

Form #CJ888-DPLC (Rev. April 2019)
Designated Premises Liability Coverage

The coverage provided by Premier Marine's **Designated Premised Liability Coverage** insurance product is limited to liability the **Insured** may incur due to ownership or control of the premises stated in the Application and on the Declarations. This policy is not intended to replicate and/or match the broader scope of coverage provided by an industry standard Commercial General Liability or Wrap-up Policy.

The Insurer agrees, subject to the statements contained in the Declarations of the policy and the Liability Declaration (both of which are herein referred to as the Declarations), the liability definitions and liability insurance conditions attached to the policy and such additional Declarations, exclusions, limitations, conditions and other terms of this rider, as follows:

INSURING AGREEMENTS**I. Coverage A - Bodily Injury Liability**

To pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as compensatory damages because of **bodily injury** arising out of the ownership, maintenance or use of the **insured premises** and all operations necessary or incidental thereto.

Coverage B – Property Damage Liability

To pay on behalf of the **Insured** all sums which the **Insured** shall become legally obligated to pay as compensatory damages because of **property damage** caused by accident and arising out of the ownership, maintenance or use of the **insured premises** and all operations necessary or incidental thereto.

II. Defence – Settlement – Supplementary Payments

With respect to the coverage afforded by this policy, the Insurer shall:

- (1) defend in the name and on behalf of the **Insured** and at the cost of the Insurer any civil **action** which may at any time be brought against the **Insured** on account of such **bodily injury** or **property damage**, but the Insurer shall have the right to make such investigation, negotiation and settlement of any claim as may be deemed expedient by the Insurers;
- (2) pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this policy; to pay all premiums on appeal bonds required in any such defended suit, but without any obligation to apply for or furnish such bonds;
- (3) pay all costs taxed against the **Insured** 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;
- (4) pay expenses incurred by the **Insured** for such immediate medical and surgical relief to others as shall be imperative at the time of accident;
- (5) pay reasonable expenses incurred by the **Insured** at the Insurer's request in assisting the Insurer in the investigation or defense of any claim or suit, including actual loss or earnings not to exceed \$100.00 per day.

The amounts so incurred, except settlement of claims or suits, are payable in addition to the applicable limits of liability.

III. Persons Insured

Each of the following is an **Insured** under this insurance to the extent set forth below:

- (1) if the **Named Insured** is designated in the Declarations as an individual, the person so designated but only with respect to their interest in the **Insured premises**;
- (2) if the **Named Insured** is designated in the Declarations as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such;
- (3) if the **Named Insured** is designated in the Declarations as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such;
- (4) any person (other than an employee of the **Named Insured**) or organization while acting as real estate manager for the **Named Insured**.

This insurance does not apply to **bodily injury** or **property damage** arising out of the conduct of any partnership or joint venture of which the **Insured** is a partner or member and which is not designated in this policy as a **Named Insured**.

IV. Policy Territory

This insurance applies only to **bodily injury** or **property damage** which occurs within the policy territory.

EXCLUSIONS

This insurance does not apply to:

- (a) liability assumed by the **Insured** under any contract or agreement except an **incidental contract**, but this exclusion does not apply to a warranty of fitness or quality of the **Named Insureds Products** with respect to consumption, handling or use thereof on the insured premises;
- (b) **bodily injury** or property damage arising, directly or indirectly, in whole or in part, out of the ownership, maintenance, use, operation, or entrustment to others by or on behalf of the **Insured** of any **automobile**; use includes loading and unloading. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the **bodily injury** or **property damage**;
- (c) **bodily injury** or **property damage** arising out of the ownership, maintenance, use, operation, loading or unloading by or on behalf of the **Insured** of any watercraft, but this exclusion does not apply to watercraft while ashore on premises owned by, rented to or controlled by the **Named Insured**;
- (d) (1) **bodily injury** or property damage arising out of the ownership, maintenance, use, operation, loading or unloading by or on behalf of the **Insured** of
 - (i) any aircraft, or
 - (ii) any air cushion vehicle;(2) **bodily injury** or **property damage** arising out of the ownership, existence, use or operation by or on behalf of the **Insured** of any premises for the purpose of an airport or aircraft landing strip and all operations necessary or incidental thereto;
- (e) **bodily injury** to any employee of the **Insured** arising out of and in the course of his employment by the **Insured** or performing duties related to the conduct of the insured's business, but this exclusion does not apply to liability assumed by the **Insured** under an **incidental contract**;
- (f) any obligation for which the **Insured** or his Insurer may be held liable under any workers compensation, disability benefits or unemployment or employment compensation law or any similar law;
- (g) **bodily injury** caused intentionally by or at the direction of the **Insured**;
- (h) **property damage** to:
 - (1) property owned or occupied by or rented to the **Insured**;
 - (2) premises you sell, give away, or abandon, if the property damage arises out of any part of those premises;
 - (3) property loaned to the **Insured**;
 - (4) property used by the **Insured**;
 - (5) property in the care, custody or control of the **Insured** or property that the **Insured** is for any purpose exercising physical control;
 - (6) any personal property of any fixtures as the result of any work performed thereon by the **Insured** or anyone on his behalf; but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with

respect to **property damage** (other than to elevators) arising out of the use of an **elevator** at premises owned by, rented to or controlled by the **Named Insured**;

- (i) **property damage** to the **Named Insured's Products** arising out of such products or any part of such products;
- (j) **property damage** to work performed by or on behalf of the **Named Insured** arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;
- (k) **bodily injury or property damage** included within the **completed operations hazard** or the **products hazard**;
- (l) **bodily injury or property damage** arising out of operations on or from premises (other than the insured premises) owned by, rented to or controlled by the **Named Insured**, or to liability assumed by the **Insured** under any contract or agreement relating to such premises;
- (m) **bodily injury or property damage** arising out of structural alterations, including but not limited to, changing the size of or moving buildings or other structures; new construction; or demolition operations performed by or on behalf of the **Named Insured**;
- (n) loss of use of tangible property which has not been physically injured or destroyed resulting from
 - (1) a delay in or lack of performance by or on behalf of the **Named Insured** of any contract or agreement, or
 - (2) the failure of the **Named Insured's products or work** performed by or on behalf of the **Named Insured** to meet the level of performance, quality, fitness or durability warranted or represented by the **Named Insured**. This exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the **Named Insured's products or work** performed by or on behalf of the **Named Insured** after such products or work have been put to use by any person or organization other than an Insured;
- (o) This policy does not insure any claims which are caused by, arise out of, or are resulting from any actual, threatened, or alleged "sexual abuse and/or molestation" committed or alleged to have been committed.
- (p) **bodily injury or property damage** 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;
- (q) Nuclear Energy Liability – see exclusion herein
- (r) Pollution Liability – see exclusion herein
- (s) Terrorism – see exclusion herein
- (t) Asbestos – see exclusion herein
- (u) Mold – see exclusion herein
- (v) Professional Liability – see exclusion herein
- (w) Medical Malpractice Injury – see exclusion herein

LIMITS OF INSURANCE

Regardless of the number of (1) Insureds under this policy (2) persons or organizations who sustain **bodily injury or property damage** or (3) claims made or suits brought on account of **bodily injury or property damage**, the Insurer's liability is limited as follows:

1. **Limits of Liability Coverage A**
The limit of **bodily injury** liability stated in the schedule as applicable to "each person" is the limit of the Insurer's liability for all compensatory damages, including compensatory damages for care and loss of services, arising out of **bodily injury** sustained by one person in any one occurrence; the limit of such liability stated in the schedule as applicable to "each occurrence" is, subject to the above provision respecting each person, the total limit of the Insurer's liability for all compensatory damages, including compensatory damages for care and loss of services, arising out of **bodily injury** sustained by two or more persons in any one occurrence.
2. **Limits of Liability Coverage B**
The limit of **property damage** liability stated in schedule as applicable to "each accident" is the total limit of the Insurer's liability for all compensatory damages arising out of **property damage**, as the result of any one accident, or series of accidents arising out of one event.
3. **Limits of Liability Coverages A and B**
The inclusive limit of liability stated in the schedule as applicable to "**bodily injury** each occurrence **property damage** each accident" is the total limit of the Insurer's liability under Coverage A or B or Coverages A and B combined for all compensatory damages, including compensatory damages for care and loss of services, arising out of **bodily injury** in any one occurrence or **property damage** as a result of any one accident or series of accidents arising out of one event.
4. For the purpose of determining the limit of the Insurer's liability, all **bodily injury** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence.

DESCRIPTION OF TERMS USED FOR PREMIUM BASES

1. **Area** means the square footage of the buildings to be insured excluding that portion of the basement used exclusively for storage or that portion of the premises used for heating or air conditioning plant purposes.
2. **Receipts** means the gross amount of money charged by the **Named Insured** for such operations as are rated on a receipts basis during the policy period.
3. **Remuneration** means the total earnings during the policy period for each owner, partner, executive officer or employee.

DEFINITIONS

When used in this policy (including endorsements forming a part hereof):

Action shall mean a civil proceeding in which damages because of **bodily injury or property damage** to which this insurance applies are alleged. **Action** includes an arbitration proceeding alleging such damages to which the **Named Insured** must submit or submit with the Insurer's consent.

Automobile shall mean any self-propelled land motor vehicle, trailers or semi-trailers while attached thereto or unattached (including its equipment mounted on or attached thereto) other than any of the following or their trailers, accessories and equipment:

- (i) vehicles of the crawler type (other than motorized snow vehicles);
- (ii) tractors (other than road transport tractors designed to haul trailers or semi-trailers), road rollers, graders, scrapers, bulldozers, paving machines and concrete mixers (other than concrete mixers of the mix-in-transit type);
- (iii) other construction machinery or equipment mounted on wheels but not self-propelled while attached to any self-propelled land motor vehicle;
- (iv) self-propelled land motor vehicles used solely on the premises of the Insured.

Bodily Injury means bodily injury, sickness or disease sustained by any person which occurs during the policy period, including death at any time resulting therefrom.

Completed Operations Hazard includes **bodily injury or property damage** arising out of operations that occurs after such operations have been completed or abandoned. Operations include materials, parts or equipment furnished in connection therewith. Operations shall be deemed completed at the earliest of the following times:

- (i) when all operations to be performed by or on behalf of the **Named Insured** under the contract have been completed;

- (ii) when all operations to be performed by or on behalf of the **Named Insured** at the site of the operations have been completed;
- (iii) when the portion of the work out of which the **bodily injury** or **property damage** arises has been put to its intended use by any persons or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

Operations which may require further service or maintenance work, or correction, repair or replacement because of any defect or deficiency, but which are otherwise complete shall be deemed completed.

The **completed operations hazard** shall not include:

- (i) operations in connection with the pick up and delivery of property;
- (ii) the existence of tools, uninstalled equipment or abandoned or unused materials.

Elevator means any hoisting or lowering device to connect floors or landings whether or not in service, and all appliances thereof, including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery, but shall not include:

- (i) dumbwaiters, the floor area of which does not exceed 1 square metre (10.76 square feet), and used exclusively for carrying property;
- (ii) hod or material hoists used in connection with alterations, construction or demolition operations;
- (iii) inclined conveyors used exclusively for carrying property;
- (iv) automobile servicing hoists.

Incidental Contract means any written agreement which is a lease or premises, easement agreement, agreement required by municipal ordinance, side track agreement or **elevator** maintenance agreement.

Insured means any person or organization qualifying as an Insured in the **Persons Insured** provision of the applicable coverage rider. The insurance afforded applies separately to each Insured against whom claim is made or suit is bought.

Insured Premises shall mean (1) the premises designated in the schedule, and (2) premises as to which the **Named Insured** acquires ownership or control provided that **Named Insured** notifies the Insurer within 30 days following the effective date of such acquisition, but the insurance with respect to the newly acquired premises does not apply to any loss against which the **Named Insured** has other valid and collectible insurance; and includes the ways immediately adjoining such premises.

Named Insured means the person or organization named in the Declarations of this policy.

Named Insured's Products shall mean goods or products manufactured, sold, handled or distributed by the Named Insured or by others trading under his name, including any container thereof (other than a vehicle), but shall not include a vending machine or any property other than such container, rented to or located for use of others but not sold.

Named Insured's Work shall mean:

- (a) Work or operations performed by the **Named Insured** or on the **Named Insured's** behalf; and
- (b) Materials, parts or equipment furnished in connection with such work or operations.

The **Named Insured's Work** shall include warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in (a) or (b) above.

Policy Territory means:

- (i) Canada or the United States of America, its territories or possessions, or
- (ii) Anywhere in the world with respect to compensatory damages because of **bodily injury** or **property damage** arising out of a product which was sold for use or consumption within the territory described in paragraph (i) above, provided suit for such compensatory damages is brought within such territory.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Products Hazard shall include **bodily injury** and **property damage** arising out of the **Named Insured's products**.

Property Damage means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an accident occurring during the policy period.

Sexual Abuse and/or molestation is defined as any or all of the following: sexual misconduct; psychological, emotional or mental abuse of a sexual nature; molestation; or harassment.

OTHER EXCLUSIONS

POLLUTION LIABILITY EXCLUSION

It is agreed that this policy does not apply to:

- (a) **Bodily injury** or **property damage** arising out of the actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of pollutants:
 1. At or from any premises, site or location which is or was at any time, owned or occupied by, or rented or loaned to an **Insured**;
 2. At or from any premises, site or location which is or was at any time, used by or for any **Insured** or others for the handling, storage, disposal, processing or treatment of waste;
 3. Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any Insured or any person or organization for whom the **Insured** may be legally responsible; or
 4. At or from any premises, site or location on which any **Insured** or any contractors or subcontractors working directly or indirectly on any **Insured's** behalf are performing operations;
 - (a) if the pollutants are brought on or to the premises, site or location in connection with such operations by such **Insured**, contractor or subcontractor; or
 - (b) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate or neutralize, or in any way respond to, or assess the effect of pollutants.

Sub-paragraphs 1. and 4.(a) of paragraph (a) of this exclusion do not apply to **bodily injury** or **property damage** caused by heat, smoke or fumes from a fire which becomes uncontrollable or breaks out from where it was intended to be.

- (b) Any loss, cost or expense arising out of any request, demand or order that any Insured or others test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate, neutralize or in any way respond to, or assess the effect of pollutants unless such loss, cost or expense is consequent upon **bodily injury** or **property damage** covered by this policy.

NUCLEAR ENERGY LIABILITY EXCLUSION

It is agreed that this policy does not apply:

- (a) to liability imposed by or arising under the Nuclear Liability Act; nor
- (b) to bodily injury or property damage with respect to which an Insured under this policy is also insured under a contract of nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; nor
- (c) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
- (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured;
 - (ii) 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; and
 - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

As used in this policy:

1. The term **nuclear energy hazard** means the radioactive, toxic, explosive, or other hazardous properties of **radioactive material**;
2. The term **radioactive material** means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive, isotopes or other elements and any other substances that the Atomic Energy Control Board may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
3. The term **nuclear facility** means:
 - (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
 - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilizing spent fuel, or (iii) handling, processing or packaging waste;
 - (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste **radioactive material**; and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.
4. The term **fissionable substance** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

This policy is subject to the terms and conditions set forth herein together with such other terms and conditions as may be endorsed hereon or added hereto. No term or condition of this policy shall be deemed to be waived in whole or in part by the Insurer unless the waiver is clearly expressed in writing signed by a person authorized for that purpose by the Insurer.

TERRORISM EXCLUSION (NMA 2920 amended)

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

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

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

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

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

ASBESTOS EXCLUSION (MKFRM)

It is agreed that this policy shall not apply to:

1. liability directly or indirectly caused by or alleged to be caused by or contributed to in whole or in part by or arising from the existence of or exposure to asbestos and/or any asbestos containing materials;
2. any obligation to defend any claim or suit against the Assured alleging liability resulting from 1 above nor to Underwriters' liabilities for Defence Costs arising therefrom.

MOLD EXCLUSION

This policy does not insure any loss, injury, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to: mold, mildew, fungus, spores or other micro-organism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This exclusion applies regardless whether there is

- (i) any physical loss or damage to insured property;
- (ii) any insured peril or cause, whether or not contributing concurrently or in sequence;
- (iii) any loss of use, occupancy, or functionality; or
- (iv) any action required, including but not limited to repair, replacement, removal, clean-up, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

PROFESSIONAL LIABILITY

Bodily injury (other than **Incidental Medical Malpractice Injury**) or **property damage** due to the rendering of or failure to render any professional service which shall include but not be limited to:

- (a) any service or treatment conducive to health or of a professional nature;
- (b) any service including opinions or counselling;
- (c) the preparation or approval of maps, drawings, plans, opinions, reports, surveys, change orders, designs or specifications;
- (d) supervisory, inspection, architectural or engineering services;
- (e) accountant's, lawyer's, real estate broker's or agent's, insurance broker's or agent's, travel agent's, financial institution's, or consultant's professional advices or activities;
- (f) any computer hardware or software servicing, programming or re-programming, data entry or data processing, consulting, advisory or related services; or
- (g) any services meant to address any Electronic date recognition issues.

MEDICAL MALPRACTICE INJURY

Bodily injury (other than **Incidental Medical Malpractice Injury**) or "property damage" due to the rendering of or failure to render any medical service or treatment by any person, firm or corporation causing the **Medical Malpractice Injury** who is engaged in the business or occupation of providing any medical services or treatment.

Incidental Medical Malpractice Injury means **bodily injury** arising out of the rendering of or failure to render, during the policy period, the following services:

- (1) medical surgical, dental, x-ray or nursing services or treatment or the furnishing of food or beverages in connection therewith; or
- (2) the furnishing or dispensing of drugs or medical dental or surgical supplies or appliance; by any Insured or any Indemnitee causing the **Incidental Medical Malpractice Injury** who is not engaged in the business or occupation of providing of the services described in (1) and (2) above.

CONDITIONS

1. Premium and Adjustment of Premiums:

- (a) Unless otherwise stated, the premium stated in the declarations is an estimated deposit premium only. Adjustment of premium shall be made at least annually and for this purpose the premium bases and rates shown in the declarations or in any endorsement attached hereto, shall be used in ascertaining the earned premium with respect to the specific hazards mentioned herein.
- (b) In the case of any hazards existing and covered under coverage rider(s) attached but not specified in the declarations, or in any endorsement, the earned premium with respect thereto shall be computed in accordance with the Insurer's rules, rates, rating plans and minimum premiums applicable to such hazards.
- (c) Subject to retention by the Insurer of the Minimum premium provided for in the declarations, if the earned premium for this policy for this policy thus computed exceeds the estimated deposit premium paid, the **Named Insured** shall pay such excess to the Insurer; on the other hand, if the estimated deposit premium exceeds the earned premium, the Insurer shall return to the **Named Insured** such excess.
- (d) The **Named Insured** shall maintain for each hazard hereby insured against, a record of the information necessary for premium computation on the basis stated, and shall submit such record to the Insurer at the end of the policy period and at such other times during the policy period as the Insurer may direct.

2. Inspection – Audit:

The **Named Insured** shall permit the Insurer to inspect the insured premises, operations and elevators and to examine and audit the **Named Insured's** books and records at any time during the policy period (and any extension thereof and within one year after the termination of this policy), as far as they relate to the premium basis or the subject matter of this insurance. The Insurer assumes no responsibility and waives no rights by reason of such inspection, examination, audit or the omission thereof.

3. Insured's Duties in the event of Accident, Occurrence, Claim or Suit:

- (a) In the event of an accident or occurrence, written notice containing particulars sufficient to identify the Insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given promptly by or for the Insured to the Insurer or any of its authorized agents.
- (b) If claim is made or suit is brought against the **Insured**, the Insured shall immediately forward to the Insurer every writ, letter, document or advice received by him or his representative.
- (c) The **Insured** shall co-operate with the Insurer and, upon the Insurer's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of injury or damage with respect to which insurance is afforded under this policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The **Insured** shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expenses other than for the first aid to others at the time of accident.

4. Action against Insurer:

No action shall lie against the Insurer under any insuring Agreement of this policy including the Insuring Agreement relating to "Defense – Settlement – Supplementary Payments" unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Insurer. Every action or proceeding against the Insurer shall be commenced within one year next after the date of such judgment or written agreement and not afterwards. If this policy is governed by the law of Quebec, every action or proceeding against the Insurer shall be commenced within three years from the time the right of action arises. Nothing contained in this policy shall give any person or organization any right to join the Insurer as a co-defendant in any action against the insured to determine the **Insured's** liability.

Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the Insurer of any of its obligations hereunder.

5. Subrogation:

In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's rights of recovery therefore against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after loss to prejudice such rights.

6. Other Insurance:

If other valid and collectible insurance is available to the Insured for a loss the Insurer covers under Coverages A or B of this policy the Insurer's obligations are limited as follows:

- (a) Primary Insurance

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

(b) Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Property Insurance such as, but not limited to, Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "the **Named Insured's work**" or for premises rented to the **Named Insured**; or

(ii) If the loss arises out of the maintenance or use of watercraft to the extent not subject to Exclusion (c).

When this insurance is excess, the Insurer will have no duty under Coverage A or B to defend any claim or "action" that any other Insurer has a duty to defend. If no other Insurer defends, the Insurer will undertake to do so, but the Insurer will be entitled to all the Insured's rights against all those other Insurers.

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

(i) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(ii) The total of all deductible and self-insured amounts under all that other insurance. The Insurer will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations Page 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 it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, 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. **Changes:**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Insurer from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

8. **Assignment:**

Assignment of interest under this policy shall not bind the Insurer until its consent is endorsed hereon; if, however, the **Named Insured** shall die or be adjudged bankrupt or insolvent within the policy period, this policy, unless cancelled, shall, if written notice be given to the Insurer within sixty days, after the date of such death or adjudication, cover the **Named Insured's** legal representative as the **Named Insured** except in the Province of Quebec where no notice is required.

9. **Notice:**

Any written notice to the Insurer may be delivered at or sent by registered mail to the agent through whom this policy was issued or to any branch of the Insurer in Canada. Written notice may be given to the **Named Insured** by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the Insurer; or, except in Quebec, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression **registered** shall mean registered within or without Canada. Notice to the first **Named Insured** shall constitute notice to all Insureds.

10. **Cancellation – Termination:**

(a) This policy may be terminated,

(i) by the insurer giving to the **Named Insured** 15 days written notice of termination by registered mail or personal delivery;

(ii) by the **Named insured** at any time on written request.

(b) Where the policy is terminated by the Insurer,

(i) and where the premium is developed on other than an estimated basis, the Insurer will refund the excess of the paid premium for the time the policy has been in force, calculated pro rata; or

(ii) where the premium is developed by an estimated basis, the Insurer will refund the excess of the premium earned, when determined.

(c) Where the policy is terminated by the **Named Insured**,

(i) and where the premium is developed on other than an estimated basis, the Insurer will refund the excess of the paid premium above the short rate premium for the time the policy has been in force calculated in accordance with the short rate premium table in use by the Insurer, and except in Quebec, subject to the retention of the minimum premium, if any, provided by the policy, or

(ii) where the premium is developed by an estimated basis, the Insurer will refund the excess of the paid premium above the premium earned, when determined, and except in Quebec, subject to the retention of the minimum premium, if any, provided by the policy.

(d) Refund of premium may be made by money, postal or express company money order or by cheque payable at par.

(e) Except in Quebec, the fifteen days mentioned above in this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

(f) In Quebec, the Notice of Cancellation from the Insurer takes effect 15 days after receipt by the Insured at the last known address.

(g) premium adjustment may be made at the time cancellation is effected and if not then made shall be made as soon as practicable after cancellation becomes effective but payment or tender of unearned premium is not a condition of cancellation.

11. **Declarations:**

By acceptance of this policy, the **Named Insured** agrees that the statements in the declarations are his agreements and representations, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between himself and the Insurer or any of its agents relating to this insurance.