

STEWARDSHIP PARTNER INSURANCE PROGRAM

ENDORSEMENT NO. 1 ADDITIONAL DEFINITIONS, EXCLUSIONS, AND GENERAL CONDITIONS AMENDMENT

This endorsement forms a part of the attached Commercial General Liability policy. All terms used in this endorsement shall have the meanings provided below or in the attached "Policy".

1. Additional Definitions

Words and phrases that appear in quotation marks have special meaning and are defined where they are used throughout the "Policy" or in Section V – Definitions. Additional definitions that apply to this "Policy":

- (a) **"Additional Insured"** means the "Province Authority" and other entities set out in Section II Paragraph 3 – Who is an "Insured" provided coverage under this "Policy" but solely with respect to their vicarious liability arising out of the "Insured" Operations of the "Named Insured" and not for their own liability or any other operations.
- (b) **"Certificate of Insurance"** means a "Certificate of Insurance" issued by "Us" (or "Our" broker) to the "Named Insured".
- (c) **"Insured", "You", and "Your"** means each individual "Named Insured" and any other person or organization qualifying as such under **Section II – Who Is An Insured**.
- (d) **"Insured Operations"** means the services set out in the written contract between the "Named Insured" and the "Province Authority" and any activities, enterprises and undertakings, whether paid or unpaid, or any other operations performed by an "Insured" so long as they arise directly out of those services.
- (e) **"Insurer", "We", "Us" and "Our"** means the company providing this insurance as shown on the "Certificate of Insurance".
- (f) **"Named Insured" or "Certificate Holder"** means the entity enrolled in the Social Services Group Liability Program Policy as identified on the "Certificate of Insurance" that has a written contract for "Insured Operations" with a "Province Authority".
- (g) **"Policy"** means this Commercial General Liability policy (including any endorsements attached hereto) and includes "Your" "Certificate of Insurance".
- (h) **"Policy Holder"** means His Majesty the King in right of the Province of British Columbia, acting through and represented by the Risk Management Branch of the Ministry of Finance.
- (i) **"Policy Period"** means the period of time identified as the 'Contract Term' on "Your" "Certificate of Insurance".
- (j) **"Province Authority"** means the ministry of the Government of British Columbia or a government corporation that has entered into a written contract with the "Named Insured" and has obligated itself to provide this coverage to "You".

2. General Application

This "Policy" applies only to liability arising from the delivery of the "Insured Operations", subject to the other terms and conditions of this "Policy" and to any limitations set out in "Your" "Certificate of Insurance".

In return for the payment of the premium as described herein, and subject to all the terms of this "Policy", "We" agree with "You" to provide the insurance as stated in this "Policy".

3. Agency Clause

The "Policy Holder" has obtained this "Policy", and shall be deemed the sole and irrevocable agent of each "Insured" for the purpose of:

- a. giving to, or receiving from, "Us" notice of termination;
- b. giving instructions to or agreeing with "Us" respecting alterations of the policy wording; and
- c. making or receiving payments of premiums or adjustments of premium.

Any person coming within the description of an "Insured" may ratify such agency at any time subsequent to the issuance of the "Policy" for the purpose of entitlement to coverage granted by its terms for good consideration.

4. Premiums

The "Policy Holder" will:

- a. pay the premium for this "Policy"; and
- b. be the payee for any return premiums "We" pay.

The premium for this "Policy" will be in an amount determined by mutual agreement between "Us" and the "Policy Holder".

5. Changes

This "Policy" contains all the agreements between "You" and "Us" concerning the insurance afforded. Only the "Policy Holder" is authorized to make changes in the terms of this policy with "Our" consent. The terms of this "Policy" can be amended or waived only by written endorsement issued by "Us" and made a part of this "Policy".

6. Material Change in Risk

- a. The "Policy Holder" must promptly give notice in writing to "Us" of a change that is:

- (1) material to the risk, and
- (2) within the control and knowledge of the "Policy Holder".

- b. If "We" are not promptly notified of a change as described in subparagraph a., this "Policy" is void as to any coverage affected by the change.
- c. If "We" are notified of a change as described in subparagraph a., "We" may terminate this "Policy" as between "You" and "Us".

7. Representations

By accepting this "Policy" on behalf of the "Insured"(s), the "Policy Holder" agrees as follows:

- a. The statements made by the "Policy Holder" to "Us" are accurate and complete;
- b. The coverages provided by this "Policy" are based upon representations the "Policy Holder" made to "Us"; and
- c. "We" have issued this "Policy" in reliance upon the representations of the "Policy Holder".

8. Termination

- a. The "Policy Holder" may terminate this "Policy" by mailing or delivering to "Us" advance written notice of termination on behalf of all "Insured"(s). If the premium is not adjustable, the return premium will be calculated on a short rate basis for the time the policy has been in force. If the premium is subject to an adjustment rate, the return premium will equal the excess of the deposit premium over the actual amount of adjustable earned premium, when determined, for the time the policy has been in force.

"We" may terminate this "Policy" by mailing or delivering to the "Policy Holder" written notice of termination at least 30 days before the effective date of termination. If the premium is not adjustable, the return premium will be calculated on a pro-rata basis for the time the policy has been in force. If the premium is subject to an adjustment rate, the return premium will be equal to the excess of the deposit premium over the actual amount or adjustable earned premium, when determined, for the time the policy has been in force.

In either case, the return premium will be subject to the retention, by the "Insurer", of the Minimum Retained Premium, if any, stated in the Item 6 of the Declarations.

- b. The "Policy Period" will end on the date termination takes effect.

9. Written Notice

- a. Written notice to "Us" may be delivered at, or sent by registered mail addressed to the address on file with the "Policy Holder".
- b. Written notice by "Us" may be personally delivered at, or sent by registered mail addressed to,
1. If it is notice that is required to be given to the "Policy Holder", the "Policy Holder"(s) last address known to "Us"; or
 2. If it is notice that may be provided to the "Named Insured" directly, to the "Named Insured"(s) last known address as provided by the "Policy Holder" to "Us".
- c. Registered Mail notice takes effect 30 days after the registered letter or notification of it is delivered to the "Named Insured"(s) postal address. Proof of mailing will be sufficient proof of notice.

The titles and headings to the various parts, sections, subsections and endorsements of the "Policy" are included solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of such parts, sections, subsections or endorsements.

10. It is understood and agreed that "Policy" SECTION I – COMMON EXCLUSIONS – Coverage A and B has been amended to include the below Exclusion.

10. "Insured" vs. "Insured" Exclusion.

This insurance does not apply to any Action for "Bodily Injury", "Property Damage", or "Personal and Advertising Injury" brought by one "Insured" against any other "Insured".

This exclusion does not apply to "Policy" **SECTION I, Coverage A. "BODILY INJURY" and "PROPERTY DAMAGE" LIABILITY.**

2. Exclusions

- 2.d. (B).(ii) Employer's Liability

11. It is understood and agreed that "Policy" SECTION I – Coverage A - 2. Exclusions has been amended to add the below exclusion.

- o.** Injury to dignity, feelings and self-respect sustained by any person during the "Policy Period", unless otherwise specified in an endorsement to the "Policy".

12. It is understood and agreed that "Policy" SECTION II – WHO IS AN "INSURED" has been amended to include the below extended definition.

2.b. "Your" subcontractors, and subcontractors of "Your" subcontractors (and where any subcontractor is an individual, the spouse of that individual), but only insofar as:

- (1)** subcontracting (and, as the case may be, sub-subcontracting) is permitted under the contract between "You" and the "Province Authority";
- (2)** the subcontracted services are "Insured Operations"; and
- (3)** "You" or "Your" subcontractor, as the case may be, have a written contract in place with the subcontractor.

13. It is understood and agreed that "Policy" SECTION IV – COMMERCIAL GENERAL LIABILITY POLICY CONDITIONS paragraph 6. Other Insurance is deleted and replaced with the following.

This insurance is primary with respect to the "Insured Operations".

14. It is understood and agreed that "Policy" SECTION V – DEFINITIONS, "Personal and Advertising Injury" has been amended to include coverage definition (i.)

- i.** Any wrongful intentional act involving molestation, harassment, exploitation, or any other form of verbal (written or oral), physical, sexual, or mental abuse for which the entity is found or alleged to be vicariously liable.

COMMERCIAL GENERAL LIABILITY POLICY

Various provisions in this "Policy" restrict coverage, including a clause which may limit the amount payable. Read the entire "Policy" carefully to determine rights, duties and what is and is not covered.

SECTION I – COVERAGES

COVERAGE A. "BODILY INJURY" and "PROPERTY DAMAGE" LIABILITY

1. Insuring Agreement

a. "We" will pay those sums that the "Insured" becomes legally obligated to pay as "Compensatory Damages" because of "Bodily Injury" or "Property Damage" as a result of an "Occurrence" to which this insurance applies. "We" will have the right and duty to defend the "Insured" against any "Action" seeking those "Compensatory Damages". However, "We" will have no duty to defend the "Insured" against any "Action" seeking "Compensatory Damages" for "Bodily Injury" or "Property Damage" to which this insurance does not apply.

"We" may, at "Our" discretion, investigate any "Occurrence" and settle any claim or "Action" that may result. But:

(1) The amount "We" will pay for "Compensatory Damages" is limited as described in Section III – Limits of Insurance; and

(2) "Our" right and duty to defend ends when "We" have used up the applicable limit of insurance in the payment of judgments or settlements under this "Policy".

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the 'Supplementary Payments' section of this "Policy".

b. This insurance applies to "Bodily Injury" or "Property Damage" only if:

(1) The "Bodily Injury" or "Property Damage" is as a result of an "Occurrence" that takes place in the "Coverage Territory"; and

(2) The "Bodily Injury" or "Property Damage" occurs during the "Policy Period"; and

(3) Prior to the "Policy Period", no "Insured" and no "Employee" authorized by "You" to give or receive notice of an "Occurrence" or claim, knew that the "Bodily Injury" or "Property Damage" had occurred, in whole or in part. If such an "Insured" or authorized "Employee" knew, prior to the "Policy Period", that the "Bodily Injury" or "Property Damage" occurred, then any continuation, change or resumption of such "Bodily Injury" or "Property Damage" during or after the "Policy Period" will be deemed to have been known prior to the "Policy Period".

c. "Bodily Injury" or "Property Damage" which occurs during the "Policy Period" and was not, prior to the "Policy Period", known to have occurred by any "Insured" or any "Employee" authorized by "You" to give or receive notice of an "Occurrence" or claim, includes any continuation, change or resumption of that "Bodily Injury" or "Property Damage" after the end of the "Policy Period".

d. "Bodily Injury" or "Property Damage" will be deemed to have been known to have occurred at the earliest time when any "Insured" or any "Employee" authorized by "You" to give or receive notice of an "Occurrence" or claim:

(1) Reports all, or any part, of the "Bodily Injury" or "Property Damage" to "Us" or any other insurer;

(2) Receives a written or oral demand or claim for "Compensatory Damages" because of the "Bodily Injury" or "Property Damage"; or

(3) Becomes aware by any other means that "Bodily Injury" or "Property Damage" has occurred or has begun to occur.

e. "Compensatory Damages" because of "Bodily Injury" include "Compensatory Damages" claimed by any person or organization for care, loss of services or death resulting at any time from the "Bodily Injury".

2. Exclusions

In addition to the common exclusions listed below, this insurance also does not apply to:

a. Expected or Intended Injury or Damage

"Bodily Injury" or "Property Damage" expected or intended from the standpoint of the "Insured". This exclusion does not apply to "Bodily Injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily Injury" or "Property Damage" for which the "Insured" is obligated to pay "Compensatory Damages" by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for "Compensatory Damages":

(1) That the "Insured" would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "Insured Contract", provided the "Bodily Injury" or "Property Damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "Insured Contract", reasonable legal fees and necessary litigation expenses incurred by or for a party other than an "Insured" are deemed to be "Compensatory Damages" because of "Bodily Injury" or "Property Damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "Insured Contract"; and

(b) Such legal fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which "Compensatory Damages" to which this insurance applies are alleged.

c. Workers' Compensation and Similar Laws

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

d. Employer's Liability

"Bodily Injury" to:

(1) An "Employee" of the "Insured" arising out of and in the course of:

(a) Employment by the "Insured"; or

(b) Performing duties related to the conduct of the business of the "Insured"; or

(2) The spouse, child, grandchild, parent, grandparent, brother or sister of that "Employee" as a consequence of Paragraph 2. d. (1) above.

This exclusion applies:

(A) Whether the "Insured" may be liable as an employer or in any other capacity; and

(B) To any obligation to share “Compensatory Damages” with or repay someone else who must pay “Compensatory Damages” because of the injury.

This exclusion does not apply to:

(i) Liability assumed by the “Insured” under an “Insured Contract”; or

(ii) A claim made or an “Action” brought by a Canadian resident “Employee” on whose behalf contributions are made by or required to be made by any “Insured” under the provisions of any Canadian provincial or territorial workers' compensation law, if cover or benefits have been denied by any Canadian Workers' Compensation Authority.

e. Aircraft or Watercraft

“Bodily Injury” or “Property Damage” arising out of the ownership, maintenance, use, operation of, or entrustment to others by or on behalf of any “Insured” of:

(1) Any aircraft, air cushion vehicle or watercraft owned or operated by or rented or loaned to any “Insured”; or

(2) Any premises for the purpose of an airport or aircraft landing area and all operations necessary or incidental thereto.

For the purpose of this exclusion, the word ‘use’ includes “Loading or Unloading” in the case of “Property Damage”, and boarding and disembarking in the case of “Bodily Injury”.

This exclusion applies even if the claims against any “Insured” allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that “Insured”, if the “Occurrence” which caused the “Bodily Injury” or “Property Damage” involved the ownership, maintenance, use or entrustment to others of any aircraft or watercraft that is owned or operated by or rented or loaned to any “Insured”.

This exclusion does not apply to:

(A) A watercraft while ashore on premises any “Insured” owns or rents;

(B) A watercraft any “Insured” does not own that is:

(a) Less than 8 metres long; and

(b) Not being used to carry persons or property for a charge;

(C) “Bodily Injury” to an “Employee” of the “Insured” on whose behalf contributions are made by or required to be made by the “Insured” under the provisions of any Canadian provincial or territorial workers' compensation law, if the “Bodily Injury” results from an “Occurrence” involving watercraft.

f. “Automobile”

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

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

This exclusion also applies even if the claims against any “Insured” allege negligence or other wrongdoing in the supervision, instruction, hiring, employment, training or monitoring of others by that, if the “Occurrence” which caused the “Bodily Injury” or “Property Damage” involved the ownership, maintenance, use or operation, or entrustment to others of any “Automobile” that is owned or operated by, or on behalf of, or rented or loaned to any “Insured”.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "Bodily Injury" or "Property Damage".

This exclusion does not apply to:

- (1) "Bodily Injury" to an "Employee" of the "Insured" on whose behalf contributions are made by or required to be made by the "Insured" under the provisions of any Canadian provincial or territorial workers' compensation law.
- (2) "Bodily Injury" or "Property Damage" arising out of a defective condition in, or improper maintenance of, any "Automobile" owned by the "Insured" while leased to others for a period of 30 days or more provided the lessee is obligated under contract to ensure that the "Automobile" is "Insured".
- (3) "Bodily Injury" or "Property Damage" arising out of the ownership, use or operation of machinery, apparatus or equipment mounted on or attached to any "Automobile" while at the site of the use or operation of such equipment. This exception however does not apply when such equipment is mounted on or attached to any "Automobile" and such equipment is used for the purpose of "Loading or Unloading".
- (4) "Bodily Injury" or "Property Damage" arising out of "Loading or Unloading" if such operations are precluded from coverage under the motor vehicle section of any provincial or territorial act or regulation.

g. Damage to Property

"Property Damage" to:

- (1) Property "You" own, rent, or occupy, including any costs or expenses incurred by "You", or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises "You" sell, give away or abandon, if the "Property Damage" arises out of any part of those premises;
- (3) Property loaned to "You";
- (4) Personal property in "Your" care, custody or control;
- (5) That particular part of real property on which "You" or any contractors or subcontractors working directly or indirectly on "Your" behalf are performing operations, if the "Property Damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "Your Work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "Your Work" and were never occupied, rented or held for rental by "You".

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

Paragraph (6) of this exclusion does not apply to "Property Damage" included in the Products- Completed Operations Hazard.

h. Damage to "Your Product"

"Property Damage" to "Your Product" arising out of it or any part of it.

i. Damage to “Your Work”

“Property Damage” to “Your Work” arising out of it or any part of it and included in the Products- Completed Operations Hazard.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on “Your” behalf by a subcontractor.

j. Damage to “Impaired Property” or Property Not Physically Injured

“Property Damage” to “Impaired Property” or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in “Your Product” or “Your Work”; or

(2) A delay or failure by “You” or anyone acting on “Your” behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to “Your Product” or “Your Work” after it has been put to its intended use.

k. Recall of Products, Work or “Impaired Property”

“Compensatory Damages” claimed for any loss, cost or expense incurred by “You” or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) “Your Product”;

(2) “Your Work”; or

(3) “Impaired Property”;

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

l. “Data”

“Compensatory Damages” arising out of:

- 1) erasure, destruction, corruption, misappropriation, misinterpretation of “Data”;
- 2) erroneously creating, amending, entering, deleting or using

“Data”; including any loss of use arising therefrom.

Additionally, this insurance does not apply to “personal injury”, if otherwise “Insured”, arising out of the distribution or display of “Data” by means of an Internet Website, the Internet, an Intranet, extranet or similar device or system designed or intended for electronic communication of “Data”.

m. “Personal and Advertising Injury”

Unless otherwise specified in this “Policy”, “Bodily Injury” arising out of “Personal and Advertising Injury”.

n. Human Rights Code Liability

Any order to pay compensation to any person or to do any other thing pursuant to the provisions of the Human Rights Code of British Columbia or similar or successor legislation, unless otherwise specified by an endorsement to this “Policy”.

COVERAGE B. "Personal and Advertising Injury" LIABILITY

1. Insuring Agreement

a. "We" will pay those sums that the "Insured" becomes legally obligated to pay as "Compensatory Damages" because of "Personal and Advertising Injury" to which this insurance applies. "We" will have the right and duty to defend the "Insured" against any "Action" seeking those "Compensatory Damages". However, "We" will have no duty to defend the "Insured" against any "Action" seeking "Compensatory Damages" for "Personal and Advertising Injury" to which this insurance does not apply.

"We" may, at "Our" discretion, investigate "Occurrence" and settle any claim or "Action" that may result. But:

- (1) The amount "We" will pay for "Compensatory Damages" is limited as described in Section III – Limits of Insurance; and
- (2) "Our" right and duty to defend end when "We" have used up the applicable limit of insurance in the payment of judgments or settlements under this policy. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the 'Supplementary Payments' section of this "Policy".

b. This insurance applies to "Personal and Advertising Injury" caused by an "Occurrence" arising out of "Your" business but only if the "Occurrence" was committed in the "Coverage Territory" during the "Policy Period".

2. Exclusions

In addition to the common exclusions listed below, this insurance does not apply to:

a. Knowing Violation of Rights of Another

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

b. Material Published with Knowledge of Falsity

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

c. Material Published Prior to "Policy Period"

"Personal and Advertising Injury" arising out of oral or written publication of material whose first publication took place before the beginning of the "Policy Period".

d. Contractual Liability

"Personal and Advertising Injury" for which the "Insured" has assumed liability in a contract or agreement.

This exclusion does not apply to liability for "Compensatory Damages" that the "Insured" would have in the absence of the contract or agreement.

e. Breach of Contract

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

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

"Personal and Advertising Injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in "Your" "Advertisement".

g. Wrong Description of Prices

"Personal and Advertising Injury" arising out of the wrong description of the price of goods, products or services stated in "Your" "Advertisement".

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

"Personal and Advertising Injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. However, this exclusion does not apply to infringement, in "Your" "Advertisement", of copyright, trade dress or slogan.

i. "Insured"(s) in Media and Internet Type Businesses

"Personal and Advertising Injury" committed by an "Insured" whose business is:

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

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

j. Unauthorized Use of Another's Name or Product

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

COMMON EXCLUSIONS – Coverages A and B

This insurance does not apply to:

1. Asbestos

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

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "Bodily Injury", "Property Damage" or "Personal and Advertising Injury".

2. Criminal Acts

"Bodily Injury", "Property Damage" or "Personal and Advertising Injury" arising out of any criminal act(s) committed by or at the direction of any "Insured".

3. Fungi or Spores

a. "Bodily Injury", "Property Damage" or "Personal and Advertising Injury" or any other cost, loss or expense incurred by others, arising directly or indirectly from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of any Fungi or Spores however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of Fungi or Spores;

b. Any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with **a.** above; or

c. Any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in **a.** or **b.** above.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "Bodily Injury", "Property Damage" or "Personal and Advertising Injury".

For the purpose of the following exception:

- (i) "Property Damage" is limited to physical injury to animals.
- (ii) "Products-Completed Operations Hazard" means all "Bodily Injury" and "Property Damage" (as limited above) that arises out of "Your Product" provided such "Bodily Injury" or "Property Damage" occurs after "You" have relinquished physical possession of "Your Product".

This exclusion does not apply to "Bodily Injury" or "Property Damage" included in the "Products-completed Operations Hazard" arising directly or indirectly from Fungi or Spores that are found in or on, or are, "Your Product", and You intend "Your Product" to be:

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

humans or animals.

For the purposes of this exclusion:

- (i) The term "Fungi" includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any such substance or Spores or resultant mycotoxins, allergens or pathogens.
- (ii) The term "Spores" includes, but is not limited to, any reproductive particle or microscopic fragment produced by, emitted from or arising out of any substance described in the definition of Fungi above.

4. Nuclear Energy Liability

a. Liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof;

b. "Bodily Injury", "Property Damage", "Personal and Advertising Injury" with respect to which an "Insured" under this policy is also "Insured" under a contract of nuclear energy liability insurance (whether the "Insured" is unnamed in such contract and whether or not it is legally enforceable by the "Insured") issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an "Insured" under any such policy but for its termination upon exhaustion of its limit of liability;

c. "Bodily Injury", "Property Damage" or "Personal and Advertising Injury" resulting directly or indirectly from the Nuclear Energy Hazard arising from:

- (1) The ownership, maintenance, operation or use of a Nuclear Facility by or on behalf of an "Insured";
- (2) the furnishing by an "Insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility;

(3) the possession, consumption, use, handling, disposal or transportation of Fissionable Substances, or of other Radioactive Material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an "Insured".

This exclusion applies regardless of any other contributing or aggravating cause or event that contribute concurrently or in any sequence to the "Bodily Injury", "Property Damage" or "Personal and Advertising Injury".

For the purposes of this exclusion:

(i) 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.

(ii) The term "Nuclear Energy Hazard" means the radioactive, toxic, explosive, or other hazardous properties of "radioactive material".

(iii) The term "Nuclear Facility" means:

(a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;

(b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or packaging waste;

(c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the "Insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste Radioactive Material; and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

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

5. Pollution

(1) "Bodily Injury", "Property Damage" or "Personal and Advertising Injury" arising out of the actual, alleged, or threatened presence, spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of Pollutants:

a. At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any "Insured". However, this subparagraph **a.** does not apply to:

(1) "Bodily Injury" if sustained within a building and caused by smoke, fumes, vapour or soot from equipment used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(2) "Bodily Injury" or "Property Damage" for which "You" may be held liable, if "You" are a contractor and the owner or lessee of such premises, site or location has been added to "Your" policy as an "Additional Insured" with respect to "Your" ongoing operations performed for that "Additional Insured" at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any "Insured", other than that "Additional Insured"; or

(3) "Bodily Injury" or "Property Damage" arising out of heat, smoke or fumes from a Hostile Fire;

b. At or from any premises, site or location which is or was at any time used by or for any "Insured" or others for the handling, storage, disposal, processing or treatment of waste;

c. Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(1) Any "Insured"; or

(2) Any person or organization for whom "You" may be legally responsible; or

d. At or from any premises, site or location on which any "Insured" or any contractors or subcontractors working directly or indirectly on behalf of any "Insured" are performing operations if the Pollutants are brought on or to the premises, site or location in connection with such operations by such "Insured", contractor or subcontractor. However, this subparagraph does not apply to:

(1) "Bodily Injury" or "Property Damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of mobile equipment or its parts, if such fuels, lubricants or other operating fluids escape from a permanent and integral mobile equipment part designed to hold, store or receive them. This exception does not apply if the "Bodily Injury" or "Property Damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such "Insured", contractor or subcontractor;

(2) "Bodily Injury" or "Property Damage" sustained within a building and caused by the release of gases, fumes or vapours from materials brought into that building in connection with operations being performed by "You" or on "Your" behalf by a contractor or subcontractor; or

(3) "Bodily Injury" or "Property Damage" arising out of heat, smoke or fumes from a Hostile Fire.

e. At or from any premises, site or location on which any "Insured" or any contractors or subcontractors working directly or indirectly on behalf of any "Insured" are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, Pollutants.

(2) Any loss, cost or expense arising out of any:

a. Request, demand, order or statutory or regulatory requirement that any "Insured" or others test for, evaluate, monitor, clean up, remove, contain, treat, remediate, detoxify or neutralize, or in any way respond to, or assess the effects of, Pollutants; or

b. Claim or "Action" by or on behalf of a governmental authority, or by or on behalf of anyone as a result of any liability created by statute, including but not limited to the Environmental Management Act, for "Compensatory Damages" because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, Pollutants.

For the purposes of this exclusion:

(i) The term "Hostile Fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

(ii) The term "Pollutants" includes without limitation any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals, refuse, hazardous waste, biomedical waste, air contaminants, effluent, litter and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

6. Terrorism

"Bodily Injury", "Property Damage" or "Personal and Advertising Injury" arising directly or indirectly, in whole or in part, out of Terrorism or out of any activity or decision of a government agency or other entity to prevent, respond to or terminate Terrorism. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "Bodily Injury", "Property Damage" or "Personal and Advertising Injury".

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

7. War Risks

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

8. Professional Services

"Bodily Injury" (other than Incidental Medical Malpractice Injury as defined below), or "Property Damage" due to the rendering of or failure to render by "You" or on "Your" behalf of any Professional Services for others, or any error or omission, malpractice or mistake in providing those services.

For the purpose of this exclusion, "Incidental Medical Malpractice Injury" means "Bodily Injury" arising out of the rendering of or failure to render, during the "Policy Period", the following services:

- (1) medical, surgical, dental, x-ray or nursing services or treatment or the furnishing of food or beverages in connection therewith; or
- (2) the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;

by any "Insured" causing such injury who is not engaged in the business or occupation of providing any of the services described in (1) and (2) above.

Professional Services shall include but not be limited to:

- a. Medical, surgical, dental, x-ray or nursing service or treatment, or the furnishing of food or beverages in connection therewith;
- b. Any professional service or treatment conducive to
 - (1) physical health, including but not limited to fitness, weight training, athletic coaching and occupational and athletic therapy, or
 - (2) mental health, including but not limited to behavioural therapy and the services or treatment of a psychologist or counsellor, or otherwise of a professional nature;
- c. Professional services of a pharmacist;
- d. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;

- e. The handling or treatment of deceased human bodies including autopsies, organ donations or other procedures;
- f. Any cosmetic, body piercing, tonsorial, massage, physiotherapy, chiropody, hearing aid, optical or optometrical services or treatments;
- g. The preparation or approval of maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications;
- h. Supervisory, inspection, architectural, design or engineering services;
- i. Accountant's, advertiser's, notary's (Quebec), public notary's, paralegal's, lawyer's, real estate broker's or agent's, insurance broker's or agent's, travel agent's, financial institution's, or consultant's professional advice or activities;
- j. Any computer programming or re-programming, consulting, advisory or related services;
- k. Claim, investigation, adjustment, appraisal, survey or audit services;

9. "Unsolicited Communication"

"Bodily Injury", "Property Damage" or "Personal and Advertising Injury" related to or arising from any actual or alleged violation of any law that restricts or prohibits the sending, transmitting or distribution of "Unsolicited Communication".

SUPPLEMENTARY PAYMENTS – Coverages A and B

1. "We" will pay, with respect to any claim "We" investigate or settle, or any "Action" against an "Insured" "We" defend:
- a. All expenses "We" incur.
 - b. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. "We" do not have to furnish these bonds.
 - c. All reasonable expenses "You" incur at "Our" request to assist "Us" in the investigation or defense of the claim or "Action", including actual loss of earnings up to \$250 a day because of time off from work.
 - d. All costs assessed or awarded against "You" in the "Action";
 - e. Any interest accruing after entry of judgment upon that part of the judgment which is within the applicable limit of insurance and before "We" have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance as described in Section III – LIMITS OF INSURANCE.

SECTION II – WHO IS AN "INSURED"

1. Only with respect to the "Insured Operations", if "You" are:
- a. An individual, "You" and "Your" spouse are an "Insured".

b. A partnership, limited liability partnership or joint venture, "You" are an "Insured". "Your" members, "Your" partners, and their spouses are also an "Insured".

c. A limited liability company, "You" are an "Insured". "Your" members are also an "Insured". "Your" managers are also an "Insured", but only with respect to their duties as "Your" managers.

d. An organization other than a partnership, limited liability partnership, joint venture or limited liability company, "You" are an "Insured". "Your" "Executive Officer"(s) and directors are also an "Insured", but only with respect to their duties as "Your" officers or directors. "Your" shareholders are also an "Insured", but only with respect to their liability as shareholders.

e. A trust, "You" are an "Insured". "Your" trustees are also an "Insured", but only with respect to their duties as trustees.

2. Each of the following is also an "Insured":

a. "Your" "Volunteer Worker"(s), but only while performing duties related to the "Insured Operations", or "Your" "Employee"(s), other than either "Your" "Executive Officer"(s) (if "You" are an organization other than a partnership, limited liability partnership, joint venture or limited liability company) or "Your" managers (if "You" are a limited liability company), but only for acts within the scope of their employment by "You" or while performing duties related to the "Insured Operations". However, none of these "Employee"(s) or "Volunteer Worker"(s) are an "Insured" for:

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

(a) To "You", to "Your" partners or members (if "You" are a partnership, limited liability partnership or joint venture), to "Your" members (if "You" are a limited liability company), to a co-"Employee" while in the course of his or her employment or performing duties related to the conduct of "Your" business, or to "Your" other "Volunteer Worker"(s) while performing duties related to the conduct of "Your" business;

(b) To the spouse, child, grandchild, parent, grandparent, brother or sister of that co-"Employee" or "Volunteer Worker" as a consequence of Paragraph **(1) (a)** above;

(c) For which there is any obligation to share "Compensatory Damages" with or repay someone else who must pay "Compensatory Damages" because of the injury described in Paragraphs **(1)(a)** or **(b)** above;

(d) To any person who at the time of injury is entitled to benefits under any workers' compensation or disability benefits law or a similar law.

(2) "Property Damage" to property:

(a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by "You", any of "Your" "Employee"(s), "Volunteer Worker"(s), any partner or member (if "You" are a partnership, limited liability partnership or joint venture), or any member (if "You" are a limited liability company).

3. Each of the following is an "Additional Insured":

a. individuals, firms, partnerships, companies or corporations but only insofar as:

(1) their legal liability arises out of the use or operation by the "Named Insured" of their property, facilities or equipment for "Insured" Operations, and

(2) the "Named Insured" has agreed in writing to provide coverage.

SECTION III – LIMITS OF INSURANCE

1. The limits of insurance shown in “Your” “Certificate of Insurance” sets out the most “We” will pay per “Occurrence” regardless of the number of:

- a. “Insured”(s);
- b. Claims made or “Action”(s) brought; or
- c. Persons or organizations making claims or bringing an “Action”.

2. Deductible

a. The “Insured” shall pay the first \$1,000.00 of each and every claim under this policy except claims for “Bodily Injury” and “Personal and Advertising Injury”. If more than one claim arises or results from a single “Occurrence”, the deductible amount shall apply only once. When the total loss exceeds \$1,000.00, the deductible is waived.

b. The terms of this insurance, including those in respect to:

(1) “Our” right and duty to defend any “Action” seeking those “Compensatory Damages”; and

(2) “Your” duties in the event of an “Occurrence”, claim or “Action” apply irrespective of the application of the deductible amount.

c. “We” may pay any part or all of the deductible amount to effect settlement of any claim or “Action” and, upon notification of the “Action” taken, “You” shall promptly reimburse “Us” for such part of the deductible amount as has been paid by “Us”.

3. Two or More Certificates of Insurance or Policies Issued by “Us”.

If this Insurance and any other “Certificate of Insurance” or “Policy” issued to “You” by “Us” apply to the same “Occurrence”, the maximum Limit of Insurance under all of the Certificates of Insurance or Policies shall not exceed the highest applicable Limit of Insurance under any one “Certificate of Insurance” or “Policy”. This condition does not apply to any “Policy” issued by “Us” or any other Insurer specially to apply as excess insurance over this “Certificate of Insurance” or “Policy”.

SECTION IV – COMMERCIAL GENERAL LIABILITY POLICY CONDITIONS

1. Change of Interest

“We” are 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.

2. Canadian Currency Clause

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

3. Duties In The Event of “Occurrence”, Claim or “Action”

a. “You” must see to it that “We” are notified as soon as practicable of an “Occurrence” which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the “Occurrence” took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the “Occurrence”.

- b.** If a claim is made or "Action" is brought against any "Insured", "You" must:
- (1)** Immediately record the specifics of the claim or "Action" and the date received; and
 - (2)** Notify "Us" as soon as practicable.

"You" must see to it that "We" receive written notice of the claim or "Action" as soon as practicable after "You" receive it.

- c.** "You" and any other involved "Insured" must:
- (1)** Immediately send "Us" copies of any demands, notices, summonses or legal papers received in connection with the claim or "Action";
 - (2)** Authorize "Us" to obtain records and other information;
 - (3)** Cooperate with "Us" in the investigation or settlement of the claim or defense against the "Action"; and
 - (4)** Assist "Us", upon "Our" request, in the enforcement of any right against any person or organization which may be liable to any "Insured" because of injury or damage to which this insurance may also apply.

d. No "Insured" will, except at the "Insured"(s) own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without "Our" consent.

4. Examination of "Your" Books and Records

"We" may examine and audit "Your" books and records as they relate to this "Policy" at any time during the "Policy Period" and up to three years afterward.

5. Inspections and Surveys

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

6. Other Insurance

If other valid and collectible insurance is available to the "Insured" for a loss "We" cover under this "Policy", "Our" obligations are limited as follows:

a. Primary Insurance

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

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is property insurance such as, but not limited to, fire, extended coverage, builder's risk, installation risk or similar coverage for "Your Work";
 - (b) That is property insurance such as, but not limited to, fire, extended coverage, for premises rented to "You" or temporarily occupied by "You" with permission of the owner;
 - (c) If the loss arises out of the maintenance or use of aircraft, watercraft or "Automobile" to the extent not subject to either exclusion **e.** or **f.** of Section I – Coverage **A** – "Bodily Injury" and "Property Damage" Liability.
- (2) Any other primary insurance available to "You" covering liability for "Compensatory Damages" arising out of the premises or operations or products-completed operations for which "You" have been added as an "Additional Insured" by attachment of an endorsement.
- (3) Any other existing insurance policy or policies which provide coverage for any "Insured" (or would so provide coverage if this "Policy" did not exist) in respect of any liability for "Compensatory Damages" arising from the delivery of the "Insured" Operations.

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

When this insurance is excess over other insurance, "We" will pay only "Our" share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance. "We" will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the limits of insurance shown in the "Certificate of Insurance".

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, "We" will follow this method also. Under this approach each Insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, "We" will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

7. Separation of “Insured”(s), Cross Liability

Except with respect to the limits of insurance, and any rights or duties specifically assigned in this “Policy” to the “Named Insured” or to the Policy Holder, this insurance applies:

- a. As if each “Insured” were the only “Insured”; and
- b. Separately to each “Insured” against whom claim is made or “Action” is brought.

8. Transfer of Rights of Recovery against Others to “Us”

If the “Insured” has rights to recover all or part of any payment “We” have made under this “Policy”, those rights are transferred to “Us”. The “Insured” must do nothing after loss to impair them. At “Our” request, the “Insured” will bring “Action” or transfer those rights to “Us” and help “Us” enforce them.

9. Transfer of “Your” Rights and Duties under this “Policy”

“Your” rights and duties under this policy may not be transferred or assigned without “Our” written consent except in the case of death of an individual Named “Insured”. If “You” die, “Your” rights and duties will be transferred to “Your” legal representative but only while acting within the scope of duties as “Your” legal representative. Until “Your” legal representative is appointed, anyone having proper temporary custody of “Your” property will have “Your” rights and duties but only with respect to that property.

10. Legal “Action” against “Us”

No person has a right under this policy:

- a. To join “Us” as a party or otherwise bring “Us” into an “Action” asking for “Compensatory Damages” from an “Insured”; or
- b. To sue “Us” on this “Policy” unless all of its terms have been fully complied with; and
- c. Every “Action” or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Insurance Act

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

11 “Action” against “Insurer”

No “Action” shall lie against the “Insurer” unless, as a condition precedent, to such “Action” there shall have been full compliance with all of the terms of this “Policy”. In addition, no “Action” shall lie against the “Insurer” until the amount of the “Insured”(s) obligation to pay shall have been finally determined either by judgement against the “Insured” after actual trial, or by written agreement of the “Insured”, the claimant and the “Insurer”. The “Insurer” shall not be liable for “Compensatory Damages” that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance.

Nothing contained in this “Policy” shall give any person or organization any right to join the “Insurer” as a co- defendant in any “Action” against the “Insured” to determine the “Insured”(s) liability.

Bankruptcy or insolvency of the “Insured” or the estate of the “Insured” shall not relieve the “Insurer” of any of its obligations under this “Policy”.

In the event a dispute between the “Insurer” and “Insured” occurs about whether this policy responds to a claim against the “Insured”, and where in such event a judicial or arbitral determination is made requiring the “Insurer” to provide a defence or indemnity or both to the “Insured”, any costs payable by the “Insurer” arising from such a determination are payable on a party and party basis under the tariff to the Supreme Court Civil Rules, and not on an indemnity basis.

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

SECTION V – DEFINITIONS

"Action" means a civil proceeding in which "Compensatory Damages" because of "Bodily Injury", "Property Damage" or "Personal and Advertising Injury" to which this insurance applies are alleged.

"Advertisement" means a notice that is broadcast or published to the general public or specific market segments about "Your" goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about "Your" goods, products or services for the purposes of attracting customers or supporters is considered an "Advertisement".

"Automobile" means a land motor vehicle, trailer or semitrailer that is required by law to be "Insured" under a contract evidenced by a motor vehicle liability policy, or any vehicle "Insured" under such a contract, including any attached machinery or equipment.

"Bodily Injury" means physical injury, mental injury, sickness, disease or disability sustained by any person during the "Policy Period", including death at any time resulting therefrom.

"Compensatory Damages" means damages due or awarded in payment for actual injury or economic loss. "Compensatory Damages" does not include fines, penalties, punitive or exemplary damages or the multiple portion of any multiplied damage award.

"Coverage Territory" means:

- a. Canada and the United States of America (including its territories and possessions).
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
- c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by "You" in the territory described in a. above;
 - (2) The activities of an "Insured" person whose home is in the territory described in a. above, but is away for a short time on "Your" business; or
 - (3) "Personal and Advertising Injury" "Occurrence" that take place through the Internet or similar electronic means of communication provided the "Insured"(s) responsibility to pay "Compensatory Damages" is determined in an "Action" on the merits, in the territory described in a. above or in a settlement "We" agree to.

"Data" means representations of information or concepts, in any form.

"Employee" includes a "Leased Worker" and a "Temporary Worker".

"Executive Officer" means a person holding any of the officer-type positions created by "Your" charter, constitution, by-laws or any other similar governing document, regardless of the title given to those positions.

"Impaired Property" means tangible property, other than "Your Product" or "Your Work", that cannot be used or is less useful because:

- a. It incorporates "Your Product" or "Your Work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. "You" have failed to fulfill the terms of a contract or

agreement; if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "Your Product" or "Your Work"; or

b. "Your" fulfilling the terms of such contract or agreement.

"Insured Contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to "You" or temporarily occupied by "You" with permission of the owner is not an "Insured Contract";

b. A sidetrack agreement;

c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;

d. Any other easement agreement;

e. An obligation, as required by ordinance or bylaw, to indemnify a municipality, except in connection with work for a municipality;

f. An elevator maintenance agreement;

g. That part of any other contract or agreement pertaining to "Your" business (including an indemnification of a municipality in connection with work performed for a municipality) under which "You" assume the tort liability of another party to pay for "Compensatory Damages" because of "Bodily Injury" or "Property Damage" to a third person or organization, provided the "Bodily Injury" or "Property Damage" is caused, in whole or in part, by "You" or by those acting on "Your" behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the "Insured", if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the "Insured"(s) rendering or failure to render Professional Services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

"Leased Worker" means a person leased to "You" by a labour leasing firm under an agreement between "You" and the labour leasing firm, to perform duties related to the conduct of "Your" business. "Leased Worker" does not include a "Temporary Worker".

"Loading or Unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "Automobile";
- b. While it is in or on an aircraft, watercraft or "Automobile"; or
- c. While it is being moved from an aircraft, watercraft or "Automobile" to the place where it is finally delivered; but "Loading or Unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "Automobile".

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

"Personal and Advertising Injury" means "Compensatory Damages", including consequential "Bodily Injury", arising out of one or more of the following:

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

"Products-completed Operations Hazard":

a. Includes all "Bodily Injury" and "Property Damage" occurring away from premises "You" own or rent and arising out of "Your Product" or "Your Work" except:

(1) Products that are still in "Your" physical possession; or

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

(a) When all of the work called for in "Your" contract has been completed.

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

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

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

b. Does not include "Bodily Injury" or "Property Damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on an "Automobile" not owned or operated by "You", and that condition was created by the "Loading or Unloading" of that "Automobile" by any "Insured"; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

"Property Damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "Occurrence" that caused it.

"Temporary Worker" means a person who is furnished to "You" to substitute for a permanent "Employee" on leave or to meet seasonal or short-term workload conditions.

"Unsolicited Communication" means any communication, in any form, that the recipient of such communication did not specifically request to receive.

"Volunteer Worker" means a person who is not "Your" "Employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by "You", and is not paid a fee, salary or other compensation by "You" or anyone else for their work performed for "You".

"Your Product":

a. Means:

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

(a) "You";

(b) Others trading under "Your" name; or

(c) A person or organization whose business or assets "You" have acquired; and

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

b. Includes

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "Your Product"; and

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

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

"Your Work":

a. Means:

(1) Work or operations performed by "You" or on "Your" behalf; and

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

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “Your Work”, and
- (2)** The providing of or failure to provide warnings or instructions.

ENDORSEMENT NO. 2

NON-OWNED AUTOMOBILE COVERAGE INSURING AGREEMENT

In consideration of the payment of the premium and subject to the limits, terms, conditions, provisions, definitions, and exclusions herein stated:

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

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

Provided always the "Insurer" shall not be liable under this "Policy":

(a) for any liability which arises from the use or operations of any "Automobile" while personally driving by the "Insured" if the "Insured" is an individual; or

*(b) for any liability imposed upon the "Insured" by this "Policy":

(i) by any workmen's compensation law; or

(ii) by any law for "Bodily Injury" to or the death of the "Insured" or any partner, officer or "Employee" of the "Insured" while engaged in the business of the "Insured"; or

*Not applicable in the Province of Ontario

(c) for any liability assumed by the "Insured" voluntarily under any contract or agreement except a written contract or agreement; or

(d) for loss or damage to property carried in or upon an "Automobile" personally driven by the "Insured" or to any property owned or rented by, or in the care, custody or control of the "Insured"; or

(e) for any amount in excess of the limit stated in the "Certificate of Insurance", and expenditures provided for in the Additional Agreements of this "Policy"; subject always to the provisions of the section of the Insurance Act (Automobile Insurance Part) relating to the nuclear energy hazard.

ADDITIONAL AGREEMENTS OF INSURER

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

(1) Upon receipt of notice of loss or damage caused to persons or property to serve the "Insured" by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the "Insurer"; and

(2) to defend in the name and on behalf of the "Insured" and at the cost of the "Insurer" any civil proceeding which may at any time be brought against such person on account of such loss or damage to person or property; and

(3) to pay all costs assessed against the "Insured" in any proceeding defended by the "Insurer" and any interest accruing after entry of judgement upon that part of the judgement which is within the

limits of the "Insurer"(s) liability; and

- (4) in the case of "Bodily Injury" to a person, reimburse any "Insured" for reasonable monetary outlay for such medical aid as may be immediately necessary at the time of such injury; and
- (5) be liable up to the minimum limit(s) prescribed for that province or territory of Canada in which the accident occurred, if that limit(s) is higher than the limit stated in Section A of Item 7 of the application; and
- (6) not set up any defense to a claim that might not be set up if the "Policy" were a motor vehicle liability policy issued in the province or territory of Canada in which the accident occurred.

AGREEMENTS OF "INSURED"

Where indemnity is provided by this Section, the "Insured"

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

GENERAL PROVISIONS AND DEFINITIONS

1. Insuring Agreement

The "Insurer" agrees to indemnify in the same manner and to the same extent as if named herein as the "Insured" who, with the consent of the owner thereof, personally drives (a) in the business of the "Insured" or incidental personal use in connection therewith, any "Automobile" not owned in whole or in part by or licensed in the name of (i) the "Insured", or (ii) any person or persons residing in the same dwelling premises as the "Insured" or (b) any "Automobile" hired or leased in the name of the "Insured" for use on the "Insured"(s) behalf including personal use in connection therewith except an "Automobile" owned in whole or in part or licensed in the name of such "Insured" person.

2. Territory

This "Policy" applies only to the use or operation of "Automobile"(s) within Canada or the United States of America or upon a vessel plying between ports of those countries.

3. Hired Automobiles Defined

The term Hired Automobiles as used in this "Policy" means "Automobile"(s) hired, leased or borrowed from others with or without drivers or (b) hired, leased or borrowed by the "Insured" from others without driver for periods not exceeding thirty (30) days, used at the direction, request or with the permission of the "Insured" in the business of the "Insured", including incidental personal use in connection therewith, but shall not include any "Automobile" owned in whole or in part by or licensed in the name of the "Insured" .

4. Automobiles Operated Under Contract Defined

The term "Automobiles Operated Under Contract" as used in this "Policy" shall mean "Automobile"(s) operated in the business of the "Insured" where the complete supervision, direction and control of such

Automobile(s) remain with the owner thereof, but shall not include any Automobile owned in whole or in part by or licensed in the name of the "Insured"

5. Two or more Automobiles

When two or more Automobiles are "Insured" hereunder the terms of this "Policy" shall apply separately to each, but a motor vehicle and a trailer or trailers attached thereto shall be held to be one Automobile as respects the limits of liability stated in the "Certificate of Insurance".

Endorsement No. 3

Human Rights Code Liability

This endorsement forms part of the attached Commercial General Liability “Policy”. All terms used in this endorsement shall have the same meanings provided below or in the attached “Policy” and Endorsement No. 1 Additional Definitions and General Conditions Amendment.

SECTION I – COVERAGES

COVERAGE C. Defending Human Rights Code Complaints

The “Insurer” agrees to defend the “Insured” against any complaint filed against the “Insured” alleging discrimination pursuant to and as defined in the British Columbia Human Rights Code (the “Code”) or any successor British Columbia legislation.

1. Insuring Agreement

- a. “We” will have the right and duty to defend the “Insured” in all proceedings, other than a judicial review, respecting a complaint filed under the Code, however “We” will have no duty to pay any compensation for injury to dignity, feelings and self-respect or to any of them ordered by the British Columbia Human Rights Tribunal (the “Tribunal”) or to do any other thing ordered by the Tribunal.

“We” will have no duty to defend the “Insured” in respect of a claim or complaint of any kind to which this insurance does not apply.

“We” may at “Our” discretion, investigate any complaint filed under the Code.

“Our” right and duty to defend ends when “We” have used up the applicable limit of insurance in the payment of judgments or settlements under this “Policy”.

No other obligation or liability to pay sums or perform acts or services is covered by this “Policy” unless explicitly provided under the “Supplementary Payments” section of this “Policy”.

- b. “Our” obligation to defend a complaint under the Code applies only if:
- (1) The discrimination alleged in the complaint takes place in the “Coverage Territory”;
 - (2) The discrimination alleged in the complaint occurs during the “Policy Period”; and
 - (3) Prior to the “Policy Period” no “Insured” and no “Employee” authorized by “You” to give or receive notice of a complaint knew that the discrimination alleged in the complaint had occurred in whole or in part. If such an “Insured” or authorized “Employee” knew, prior to the “Policy Period”, that the discrimination alleged in the complaint had occurred, then any continuation, change, or resumption of the discrimination alleged in the complaint during or after the “Policy Period” will be deemed to have been known prior to the “Policy Period”.
- c. Discrimination alleged in a complaint that occurs during the “Policy Period” and was not prior

to the "Policy Period" known to have occurred by any "Insured" or any "Employee" authorized by "You"

to give or receive notice of a complaint includes any continuation, change, or resumption of that discrimination after the end of the "Policy Period".

- d. Discrimination alleged in a complaint will be deemed to have been known to have occurred at the earliest time when any "Insured" or "Employee" authorized by "You" to give or receive notice of a complaint:
 - (1) Reports all or any part of the discrimination to "Us" or any other insurer;
 - (2) Receives a written or oral complaint of discrimination; or
 - (3) Becomes aware by any other means that discrimination has occurred or has begun to occur.

It is understood and agreed that for the purposes of this Endorsement the words, "injury to dignity, feelings and self-respect or to any of them", have the meaning ascribed to them by the Code.