

**Form #SPWUL (Rev. July 26, 2012)**  
**Specific Project Wrap-Up Liability Insurance**

In consideration of the payment of or the agreement to pay the Premium detailed in the Declarations and subject to the statements contained in the Declarations and the definitions and conditions of the policy, and any additional declarations, exclusions, limitations, conditions and other terms of the policy, the Insurer agrees as follows:

**I. INSURING AGREEMENTS**

**COVERAGE A - Bodily Injury and Personal Injury Liability**

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay (including liability assumed by the Insured under an Insured Contract as defined herein) as compensatory damages because of Bodily Injury or Personal Injury which arises out of the Insured's operations in connection with the Insured Project. Such Bodily Injury or Personal Injury must be as a result of an Occurrence.

**COVERAGE B - Property Damage Liability**

To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay (including liability assumed by the Insured under an Insured Contract as defined herein) as compensatory damages because of Property Damage which arises out of the Insured's operations in connection with the Insured Project. Such Property Damage must be as a result of an Occurrence

**II. DEFENSE - Miscellaneous Payments**

For losses covered by this policy, the Insurer shall:

- (1) defend in the name and on behalf of the Insured any civil action which may be brought against the Insured on account of such Bodily Injury, Personal Injury or Property Damage even if any of the allegations in the action are groundless, false or fraudulent
- (2) pay all premiums on bonds to release attachments for an amount not in excess of the remaining limit of liability of this policy, 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 remaining limits of the Insurer's liability;
- (4) pay reasonable expenses incurred by the Insured at the Insurer's request in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed (One Hundred Dollars) CAD100 per day;

The amounts so incurred, except costs awarded and assessed against the Insured in any civil action defended by the Insurer, are payable in addition to the remaining Limits of Liability (subject always to the United States of America Special Conditions Clause included in this policy).

**III. LIMIT OF LIABILITY**

Regardless of the number of (1) Insureds under this policy (2) persons or organizations who sustain Bodily Injury, Personal Injury or Property Damage or (3) claims made or suits brought on account of Bodily Injury, Personal Injury or Property Damage, the Insurer's liability is limited as follows:

**(1) Limit of Liability**

The Limit of Liability stated in the Declarations as applicable to each "Occurrence" is the total limit of the Insurer's liability under Coverages A and B combined for all compensatory damages, including damages for care and loss of services, arising out of Bodily Injury, Personal Injury or Property Damage as a result of any one Occurrence or series of Occurrences arising out of one event.

Subject to the above provision, the Limit of Liability stated in the Declarations as "Aggregate" is the total limit of the Insurer's liability for the Policy Period under coverage A and B combined for all compensatory damages arising out of the Broadform Completed Operations Hazard (as defined herein)

For the purpose of determining the limit of the Insurer's liability, all Bodily Injury, Personal Injury or Property Damage arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one Occurrence.

**Sub- Limits of Liability**

**Tenants Legal Liability**

The Insurer shall not be liable for more than the Sub-Limit of Liability shown in the Declarations of this policy for damage arising out of any one accident. This Sub-Limit of Liability is included in, and not in addition to, the amount indicated under Limits of Liability in the Declarations of this policy Insurance provided under this section of the policy shall be excess to any valid and collectable property insurance (including any deductible portion thereof) available to the Insured such as but limited to fire and extended coverage, builder's risk coverage or installation coverage

**Forest Firefighting Expense**

The Insurer's liability shown for any one accident, resulting in a claim hereunder shall not exceed the Sub-Limit shown in the Declarations of this policy for this insurance. The Sub Limit so indicated is included in, and not in addition to, the amount indicated under Limits of Liability in the Declarations of this policy

The insurers liability for all claims in one calendar year shall be limited to an aggregate amount equal to the sub limit for this insurance

**Medical Payments**

The Sub-Limit of Liability applicable to each person is the limit of the Insurer's liability for all Medical Expense for Bodily Injury sustained by one person in any one accident; the Limit of Liability applicable to each accident is subject to the definition provision respecting each person, the total limit of the Insurers liability for all Medical Expenses arising out of Bodily Injury sustained by two or more persons in any one accident

This Sub-Limit of Liability is included in, and not in addition to, the amount indicated under Limits of Liability in the Declarations of this policy

**(2) Deductible**

- (a) The Insurer's obligation to pay compensatory damages on behalf of the Insured applies only to the amount of such compensatory damages in excess of the deductible amount stated in the Declarations. The deductible amount applies to all losses covered by this Policy including those arising out of the Broadform Completed Operations Hazard. The amount of the deductible is to be paid by the Insured
- (b) The limit of insurance applicable to each "Occurrence" shall not be reduced by the amount of such deductible. The "aggregate" limit shall not be reduced by the application of such deductible amount.
- (c) The deductible amount applies to all compensatory damages as the result of any one Occurrence regardless of (1) the number of persons or organizations who sustain Property Damage, or (2) the number of claims made or suits brought on account of such Property Damage
- (d) The terms of the policy apply irrespective of the application of the deductible amount.

- (e) The Insurer may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken, the Insured shall promptly reimburse the Insurer for such part of the deductible amount as has been paid by the Insurer.

#### **IV. PERSONS INSURED**

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

- (1) The Named Insured stated in the Declarations
- (2) All contractors, sub-contractors, consulting architects and consulting engineers employed directly by the Named Insured in connection with the Insured Project but only with respect to operations directly connected with the Insured Project For the avoidance of doubt the above reference to contractors and sub-contractors does not include:
  - (i) suppliers whose only function is to supply materials, machinery or supplies to the Insured Project and who do not carry out any installation or construction work on the Insured Project
  - (ii) security protection firms providing site protection during construction of the Insured Project
- (3) Any partner, officer, director, employee or shareholder of the Insured described in (1) and (2) above and then only for liability directly related to the Insured Project
- (4) Each person, firm, corporation or municipality for whom the Named Insured has contracted to do work in the same manner and to the same extent as if a separate policy had been issued to each, provided that this shall only apply where the terms of any such contract require the Named Insured to maintain insurance for the benefit of such person, firm, corporation or municipality and then only with respect to liability which arises out of the operations of the Insured described in (1) and (2) above in connection with the Insured Project
- (5) Other entities for whom the Insured described in (1) and (2) above have contracted to provide insurance, including owners of property leased to the them, where the terms of the agreement require them to provide insurance on behalf of the owner, but only with respect to liability which arises out of the operations in connection with the Insured Project
- (6) Each person, firm, corporation or municipality for whom the Named Insured has contracted to do work in the same manner and to the same extent as if a separate policy had been issued to each, provided that this shall only apply where the terms of any such contract require the Named Insured to maintain insurance for the benefit of such person, firm, corporation or municipality and then only with respect to liability which arises out of the operations of the Insured described in (1) and (2) above in connection with the Insured Project
- (7) Other entities for whom the Insured described in (1) and (2) above have contracted to provide insurance, including owners of property leased to the them, where the terms of the agreement require them to provide insurance on behalf of the owner, but only with respect to liability which arises out of the operations in connection with the Project

#### **V. POLICY TERRITORY**

This insurance applies only to Bodily Injury, Personal Injury and Property Damage which arises out of the Insured's operations in connection with the Insured Project in Canada provided that any suit against the Insured claiming compensatory damages in connection with the foregoing is brought in a court of law within Canada.

#### **VI. POLICY PERIOD**

This insurance policy applies during the Policy Period indicated in the Declarations. As respects the Broadform Completed Operations Hazard this policy shall continue to apply for the Policy Period also so indicated in the Declarations subject to the definition of Broadform Completed Operations Hazard contained herein,

#### **VII. LIMITED INSURANCE APPLICABLE TO PERFORMANCE OF REMEDIAL WORK**

Without extending the Policy Period beyond that indicated on the Policy Declarations, this insurance applies to the Insured's liability arising from operations performed at the site of the Insured Project which are necessary to complete remedial work directly related to the correction of deficiencies in the Insured Project during the first ninety (90) days following expiry of this policy.

This Extension of Insurance is subject to the following limitations;

- (a) in no event shall this extension be deemed to extend the duration of coverage for the "Broadform Completed Operations Hazard" ; and
- (b) coverage is specifically excluded hereunder for any loss or damage, the cost of which is or would have been recoverable by the Insured under any warranty or guarantee applying to the Insured Project works, regardless of whether such warranty or guarantee is valid at the time of loss or damage

#### **EXCLUSIONS**

This policy does not apply to:

- (a) Bodily Injury, Personal Injury or Property Damage which is inevitable having regard to the circumstances and nature of the work undertaken in connection with the Insured Project
- (b) Bodily Injury sustained by any employee of the Insured when liability is imposed upon or assumed by or on behalf of the Insured under any Worker's Compensation Statute or similar statute that is in effect. This exclusion does not apply to legal liability imposed upon the Insured by Common Law as amended by Statute
- (c) Bodily Injury, Personal Injury or Property Damage arising out of the ownership, maintenance, use or operation by or on behalf of an Insured of any Automobile;
- (d) Bodily Injury, Personal Injury or Property Damage arising out of the ownership, maintenance, use, operation, loading or unloading by or on behalf of an 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;
- (e) Bodily Injury, Personal Injury or Property Damage arising out of:
  - (1) the ownership, maintenance, use, operation, loading or unloading by or on behalf of the Insured of any aircraft or air cushion vehicle;
  - (2) 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;
- (f) Bodily Injury, Personal Injury or Property Damage caused intentionally by or at the direction of the Insured. This exclusion shall not apply to any Insured who neither sanctioned nor was a party to the causing of such injury or damage, nor in any event where the Bodily Injury or Personal Injury or Property Damage was caused in an attempt to prevent such injury to persons or damage to property.
- (g) Property Damage to property owned or occupied by or rented to the Insured, property held by or on behalf of the Insured for sale or property entrusted to the Insured for storage and safe keeping;
- (h) except with respect to liability under a sidetrack agreement entered into in connection with the Insured Project or the use of elevators or escalators at

premises owned, rented or controlled by or on behalf of the Insured, Property Damage:

- (1) to property while on premises owned by, occupied by or rented to the Insured for the purpose of having operations performed on such property by or on behalf of the Insured;
  - (2) to tools or equipment owned by, rented to, or used by or on behalf of the Insured;
  - (3) to property in the custody of the Insured which is to be installed, erected or used for construction by or on behalf of the Insured;
  - (4) to that particular part of any property not on premises owned by or rented to the Insured:
    - i) upon which operations are being performed by or on behalf of the Insured at the time of the Property Damage thereto arising out of such operations; or
    - ii) out of which any Property Damage arises ; or
    - iii) the restoration, repair or replacement of which has been made or is necessary by reason of faulty workmanship thereon by or on behalf of the Insured; or
  - (5) to property which is being transported by or on behalf of the Insured by motor vehicle or otherwise
- (i) Property Damage to any goods or products or containers thereof manufactured, sold, handled or distributed by or on behalf of the Insured or premises alienated by the Insured; but this exclusion will not apply to claims arising from the Broadform Completed Operations Hazard as defined herein with respect to premises which form part of the Insured Project or were never rented or held for rental by the Insured
- (j) Property Damage to work completed by or for the Insured out of which such Property Damage arises but this exclusion will only apply to that particular portion of such product or work out of which such Property Damage arises
- (k) Property Damage to property of every kind and description either forming part of or to form part of the Insured Project. This exclusion does not with respect to the Broadform Completed Operations Hazard as defined herein;
- (l) Property Damage to any work performed by or on behalf of the Insured, or any property of which such work forms a part, if such work is deemed unsafe, inadequate, faulty or unsatisfactory because of any known or suspected defect or deficiency therein. Any expenses incurred by the Insured for the inspection, withdrawal, repair or replacement of such work or loss of use of such work or of any property of which such work forms a part is not reimbursable by this policy and is not the subject of cover hereunder.
- (m) loss of use of any property resulting from:
  - (i) a delay in or lack of performance by or on behalf of the Insured with respect to any Insured Contract or agreement; or
  - (ii) the failure of the work performed by or on behalf of the Insured to meet the level of performance quality fitness or durability warranted or represented by the Insured but this exclusion does not apply to loss of use of tangible property resulting from Property Damage to work performed by or on behalf of the Insured after such work has been used in the manner for which it was intended by any person(s) or organization(s) other than an Insured under this policy
- (n) liability of any kind arising out of any error or omission committed or alleged to have been committed by or on behalf of the Insured or any person employed by the Insured in the provision of Professional Services in connection with the Insured Project.

Notwithstanding the above this exclusion does not apply to Bodily Injury arising from "Incidental Medical Malpractice injury"

- (o) liability for Personal Injury assumed under any Insured Contract or agreement
- (p) liability for Personal Injury which arises out of the willful violation of penal statute or ordinance committed by or with the knowledge or consent of any Insured
- (q) liability for Personal Injury which arises as a result of an offense directly or indirectly related to employment by the Insured
- (r) Personal Injury, Bodily Injury, Property Damage, claim or suit, arising directly or indirectly as a result of or in connection with war, whether declared or not, or any act or condition incident to war. War includes civil war, insurrection, act of foreign enemy, civil commotion, factional civil commotion, military or usurped power, rebellion or revolution;
- (s) Personal Injury, Bodily Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

This exclusion also excludes Personal Injury, Bodily Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

- (t) Nuclear Energy Liability; meaning
- (1) to liability imposed by or arising under the Nuclear Liability Act;
  - (2) to Bodily Injury, Personal 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;
  - (3) to Bodily Injury, Personal 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, or
    - (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, or
    - (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 of

other elements and any other substances that the Atomic Energy Control Board may by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.

3. The term "nuclear facility" means:
- (a) any apparatus designed or used to sustain nuclear fission, in a self-supporting chain reaction or to contain 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.
- (u) Bodily Injury or Property Damage arising out of the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants:
- (i) at or from premises owned, rented or occupied by the Insured;
  - (ii) at or from any site or location used but or for an Insured or other for the handling, storage, disposal, processing or treatment of Waste;
  - (iii) which are at any time transported, handled, stored, treated, disposed of, or processed as Waste by or for an Insured or any person or organization for which the Insured may be legally responsible; or
  - (iv) at or from any site or location on which an Insured or any contractors or subcontractors working directly or indirectly on behalf of an Insured are performing operations:
    - (a) if the Pollutants are brought on or to the site or location in connection with such operations; or
    - (b) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the Pollutants;
- Sub-paragraphs (i) and (iv)(a) of this exclusion (u) do not apply to Bodily Injury or Property Damage caused by:
- (1) heat, smoke or fumes from a fire which becomes uncontrollable or breaks out from where it was intended to be; or
  - (2) an unexpected or unintentional spill, discharge, emission, dispersal seepage, leakage, migration, release or escape of Pollutants which
    - a) results in the injurious presence of Pollutants in or upon the land, the atmosphere, drainage or sewage system, watercourse or body of water; and
    - b) is detected within 120 hours after the commencement of the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape; and
    - c) is reported to the Insurer within 120 hours of being detected, and which
    - d) does not occur in a quantity or quality that is inevitable routine or usual having regard to the circumstances and nature of the work undertaken in connection with the Insured Project.
- Sub-paragraphs (i) and (iv)(a) of this exclusion (u) do not apply to Bodily Injury or Property Damage caused by heat, smoke or fumes from a hostile fire. As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.
- (v) any loss, cost or expense arising out of any governmental direction or request that an Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants
- (w) Property Damage to underground services (such as but not limited to water, gas, sewerage, sewage, fuel pipes, electric and telephone cables) or any underground property or structure for the purpose of storing, conveying, transporting, transmitting, delivering of electricity, water, gas, fuel, telecommunications media, signals, radio and other waves unless:
- (i) Prior to commencement of any work, the Insured has inquired with the relevant authorities or owners of such services, property or structures as to the exact location of such services, property or structures and takes all reasonable precautions to avoid such services, property or structures; and
  - (ii) Any indemnity provided by the proviso to this Exclusion (w) shall be limited to the cost of repair, replacement or reinstatement of such damaged services, property or structures and shall not extend to any consequential loss or loss of use resulting therefrom.
- (x) fines, penalties, punitive or exemplary damages arising directly or indirectly out of the discharge, dispersal, release or escape of any Pollutants; as used in this insurance policy the term pollutants means any solid, liquid, gaseous, or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed
- (y) Asbestos Liability; meaning this policy does not apply:
- (i) to 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 asbestos containing materials
  - (ii) to any obligation to defend any claim or suit against the Insured alleging liability resulting from (i) above nor to Insurer's liabilities for defense costs arising therefrom.
- (z) Bodily Injury, Personal Injury or Property Damage or any cost or expense related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:
- (i) Any "fungus/fungi", "mold(s)", mildew or yeast, or
  - (ii) Any "spore(s)" or toxins created or produced by or emanating from such fungus/fungi, mold(s), mildew or yeast, or
  - (iii) Any substance, vapor, gas, or other emission or organic or inorganic body or substance produced by or arising out of any "fungus/fungi", "mold(s)", mildew or yeast, or
  - (iv) Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbors, nurtures or acts as a medium for any "fungus/fungi", "mold(s)", mildew, yeast, or "spore(s)" or toxins emanating therefrom, regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that Bodily Injury, Personal Injury or Property Damage, cost or expense.

## DEFINITIONS

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

"Automobile" means 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 or 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 and not attached to any self-propelled land motor vehicle;
- (iv) self-propelled land motor vehicles used solely at the site of the Insured Project.
- (v) Machinery or equipment mounted on or attached to an Automobile when such machinery or equipment is at the site of the Insured Project and provided that the use or operation of such machinery or equipment is not insured or required to be insured elsewhere at the time, including, but not limited to, any motor vehicle liability Policy

“Bodily Injury” means bodily injury, sickness, disease, mental anguish, mental suffering or shock sustained by any person and caused by an Occurrence (as defined herein) during the Policy Period including death at any time resulting therefrom

“Broadform Completed Operations Hazard” means liability for Bodily Injury or Property Damage arising out of operations by or on behalf of the Insured in connection with the Insured Project, but only if such Bodily Injury or Property Damage occurs during the Broadform Completed Operations Hazard Period shown in the Declarations and results from an Occurrence.

Operations shall include construction, installation or repair or materials or parts or equipment furnished in connection therewith.

The Broadform Completed Operations Hazard Period shall commence after such operations in connection with the Insured Project have been completed or abandoned by or on behalf of the Insured 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 Insured have been completed;
- (ii) when all operations to be performed by or on behalf of the Insured at the site of the Insured Project have been completed;
- (iii) when that portion of the work out of which the Bodily Injury or Property Damage arises has been put to its intended use by other than another contractor or subcontractor engaged in performing operations for the Named Insured as part of the same project insured
- (iv) when such operations have been accepted by or on behalf of the owner

The “Broadform 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.

“Forest Fire Fighting Expense” means all sums which the Insured shall become obligated to pay by reason of liability imposed upon the Insured under Forest Fire Prevention Acts or similar legislation applicable to the Insured project in the jurisdiction in which the Insured Project is located

“Incidental Medical Malpractice Injury” means Bodily Injury arising out of the rendering of or failure to render during the policy period the following services

- (i) Medical, surgical, dental x-ray or nursing services or treatment of the furnishing of food or beverages in connection therewith ;or
- (ii) the furnishing or dispensing of drugs or medical ,dental, or surgical supplies or appliances, by any Insured or person hired on behalf of an Insured causing the incidental medical malpractice injury who is not engaged in the business or occupation of providing any of the services described in (i) and
- (ii) above “Insured Contract” means any contract in writing entered into by the Insured relating to the project insured hereunder and which is:
  - a) in writing; or
  - b) has been formalized in writing prior to the Bodily Injury, Personal Injury or Property Damage

“Insured Project” means that which is shown in the Declarations of this policy

“Medical Payments” means payment to or for each person who sustains Bodily Injury caused by accident all reasonable Medical Expenses incurred within one year from the date of the accident on account of such Bodily Injury, provided such Bodily Injury arises out of (a) a condition in the insured premises; or (b) operations with respect to which the Named Insured is afforded coverage for Bodily Injury under this policy

“Occurrence” means an event, including continuous or repeated exposures to conditions, which result in “Bodily Injury”, “Personal Injury” and/or “Property Damage” neither expected or intended from the standpoint of the “Insured”. All such exposure to substantially the same general conditions shall be deemed one “Occurrence”.

“Personal Injury” means injury other than Bodily Injury sustained by any person or organization arising out of an Occurrence during the Policy Period in connection one or more of the following offences

- (i) false arrest, detention or imprisonment or malicious prosecution
- (ii) the publication or utterance of libel or slander or of other defamatory or disparaging material or a publication or utterance in violation of an individual’s right of privacy, except publications or utterances in the course of, or related to, advertising, broadcasting, or telecasting activities conducted by or on behalf of the Insured
- (iii) wrongful entry or eviction; or other invasion of the right of private occupancy
- (iv) humiliation or discrimination, except in such jurisdictions whereby legislation, court decisions, or administrative ruling such insurance is prohibited or held to violate the law or public policy.

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed

“Professional Services” means:

- (i) advice, design, consultancy, supervision, inspection, testing, research, training, research training, investigation, monitoring, planning, computer programming and/or electronic data processing services and also the preparation, approval or interpretation of maps, plans, opinions, reports, valuations, surveys, designs, specifications, measurements, readings, drawings, feasibility studies, data and/or formulae;
- (ii) professional activities being those activities undertaken by persons qualified or those activities which would normally be undertaken by persons qualified in law, medicine, accountancy, architecture, engineering, surveying, supervision of construction, project management, shipping and forwarding, insurance, environmental assessment or geology

“Project Cost” means the total cost to the owners of all work including labour, fees, materials and equipment in connection with the Insured Project but shall not include financial borrowing costs

“Property Damage” means:

- i. physical injury to or destruction of tangible property including the loss of use thereof resulting there from caused by an Occurrence (as defined herein) during the Policy Period
- ii loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an Occurrence (as defined

herein) during the Policy Period

"Tenants Legal Liability" means all sums which the Insured shall become legally obligated to pay as damages for injury to or destruction, including loss of use, of premises including building fixtures permanently attached thereto, rented to or occupied by the Insured, if such injury or destruction is caused by accident occurring during the term of this policy, but solely at locations rented or leased specifically and exclusively for occupation in connection with the Insured Project indicated in the Declarations of this policy.

"Radioactive Material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances that the Atomic Energy Control Board may by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.

"Spore(s)" means any dormant or reproductive body produced by or arising or emanating out of any fungus/fungi, mould(s), mildew, plants, organisms or micro organisms.

"Waste" means materials to be recycled, reconditioned or reclaimed.

"Fungus/fungi" includes, but is not limited to, any plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including molds, rusts, mildews, smuts and mushrooms. "Mold(s)" includes, but not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produced molds.

## SPECIAL CONDITIONS

### 1 UNITED STATES OF AMERICA

In respect of any judgment award payment or settlement made within countries which operate under the laws of the United States of America (or any order made anywhere in the world to enforce such judgment award payment or settlement either in whole or in part) it is agreed that the following additional terms and Exclusions apply:

- (1) The Limits of Liability shall apply inclusive of all amounts detailed within clauses (1) to (4) of Insuring Agreements II Defence – Miscellaneous Payments.
- (2) Notwithstanding anything to the contrary contained within Exclusion (u) of this policy, this policy shall not pay on behalf of the Insured any sums which the Insured shall become legally liable to pay because of Bodily Injury, Personal Injury or Property Damage arising out of the actual alleged or threatened discharge, dispersal, release or escape of Pollutants

### 2 BURNING WELDING AND CUTTING CONDITIONS

It is a condition precedent to liability under this policy that the following precautions are adhered to on each occasion where the Insured or persons acting on behalf of the Insured are using any oxy-acetylene or electric welding or cutting/grinding equipment or blow lamp or blow torch

- 1 the immediate area in which the operation is to be carried out must be segregated to the greatest practicable extent by the use of screens made of metal and/or fire retardant material
- 2 the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence
- 3 combustible floors/substances in or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material
- 4 where work is being carried out in any enclosed area an additional employee of the Assured or an employee of the occupier shall be present at all times to guard against an outbreak of fire
- 5 no work should be carried out unless specifically authorised by the occupier who should also be asked to approve the safety arrangements
- 6 the following must be kept available for immediate use near the scene of operations
  - a) suitable fire extinguishers and/or
  - b) hoses connected up in readiness for immediate use and tested prior to the commencement of the work
- 7 a thorough examination must be made in the vicinity of the work approximately one hour after the termination of each operation. In the event that it is not practicable for such examination to be carried out by the Insured's own employee then appropriate arrangements must be made with the occupier
- 8 before "burning off" metal work built into or projecting through walls or partitions an examination should be made to confirm that the other end of the metal is not in a hazardous proximity to combustible material which may be ignited by the conduction of heat

Furthermore where the Insured or persons acting on behalf of the Insured burns debris it is a Condition precedent to liability under this policy that the following precautions shall be taken on each occasion

- 1 Fires to be in a cleared area and at a distance of at least ten yards from any property
- 2 Fire not to be left unattended at any time
- 3 A suitable fire extinguisher to be kept available for immediate use
- 4 Fires to be extinguished at least one hour prior to leaving site at the end of each working day

### 3 ROOFING CONDITIONS

It is a condition precedent to liability under this policy that the following precautions are adhered to on each occasion where the Insured or persons acting on behalf of the Insured are undertaking any roofing activities involving the application of heat or when installing hot membrane roofing materials

- 1 With specific regard to roofing activities involving the application of heat the immediate area will be hosed down where practical before and after all heat applications
- 2 During any heat application a fire extinguisher in good working order will be on the work site and in close proximity at all times
- 3 A guard or watchman will be on hand during all heat application operations to watch for and extinguish any sparks or overheated areas and will remain on site for one hour after completion or suspension of operations
- 4 With specific regard to hot membrane installation an employee or other responsible person must take readings of the roof temperature using a hand-held infrared thermometer and follow all of the manufacturer's instructions in order to detect zones of excessive heat on the roof once the installation is completed or suspended
- 5 Any use of a tar boiler must be at ground level only

## GENERAL CONDITIONS

### 1. NO AVOIDANCE

Any act or omission on the part of an Insured under this policy shall not prejudice the rights or interests of any other Insured

### 2. CROSS LIABILITY AND SEVERABILITY OF INTERESTS

Coverage provided by this policy applies individually to the interest of each Insured covered by this policy and coverage shall apply in the same manner

and to the same extent as though a separate policy had been issued to each Insured. Any action by any Insured that would void coverage shall not affect coverage provided to any other Insured not privy to such action. Nothing contained in the foregoing nor the inclusion herein of more than one Insured shall operate to increase the Limit of Liability stated in the Declarations

### 3. PREMIUM AND ADJUSTMENT OF PREMIUMS

Upon the expiry of this Policy the Insured agrees that it will report to the Insurer within thirty (30) days the final cost of the project works (the Insured Project) completed during the Policy Period.

Upon receipt of such Project Cost the Insurer will adjust the deposit premium by multiplying the Project Cost by the adjustment rate shown in the Declarations. The premium so calculated will be the earned premium. Should the earned premium be greater than the deposit premium the Insured will promptly pay the Insurer the difference or if the earned premium is less than the deposit premium such difference will be refunded to the Insured, subject to retention by the Insurer of the minimum premium stipulated in the Declarations

### 4. INSPECTION / AUDIT

The Insured shall permit the Insurer to inspect the Insured Project and 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.

### 5. 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) If the Insurer is not so notified, as in clause (a) or (b) above, such that the Insurer's position is prejudiced, then no coverage is provided by this policy for such accident, Occurrence, claim or suit.
- (d) 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.
- (e) Notwithstanding the aforementioned, any late notice or absence of notice is cause of forfeiture of the rights of the Insured, if the Insurer thereby sustains prejudice

### 6. ACTION AGAINST INSURER

No action shall lie against the Insurer under any Insuring Agreement of this policy including the Insuring Agreement relating to "Defense - Miscellaneous 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 1 year next after the date of such judgment or written agreement and not afterwards. If this policy is governed by the laws of Quebec, every action or proceeding against the Insurer shall be commenced within 3 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.

### 7. SUBROGATION

In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's right of recovery therefor 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. However, the Insurer shall have no right of subrogation against any Insured under this Policy

### 8. OTHER INSURANCE

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

#### (a) Contribution by Equal Shares:

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

#### (b) Contribution by Limits:

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

### 9. 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 stop the Insured 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.

### 10. 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 canceled shall, if written notice be given to the Insurer within 60 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

**11. SOLE AGENT**

For the purpose of negotiating changes under this policy or for cancellation of this policy and for payment of the premium the Insured first named in the Declarations (hereinafter called "the First Named Insured") shall be deemed the sole agent of each Insured.

**12. 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. 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.

**13. CANCELLATION / TERMINATION**

This policy is non-cancellable by either the Named Insured or the Insurer except as follows:

The Insurer may cancel this policy:

- a) for non-payment of premium by providing not less than fifteen (15) days written notice by registered mail to the Named Insured. Payment of the premium due within such notification period shall cause the notice of cancellation to be rescinded;
- b) in the event of the bankruptcy or insolvency of the Named Insured

The Named Insured or the Insurer may cancel this policy in the event of:

- a) termination of the Insured Project prior to expiry of the Policy Period (excluding the Completed Operations Period). Termination shall not mean early completion of the Insured Project
- b) Indefinite postponement of the Insured Project
- c) Material change in risk which is within the control and knowledge of the Named Insured. The Named Insured shall promptly notify the Insurer of such material change in risk
- d) Bankruptcy or insolvency of the Insurer

If this policy is cancelled by the Insured, the unearned portion of premium actually paid shall be returned on surrender of this policy, the Insurer retaining the greater of the earned premium calculated on the customary short rate basis, or the Minimum Premium indicated in the Declarations of this Policy.

If this policy is cancelled by the Insurer, or because of termination or indefinite postponement of the Insured Project, the unearned portion of premium actually paid shall be returned upon cancellation of this policy, the Insurer retaining the earned premium calculated on a pro-rata basis. Except for non-payment of premium the Insurer shall provide thirty (30) days written notice of cancellation to the Named Insured

**14. 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.

**15. BANKRUPTCY**

Bankruptcy or insolvency of the Insured shall not relieve the Insurer of any of its obligations hereunder

**16. CANADIAN CURRENCY CLAUSE**

All limits of insurance, premiums and other amounts as expressed in this policy are in Canadian Currency unless otherwise stated on the policy.

**17. CHOICE OF LAW AND JURISDICTION**

Any dispute between the Insured and Insurers concerning the interpretation of this Policy be governed by the laws and jurisdiction of Canada.

**18. SERVICE OF SUIT (ACTION AGAINST THE INSURER)**

In any action to enforce the obligations of the Insurers liable hereunder they can be designated or named as "Nicholas Smith in his quality as Attorney In Fact in Canada, for Lloyd's Underwriters, Members of Lloyd's, London, England" and such designation shall be binding on the Underwriters liable hereunder as if they had each been individually named as Defendant. Service of such proceedings may validly be made upon Nicholas Smith., whose address for such service is 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

**19. CONFORMITY CLAUSE**

It is noted and agreed that wherever the words "Underwriters" and "Insurer" appear in this policy they shall be deemed to be synonymous.

It is further noted and agreed words in the masculine gender within this policy shall include the feminine.

Any reference in the policy to the Policy Period unless otherwise stated encompasses both the Policy Period and Broadform Completed Operations Hazard Period shown in the Declarations

**20. DISCHARGE OF LIABILITY**

The Insurer may at any time pay to the Insured in connection with any Occurrence under this policy to which any Limits of Liability apply the amount of such Limits (after deduction of any sums already paid) or any lesser amount for which claims resulting from such Occurrence can be settled and upon such payment being made the Insurer shall relinquish the conduct and control of and be under no further liability in connection with such claims except for the payment of Defence – Miscellaneous Payments incurred prior to the date of such payment (unless the Limits of Liability are inclusive of Defence – Miscellaneous Payments).

Provided that if the Insurer exercises the above option and the amount required to dispose of any claims in connection with an Occurrence exceeds the Limits of Liability and such excess amount is insured either in whole or in part, with Defence – Miscellaneous Payments payable in addition to the Limits of Liability under this policy then the Insurer will also contribute their proportion of subsequent Defence – Miscellaneous Payments incurred with their prior consent.

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.



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

### INSURING AGREEMENT

Now, Therefore, 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
- (c) for any liability assumed by any person insured by this policy voluntarily under any contract or agreement; or
- (d) 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
- (e) 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.

\*Not applicable in the Province of Ontario

### ADDITIONAL AGREEMENTS OF INSURER

Where indemnity is provided by this policy, the insurer further agrees:

- (1) upon receipt of notice of loss or damage caused to persons or property to serve 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 judgement upon that part of the judgement 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) to 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 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 in which the accident occurred.

### AGREEMENTS OF INSURED

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

#### 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 (1) 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 Advanced 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 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 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.

The following Statutory Conditions are applicable to all Provinces of Canada (other than Quebec), except that Statutory Condition 2 is amended in certain Provinces as stated on page 4 of this form.

#### **STATUTORY CONDITIONS**

(YUKON TERRITORY, NORTHWEST TERRITORIES, ALBERTA, ONTARIO, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND AND NEWFOUNDLAND)

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."

#### **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-condition 2 and 3 are identical with the above quoted Statutory Condition relating to material change in risk.

#### **PROHIBITED USE BY INSURED**

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 license to drive or operate an automobile is suspended or while his right to obtain a license is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) while his 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 license 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**

**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;
- (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.

#### **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 and 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.

#### **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 insurances, 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 subcondition (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.  
without the written consent of the Insurer; or until the Insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.

#### **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.

#### **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.

#### **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.

#### **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.

#### **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 effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under The Insurance Act (in Newfoundland, The Insurance Contracts 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 thereof is made in writing and until after proof of loss has been delivered.

#### **INSPECTION OF AUTOMOBILE**

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

#### **TIME AND MANNER OF PAYMENT OF INSURANCE MONEY**

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.

#### **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.

#### **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 and New Brunswick, the one year limitation period in sub-condition (3) should read "2 years"

In the case of Nova Scotia, Newfoundland and Prince Edward Island sub-condition (3) reads as follows:

\*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.

#### **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 the 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.

#### **TERMINATION**

- (1) This contract may be terminated,
  - (a) by the Insurer giving to the Insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered
  - (b) by the Insured at any time on request.
- (2) Where this contract is terminated by the Insurer,
  - (a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but in no event shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall

be made as soon as practicable.

- (3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or cheque payable at par.
- (5) The fifteen days mentioned in clause (a) of subcondition (1) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

NOTE: In the Northwest Territories, paragraph (a) of sub-condition 1 has the following words added: "and by notifying the registrar of motor vehicles as required by the Vehicles Ordinance".

**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.

SAMPLE

**STATUTORY CONDITION 2**

(applicable in the Province of Saskatchewan, British Columbia and Manitoba)

**PROHIBITED USE BY INSURED**

The Insured shall not drive or operate the automobile

- (a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
- (c) while he is under the age of sixteen years or under such other age as is prescribed by the laws 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**

The Insured shall not permit, suffer, allow or connive at the use of the automobile

- (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) 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
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

In Witness Whereof, the Insurer has executed and attested these presents, but this policy shall not be valid unless countersigned by a duly authorized representative of the Insurer.

**S.E.F. NO. 96 - CONTRACTUAL LIABILITY ENDORSEMENT**

(for attachment only to a Non-Owned Policy S.P.F. No. 6)

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 including any other written agreement assuming the liability of others except:
  - 1. any contract or agreement assuming the legal liability of the automobile owner or lessee;
  - 2. any contract or agreement wherein the Insured has assumed liability for the sole negligence of the indemnitee;
  - 3. the leasing of an automobile(s) for a period in excess of thirty (30) days.

**S.E.F. No. 94 - LEGAL LIABILITY FOR DAMAGE TO HIRED AUTOMOBILES ENDORSEMENT**

(for attachment only to a Non-owned Policy S.P.F. No. 6)

In consideration of the premium herein stated, it is understood and agreed that the policy to which this endorsement is attached is extended, subject always to the condition that the Insurer shall be liable under the subsection or subsections of the Insuring Agreement hereof for which a premium is stated and no other

**SECTION B - LEGAL LIABILITY FOR DAMAGE TO HIRED AUTOMOBILE**

The Insurer agrees to indemnify the Insured against the liability imposed by law upon the Insured or assumed by him under any contract or agreement for loss or damage arising from the care, custody or control of "Hired Automobiles" as defined in such policy and resulting from loss or damage thereto, caused solely by:

Subsection 1 - ALL PERILS - from all perils;

Subsection 2 - COLLISION OR UPSET - caused by collision with another object or by upset;

Subsection 3 - COMPREHENSIVE - from any peril other than by collision with another object or by upset;

The words "another object" as used in this subsection shall be deemed to include (a) a vehicle to which the automobile is attached and (b) the surface of the ground and any object therein or thereon.

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 for which insurance is provided under this subsection 3.

Subsection 4 - SPECIFIED PERILS - caused by fire, lightning, theft or attempt thereof, windstorm, earthquake, hail, explosion, riot or civil commotion, falling or forced landing of aircraft or of parts thereof, rising water, 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**

Each occurrence causing loss or damage covered under any subsection hereof except loss or damage caused by fire or lightning or theft of the entire automobile covered by such subsection 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 amount deductible, if any, stated in the applicable subsection hereof.

**TWO OR MORE AUTOMOBILES**

A motor vehicle and one or more trailers or semi-trailers attached thereto shall be held to be separate automobiles with respect to the limit of liability, including the deductible provision, if any, under this Insuring Agreement.

**EXCLUSIONS**

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) under any subsection hereof 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 covered by such subsection or is caused by fire, theft or malicious mischief covered by such subsection; 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 of 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 to which this endorsement is attached; or
- 3) under subsections 3 (Comprehensive) 4 (Specified Perils) for a collision loss or damage occurring after theft by any person or persons residing in the same dwelling premises as the Insured, or by any employee of the Insured engaged in the operation, maintenance or repair of the automobile whether the theft occurs during the hours of such service or employment or not unless the policy provides insurance under subsections 1 or 2.

**ADDITIONAL AGREEMENT**

The Insurer further agrees to pay general average, salvage and fire department charges and custom duties of Canada or of the United States of America for which the Insured is legally liable.

| SUBSECTION            | LIMITS AND AMOUNTS                                  | TYPE OF AUTOMOBILE                                     |
|-----------------------|---|--|
| 1. ALL PERILS         | \$ 30,000 (exclusive of interests and costs)        | any one Accident \$ 1,000 Amount deductible            |
| 2. COLLISION OR UPSET | \$ ..(included). (exclusive of interests and costs) | any one Accident \$ ...(included). Amount deductible   |
| 3. COMPREHENSIVE      | \$ ..(included)..(exclusive of interests and costs) | any one accident \$ ...(Included). Amount deductible   |
| 4. SPECIFIED PERILS   | \$ ..(Included)(exclusive of interests and costs)   | any one Accident \$ ..(ncluded)..... Amount deductible |

|                                 |                                      |                                  |
|---------------------------------|--------------------------------------|----------------------------------|
| <b>MINIMUM RETAINED PREMIUM</b> | <b>\$ <i>as per declarations</i></b> | <b>TOTAL PREMIUM \$ INCLUDED</b> |
|---------------------------------|--------------------------------------|----------------------------------|

The advance premiums for this endorsement are subject to adjustment in the same manner as those stated under Item 5 of the S. P. F. No 6 Application. Except as otherwise provided in this endorsement, all limits, terms, conditions, provisions, definitions and exclusions of the policy shall have full force and effect.

**S.E.F. No. 99 - EXCLUDING LONG TERM LEASED VEHICLE ENDORSEMENT**

(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 of Non-Owned Policy S. P. F. No 6 (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 Automobiles" 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 Non-Owned Policy S. P. F. No 6 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 endorsement, all limits, terms, conditions, provisions, definitions and exclusions of the policy shall have full force and effect.

**(RE)INSURERS LIABILITY CLAUSE - LMA3333**

**(RE)INSURER'S LIABILITY SEVERAL NOT JOINT**

The liability of a (re)insurer under this contract is several and not joint with other (re)insurers party to this contract. A (re)insurer is liable only for the proportion of liability it has underwritten. A (re)insurer is not jointly liable for the proportion of liability underwritten by any other (re)insurer. Nor is a (re)insurer otherwise responsible for any liability of any other (re)insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by a (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is a (re)insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other (re)insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

**PROPORTION OF LIABILITY**

Unless there is "signing" (see below), the proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its "written line".

Where this contract permits, written lines, or certain written lines, may be adjusted ("signed"). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each (re)insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of a Lloyd's syndicate taken together) is referred to as a "signed line". The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

**CONDITIONS**

The conditions as set out below apply to all of the perils insured by this policy either as STATUTORY CONDITIONS or as contractual conditions as the law may require.

**STATUTORY CONDITIONS/CONDITIONS - LSW1193A****MISREPRESENTATION**

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

**PROPERTY OF OTHERS**

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

**CHANGE OF INTEREST**

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

**MATERIAL CHANGE**

4. Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

**TERMINATION**

5. 1. This contract may be terminated,
  - (a) by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
  - (b) by the insured at any time on request.
2. Where this contract is terminated by the insurer,
  - (a) the insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time, but, in no event, shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
3. Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of the premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
4. The refund may be made by money, postal or express company money order or cheque payable at par.
5. The fifteen days mentioned in clause 1(a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

**REQUIREMENTS AFTER LOSS**

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

**FRAUD**

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

**WHO MAY GIVE NOTICE AND PROOF**

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

**SALVAGE**

9. 1. The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
2. The insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph (1) of this condition according to the respective interests of the parties.

**ENTRY, CONTROL, ABANDONMENT**

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

**APPRAISAL**

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

**WHEN LOSS PAYABLE**

12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

**REPLACEMENT**

13. 1 The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.
2. In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

**ACTION**

14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year\* next after the loss or damage occurs.\* Two years in the Province of Manitoba and the Northwest and Yukon Territories. Saskatchewan Statutory Condition 14 is repealed. See The Limitations Act, S.S. 2004, c.L-16.1.

**NOTICE**

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

**ADDITIONAL CONDITIONS**

**NOTICE TO AUTHORITIES**

1. Where the loss is due to malicious acts, burglary, robbery, theft, or attempt thereof, or is suspected to be so due, the Insured shall give immediate notice thereof to the police or other authorities having jurisdiction.

**NO BENEFIT TO BAILEE**

2. It is warranted by the Insured that this insurance shall in no way enure directly or indirectly to the benefit of any carrier or other bailee.

**PAIR AND SET**

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

**PARTS**

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

**SUE AND LABOUR**

5. It is the duty of the insured in the event that any property insured hereunder is lost to take all reasonable steps in and about the recovery of such property. The Insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with the foregoing according to the respective interests of the parties.

**BASIS OF SETTLEMENT**

6. Unless otherwise provided, the Insurer is not liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.

**Subrogation**

7. The insurer, upon making any payment or assuming liability therefore under this Policy, shall be subrogated to all rights of recovery of the Insured against any person, and may bring action in the name of the Insured to enforce such rights. Where the net amount recovered after deducting the costs of recovery is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the Insurer and the Insured in the proportions in which the loss or damage has been borne by them respectively.

6/05

**LLOYD'S IDENTIFICATION OF INSURER / ACTION AGAINST INSURER**

Where LLOYD'S UNDERWRITERS are subscribing insurers to the Policy, the following applies to them:



**IDENTIFICATION OF INSURER / ACTION AGAINST INSURER**

This insurance has been entered into in accordance with the authorization granted to the Policyholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to the Agreement shown in the List of Subscribing Companies (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own part and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

SAMPLE

NOTICE

**LLOYD'S NOTICE TO INSURED - LSW1195**

Pursuant to the Freedom Of Information And Protection Of Privacy Act, 1987

IMPORTANT

The notice below applies to insurance contracts containing non automobile legal liability coverages in provinces where statistical data relating to such contracts must be reported to the Superintendent of Insurance.

**LEGAL AUTHORITY FOR COLLECTION**

Insurance Act, R.S.O. 1990, c.I.8, section 101(1).

**PRINCIPAL PURPOSE FOR WHICH PERSONAL INFORMATION IS INTENDED TO BE USED**

Information collected by insurers from insureds or supplied to insurers pertaining to the attached document will be used:

- to compile aggregate statistical data to be used in monitoring trends in the insurance industry;
- to develop statistical exhibits to be used in monitoring the insurance industry;
- to respond to requests for customized statistical information on the insurance industry;
- to respond to inquiries on statistical information made to Office of the Superintendent of Insurance; and
- to use and disclose such information for purposes which are consistent with the previous clauses.

**THE PUBLIC OFFICIAL WHO CAN ANSWER QUESTIONS ABOUT THE COLLECTION IS:**

Manager, Statistical Services  
Financial Services Commission of Ontario  
5160 Yonge Street, 17<sup>th</sup> Floor  
Box 85  
North York, Ontario M2N 6L9

Telephone: (416) 250-7250  
Fax: (416) 590-7070

25/3/03

**LLOYD'S COMPLAINT PROTOCOL:**

**LLOYD'S POLICYHOLDERS' COMPLAINT PROTOCOL - LSW1542**

If you have a complaint with any aspect of your Lloyd's insurance, please refer to the broker/agent who arranged your policy for you.  
OR

You may contact the **General Insurance OmbudService (GIO)** who will contact Lloyd's on your behalf. The GIO can be reached at:

**GIO - Atlantic Provinces**

(902) 429-2730  
Toll-free: 1-800-565-7189  
www.gio-scad.org

**GIO - Province of Québec**

(514) 288-6015  
Toll-free: 1-800-361-5131  
www.gio-scad.org

**GIO - British Columbia & Yukon**

(604) 684-3635  
Toll-free: 1-877-772-3777  
www.gio-scad.org

**OR**

**Autorité des marchés financiers (l'Autorité)**

Québec City (418) 525-0311  
Montréal (514) 395-0311  
Toll-free: 1-866-526-0311  
E-mail: Renseignements-  
consommateur@lautorite.qc.ca

**GIO - Ontario**

(416) 362-9528  
Toll-free: 1-800-387-2880  
www.gio-scad.org

**GIO - Alberta**

(780) 421-8181  
Toll-free : 1-888-421-4212  
www.gio-scad.org

**GIO - Prairies, Northwest Territories & Nunavut**

(780) 423-2212  
Toll-free: 1-800-377-6378  
www.gio-scad.org

For more information or to submit the facts of your insurance-related dispute, please visit the GIO website at [www.gio-scad.org](http://www.gio-scad.org).

Should you be dissatisfied with the outcome of your broker's resolution or with the GIO's/l'Autorité's assistance, please submit your written complaint to:

Lloyd's Canada Inc.  
Broker Management Services  
200 Bay Street, Suite 2930, P.O. Box 51  
Toronto, Ontario M5J 2J2

Tel: 1-877-4LLOYDS  
Fax: (514) 861-0470  
E-mail : [lineage@lloyds.ca](mailto:lineage@lloyds.ca)

Your written complaint will be forwarded to Lloyd's Complaints Department in London which ensures that Lloyd's Underwriters and their representatives deal with claims and complaints in an acceptable manner. It acts as an impartial mediator. When undertaking a review this Department takes account of general legal principles, good insurance practice, and whether all events surrounding a given case have been considered fairly. If you are dissatisfied with Lloyd's final letter, you may ask the GIO to arrange for mediation. Mediation is not available until Lloyd's has issued its final letter of position on your complaint.

In Québec you may also avail yourself of the services of l'Autorité who will study your file and may recommend mediation, if it deems this action appropriate and if both parties agree to it.

GIO – Alberta can be contacted where a policyholder is not satisfied with the basis on which a premium for basic coverage for a private passenger vehicle was determined, or considers that an insurer, directly or indirectly, has taken an adverse contractual action with respect to insurance for basic coverage.

07/05

SAMPLE

**LLOYD'S NOTICE CONCERNING PERSONAL INFORMATION - LSW1543**

By purchasing insurance from certain Underwriters at Lloyd's, London ("Lloyd's"), a customer provides Lloyd's with his or her consent to the collection, use and disclosure of personal information, including that previously collected, for the following purposes:

- the communication with Lloyd's policyholders
- the underwriting of policies
- the evaluation of claims
- the detection and prevention of fraud
- the analysis of business results
- purposes required or authorised by law

For the purposes identified, personal information may be disclosed to Lloyd's related or affiliated organisations or companies, their agents/mandataries, and to certain non-related or unaffiliated organisations or companies.

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

07/05

SAMPLE