



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

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

**APPLICATION  
ITEMS**

1. Full Name and Postal Address of the Insured: AS SHOWN ON THE POLICY DECLARATIONS
2. **Policy Period:** AS SHOWN ON THE POLICY DECLARATIONS  
12:01 a.m. standard time at the address stated in Item 1.
3. The **Automobiles** in respect of which insurance is to be provided are those not owned in whole or in part by, nor licensed in the name of the Insured used in the Insured’s business as known to the Insurer.
4. The Insured’s partners, officers, employees and agents as of the date of this application are as known to the Insurer.
5. “Hired **Automobiles**” – The **Automobiles** hired by the Insured are as known to the Insurer.
6. “**Automobiles** Operated Under Contract” on behalf of the Insured are as known to the Insurer.
7. This application is made for insurance against the perils mentioned in this item and upon the terms and conditions of the Insurer’s corresponding standard policy form and for the following specified limit:

Insuring Agreements	Perils	Limit of Liability	
SECTION A Third Party Liability	legal liability for <b>Bodily Injury</b> to or death of any person or damage to property of others not in the care, custody or control of the Insured.	As per limit shown on Declarations	(exclusive of interest and costs) for loss or damage resulting from <b>Bodily Injury</b> to or the death of one or more persons, and for loss or damage to property, regardless of the number of claims arising from any one accident.

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

AS KNOWN TO THE INSURER

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

Injury to Persons

Damage to Property of Others

AS KNOWN TO THE INSURER

10. All the statements in this application are true and the Insured hereby applies for a contract of **Automobile** insurance to be based on the truth of the said statements.
11. Where, (a) an applicant for a contract gives false particulars of the described **Automobile** to be insured to the prejudice of the Insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein; or (b) the Insured contravenes a term of the contract or commits a fraud; or (c) the Insured wilfully makes a false statement in respect of a claim under the contract, a claim by the Insured is invalid and the right of the Insured to recover indemnity is forfeited.

## **INSURING AGREEMENT**

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In consideration of the payment of the premium specified and of the statements contained in the application and subject to the limits, terms, conditions, provisions, definitions and exclusions herein stated.

### **SECTION A - THIRD PARTY LIABILITY**

The Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured for loss or damage arising from the use or operation of any **Automobile** not owned in whole or in part by or licensed in the name of the Insured, and resulting from **BODILY INJURY TO OR THE DEATH OF ANY PERSON OR DAMAGE TO PROPERTY OF OTHERS NOT IN THE CARE, CUSTODY OR CONTROL OF THE INSURED**:

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

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

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

## **ADDITIONAL AGREEMENT OF INSURER**

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

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

## **AGREEMENTS OF INSURED**

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Where indemnity is provided by this section, every person Insured by this Policy:

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

## **GENERAL PROVISIONS AND DEFINITIONS**

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### **1. ADDITIONAL INSURED**

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

### **2. TERRITORY**

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

### **3. HIRED AUTOMOBILES DEFINED**

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

### **4. AUTOMOBILES OPERATED UNDER CONTRACT DEFINED**

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

### **5. TWO OR MORE AUTOMOBILES**

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

### **6. PREMIUM ADJUSTMENT**

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

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

The Advance Premiums are subject to adjustment at the end of the Policy Period when the Insured shall deliver to the Insurer a written statement of the total amounts expended for cost of hire during the Policy Period. If such amounts exceed the estimates stated in the application, the Insured shall immediately pay additional premium at the rates stated therein; if less, the Insurer shall return to the Insured the unearned premium when determined but the Insurer shall, in any event, receive or retain not less than the Minimum Retained Premium stated therein.

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

## STATUTORY CONDITIONS

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*(COMMON LAW JURISDICTIONS EXCEPT NEWFOUNDLAND AND NEW BRUNSWICK)*

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

NOTE: All of the Statutory Conditions contain the above wording. However,

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

### 1. **Material Change in Risk**

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

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

### 2. **Prohibited Use by Insured**

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

### **Prohibited Use by Others**

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

- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

### 3. Requirements Where Loss or Damage to Persons or Property

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

### 4. Requirements Where Loss or Damage to Automobile

- (1) Where loss of or damage to the **Automobile** occurs, the Insured shall, if the loss or damage is covered by this contract,
  - (a) promptly give notice thereof in writing to the Insurer with the fullest information obtainable at the time;
  - (b) at the expense of the Insurer, and as far as reasonably possible, protect the **Automobile** from further loss or damage; and
  - (c) deliver to the Insurer within ninety days after the date of the loss or damage a statutory declaration stating, to the best of his knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the Insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the **Automobile** and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the Insured.
- (2) Any further loss or damage accruing to the **Automobile** directly or indirectly from a failure to protect it as required under sub-condition (1) of this condition is not recoverable under this contract.
- (3) No repairs, other than those that are immediately necessary for the protection of the **Automobile** from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,
  - (a) without the written consent of the Insurer; or
  - (b) until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

#### (4) Examination of Insured

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

#### (5) Insurer Liable for Cash Value of Automobile

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

#### (6) Repair or Replacement

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

(7) No Abandonment; Salvage

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

(8) In Case of Disagreement

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

5. **Inspection of Automobile**

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

6. **Time and Manner of Payment of Insurance Money**

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

(2) When Action May be Brought

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

(3) Limitation of Actions

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

NOTE: In Yukon Territory, Northwest Territories, Manitoba and New Brunswick, the one year limitation period in sub-condition (3) should read "2 years". In the case of Nova Scotia and Prince Edward Island sub-condition (3) reads as follows: "(3) Every **Action** or proceeding under this contract against the Insurer in respect of a claim for indemnification for liability of the Insured for loss or damage to property of another person or for personal injury to or death of another person shall be commenced within two years after the liability of the Insured is established by a court of competent jurisdiction and not afterwards. Every other **Action** or proceeding against the Insurer under this contract in respect of loss or damage to the **Automobile** shall be commenced within two years from the time the loss or damage was sustained and not afterwards."

7. **Who May Give Notice and Proofs of Claim**

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

8. **Termination**

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

**9. Notice**

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

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

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



**EXCLUDING LONG TERM LEASED VEHICLE ENDORSEMENT – S.E.F. No. 99**  
**(for attachment only to a Non-Owned Policy S.P.F. No. 6)**

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

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

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





**CONTRACTUAL LIABILITY ENDORSEMENT – S.E.F. No. 96**  
**(for attachment only to a Non-Owned Policy S.P.F. No. 6)**

In consideration of the premium for which this Policy is issued, it is understood and agreed that exclusion (c) of the Insuring Agreement of the Policy to which this endorsement is attached is amended to read as follows:

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

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

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



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

In consideration of the premium charged, it is hereby understood and agreed that the Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured or assumed by the Insured under any contract or agreement for loss or damage arising from the care, custody or control of **Automobiles** hired or leased from others with or without drivers, used under the control of the Insured in the Insured's business as known to the Insurer, but shall not include any **Automobile** owned in whole or in part by or licensed in the name of the Insured or any partner, officer or employee of the Insured.

**LIMITS OF INSURANCE**

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

**DEDUCTIBLE CLAUSE**

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

**TWO OR MORE AUTOMOBILES**

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

**EXCLUSIONS**

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The Insurer shall not be liable:

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

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



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

1. **Purpose of this endorsement:**

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

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

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

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

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



## **PROFESSIONAL SERVICES EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY POLICY**

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

#### Professional Services

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

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



## **PLACEMENT AGENCY EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY POLICY**

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

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



## **NON-ACCUMULATION CLAUSE**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY POLICY**

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

#### **Non-Accumulation Clause**

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

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



## **EMPLOYERS' BODILY INJURY LIABILITY COVERAGE EXTENSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY POLICY**

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

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

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



## **EMPLOYEE BENEFITS LIABILITY POLICY**

Throughout this Policy the words Insured and Named Insured mean any person or organization qualifying as such under SECTION II – WHO IS AN INSURED. The word Insurer refers to Trisura Guarantee Insurance Company.

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

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

### **SECTION I – COVERAGES**

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#### 1. Insuring Agreement

- a. The Insurer will pay those sums that the Insured becomes legally obligated to pay as **Compensatory Damages** because of any act, error or omission of the Insured, or of any person for whom the Insured is legally liable, to which this insurance applies. The Insurer will have the right and duty to defend the Insured against any **Action** seeking those **Compensatory Damages**. However, the Insurer will have no duty to defend the Insured in any **Action** seeking **Compensatory Damages** to which this insurance does not apply. The Insurer may, at the Insurer's discretion, investigate any report of an act, error or omission and settle any **Claim** or **Action** that may result. But:

- (1) the amount the Insurer will pay for **Compensatory Damages** is limited as described in SECTION III – LIMITS OF INSURANCE; and
- (2) the Insurer's right and duty to defend ends when the Insurer has used up the applicable limit of insurance in the payment of judgments or settlements under this Policy.

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

- b. This insurance applies to **Compensatory Damages** only if:

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

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

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

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

#### 2. Exclusions

This insurance does not apply to:

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



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

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

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

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

- o. Any **Claim** for **Compensatory Damages**:
  - (1) arising directly or indirectly, from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of any **Fungi or Spores** however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or

otherwise deal with or dispose of **Fungi or Spores**;

- (2) any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. above; or
- (3) any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in a. or b. above.

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

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

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

This exclusion applies, but is not limited to:

- (1) any liability assumed by the Insured under any written or oral contract or agreement;
  - (2) any obligation to pay or comply with any request, demand, order or statutory or regulatory requirement, or any other action authorized or required by law, or any loss cost or expense arising out of or relating to the investigation of, abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediation or disposing of, or responding to or assessing the effects of **Lead** as well as any cost, fees, expenses, penalties, judgements, fines or sanctions arising from or relating thereto;
  - (3) any actual, alleged, or threatened exposure to, consumption of, ingestion of, inhalation of, absorption of, existence of or presence of **Lead** in any manner or form whatsoever, either directly or indirectly or in whole or in part;
  - (4) any actual or alleged failure to advise, warn or instruct related to any **Lead** in any manner or form whatsoever, either indirectly or indirectly or in whole or in part; and
  - (5) any actual or alleged presence of **Lead** in any manner or form whatsoever, in any place whatsoever including, but not limited to, within a building, product, building component or building structure including any contents.
- q. (1) Any **Claim for Compensatory Damages** imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof;
- (2) Any **Claim for Compensatory Damages** with respect to which an Insured under this Policy who is also under a contract of nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the Insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an insured under any such policy but for its termination upon exhaustion of its limits of insurance;
- (3) Any **Claim for Compensatory Damages** resulting directly or indirectly from the **Nuclear Energy Hazard** arising from:
- (a) the ownership, maintenance, operation or use of a **Nuclear Facility** by or on behalf of an Insured;
  - (b) the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any Nuclear Facility; or
  - (c) the possession, consumption, use, handling, disposal or transportation of **Fissionable Substances**, or of other **Radioactive Material** (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

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

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

- Pollutants**; or
- (2) **Claim** or **Action** by or on behalf of a governmental authority for **Compensatory Damages** because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **Pollutants**

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

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

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

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

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

- t. Any **Claim** for **Compensatory Damages** arising directly or indirectly, in whole or in part, out of **Terrorism** or out of any activity or decision of a government agency or other entity to prevent, respond to or terminate **Terrorism**.

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

- u. Any **Claim** for **Compensatory Damages** arising directly or indirectly, in whole or in part, out of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power.

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

## SUPPLEMENTARY PAYMENTS

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

1. All expenses the Insurer incurs.
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. The Insurer does not have to furnish these bonds.
3. All reasonable expenses incurred by the Insured at the Insurer's request to assist in the investigation or defence of the **Claim** or **Action**, including actual loss of earnings up to \$250 a day because of time off from work.
4. All costs assessed or awarded against the Insured in the **Action**.
5. Any interest accruing after the entry of judgment upon that part of the judgment which is within the applicable limit of insurance and before the Insurer has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

## SECTION II – WHO IS AN INSURED

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1. If the Named Insured listed in the Declarations is:
  - a. An individual, the Named Insured and the Named Insured's spouse are Insureds, but only with respect to the conduct of a business of which the Named Insured is the sole owner.
  - b. A partnership, limited liability partnership or joint venture, the Named Insured is an Insured. The Named Insured's members, the Named Insured's partners, and their spouses are also Insureds, but only with respect to the conduct of the Named Insured's business.
  - c. A limited liability company, the Named Insured is an Insured. The Named Insured's members are also Insureds, but only with respect to the conduct of the Named Insured's business. The Named Insured's managers are Insureds, but only with respect to their duties as the Named Insured's managers.
  - d. An organization other than a partnership, joint venture, limited liability partnership or limited liability company, the Named Insured is an Insured. The Named Insured's **Executive Officers** and directors are Insureds, but only with respect to their duties as the Named Insured's officers or directors. The Named Insured's shareholders are also Insureds, but only with respect to their liability as shareholders.
  - e. A trust, the Named Insured is an Insured. The Named Insured's trustees are also Insureds, but only with respect to their duties as trustees.
2. Each of the following is also an Insured:
  - a. Each of the Named Insured's **Employees** who is authorized to administer the Named Insured's **Employee Benefit Program**.
  - b. Any persons, organizations or **Employees** having proper temporary authorization to administer the Named Insured's **Employee Benefit Program** if the Named Insured dies, but only until the Named Insured's legal representative is appointed.
  - c. The Named Insured's legal representative if the Named Insured dies, but only with respect to duties as such. That representative will have all of the Named Insured's rights and duties under this Policy.
3. Any organization the Named Insured newly acquires or forms, other than a partnership, limited liability partnership or joint venture or limited liability company, and over which the Named Insured maintains ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. coverage under this provision is afforded only until the ninetieth (90th) day after the Named Insured acquires or forms the organization or the end of the policy period, whichever is earlier; and
  - b. coverage under this provision does not apply to any act, error or omission that was committed before the Named Insured acquired or formed the organization.

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

## SECTION III – LIMITS OF INSURANCE

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

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

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

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

#### **SECTION IV – EMPLOYEE BENEFITS LIABILITY CONDITIONS**

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##### 1. Bankruptcy

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

##### 2. Canadian Currency Clause

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

##### 3. Changes

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

##### 4. Duties in the Event of an Act, Error or Omission, or Claim or Action

- a. The Named Insured must see to it that the Insurer is notified as soon as practicable of an act, error or omission, which may result in a **Claim**. To the extent possible, notice should include:
  - (1) what the act, error or omission was and when it took place; and
  - (2) the names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a **Claim** is made or **Action** is brought against any Insured, the Named Insured must:
  - (1) immediately record the specifics of the **Claim** or **Action** and the date received; and
  - (2) notify the Insurer as soon as practicable.
- c. The Named Insured and any other Insured involved must:
  - (1) immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the **Claim** or **Action**;
  - (2) authorize the Insurer to obtain records and other information;
  - (3) cooperate with the insurer in the investigation or settlement of the **Claim** or defense against the **Action**; and
  - (4) Assist the Insurer, upon the Insurer's request, in the enforcement of any right against any person or organization, which may be liable to the Insured because of an act, error or omission to which this insurance may also apply.

- d. No Insured will, except at that Insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without the Insurer's consent.

5. Legal Action Against the Insurer

No person or organization has a right under this Policy:

- a. to join the Insurer as a party or otherwise bring the Insurer into an **Action** asking for **Compensatory Damages** from an Insured; or
- b. to sue the Insurer on this Policy unless all of its terms have been fully complied with.

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

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

6. Other Insurance

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

a. Primary Insurance

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

b. Excess Insurance

(1) This insurance is excess over any of the other valid and collectible insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to an act, error or omission on other than a claims-made basis, if the other insurance has a policy period which continues after the effective date shown in the declarations of this insurance.

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

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

- (a) the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) the total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

7. Premiums and Named Insureds

The first Named Insured shown in the Declarations:

- a. is responsible for all premiums due;

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

8. Representations or Fraud

By accepting this Policy, the Named Insured agrees:

- a. the statements in the Declarations are accurate and complete;
- b. those statements are based upon representations the Named Insured made to the Insurer;
- c. the Insurer has issued this Policy in reliance upon the Named Insured's representations; and
- d. this Policy is void in any case of fraud by the Named Insured as it related to this Policy or any **Claim** or **Action** under this Policy.

9. Separation of Insureds, Cross Liability

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

- a. as if each Named Insured were the only Named Insured; and
- b. separately to each Insured against whom **Claim** is made or **Action** is brought.

10. Termination

- a. The first Named Insured shown in the Declarations may solely terminate this policy by mailing or delivering to the Insurer advance written notice of termination.
- b. The Insurer may terminate this Policy by giving to the first Named Insured, written notice of termination at least:
  - (1) fifteen (15) days before the effective date of termination if the Insurer terminates for non-payment of premium; or
  - (2) thirty (30) days before the effective date of termination if the Insurer terminates for any other reason.

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

- c. The Insurer will mail or deliver the Insurer's notice to the first Named Insured's last known mailing address to the Insurer.
- d. Notice of termination will state the effective date of termination. The policy period will end on that date.
- e. If this Policy is terminated, the Insurer will send the first Named Insured any premium refund due. If the Insurer terminates, the refund will be pro rata. If the first Named Insured terminates, the refund may be the customary short rate. The termination will be effective even if the Insurer has not made or offered a refund.

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

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

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

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

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

**SECTION V – EXTENDED REPORTING PERIOD**

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

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

## SECTION VI - DEFINITIONS

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



10. **Employee** either in the singular or plural means a person actively employed, formerly employed, on leave of absence or disabled, or retired. **Employee** includes a **Leased Worker**. Employee does not include a **Temporary Worker**.
11. **Employee Benefit Program** means a program providing some or all of the following benefits to **Employees**:
- Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an **Employee** may subscribe to such benefits and such benefits are made generally available to those **Employees** who satisfy the plan's eligibility requirements;
  - Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an **Employee** may subscribe to such benefits and such benefits are made generally available to all **Employees** who are eligible under the plan for such benefits;
  - Unemployment insurance, social security benefits, workers' compensation and disability benefits;
  - Vacation plans, including buy and sell programs; leave of absence programs; tuition assistance plans; transportation and health club subsidies.
12. **Executive Officer** means a person holding any of the officer positions created by the Named Insured's charter, constitution, by-laws or any other similar governing document.
13. **Fissionable Substance** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
14. **Fungi or Spores** includes, but is not limited to, any form or type of mould, yeast, mushroom, or mildew whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any **Fungi or Spores** or resultant mycotoxins, allergens, or pathogens.
15. **Lead** means, but is not limited to, **Lead** in any form, lead leachate, **Lead** in any property or materials, heavy, ductile, soft, solid, naturally occurring metallic element used in paints, pipes, solder, pottery and batteries and in any substance, on land, in air, in water or any dust containing **Lead**.
16. **Leased Worker** means a person leased to the Named Insured by a labour leasing firm under an agreement between the Named Insured and the labour leasing firm, to perform duties related to the conduct of the Named Insured's business. **Leased Worker** does not include a **Temporary Worker**.
17. **Nuclear Energy Hazard** means the radioactive, toxic, explosive, or other hazardous properties of radioactive material.
18. **Nuclear Facility** means:
- (1) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
  - (2) any equipment or device designed or used for:
    - (a) separating the isotopes of plutonium, thorium and uranium or any one or more of them;
    - (b) processing or utilizing spent fuel; or
    - (c) handling, processing or packaging waste;
  - (3) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - (4) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;
- and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.
19. **Personal and Advertising Injury** means injury, including consequential **Bodily Injury**, arising out of one or more of the following offences:
- false arrest, detention or imprisonment, defamation of character;
  - malicious prosecution;

- c. the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. oral or written publication of material, in any manner, that violates a person's right of privacy;
  - f. the use of another's advertising idea in the Named Insured's **Advertisement**; or
  - g. infringing upon another's copyright, trade dress or slogan in the Named Insured's **Advertisement**.
20. **Pollutants** include but are not limited to any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
21. **Property Damage** means:
- a. physical injury to tangible property, including all resulting loss of use of that property; or
  - b. loss of use of tangible property that is not physically injured.
22. **Radioactive Material** means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.
23. **Silica** means, but is not limited to, any substance containing silicon dioxide (SiO<sub>2</sub>), including, but not limited to, crystalline or non-crystalline silica, silica particles, silica compounds, **Silica Dust** or synthetic silica, including but not limited to precipitated silica, silica gel, fumed silica or silica flour.
24. **Silica Dust** means dust containing **Silica** alone or mixed with any other dust or fiber(s).
25. **Temporary Worker** means a person who is furnished to the Named Insured to substitute for a permanent **Employee** on leave or to meet seasonal or short-term workload conditions.
26. **Terrorism** means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group(s), organization(s) or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public.
27. **Volunteer Worker** means a person who is not the Named Insured's **Employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by the Named Insured, and is not paid a fee, salary or other compensation by the Named Insured or anyone else for their work performed for the Named Insured.



## **COVERAGE TERRITORY ENDORSEMENT (CANADA ONLY)**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY POLICY**

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

7. **Coverage Territory** means:

- a. the territorial limits of Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
- c. All other parts of the world if the injury or damage arises out of:
  - (1) goods or products made or sold by the Named Insured in the territory described in a. above;
  - (2) the activities of an Insured person whose home is in the territory described in a. above, but is away for a short time on the Named Insured's business; or
  - (3) **Personal and Advertising Injury** offenses that take place through the Internet or similar electronic means of communication

provided the Insured's responsibility to pay **Compensatory Damages** is determined in an **Action** on the merits, in the territory described in a. above or in a settlement the Insurer agrees to.

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



**QUEBEC AUTOMOBILE INSURANCE POLICY (NON-OWNED FORM) – Q.P.F. No. 6**  
**(Approved by the Autorité des marchés financiers)**

**DECLARATIONS**

**ITEM 1**

Full name and address of the Insured:

Insured is

(State whether individual, partnership, corporation, association, etc.)

**ITEM 2**

Contract period

From to

12:01 A.M. standard time at the Insured's address stated above as to each of said dates.

**ITEM 3**

The Automobiles in respect of which insurance is to be provided are those not owned in whole or in part by, nor registered in the name of the Insured, used in the Insured's business of:

**ITEM 4**

**INSURED'S EMPLOYEES, SHAREHOLDERS, OFFICERS, MEMBERS, PARTNERS OR MANDATARIES AS OF THE DATE OF THE APPLICATION**

Relationship to Insured	Employees, shareholders, officers, members or partners who regularly use automobiles not owned by the Insured in his business						All other employees, shareholders, officers, members or partners			Mandataries of Insured		
	Class « A1 » Private passenger			Class « A2 » Commercial			Class « B »			Class « C »		
	Number	Rate	Premium	Number	Rate	Premium	Number	Rate	Premium	Number	Rate	Premium
		\$	\$		\$	\$		\$	\$		\$	\$
AS KNOWN TO THE INSURER												

**ITEM 5**

**AUTOMOBILES HIRED BY THE INSURED**

Type of Automobile	Estimated cost of hire	Rates per\$ 100 cost of hire	Advance premium
	\$	\$	\$
AS KNOWN TO THE INSURER			

The advance premium is subject to adjustment at the end of the contract period as provided in the policy.

**ITEM 6  
AUTOMOBILES OPERATED UNDER CONTRACT ON BEHALF OF THE INSURED**

Type of <b>Automobile</b> and use	Estimated contract cost	Rates per\$ 100 of contract cost	Advance premium
A S K N O W N T O T H E I N S U R E R	\$	\$	\$

The advance premium is subject to adjustment at the end of the contract period as provided in the policy.

**ITEM 7**

Insurance is hereby provided against the perils mentioned in this item for which a premium is specified and upon the terms and conditions of this contract and subject to the following amount.

INSURING AGREEMENT	PERILS	AMOUNT	PREMIUM
Section A Civil Liability	<b>Bodily injury</b> to or death of others or damage to their property	\$ (exclusive of interest, expenses and costs) for loss or damage resulting from <b>bodily injury</b> to or the death of one or more persons, and for loss or damage to property, regardless of the number of claims arising from anyone accident	Included
Endorsements :			Included
Premium due date :			Total premium : Included

**ITEM 8  
IMPORTANT STATEMENTS FOR UNDERWRITING THE RISK**

**ITEM 9  
NOTICE**

Agent or broker:

At:

## **INSURING AGREEMENT**

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Now, therefore, subject to the limits, terms and conditions, provisions, definitions and exclusions herein stated:

### **SECTION A – CIVIL LIABILITY**

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The Insurer agrees to indemnify the Insured, the Insured's succession or legal representatives against the pecuniary consequences of civil liability the Insured may incur for loss or damage arising from the use or operation in the business described in the Declarations of any **Automobile** not owned (in whole or in part) by or registered in the name of the Insured, and resulting from **Bodily Injury** to or death of others or damage to property of others not in the care, custody or control of the Insured. However, where the loss exceeds the amounts of insurance, the indemnity shall be applied first to the pecuniary consequences of civil liability incurred by the Named Insured.

### **EXCLUSIONS**

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The Insurer shall not be liable under this section:

- (1) except where the *Automobile Insurance Act* does not apply, for **Bodily Injury** or death covered under the said Act, the *Act respecting industrial accidents and occupational diseases* or the *Crime Victims Compensation Act*;
- (2) for any liability which arises from the use or operation of any **Automobile** while personally driven by the Insured if the Insured is an individual;
- (3) for any liability imposed by any workmen's compensation law upon any person insured by this section;
- (4) for loss or damage sustained by the Insured or any **employee**, shareholder, officer, member, partner or mandatary of the Insured while engaged in the business of the Insured, except as provided under a Direct Compensation Agreement established in accordance with the aforementioned *Automobile Insurance Act*;
- (5) for any liability assumed voluntarily by any person insured by this section under any contract or agreement;
- (6) for loss or damage to property carried in or upon an **Automobile** personally driven by any person insured by this section or to any property owned or rented by, or in the care, custody or control of any such person;
- (7) for any sum in excess of the amount stated in section A of Item 7 of the Declarations, and expenditures provided for in the Additional Agreements of this section, irrespective of the number of persons or interests insured;
- (8) for any loss or damage resulting from **Bodily Injury** to or death of any person or damage to property arising out of a nuclear energy hazard and in excess of the compulsory amount of liability insurance prescribed by the *Automobile Insurance Act* or the *Act respecting off-highway vehicles*, depending on the type of vehicle involved.

See also General Provisions, Definitions, Exclusions and Conditions.

### **ADDITIONAL AGREEMENTS**

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Where indemnity is provided by this section the Insurer further agrees:

- (1) immediately upon receipt of notice of loss, to serve any person insured by this section by such investigation thereof, or by such transactions with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the Insurer;
- (2) to take up the interest of any person entitled to the benefit of the insurance and assume his defense in any **Action** which may be brought against him;
- (3) to bear, over and above the proceeds of the insurance, costs and expenses resulting from **Actions** against the Insured, including those of the defense, and interest on the proceeds of the insurance;
- (4) if the injury is to a person, to reimburse any person insured by this section for expenses incurred for such medical aid as may be immediately necessary at the time of such injury;

- (5) to be liable up to the minimum amount(s) of liability insurance prescribed by any legislation respecting Automobile Insurance and applying in that province or territory of Canada or in that State of the United States of America in which the accident occurred, if that amount(s) is higher than the amount(s) stated in section A of Item 7 of the Declarations;
- (6) not to 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 or in the state of the United States of America in which the accident occurred.

## AGREEMENTS OF INSURED

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

- (a) empowers the Insurer as their representative to appear and defend in any province or territory of Canada or in any state of the United States of America in which **Action** is brought against the Insured arising out of the use or operation of an **Automobile** with respect to which insurance is provided hereunder;
- (b) renounces his right to unilaterally revoke such mandate;
- (c) 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 section.

## GENERAL PROVISIONS, DEFINITIONS AND EXCLUSIONS

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### 1. TERRITORY

Unless extended by endorsement, insurance provided by this contract applies only within Canada, the United States of America and upon a vessel and/or aircraft serving ports or airports of those countries.

### 2. PERSONNEL OF OTHER GARAGES EXCLUDED

No person who is engaged in a **garage business**, shall be entitled to indemnity or payment under this contract for any loss, damage, injury or death sustained while using, operating or working upon the **Automobile** in the course of that business or while so engaged is an occupant of or enters or gets onto or alights from such **Automobile**, unless the person is the Insured or the Insured's **employee**, shareholder, member, partner or mandatary or is actually driving the **Automobile** in Quebec.

### 3. DEFINITIONS

In this policy:

- a) The term **automobiles operated under contract** shall mean **Automobiles** operated in the business of the Insured stated in Item 3 of the Declarations where the complete supervision, direction and control of such **Automobiles** remain with the owner thereof, but shall not include any **Automobile** owned in whole or in part by or registered in the name of the Named Insured or any **Employee**, shareholder, officer, member, partner or mandatary of the Insured.
- b) The term **garage business** includes any business involving the custody, selling, equipping, repairing, maintaining, storing, parking, moving or servicing of **Automobiles**.
- c) The term **hired automobiles** means **Automobiles** hired or leased from others with or without drivers, used under the control of the Insured in the business stated in Item 3 of the Declarations but shall not include any **Automobile** owned in whole or in part by or registered in the name of the Named Insured or any **employee**, shareholder, officer, member, partner or mandatary of the Insured.
- d) The words **nuclear energy hazard** mean the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act* (Canada).

### 4. TWO OR MORE AUTOMOBILES

- a) When two or more **Automobiles** are insured hereunder the terms of this contract shall apply separately to each, but a motor vehicle and one or more trailer or trailers or semi-trailers attached thereto shall be held to be one **Automobile** with respect to the amounts of insurance under section A. Where two or more **Automobiles** are insured under one or more contracts issued by the same insurer, only one amount of insurance, the highest, shall apply in the event of loss under section A.
- b) If section B is included in this policy through endorsement Q.E.F. NO. 6-94, Civil Liability for damage to hired automobiles and/or automobiles operated under contract, such **Automobiles** shall be held to be separate **Automobiles** with respect to the amount(s) of insurance, including any deductible provisions, under section B.
- c) Section A shall apply to the Insured's liability for damage caused to a non-owned trailer, other than a trailer designed or used to carry passengers or for demonstration, sale, office or dwelling purposes, while:
  - (i) attached to an **Automobile** of the private passenger type insured under said section;
  - (ii) not attached to any other vehicle, provided such trailer is generally attached to an **Automobile** of the private passenger type insured under said section.

**Automobile** of the private passenger type: commercial vehicles of 4,500 kgs (10,000 lbs) gross vehicle weight or less while used for private or pleasure purpose shall be deemed to be of the private passenger type.

## 5. ADDITIONAL INSURED

This contract also insures every **employee**, shareholder, officer, member, partner or mandatary of the Named Insured, who, with the consent of the owner of the **Automobile** involved:

- (a) and in the business of the Named Insured stated in Item 3 of the Declarations, personally drives any **Automobile** not owned in whole or in part by or registered in the name of (1) the Named Insured, or (2) such additional insured person, or (3) any person having the same domicile as the Named Insured or such additional insured person;
- (b) any **Automobile** rented or hired in the name of the Named Insured and not owned in whole or in part by or registered in the name of such additional insured person.

## 6. PREMIUM ADJUSTMENT

The advance premiums stated in Items 5 and 6 of the Declarations and in Q.E.F. NO. 6-94, if applicable, are computed on the estimated total "cost of hire" or "contract cost", as the case may be, for the contract period. The words "cost of hire" as used herein mean the entire amount incurred for **Hired automobiles** and drivers when such **Automobiles** are hired with drivers or the amount incurred for **Hired automobiles** and the wages paid to drivers when such drivers are **employees** of the Insured. The words "contract cost" as used herein mean the entire amount paid by the Insured for **automobiles operated under contract** to the owners thereof.

The advance premiums are subject to adjustment at the end of the contract period when the Insured shall deliver to the Insurer a written statement of the total amounts expended for "cost of hire" and "contract cost" during the contract period based on the provisions contained in Q.E.F. NO. 6-100, Final adjustment of premium computation statement.

## 7. AUDIT

Provided the Insured has authorized the Insurer in writing, the Insurer may at any time during regular business hours and upon fourteen days' prior notice examine the books and records of the Insured insofar as they relate to the subject matter of the contract

## 8. CROSS LIABILITY

Every Named Insured sustaining loss or damage because of another Named Insured shall, in respect of such loss or damage, be deemed to be a third party under this contract; provided that this provision shall not operate to increase the limit of the Insurer's liability.



## 9. EXCLUDED USES

Unless coverage is indicated in the Declarations or expressly given by an endorsement, the Insurer shall not be liable under this contract while:

- (a) the **Automobile** is rented or leased to another;
- (b) the **Automobile** is used to carry explosives, or to carry radioactive material for research, education, development or industrial purposes, or for purposes incidental thereto;
- (c) the **Automobile** is used as a taxicab, bus, livery or sightseeing conveyance.

## CONDITIONS

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This contract is subject to the *Civil Code of Quebec*, the *Code of Civil Procedure of Quebec*, the *Automobile Insurance Act* and its regulations and the *Act respecting off-highway vehicles* if applicable.

### 1. REPRESENTATION OF RISK

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.

### 2. MATERIAL CHANGE IN RISK

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, under Condition 21, 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.

If the Insurer continues to accept the premiums or if he pays an indemnity after a loss, he is deemed to have acquiesced in the change notified to him.

### 3. MISREPRESENTATIONS OR CONCEALMENT

Section A of the policy may be nullified at the instance of the Insurer where the Insured or the client has misrepresented or concealed relevant facts mentioned in Condition 1 and in the first paragraph of Condition 2 which are likely to materially influence a reasonable insurer in the decision to cover the risk. Unless such misrepresentation or concealment is established, 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.

Section B of endorsement Q.E.F. NO. 6-94 may be nullified at the instance of the Insurer where the Insured or the client has misrepresented or concealed relevant facts mentioned in Condition 1 and in the first paragraph of Condition 2 which are likely to materially influence a reasonable insurer, even in respect of losses not connected with the risk so misrepresented or concealed. Unless the bad faith of the Insured or the client 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.

### 4. BREACH OF WARRANTY

A breach of warranty aggravating the risk suspends the coverage. The suspension ceases upon the acquiescence of the Insurer or the remedy of the breach.

## 5. PROHIBITED USE

The Insured shall not drive or operate the **Automobile** nor permit the use of the **Automobile** by others:

- a) unless the driver is for the time being authorized by law or qualified to drive or operate the **Automobile**, or while he is under 16 years of age or under such other age as is prescribed by law to drive an **Automobile**;
- b) for any illicit trade or transportation;
- c) in any race or speed test.

## 6. INSPECTION OF AUTOMOBILE

The Insurer shall be permitted at all reasonable times to inspect the **Automobile** and its equipment.

## 7. NOTICE OF LOSS

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.

The failure to fulfil the obligation set out in the preceding paragraph entails forfeiture of the right to indemnity where such failure has caused prejudice to the Insurer.

## 8. INFORMATION TO BE PROVIDED

At request of the Insurer, 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, summons or proceeding received in connection with a claim.

## 9. DECEITFUL REPRESENTATION

Any deceitful representation relating to a loss 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 property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

## 10. ABANDONMENT, SAFEGUARDING AND EXAMINATION OF PROPERTY

The Insured may not abandon the damaged property if there is no agreement to that effect with the Insurer. 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 **Automobile** and its equipment.

In addition, the Insured shall at the expense of the Insurer, and as far as reasonably possible, protect the **Automobile** from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the Insurer, except such repairs as are immediately necessary for the protection of the **Automobile** from further loss or damage, or until the Insurer has had a reasonable time to make the examination provided for in Condition 6.

## 11. ADMISSION OF LIABILITY AND COOPERATION

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 cost.

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

## 12. VALUATION AND MANNER OF PAYMENT

The Insurer shall not be liable beyond the actual cash value of the **Automobile** at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the **Automobile** or any part thereof with material of like kind and quality provided that in the event of any part of the **Automobile** being obsolete and out of stock, the liability of the Insurer in respect thereof shall be limited to the value of original equipment manufacturer parts at the time of loss or damage not exceeding the manufacturer's latest list price.

For the purposes of the above coverage, the value of damages caused to the **Automobile** shall be based on original equipment manufacturer parts where the age of the automobile and mileage are less than two (2) years and forty thousand kilometres (40,000 km), or less than one (1) year in the case of an **Automobile** used for commercial purposes. Where the age and mileage are greater, such value may be based on similar **Automobile** parts. However, the Insured may opt for original equipment manufacturer parts, if available, by communicating such option to the Insurer at the time of the notice of loss. The Insurer shall then specify the applicable conditions and additional costs that the Insured shall assume as a result of such option.

In the event of a total or constructive total loss, the Insurer agrees, at the option of the Insured and subject to supporting evidence, to cover reasonable expenses incurred to restore the **Automobile** to the same condition as it was before the loss.

Except where an arbitration has been made and subject to the rights of preferred and hypothecary creditors, the Insurer, instead of making payment may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss.

In all cases, the salvage, if any, shall revert to the Insurer.

## 13. ARBITRATION

Arbitration may take place in the event of a disagreement as to the nature, extent or amount of the loss or damage, or the adequacy of the repairs or the replacement, and independently of all other questions respecting the validity of the contract.

The party seeking arbitration must notify the other party of his intention in writing, specifying the matter in dispute. The Insured's request for arbitration must be granted. The Insurer's request for arbitration may be granted subject to the Insured's consent.

If the Insured requests arbitration, the Insurer must send the Insured an acknowledgement of receipt no later than 15 clear days after receipt of this notice. If the Insurer so requests, the Insured must confirm acceptance or refusal within the same amount of time.

Each party shall name an expert and the two experts shall work jointly to estimate the damage (establishing the actual cash value and the damage separately) or to assess the adequacy of the repairs or the replacement. Failing to agree they shall submit their differences to a disinterested arbitrator they have appointed.

If either party fails to appoint an expert within 30 clear days of the date of the notice or if the experts fail to agree upon an arbitrator within 15 days of their appointment, or if an expert or the arbitrator refuses to act or is unavailable, the vacancy thus created must be filled, on the request of one of the parties, by a court with jurisdiction in the place of the arbitration.

Notwithstanding the arbitration procedure and if the validity or application of the contract is not being contested, the Insurer shall pay the uncontested portion of the damage amount. This payment must be made no later than 60 days after receipt of notice of loss or receipt of the information or supporting documents required by the Insurer.

Subject to this clause, the arbitration shall follow the procedure in sections 940 to 951.2 of the *Code of Civil Procedure of Quebec*, taking into account any required modifications. In accordance with section 944.1 of this Code, the arbitration may proceed according to a procedure determined by the arbitrator, insofar as this procedure does not contravene the above sections. The place of the arbitration proceedings shall be held at a place in accordance with the domicile of the Insured.

The arbitrator shall settle the dispute in accordance with the applicable laws in the province of Quebec. The arbitrator and the parties may use the language of their choice during the arbitration proceedings. Measures must be taken to ensure that all the participants understand the language used.

The arbitration award shall be made in writing by the arbitrator. It must indicate the date and place where it has been made. It must state the reasons on which it is based and be signed by the arbitrator, then sent to the parties within 30 days of the date on which it has been made.

Each party shall pay the expenses and fees of its expert and half the fees and expenses of the arbitration proceedings. The arbitrator is authorized to award the fees and expenses of the arbitration if he deems that the sharing method established by this clause is not justified or fair for each of the parties in the circumstances.

#### **14. NON-WAIVER**

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

#### **15. TIME OF PAYMENT**

Claims under Section B shall be paid within sixty days after receipt of notice of loss or of information or proof of loss required by the Insurer or, where an arbitration is held, within fifteen days after award is accepted by the Insured.

#### **16. CONTINUATION OF COVERAGE**

Coverage is maintained after a loss.

#### **17. PRESCRIPTION**

Every action against the Insurer under this contract is prescribed by three years from the date the right of action has arisen.

#### **18. SUBROGATION**

The Insurer shall be subrogated to the extent of the amount paid under this contract 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.

#### **19. OTHER LIABILITY INSURANCE**

Insurance under a contract evidenced by a valid owner's policy is, in respect of liability arising from or occurring in connection with the ownership, use or operation of an **Automobile** owned by the Insured named in the policy and within the description or definition thereof in the policy, a first loss insurance, and insurance attaching under any other valid motor vehicle liability policy is excess insurance only.

However, insurance evidenced by a valid garage policy, not describing the specific automobile(s) insured, shall in respect to non-owned or customers' **Automobiles** while being used, operated or worked upon in the course of the policyholder's business as a garage be a first loss insurance and insurance attaching under any other valid motor vehicle policy shall be excess insurance only.

## 20. RENEWAL OF CONTRACT

This contract shall be renewed of right, for the same premium and for the same period, at expiry, unless notice to the contrary is given by the Insurer or the Insured; if given by the Insurer, the notice of non-renewal or of a change in the premium must be sent to the Insured, at his last known address, not later than the thirtieth day preceding the date of expiry, counting that date.

Where the Insured deals through a broker, the notice provided for in the first paragraph is sent by the Insurer to the broker, the latter being entrusted to remit it to the Insured.

## 21. CANCELLATION

This contract may be cancelled at any time:

- a) by each of the Named Insureds giving mere written notice to the Insurer. Cancellation takes effect upon receipt of the notice by the Insurer and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the premium earned for the time the contract has been in force, on the basis of the Cancellation Table herein;
- b) within sixty days after its coming into force, by the Insurer giving written notice to each Named Insured. Cancellation takes effect fifteen days following receipt of such notice by the Named Insured at his last known address.

At the expiry of such period of sixty days, the contract shall not be cancelled by the Insurer except in the case of an aggravation of risk which is likely to materially influence a reasonable insurer in the decision to continue to insure, or when the premium has not been paid. The Insurer so wishing to cancel the contract shall notify each Named Insured in writing; cancellation takes effect thirty days following receipt of such notice by the Named Insured at his last known address or, if the Described Automobile, with the exception of a school bus, is an **Automobile** contemplated in Title VIII.1 of the Highway Safety Code, fifteen days after receipt of the notice.

The Insurer shall refund the excess of the premium actually paid over the earned premium computed on a day to day basis.

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 agent, but do not include any premium or part thereof paid to the Insurer by an agent unless actually paid to the agent by the Insured.

## 22. 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.



### **EXCLUDING LONG TERM LEASED VEHICLE ENDORSEMENT Q.E.F. No. 6-99**

In consideration of the premium for which this policy is issued, it is understood and agreed that clause 3 of the General Provisions, Definitions and Exclusions of the policy is hereby amended to read as follows:

#### **3. DEFINITIONS**

(a) The term **Hired automobiles** means:

- (i) **Automobiles** hired or leased from others with drivers;
- (ii) hired or leased by the Named Insured from others without driver for periods not exceeding 30 days, used under the control of the Insured in the business stated in Item 3 of the Declarations but shall not include any **Automobile** owned in whole or in part by or registered in the name of the Insured or any **Employee**, shareholder, officer, member, partner or mandatary of the Insured.

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



**CONTRACTUAL LIABILITY ENDORSEMENT Q.E.F. No. 6-96**

In consideration of a premium for which this Policy was issued, it is hereby understood and agreed that exclusion (5) of section A of the policy is amended to read as follows:

- (5) For any liability assumed voluntarily by any person insured by this policy under any contract or agreement other than those stated below:

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

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



**CIVIL LIABILITY RESULTING FROM DAMAGE TO HIRED AUTOMOBILES  
AND/OR AUTOMOBILES OPERATED UNDER CONTRACT ENDORSEMENT Q.E.F. No. 6-94**

In consideration of the premium herein stated, the Insurer agrees to indemnify the Insured against the pecuniary consequences of the contractual or extracontractual liability of the Insured for loss of or damage to **Hired automobile** or **Automobiles operated under contract**, as defined in General Provisions, Definitions and Exclusions of the policy to which this endorsement is attached, including their equipment, caused by such of the perils described herein for which a premium is specified.

INSURING AGREEMENT		PERILS	AMOUNTS	DEDUCTIBLE	TYPE OF AUTOMOBILE	Estimated COST OF HIRE	Estimated CONTRACT COST	RATE PER \$100	ADVANCE PREMIUM
Civil liability resulting from damage to hired automobiles and/or automobiles operated under contracts	SUBSECTIONS	1	All perils	\$ (exclusive of interest, expenses and costs)	\$	Private Passenger	\$	\$	\$
		2	Collision or upset	\$ (exclusive of interest, expenses and costs)	\$		\$	\$	\$
		3	Comprehensive (excluding collision or upset)	\$ (exclusive of interest, expenses and costs)	\$		\$	\$	\$
		4	Specified perils	\$ (exclusive of interest, expenses and costs)	\$		\$	\$	\$
Premium due date :								Total:	Included

**Subsection 1 – ALL PERILS**

**Subsection 2 – COLLISION OR UPSET**

**Collision** includes collision with (a) a vehicle to which the **Automobile** is attached and (b) the surface of the ground.

**Upset** means the total or partial upset of the **Automobile**.

**Subsection 3 – COMPREHENSIVE** meaning any peril other than collision or upset

For the purpose of Subsection 3, loss or damage caused by missiles, falling or flying objects, fire, theft, explosion, earthquake, windstorm, hail, rising water, malicious mischief, riot or civil commotion shall be deemed loss or damage caused by perils for which insurance is provided under Subsection 3. In addition, coverage under Subsection 3 is extended to include loss or damage caused by collision with a person or with an animal.

**Subsection 4 – SPECIFIED PERILS** – meaning fire, lightning, theft or attempted theft, explosion, earthquake, windstorm, hail, rising water, riot or civil commotion, falling or forced landing of aircraft or of parts of aircraft, or the stranding, sinking, burning, derailment or collision of any conveyance in or upon which the **Automobile** is being transported on land or water.

**DEDUCTIBLE CLAUSE**

The Insured shall be required to contribute the deductible amount stated in the Declarations with respect to loss or damage insured under section B, except for loss or damage by fire or lightning, in any one occurrence.



## **EXCLUSIONS**

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The Insurer shall not be liable for loss or damage:

- (1) to any **Automobile** while personally driven by the Named Insured if the Named Insured is an individual;
- (2)
  - (a) to tires or consisting of or caused by mechanical fracture or breakdown of any part of an **Automobile** or by rusting, corrosion, wear and tear, freezing, or explosion within the combustion chamber, unless the loss or damage is coincident with other loss or damage covered by such subsection or is caused by fire, theft or malicious mischief covered by such subsection;
  - (b) to any **Automobile** while being used without the consent of the owner thereof;
  - (c) to contents of trailers;
  - (d) to tapes and equipment for use with a tape player or recorder, or to compact discs, unless such tapes, equipment or discs are in the tape player, recorder or disc player; or
  - (e) caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operation of armed forces while engaged in hostilities, whether war be declared or not.
- (3) under Subsections 3 and 4 for loss or damage caused by theft by anyone whose domicile is the same as the Insured's, or by any **Employee** of the Insured engaged in the operation, maintenance, repair, servicing or parking of the **Automobile** whether the theft occurs in the course of such service or employment or not.

## **ADDITIONAL AGREEMENTS**

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- (1) Where loss or damage arises from a peril insured against hereunder, the Insurer further agrees to pay general average and salvage charges, and customs duties of Canada or of the United States of America, for which the Insured is civilly liable.
- (2) The Insurer further agrees to bear any fees the Insured is charged by a municipality under the *Act respecting municipal taxation* for the use of its fire protection service when the fire department is called to prevent or fight fire in the **Automobile**.
- (3) The Additional Agreements under Section A shall, insofar as they are applicable to the subject matter of this endorsement, extend to the indemnity provided herein.

The advance premiums for this endorsement are subject to adjustment in the same manner as those stated under Items 5 and 6 of the Declarations.

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