

Form #EPL100 (Rev. Dec 29, 2011)
Employment Practices Liability Insurance

THIS IS A CLAIM(S) MADE AND REPORTED POLICY. Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered. Any amounts paid or payable as "Employment Practices Liability Claim(s)" and "Costs, Charges and Expenses" shall reduce and may exhaust the Limit of Liability provided by the Policy. Words and phrases that appear in quotation marks have special meaning.

SECTION I - INSURING AGREEMENTS

In consideration of the payment of the premium, in reliance upon the statements made in the application, the supplementary applications and any additional document(s) for this insurance which are made a part hereof as if physically attached hereto, the "Insurer" agrees to provide insurance as follows:

1. COVERAGE

If during the "Policy Period" any "Employment Practices Liability Claim(s)" is made against the "Named Insured(s)" for "Employment Practices Liability Wrongful Act(s)" and reported to "Premier" in accordance with Section IV Item 9 – Notice of Employment Practices Liability Claim(s), the "Insurer" shall pay on behalf of the "Named Insured(s)" "Employment Practices Liability Claim(s)" for which they may become legally obligated to pay.

2. DEFENCE AND SETTLEMENT

- (a) With respect to "Employment Practices Liability Claim(s)" covered under Section I, Item 1 – Coverage, the "Insurer" shall have the right and duty to:
 - (i) defend any "Employment Practices Liability Claim(s)" against the "Insured(s)";
 - (ii) select defence counsel to defend any "Employment Practices Liability Claim(s)";
 - (iii) investigate and negotiate the settlement of any "Employment Practices Liability Claim(s)" as it deems expedient.
- (b) The "Insured(s)" shall not incur "Costs, Charges and Expenses", or admit liability, offer to settle, or agree to any settlement in connection with any "Employment Practices Liability Claim(s)" without the express prior written consent of "Premier", which consent shall not be unreasonably withheld. The "Insured(s)" shall provide "Premier" with all information and particulars it may reasonably request in order to reach a decision as to such consent. Any "Employment Practices Liability Claim(s)" resulting from any admission of liability, agreement to settle, or "Costs, Charges and Expenses" incurred prior to the "Premier's" consent shall not be covered hereunder. If, however, the "Insured(s)" do not consent to any settlement recommended by defence counsel and "Premier" and elect to contest the "Employment Practices Liability Claim(s)" or suit, then the "Insurer's" liability for the "Employment Practices Liability Claim(s)" or suit shall not exceed the amount for which the "Employment Practices Liability Claim(s)" or suit could have been so settled plus the "Costs, Charges and Expenses" incurred with its consent up to the date of such refusal.
- (c) If any "Employment Practices Liability Claim(s)" made against any "Insured(s)" includes both covered and uncovered matters, or is made against any "Insured(s)" and any other party or parties not insured under this Policy, the "Costs, Charges and Expenses" for investigation or defence shall be limited to those incurred in the right of and for the principal benefit of the "Insured(s)", as distinguished from any such other party or parties, and the "Insurer" and the "Insured(s)" will endeavour to establish, at the earliest opportunity, a proper basis for the allocation of the "Costs, Charges or Expenses" of counsel or others rendering services to or for the benefit of both the "Insured(s)" and any such other party or parties, or for covered and uncovered matters, considering the relative legal exposure, relative risk and relative benefit of the parties.
- (d) The "Insurer" has no obligation to pay, "Costs, Charges and Expenses" for "Employment Practices Liability Claim(s)" covered by this Policy until:
 - (i) the appropriate Deductible has been satisfied, provided, however, this condition shall not apply to "Employment Practices Liability Claim(s)" against an "Insured Person(s)" in the event of the insolvency of the "Named Insured(s)"; and
 - (ii) the "Insured(s)" and the "Insurer" have agreed upon the portion of the "Costs, Charges and Expenses" attributable to covered "Employment Practices Liability Claim(s)" against the "Insured(s)".
- (e) The "Insurer's" duty to defend any "Employment Practices Liability Claim(s)" ceases upon exhaustion of the applicable Limit of Liability as shown in the Policy Declarations.

3. LIMIT OF LIABILITY AND DEDUCTIBLE

- (a) The amount shown in the Policy Declarations shall be the "Insurer's" maximum aggregate liability for all "Employment Practices Liability Claim(s)" made against the "Insured(s)" during any one "Policy Period" and reported in accordance with Section IV Item 9 – Notice of "Employment Practices Liability Claim(s)".
- (b) More than one "Employment Practices Liability Claim(s)" involving same "Employment Practices Liability Wrongful Act(s)" of one or more "Insured(s)" will constitute a single "Employment Practices Liability Claim(s)".
- (c) The "Insurer" shall only be liable for "Employment Practices Liability Claim(s)" in excess of the Deductible as stated in the Policy Declarations. The full Limit of Liability will apply over the Deductible.
- (d) "Costs, Charges and Expenses" shall be part of and not in addition to the Limit of Liability as shown in the Policy Declarations, and such "Costs, Charges and Expenses" shall reduce the Limit of Liability as shown in the Policy Declarations.

4. TERRITORY

The coverage provided under this Policy shall apply to Canada only.

5. AUTOMATIC EXTENDED REPORTING PERIOD

This Policy shall automatically provide an extended reporting period of thirty (30) days, following the termination of this Policy, for the reporting of any "Employment Practices Liability Claim(s)", first made during the Policy Period, but only with respect to "Employment Practices Liability Wrongful Act(s)" committed prior to such termination date. This extended thirty (30) day reporting period will not apply if the Policy is cancelled because of non-payment of the premium by the "Insured(s)" or if replacement coverage is obtained.

6. DISCOVERY PERIOD

If "Premier" or the "Insured(s)" cancel or refuse to renew this Policy, and provided that the premium has been fully paid, the "Insured(s)" shall have the right, upon payment of an additional premium, to an extension of the coverage granted by this Policy in respect of any "Employment Practices Liability Claim(s)" which are made during the twelve (12) months after the termination of the Policy, but only with respect to any "Employment Practices Liability Wrongful Act(s)" committed or alleged to have been committed prior to such termination date. Such twelve (12) month period is hereinafter referred to as the Discovery Period. The additional premium to be charged will be 50% of the previous annual premium. This right of extension shall cease unless written notice is given to "Premier" within sixty (60) days after the termination date, together with full payment of the premium for this extension. The Discovery Period will be part of the immediately preceding "Policy Period" and shall not operate to increase the Limit of Liability of such "Policy Period".

The additional premium for the Discovery Period shall be fully earned at the inception of the Discovery Period. The Discovery Period, once incepted, is not cancellable.

For the purposes of this clause, "Premier's" quote of differing terms for renewal purposes, including differing conditions, premium, Limits of Liability or Deductible, does not constitute a refusal to renew this Policy.

SECTION II - EXCLUSIONS

The "Insurer" shall not be liable for "Employment Practices Liability Claim(s)" made against the "Insured(s)":

- 1. Contractual:**

Based upon, or arising out of, any actual or alleged breach of contract or failure to proceed with a contract whether oral or written, however this exclusion will not be applicable to:

 - (a) "Employment Practices Liability Claim(s)" made against the "Insured(s)" alleging wrongful or unjust dismissal, but only to the extent that such "Employment Practices Liability Claim(s)" is seeking damages arising from the manner in which the claimant was dismissed from employment by the "Insured(s)"; or
 - (b) the "Costs, Charges and Expenses", in respect of "Employment Practices Liability Claim(s)"; or
 - (c) "Employment Practices Liability Claim(s)" for which the "Insured(s)" would have liability in the absence of such contract but only to the extent that such liability arises in the absence of such contract.
- 2. Employee Benefits:**

Based upon, arising out of, or attributable to any actual or alleged violation of the responsibilities, duties or obligations imposed upon any "Insured(s)" by the Pension Benefits Standards Act, R.S.C. 1985, c. 32 (2nd Supp.), the Ontario *Pension Benefits Standards Act*, R.S.O. 1990, c. P-8, the Employee Retirement Income Security Act of 1974 of the United States or America and amendments thereto or by similar provincial, state, territorial or local legislation, the Canada *Health Act*, R.S.C. 1985, c. C-6, the Ontario *Health Insurance Act*, R.S.O. 1990, c.H.6, or similar provincial, state, territorial or local legislation, the Ontario *Insurance Act*, R.S.O. 1990, C. I.8 or similar provincial, state, territorial or local legislation. Legislation governing the Canada Pension Plan, workers compensation, employment insurance, social or old age security, employee disability or health insurance or similar provisions of any federal, provincial, state, territorial or local law, or for the cost of compliance therewith.
- 3. Employment Standards:**

Based upon, arising out of, or attributable to any actual or alleged violation of the responsibilities, duties or obligations imposed upon any "Insured(s)" by the *Canada Labour Code*, the *Occupational Health and Safety Act of Ontario*, or any rules or regulations promulgated there under or any similar federal, provincial, state, territorial or local, statutory or common law or for the cost of compliance therewith.
- 4. False Arrest:**

Based upon, brought by or attributable to false arrest, detention, imprisonment, wrongful entry, or eviction with exception to allegations of mental anguish resulting from the previous.
- 5. Nuclear Liability:**
 - (a) For liability imposed by or arising under the Nuclear Liability Act; or,
 - (b) For "Loss" with respect to which an "Insured Person(s)" under this Policy is also insured under a contract of nuclear energy liability insurance (whether the "Insured Person(s)" is unnamed in such contract or whether or not such contract is legally enforceable by the "Insured Person(s)"), or would be an "Insured Person(s)" under any such policy but for its termination upon exhaustion of its limit of liability, issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or,
 - (c) For "Loss" resulting directly or indirectly from the "Nuclear Energy Hazard" and arising from:
 - (i) the ownership, maintenance, operation or use of a "Nuclear Facility" by or on behalf of an "Insured Person(s)";
 - (ii) the furnishing by an "Insured Person(s)" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "Nuclear Facility"; or
 - (iii) the possession, consumption, use, handling, disposal or transportation of "Fissionable Substance(s)", 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 Person(s)".
- 6. Prior Knowledge:**

Based upon, arising out of, relating to, directly or indirectly resulting from or in consequence of, or in any way involving any prior and/or pending civil, criminal, administrative or investigative proceeding involving the "Insured(s)" and known to the "Insured(s)" as of the Prior and Pending Litigation Date stated in the Declarations, or any fact, circumstance or situation underlying or alleged in such prior or pending proceeding.
- 7. Prior or Pending Litigation:**

Based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any "Employment Practices Liability Wrongful Act(s)" or any fact, circumstance or situation which has been the subject of any notice given as of or prior to the inception date of the first policy purchased by the "Named Insured(s)" providing coverage of a similar nature to the Policy and which has continued through renewal or reinstatement on an uninterrupted basis since inception.
- 8. Pollution:**

Based upon, arising out of, directly or indirectly attributable to or in consequence of:

 - (a) the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of "Pollutants" into, in or upon real or personal property, water or the atmosphere; or
 - (b) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize "Pollutants";

This exclusion shall not apply to any "Employment Practices Liability Claim(s)" for an "Employment Practices Liability Wrongful Act(s)" arising from actual or threatened disclosure of the matters described in this exclusion.
- 9. Bodily Injury/Property Damage:**

Based upon, arising out of, directly or indirectly resulting from, in consequence of, or in any way, involving any actual or alleged:

 - (a) bodily injury, sickness, disease or death of any person;
 - (b) property damage, or any actual or alleged damage to or destruction of any tangible property including loss of use thereof;
 - (c) mental anguish, emotional distress, defamation, invasion of privacy, libel, slander or humiliation;

provided, however this exclusion, 9(c) will not apply with respect to any "Employment Practices Liability Claim(s)".

SECTION III - DEFINITIONS

As used in this Policy, the following words or expressions shall mean:

- 1. "Costs, Charges and Expenses":**

Reasonable and necessary legal fees and expenses incurred by the "Insured(s)" solely in the defence of any "Employment Practices Liability Claim(s)" and appeals there from, or in connection with an appearance before any administrative tribunal and/or board of enquiry, and the cost of attachment or similar bonds, provided, however, "Costs, Charges and Expenses" shall not include the following:

- (a) salaries, wages, overhead or benefit expenses associated with officers or employees of the "Named Insured(s)"; or
- (b) any amounts incurred in defence of any "Employment Practices Liability Claim(s)" for which any other insurer has a duty to defend, regardless of whether or not such other insurer undertakes such duty.

2. "Employment Practices Liability Claim(s)":

Any "Employment Practices Liability Claim(s)" brought by or on behalf of any past, present or future employee of the "Named Insured(s)" or any applicant for employment with the "Named Insured(s)" alleging an "Employment Practices Liability Wrongful Act(s)".

"Employment Practices Liability Claim(s)" shall include "Costs, Charges and Expenses", damages, settlement and judgment including taxable costs, pre-judgment interest and any post-judgment interest providing, however, that "Employment Practices Liability Claim(s)" shall not include:

- (a) criminal or civil fines or taxes;
- (b) penalties imposed by law;
- (c) liability for matters which are uninsurable under the law pursuant to which this Policy shall be construed;
- (d) amounts based upon, arising out of, or attributable to any liability of the "Named Insured(s)" under a any contract or agreement, either oral or written, except to the extent set out in Section II Item 2.(a), 2.(b) and 2.(c);
- (e) damages for the failure to afford reasonable notice upon the termination of an employment contract;

3. "Employment Practices Liability Wrongful Act(s)":

The following acts related to employment:

- (a) discrimination;
- (b) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
- (c) employment related misrepresentation, whether written or oral;
- (d) wrongful failure to employ or promote or grant tenure;
- (e) sexual or workplace harassment of any kind;
- (f) failure to create or enforce adequate workplace or employment policies and procedures;
- (g) wrongful discipline, denial of training, deprivation of career opportunity, negligent evaluation including defamatory statements made in connection with an employee reference;
- (h) retaliation;
- (i) employment related libel, slander, defamation, humiliation or invasion of privacy; or
- (j) breach of an employment agreement whether written or oral, other than a collective bargaining agreement.

4. "Fissionable Substance":

Any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

5. "Employee"

Shall include a "Leased Worker" and a "Temporary Worker", but is limited to the class and/or type employees shown on the Declarations.

6. "Leased Worker"

Shall mean 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".

7. "Insured(s)"

"Insured(s)" shall mean the Named Insured stated in Item 1 of the Declarations and any past, present or future "Employee" or officer of or director or any partner of the Named Insured;

"Insured(s)" shall also mean any heir, executors, administrators or legal representative of each "Insured(s)", in the event of death, incapacity or bankruptcy, but only as respects liability arising out of the business of the "Insured" conducted prior to such "Insured(s)" death, incapacity or bankruptcy;

"Insured" shall mean any "Employee".

"Insured" shall mean any "subsidiary" at the inception date of the Policy. This includes any former "subsidiary" but coverage is only afforded with respect to "Employment Practices Liability Wrongful Act(s)" occurring during its status as a "subsidiary". "Insured" shall mean any "subsidiary" acquired or created after the inception date of this Policy on condition that:

- (a) written notice together with full information thereof, is provided to "Premier" within ninety (90) days of the acquisition or creation of any new "subsidiary";
- (b) coverage shall apply only to "Employment Practices Liability Wrongful Act(s)" occurring subsequent to the effective of such acquisition unless otherwise approved by the "Insurer";

8. "Named Insured(s)":

The company named in the Policy Declarations;

9. "Nuclear Energy Hazard":

The radioactive toxic, explosive or other hazardous properties of "Radioactive Material".

10. "Nuclear Facility":

- (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 Person(s)" 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; or
- (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.

11. "Policy Period":

The period shown in the Policy Declarations page. If this Policy is cancelled, the "Policy Period" shall be amended accordingly. If the Discovery Period is exercised in accordance with Section I, Item 6 – Discovery Period, it shall be part of the last "Policy Period" and not an additional period.

12. **"Temporary Worker"**
Shall mean 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.
13. **"Insurer"**
Shall mean the insurance companies whose names appear in the Declarations
14. **"Premier"**
Shall mean the insurance manager whose name and address appear in the Declarations and who is authorized to be the agent of the "Insurer" for the purpose of issuing this policy, receiving notices and managing "Employment Practices Liability Claim(s)" on behalf of the "Insurer". "Premier" is not a party to this contract of insurance.
15. **"Pollutants":**
Any solid, liquid, gaseous or thermal irritant or contaminant including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals, waste, reconditioned waste, waste water, reclaimed materials, asbestos or asbestos products, lead or lead products, mould of any type, oil or oil products, infectious, medical or biological waste, or any noise located anywhere in the world.

SECTION IV – CONDITIONS

1. **ACTION AGAINST THE INSURER**
No action shall lie against the "Insurer" for the enforcement of any entitlement under this Policy. All disputes under the Policy shall be resolved by way of arbitration in accordance with Section IV Item 2 - Arbitration.
2. **ARBITRATION**
Any dispute between the "Insured(s)" and the "Insurer" arising in connection with or relating to this Policy shall be submitted to binding arbitration in accordance with the commercial arbitration legislation that applies in the jurisdiction of the "Named Insured(s)" as stated in the Policy Declarations. The arbitration panel shall consist of one arbitrator selected by the "Insured(s)", one arbitrator selected by the "Insurer" and a third independent arbitrator selected by the first two arbitrators. If all parties consent, the arbitration can proceed with a single arbitrator.

In any such arbitration, each party will bear its own legal fees and expenses but the costs and expenses of the arbitration, including the arbitrators, shall be shared equally by the parties to the dispute unless otherwise agreed.
3. **ASSIGNMENT**
No assignment of interest under this Policy shall bind the "Insurer" until the "Insurer's" consent is endorsed hereon.
4. **ASSISTANCE AND CO-OPERATION BY THE INSURED**
The "Insured(s)" shall co-operate with "Premier" in the investigation and defence of any "Employment Practices Liability Claim(s)", the investigation of the availability of coverage under this Policy, and the prosecution of the subrogated claims, and shall give to "Premier" such information and written statements as the "Premier" may require, attend examinations for discovery, hearings and trials and give evidence in connection with the defence of such "Employment Practices Liability Claim(s)", all without charge to the "Insurer". The "Insured(s)" shall not voluntarily make any payment, assume any liability or obligation or incur any expense, without the prior written consent of "Premier".
5. **AUTHORIZATION CLAUSE**
By acceptance of this Policy, the "Named Insured(s)" per the Policy Declarations, agree to act on behalf of all "Insured(s)" with respect to the giving of all notices to "Premier" as required herein, the receiving of notice of "Employment Practices Liability Claim(s)" or cancellation, the payment of premiums, and the receiving of any return premiums that may become due under this Policy; and the "Insured(s)" agree that the "Named Insured(s)" shall act on their behalf. As respects the giving of notice to exercise the Discovery Period under Section I, Item 6, the "Insured Person(s)" may give such notice directly to the "Premier".
6. **CANADIAN CURRENCY**
Except as otherwise stated, all limits of insurance, premiums and other amounts as expressed in this Policy are in Canadian currency.
7. **CANCELLATION**
This Policy may be cancelled:
 - (a) by "Premier" giving to the "Named Insured(s)", by registered mail, 15 days notice of cancellation if cancellation is due to non-payment of premium;
 - (b) by the "Named Insured(s)", giving written notice at any time. Cancellation will take effect on the date that written notice given by the "Named Insured(s)" is received by "Premier" or at a later date if specified therein. The "Insurer" will refund the unearned premium on a short-rate basis, but in no event shall the short-rate premium for the cancelled time be deemed to be less than any minimum retained premium specified. This Policy may not be cancelled during the Discovery Period.
8. **CHANGES**
This Policy contains all the agreements between the "Insured(s)" and "Premier" concerning the insurance afforded. The "Named Insured(s)" shown in the Policy Declarations are authorized to make changes in the terms of this Policy with "Premier's" consent. The terms of this Policy may be amended or waived only by endorsement issued by "Premier" and made a part of this Policy.
9. **NOTICE OF (EMPLOYMENT PRACTICES LIABILITY) CLAIM**
 - (a) If during the "Policy Period" any "Employment Practices Liability Claim(s)" is made against the "Insured(s)" they shall, as a condition precedent to their right to coverage under this Policy, give to "Premier" notice in writing of any such "Employment Practices Liability Claim(s)" as soon as practicable, but in no event later than sixty (60) days after the end of the "Policy Period", of any such "Employment Practices Liability Claim(s)".
 - (b) If during the "Policy Period":
 - (i) the "Insured(s)" shall receive written or oral notice from any party that it is the intention of such party to hold the "Insured(s)", responsible for a "Employment Practices Liability Wrongful Act(s)"; or
 - (ii) the "Insured(s)" shall become aware of any fact, circumstance or situation which may reasonably be expected to give rise to an "Employment Practices Liability Claim(s)" being made against the "Insured(s)" for an "Employment Practices Liability Wrongful Act(s)";

the "Insured(s)" shall in either case during such period give written notice as soon as practicable, but in no event later than sixty (60) days after the end of the "Policy Period" to "Premier" of the receipt of such written or oral notice under Section IV, Item 9 (b)(i) – Notice of Employment Practices

Liability Claims, or of such fact, circumstance or situation under Section IV, Item 9(b)(ii) – Notice of Claims if the “Insured(s)” give notice as set out in this Section IV, Item 9(b) then any “Employment Practices Liability Claim(s)” which is subsequently made against the “Insured(s)” arising out of such “Employment Practices Liability Wrongful Act(s)” shall for the purpose of this Policy be treated as a “Employment Practices Liability Claim(s)” made during the “Policy Period.”

- (c) The “Insured(s)”, following the furnishing of notice as provided in paragraphs (a) and (b) of this section shall, as soon as practicable, furnish “Premier” with:
- (i) names of potential claimants and a description of the specific “Employment Practices Liability Wrongful Act(s)” which forms the basis of their potential “Employment Practices Liability Claim(s)”, including the specific date(s) of the alleged “Employment Practices Liability Wrongful Act(s)”;
 - (ii) the identity of the specific “Insured(s)” allegedly responsible for such specific “Employment Practices Liability Wrongful Act(s)”;
 - (iii) the consequences which have resulted or may result from such specific “Employment Practices Liability Wrongful Act(s)”;
 - (iv) the nature of the potential monetary damages or non-monetary relief which may be sought in consequence of such specific “Employment Practices Liability Wrongful Act(s)”;
 - (v) the circumstances by which the “Insured(s)” first became aware of such specific “Employment Practices Liability Wrongful Act(s)”.

“Premier” shall have the right to examine under oath any “Insured Person(s)” of the “Named Insured(s)” at any time following the furnishing of such notice.

Any notice shall be deemed to be given and received on the day and at the time it is so received by “Premier” at the address indicated in the Policy Declarations.

10. OTHER INSURANCE

If other valid and collectable insurance is available to any “Insured(s)” for any “Employment Practices Liability Claim(s)” that is covered under this Policy, the “Insurer” under this Policy shall be liable for only the excess, if any, of any “Employment Practices Liability Claim(s)” over the applicable limit and deductible of the other insurance covering such “Employment Practices Liability Claim(s)”.

This Policy shall not contribute to any “Employment Practices Liability Claim(s)” that is less than or equal to the applicable limit of the other insurance covering such “Employment Practices Liability Claim(s)”.

11. SEVERABILITY OF APPLICATION

In the event that the Application contains misrepresentations or material non-disclosures which materially affect either the acceptance of the risk or the hazard assumed by the “Insurer” under this Policy, this Policy shall be void and of no effect whatsoever, but only as against any “Insured Person(s)” who completed or signed the Application or had actual knowledge of such misrepresentation.

Section I, Item 1 – Coverage of this Policy shall not be rescinded by the “Insurer”.

Nothing in this clause shall increase the “Insurer’s” maximum liability as set forth in Section I, Item 3 – Limit of Liability and Deductible of this Policy.

12. STATUTORY CONFORMITY

Terms of this Policy, which are in conflict with the statutes of the province, state or territory where the “Named Insured(s)” is domiciled as listed on the Policy Declarations page, are hereby amended to conform to such statutes.

13. SUBROGATION

In the event of any payment under this Policy, the “Insurer” shall be subrogated to the extent of such payment to all rights of recovery thereof, and the “Insured(s)” shall execute all papers required and shall do everything that may be necessary to secure such rights including the execution of such documents necessary to enable the “Insurer” to bring suit in the name of the “Insured(s)”.

14. SALE OR DISSOLUTION

If, during the Policy Period, a transaction occurs wherein another entity gains control of the “Named Insured(s)” through the ownership or the “Named Insured(s)” merges into another entity or consolidates with another entity such that the “Named Insured(s)” is not the surviving entity, then:

- (a) the “Named Insured(s)” must give written notice of such transaction to “Premier” within ninety (90) days after the effective date of such transaction and provide the “Insurer” with such information in connection therewith as the “Insurer” may deem necessary;
- (b) this Policy shall continue in full force and effect with respect to “Employment Practices Liability Claim(s)” committed on or before the effective date of such transaction; and
- (c) the entire premium for this Policy shall be deemed earned as of the date of such transaction.

15. ADJUSTMENT CLAUSE

This Policy is issued and the premium computed on the basis of the information submitted to the “Insurer” as part of the application referred to in the Policy Declarations. The “Insurer” may require premium adjustment and coverage revision in the event

- (a) the “Named Insured(s)” acquires any other entity; or
- (b) the “Named Insured(s)” creates or acquires a “subsidiary” subsequent to the inception date of the Policy. Where the value of the assets of such acquisition or creation represents more than twenty-five (25) percent of the “Named Insured(s)” total assets prior to the acquisition or creation, the “Named Insured(s)” agrees to give notice to the Insurer in writing no later than ninety (90) days after the effective date of such event and to furnish such information in connection therewith as the “Insurer” may require.