Due proof of seat belt use must be provided as part of the written proof of loss.

**"Seat Belt"** means those belts that form a restraint system.

**"Vehicle"** means a private passenger car, station wagon, van, or jeep-type automobile.

#### **Coverage E - Day Care Benefit**

If an insured employee suffers loss of life in a covered accident while the policy is in force, the Insurer(s) will pay, in addition to all other benefits payable under the policy, a Day Care Benefit equal to the reasonable and necessary expenses actually incurred, subject to:

- a) the lesser of five percent (5%) of the insured person's Principal Sum amount; or
- b) a maximum of FIVE THOUSAND DOLLARS (\$5,000) per year

for any dependent child who is twelve (12) years of age and under. The dependent child must be enrolled in a legally licensed day care centre on the date of the accident or must be enrolled in a legally licensed day care centre within three hundred sixty-five (365) days following the date of the accident.

The day care benefit will be paid each year for twelve (12) consecutive months, but only upon receipt of satisfactory proof that the child is enrolled in a legally licensed day care centre.

#### **Coverage F - In-Hospital Confinement Monthly Income**

In the event an insured person sustains an injury which results in a payment being made under Coverage A of this policy, excluding the Loss of Life Benefit and the insured person is hospital confined as an in-patient and is under the care of a legally qualified and registered physician or surgeon other than himself, the Insurer(s) will pay for each full month, one percent (1%) of the Insured Person's Principal Sum, subject to a maximum benefit of \$2,500, or one-thirtieth (1/30<sup>th</sup>) of such monthly benefit for each day of partial month, retroactive to the 1st full day of such confinement but not to exceed three hundred sixty-five (365) days in the aggregate for each period of hospital confinement.

**"Hospital" as used herein means a legally constituted establishment which meets all of the following requirements:**

- (1) operates primarily for the reception, care and treatment of sick, ailing or injured persons as in-patients;
- (2) provides twenty-four (24) hour a day nursing service by registered or graduate nurses;
- (3) has a staff of one or more licensed physicians available at all times;
- (4) provides organized facilities for diagnosis and surgical facilities; and
- (5) is not primarily a clinic, nursing home or convalescent home or similar establishment nor, other than incidentally, a place for alcoholics or drug addicts.

**"In-Patient"** means a person admitted to a hospital as a resident or bed-patient and who is provided at least one day's room and board by the hospital.

**Coverage G - Bereavement Benefit**

When injuries covered by this policy result in loss of life of an insured person within three hundred sixty-five (365) days from the date of the accident, the Insurer(s) will pay the reasonable and necessary expenses actually incurred by the Spouse and Dependent Children of the insured person for up to six (6) sessions of grief counseling, by a Professional Counselor, subject to a maximum of ONE-THOUSAND DOLLARS (\$1,000).

“**Professional Counselor**” means the treatment or counseling by a therapist or counselor who is licensed, registered or certified to provide such treatment.

## STATUTORY CONDITIONS – Personal Accident and Sickness Policies

1. (1) THE CONTRACT - The application, this Policy, any document attached to this Policy when issued, and any amendment to the contract agreed upon in writing after this Policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions.
- (2) WAIVER - The Underwriters shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the Underwriters.
- (3) COPY OF APPLICATION - The Underwriters shall, upon request, furnish to the Master Policyholder or to a claimant under the contract a copy of the application.
2. MATERIAL FACTS – No statement made by the Master Policyholder or person Insured at the time of the application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or answers furnished as evidence of insurability.
3. (1) CHANGES IN OCCUPATION - If after the contract is issued the person Insured engages for compensation in an occupation that is classified by the Underwriters as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the Underwriters at the time the person Insured engaged in the more hazardous occupation.
- (2) If the person Insured changes his occupation from that stated in this contract to an occupation classified by the Underwriters as less hazardous and the Underwriters is so advised in writing, the Underwriters shall either,
  - a) reduce the premium rate;
  - b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation according to the limits, classification of risks, and premium rates used by the Underwriters at the date of receipt of advice of the change in occupation, and shall refund to the Master Policyholder the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.
4. RELATION OF EARNINGS TO INSURANCE – Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person Insured, the Underwriters are liable only for that proportion of the benefits for loss of time stated in this Policy that the money value of the time of the person Insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the Master Policyholder shall be returned to him by the Underwriters.
5. TERMINATION BY MASTER POLICYHOLDER - The Master Policyholder may terminate this contract at any time by giving written notice of termination to the Underwriters by registered mail to its head office or chief agency in the Province, or by delivery thereof to an authorized agent of the Underwriters in the Province, and the Underwriters shall upon surrender of this Policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the Underwriters at the time of termination.
6. (1) TERMINATION BY UNDERWRITERS - The Underwriters may terminate this contract at any time by giving written notice of termination to the Master Policyholder and by refunding concurrently with the giving of notice the amount of premium paid in excess of the pro rate premium for the expired time.
- (2) The notice of termination may be delivered to the Master Policyholder, or it may be sent by registered mail to the latest address of the Master Policyholder on the records of the Underwriters.
- (3) When the notice of termination is delivered to the Master Policyholder, five days notice of termination shall be given; where it is mailed to the Master Policyholder, ten days notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.
7. (1) NOTICE AND PROOF OF CLAIM - The Master Policyholder or a person Insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall
  - (a) give written notice of claim to the Underwriters
    - (i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the Insurer in the Province, or
    - (ii) by delivery thereof to an authorized agent of the Underwriters in the Province,not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

- (b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the Underwriters such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and
  - (c) if so required by the Underwriters, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim may be made under the contract as to the duration of such disability.
- (2) FAILURE TO GIVE NOTICE OR PROOF - Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date of a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.
- 8. UNDERWRITERS TO FURNISH FORMS FOR PROOF OF CLAIM - The Underwriters shall furnish for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause of nature of the accident, sickness or disability giving rise to the claim and the extent of the loss.
- 9. RIGHTS OF EXAMINATION - As a condition to recovery of insurance moneys under this contract.
  - (a) the claimant shall afford to the Underwriters an opportunity to examine the person of the person Insured when and so often as it reasonably requires while the claim hereunder is pending, and
  - (b) in the case of death of the person Insured, the Underwriters may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies
- 10. WHEN MONEYS PAYABLE OTHER THAN FOR LOSS OF TIME - All moneys payable under this contract, other than benefits for loss of time, shall be paid by the Underwriters within sixty days after it has received proof of claim.
- 11. WHEN LOSS OF TIME BENEFITS PAYABLE - The initial benefits for loss of time shall be paid by the Underwriters within thirty days after it has received proof of claim, and payments shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the Underwriters remain liable for the payments if the person Insured when required to so furnishes before payment proof of continuing disability.
- 12. LIMITATION OF ACTIONS - An action or proceeding against the Underwriters for the recovery of a claim under this contract shall not be commenced more than one year (two years in the Northwest and Yukon Territories) after the date the insurance money became payable or would have become payable if it had been a valid claim.

Saskatchewan Statutory Condition 12 is repealed. See *The Limitations Act*, S.S., 2004, c.L-16.1.

07/05  
LSW 1540

***THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.***

**LSW1175 – Nuclear/Chemical/Biological Terrorism Exclusion**

It is agreed that, regardless of any contributory cause(s), this insurance does not cover any claim(s) in any way caused or contributed to by an act of terrorism involving the use or release or the threat thereof of any nuclear weapon or device or chemical or biological agent.

For the purpose of this exclusion an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or ethnic purposes or reasons including the intention to influence any government and/or to put the public, or any section of the public, in fear.

If the Underwriters allege that by reason of this exclusion any claim is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

02/02

LSW1175

## THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

### LMA5117 – Terrorism, War and Civil War Endorsement (Nuclear, Chemical, Biological, Bio-Chemical)

#### For use in conjunction with Personal Accident Insurance

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto, this insurance will, subject to its terms and conditions, cover the Assured/Insured Person against Injury solely and directly arising from an act of Terrorism, War or Civil War employing the use of:

- (i) any pathogenic, poisonous, chemical, biological, bio-chemical or radioactive materials; or
- (ii) a nuclear or radioactive device whose destructive force employs or involves atomic or nuclear fission and/or fusion or other like reaction;

which occurs at a specific time and place during the period of insurance.

#### DEFINITIONS

In this endorsement:

##### **Injury** means:

- (a) identifiable physical injury which is caused solely and directly by the event(s) stated in the cover section above and which occasions the death or disablement of the Assured/Insured Person within twelve months of such event(s).
- (b) sickness or disease which arises solely and directly as a result of exposure to the event(s) stated in the cover section above and which occasions the death or disablement of the Assured/Insured Person within twelve months of such event(s).

##### **Terrorism** means:

an act or series of acts, including the use of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s), committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

##### **War** means:

declared or undeclared hostile action between two or more nations or states.

##### **Civil War** means:

a hostile conflict by means of armed forces carried on between opposing citizens of the same country or nation.

#### EXCLUSIONS

- (i) No claim shall be payable under this extension of cover unless death or disablement of the Assured/Insured Person (delete as applicable) as covered by this insurance, occurs within twelve months of the event(s) stated in the cover section above.
- (ii) This insurance does not cover claims in any way caused or contributed to by:
  - a. The Assured/Insured Person taking an active part in Terrorism, War or Civil War.
  - b. War or Civil War in the Assured's/Insured Person's country of domicile.
  - c. War between any of the following countries: The United Kingdom of Great Britain and Northern Ireland, the United States of America, the Republic of France, the People's Republic of China and the Russian Federation.
- (iii) This Insurance does not cover the Assured/Insured Person against Injury arising from the event(s) stated in the cover section above while the Assured/Insured Person is in the territory(ies) listed below:  
(If no territory(ies) is listed below this exclusion (iii) shall not apply)
- (iv) The Assured/Insured Person is not covered while visiting countries or areas which, at the time of travel, are against the recommendation or advice of the appropriate governmental authority of the country of domicile of the Assured/Insured Person

#### CONDITION

In the event that any provision of this endorsement is found to be invalid or unenforceable in whole or in part by reason of any rule of law or public policy, the other provisions of this endorsement and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.

28 August 2008

LMA5117