

NON-PROFIT ORGANIZATION LIABILITY INSURANCE POLICY

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IMPORTANT: EXCEPT TO SUCH EXTENT AS MAY OTHERWISE BE PROVIDED HEREIN, THE COVERAGE OFFERED UNDER THIS INSURANCE POLICY APPLIES ONLY TO CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD. PLEASE READ YOUR POLICY CAREFULLY.

Please read this Form carefully to determine rights, duties, coverage and limitations.

Words and phrases in bold in this Policy have special meaning as defined in PART 9 - DEFINITIONS.

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the Insurer shown in the Declarations (hereinafter called the "Insurer") including the statements made in the **Application** and its attachments which form part of this Policy, and subject to all the terms, conditions and limitations of this Policy, the Insurer agrees as follows:

PART 1 - INSURING AGREEMENTS

A – INSURED PERSON NON-INDEMNIFIABLE LIABILITY

The Insurer agrees to pay on behalf of the **Insured Person** all **Loss** for which the **Insured Person** are not indemnified by the **Insured Organization** and shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.

B – INSURED PERSON INDEMNIFIABLE LIABILITY

The Insurer agrees to pay on behalf of the **Insured Organization** all **Loss** which the **Insured Person** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act** and for which the **Insured Organization** provided indemnification.

C – INSURED ORGANIZATION LIABILITY

The Insurer agrees to pay on behalf of the **Insured Organization** all **Loss** for which the **Insured Organization** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.

PART 2 - EXTENSIONS OF COVERAGE

With the exception for Extension 1. **DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON**, the following extensions are part of and included in the Aggregate Limit per **Policy Period**:

1. DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON

The Insurer agrees to pay on behalf of the **Insured Person** all **Loss** for which an **Insured Person** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act** and provided such **Claim**:

- 1.1. is not indemnified by the **Insured Organization** or an **Outside Organization**; and
- 1.2. the current Policy's applicable Aggregate Limit per **Policy Period** is exhausted; and
- 1.3. any other valid insurance, including excess policies, is also exhausted.

The maximum Limit of Liability provided under this extension shall not exceed \$1,000,000 per **Policy Period**.

2. SPOUSE, DOMESTIC PARTNER AND ESTATE

The Insurer agrees to pay on behalf of the persons named hereinafter all **Loss** for which such person shall become obligated to pay on account of any **Claim** first made against them during the **Policy Period** because of an **Insured Person's Wrongful Act** where damages are being sought from:

- 2.1. the lawful spouse or domestic partner of such **Insured Person**, through the recovery from jointly held property or property transferred by the **Insured Person** to such person; or
 - 2.2. the estate, heirs, legal representatives or assignees of such **Insured Person** who is deceased or who has become legally incompetent, insolvent or bankrupt;
- provided that no coverage under this extension shall apply with respect to any **Wrongful Act** committed by such persons.

3. RETIRED EXECUTIVES

The Insurer agrees that, in the event an **Executive** of the **Insured Organization** retires and no longer serves in their capacity as such during the **Policy Period**, the coverage provided by **Insuring Agreement A - Insured Person Non-Indemnifiable Liability** shall be automatically extended for a maximum period of six (6) years from the official retirement date for any **Claim** against such **Executive** based on **Wrongful Acts** committed prior to the official retirement date. However, no coverage shall be provided by this automatic extension if either a replacement policy or **Extended Reporting Period** is obtained by the **Insured Organization** and in force during this period or if such retirement is due to or occurs during a Change in Control as outlined in section 5. of **PART 8 - GENERAL CONDITIONS**.

4. WORKPLACE VIOLENCE EXPENSES

The Insurer agrees to reimburse the **Insured Organization** for **Workplace Violence Expenses** incurred by the **Insured Organization** during the **Policy Period**, resulting from any **Workplace Violence Incident** in an amount not to exceed \$250,000 per **Policy Period**.

5. CRISIS CONSULTING EXPENSES

The Insurer agrees to pay on behalf of the **Insured Organization** for **Crisis Consulting Expenses** incurred as a direct result of a **Claim** covered under this policy, in an amount not to exceed \$100,000 per **Policy Period**.

6. DERIVATIVE DEMAND EVALUATION EXPENSES

The Insurer agrees to pay on behalf of the **Insured Organization** for **Derivative Demand Evaluation Expenses** incurred on account of any derivative action first commenced during the **Policy Period**, alleging a **Wrongful Act** by an **Insured Person**. The Insurer shall pay such **Derivative Demand Evaluation Expenses** if prior written consent is given by the Insurer and in an amount not to exceed \$500,000 per **Policy Period**.

7. OUTSIDE DIRECTORSHIP LIABILITY

The Insurer agrees to pay on behalf of the **Insured** all **Loss** which the **Outside Organization Executive** shall become legally obligated to pay on account of a **Claim** first made against them during the **Policy Period** because of a **Wrongful Act**.

PART 3 - EXTENDED REPORTING PERIOD

In the event this Policy is cancelled, non-renewed or terminated for any reason (including a Change in Control as set forth in section 5. **CHANGE OF CONTROL** of **PART 8 - GENERAL CONDITIONS**) other than non-payment of a premium, the **Insured** shall have the right to an extension of the coverage granted by this Policy (but shall not include any **Expense Coverage**) for a period selected in the options below, with respect to any **Claim** first made against them during this **Extended Reporting Period**, but only with respect to any **Wrongful Act** committed prior to the effective date of termination of this Policy.

The additional premium for the **Extended Reporting Period** shall be calculated at a percentage of the last annual premium, according to the options as follows:

1. 50% for an **Extended Reporting Period** of one (1) year;
2. 125% for an **Extended Reporting Period** of three (3) years; or
3. 150% for an **Extended Reporting Period** of six (6) years.

The right to purchase the **Extended Reporting Period** shall lapse unless written notice together with payment of the additional premium (including any applicable taxes) is given by the **Insured** to the Insurer within sixty (60) days after the effective date of termination of this Policy. Such additional premium shall be fully earned at the issuance of the **Extended Reporting Period** endorsement.

The **Extended Reporting Period** is not intended, nor shall be construed to increase the Aggregate Limit per **Policy Period**.

PART 4 - EXCLUSIONS

This Policy does not apply to:

1. PRIOR NOTICE

A **Claim Based Upon** any fact, situation, circumstance or event prior to the effective date of this Policy which has been the subject of any written notice accepted under any Policy of which this Policy is a direct or indirect renewal or replacement.

2. PRIOR OR PENDING PROCEEDINGS

A **Claim Based Upon** any civil, criminal, administrative or regulatory demand, suit, pending proceeding or investigation which the **Insured** has been given notice and was commenced, or order, decree, judgement or settlement pending on or prior to the **Prior and Pending Proceedings Date** or derived from, arising out of or resulting from or alleging the same or similar facts as those alleged in such pending or prior litigation.

3. PERSONAL CONDUCT

A **Claim Based Upon**:

- 3.1. intentional dishonest, fraudulent or criminal acts of any **Insured**;
- 3.2. any **Insured** gaining in fact any profit, remuneration or advantage to which such **Insured** was not legally entitled; or
- 3.3. the return of any remuneration paid to any **Insured Person** by the **Insured Organization**, if such remuneration was illegally paid.

However, this exclusion shall not apply until a final judgement or non-appealable adjudication establishes that such **Insured** (other than a declaratory proceeding or action brought by or against the Insurer) committed any such above noted acts in an underlying proceeding.

4. INSURED ORGANIZATION VS. INSURED PERSON

A **Claim** which is brought against an **Insured Person**, made directly or indirectly by or on behalf of the **Insured Organization**.

However, this exclusion does not apply to a **Claim**:

- 4.1. that is a derivative action brought without the solicitation, assistance or active participation of any **Insured** or with the solicitation, assistance or active participation of an **Insured Person** that benefits from "whistleblower" legal protection;
- 4.2. against an **Insured Person** that is brought or maintained by a trustee in **Bankruptcy**, liquidator, receiver or receiver-manager as defined in the *Bankruptcy and Insolvency Act*, R.S. 1985, c. B-3, in the *United States Bankruptcy Code* or in any similar federal, provincial, state, territorial or local legislation or any similar legislation of another country who has been appointed in relation to the financial affairs of the **Insured Organization**; or
- 4.3. against an **Insured Person** who was not serving the **Insured Organization** in such duties on the date a **Claim** is first made and where such **Claim** is brought without the solicitation, assistance or active participation of an **Insured Person**;
- 4.4. **Defense costs**.

5. OUTSIDE ORGANIZATION VS. OUTSIDE ORGANIZATION EXECUTIVE

A **Claim** which is brought against an **Outside Organization Executive**, made directly or indirectly by or on behalf of the **Outside Organization**.

However, this exclusion does not apply to a **Claim**:

- 5.1. made directly or indirectly by or on behalf of the **Outside Organization**, where such **Claim** is a derivative action;
- 5.2. made by any director, officer, trustee, observer or equivalent executive position of the **Outside Organization**, where such **Claim** is for contribution or indemnity or where such **Claim** is for an **Employment Practices Wrongful Act**; or
- 5.3. made against an **Outside Organization Executive** that is brought or maintained by a trustee in **Bankruptcy**, liquidator, receiver or receiver-manager as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, in the *United States Bankruptcy Code* or in any similar federal, provincial, state, territorial or local legislation or any similar legislation of another country who has been appointed in relation to the financial affairs of the **Outside Organization**.

6. BODILY INJURY AND PROPERTY DAMAGE

A **Claim** for bodily injury, emotional distress, mental anguish, sickness, disease or death of any person or damage to or destruction of any tangible property including loss of use of such property.

However, this exclusion shall not apply to:

- 6.1. **Claims** for emotional distress or mental anguish, resulting directly from an **Employment Practice Wrongful Act**;
- 6.2. **Defence Costs** on account of a **Claim** that is a criminal proceeding, pursuant to section 217.1 of the *Criminal Code of Canada* (as amended by Bill C-45) or equivalent foreign corporate manslaughter legislation; or
- 6.3. **Defence Costs** on account of a **Claim** pursuant to Part XX of the *Canada Occupational Health and Safety Regulations* or similar provisions of any provincial, territorial, or local legislation or foreign equivalent (including the *Ontario Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2007*).

7. CONTRACT

A **Claim** for any actual or alleged breach of any oral or written contract or agreement, or for liabilities of others assumed by the **Insured Organization** under such contract or agreement.

However, this exclusion shall not apply to:

- 7.1. the extent the **Insured Organization** would have been liable in the absence of such contract or agreement;

7.2. the liability assumed in accordance with the agreement or declaration of trust of the **Employee Benefit Plan**; or

7.3. **Defence Costs**.

8. OCCUPATIONAL SAFETY AND HEALTH, WORKERS' COMPENSATION, UNEMPLOYMENT INSURANCE, SOCIAL INSURANCE, SOCIAL SECURITY, DISABILITY BENEFITS

Solely with respect to an **Employment Practices Wrongful Act** or a **Fiduciary Wrongful Act**, a **Claim** for any actual or alleged violation of an obligation imposed by any act, or regulation related to pay equity, worker's compensation, industrial accidents and occupational disease, occupational health and safety, employment insurance, welfare and social welfare, social security or old age security, disability benefits, or by any similar act or regulation, including the *Canada Labour Code* and in particular its Parts II, III [Division XIII.1], the *Employment Insurance Act*, the *Old Age Security Act*, the *Canadian Human Rights Act*, or similar provisions of any provincial, territorial, or local legislation or foreign equivalent.

However, this exclusion does not apply to a Claim for any actual or alleged:

- 8.1. discrimination or employment-related harassment under Division XV.1 of Part III of the *Canada Labour Code* or under the *Canadian Human Rights Act*, under its rules or regulations and under its amendments, or similar provisions of any constitutional, federal, provincial, territorial or local statutory or, common law or civil law;
- 8.2. retaliatory treatment against the claimant by the **Insured** on account of the claimant's exercise of rights pursuant to any such laws; or
- 8.3. violation of the *Canadian Human Rights Act* section 11 or the *United States Equal Pay Act*, or similar provincial, territorial or local legislation or foreign equivalent.

9. PENSION AND EMPLOYMENT BENEFIT PLAN CONTRIBUTIONS

Solely with respect to a **Fiduciary Wrongful Act**, a **Claim Based Upon** the failure to collect the **Insured Organization's** contributions owed to the **Employee Benefit Plan**, unless the failure is due to a **Wrongful Act** of the **Insured**.

10. ASBESTOS

- 10.1. A **Claim Based Upon** the actual or alleged inhalation of, contact with, exposure to, use of, existence of, presence of, asbestos or any material containing asbestos in whatever form or quantity, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, clean up, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of asbestos or any material containing asbestos;
- 10.2. A **Claim** made by or on behalf of a governmental authority or arising out of any order or demand under any legislation or regulation that **Insured** or others perform or assume liability for the following:
 - 10.2.1. operations to evaluate or assess the presence or absence of asbestos, its effects or quantity;
 - 10.2.2. operations to test for, monitor, contain, treat, detoxify, neutralize, identify, clean up, sample, remove, abate, mitigate, or dispose of asbestos; or
 - 10.2.3. any other actions to respond to situations involving asbestos;
- 10.3. any supervision, instructions, recommendations, warnings, or advice given or that should have been given in connection with exclusions 10.1. or 10.2. above; or
- 10.4. any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in Exclusions 10.1., 10.2. or 10.3. above.

SEVERABILITY OF EXCLUSIONS

With respect to the above exclusions of this Policy, no fact pertaining to or conduct by any **Insured Person** shall be imputed to any other **Insured Person**. Any **Wrongful Acts** of any past, present or future Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** shall be imputed to the **Insured Organization** to determine if coverage is available.

PART 5 - LIMITS OF LIABILITY AND DEDUCTIBLES

1. LIMITS OF LIABILITY

- 1.1. The Limits stated in the Declarations Page for each Insuring Agreement and the limits stated for each Extensions of Coverage, where applicable, the most the Insurer will pay regardless of the number of:
 - 1.1.1. **Insureds**;
 - 1.1.2. persons or organizations making a **Claim**;
 - 1.1.3. **Claims** made; or
 - 1.1.4. events.
- 1.2. The Total Aggregate Limit per **Policy Period** is the most the Insurer will pay for all **Claims** made during the **Policy Period** under all Insuring Agreements and Extensions of Coverage, except for **EXTENSION 1 - DEDICATED ADDITIONAL LIMIT OF LIABILITY FOR INSURED PERSON**; and
- 1.3. Subject to the clause 1.2. above, the Limit of Liability stated in the Declarations Page for an Insuring Agreement is the most the Insurer will pay for all **Claims** made during the **Policy Period** under such Insuring Agreement. If no amount is stated, then no coverage shall be available for such Insuring Agreement.

2. APPLICABILITY OF THE LIMITS OF LIABILITY

The Limits of Liability shall apply separately to each **Policy Period**. If the **Policy Period** is extended for an additional period of less than twelve (12) months, the additional period shall be deemed part of the last preceding **Policy Period** for purposes of determining the Limits of Liability. In addition, **PART 3 - EXTENDED REPORTING PERIOD**, if exercised, shall be part of and not in addition to, the immediate preceding **Policy Period**, for the purposes of determining Limits of Liability.

3. RELATED CLAIMS

Claims arising out of the same **Wrongful Act**, interrelated circumstances, transaction, or event shall be considered a single **Claim** (hereinafter called **Related Claims**). Such **Related Claims** shall have been deemed to have been first made during the **Policy Period** where the earliest **Claim** was first made against any **Insured**.

4. DEDUCTIBLES

- 4.1. The obligation of the Insurer to pay on behalf of or to reimburse the **Insured** applies only to the amount of **Loss** in excess of any deductible amount stated in the Declarations Page as applicable to such coverages.
- 4.2. In the event that a single **Loss**, including **Related Claims**, is covered in part under several Insuring Agreements, the deductible amounts stated in the Declarations Page shall be applied separately by each Insuring Agreement to that part of the **Loss**. The total deductible amount shall in no event exceed the highest deductible amount applicable to each **Loss**.
- 4.3. No deductible shall apply to PART 1 - INSURING AGREEMENTS, Insuring Agreement A.

5. DEFENCE COSTS

Defence Costs shall be in addition to the Limit of Liability stated in the Declarations Page. No deductible shall apply to **Defence Costs**.

6. INCREASE OF THE LIMITS OF LIABILITY

If the Insurer has agreed to increase the Limits of Liability under this Policy or any prior policy (if this Policy forms a part of a continuous series of renewals), such increase shall not apply to:

- 6.1. **Claim** first made against the **Insured** before the effective date of the increase;

6.2. any fact, circumstance, situation or event known to the **Insured** on the effective date of the increase and likely to give rise to a **Claim**.

7. REDUCTION OF THE LIMITS OF LIABILITY

If the Limit of Liability has been reduced, the reduced Limit of Liability shall apply to a **Claim** first made against the **Insured** after the effective date of the reduction, whether or not the **Insured** has prior knowledge of the **Claim** or any fact, circumstance, situation or event likely to give rise to a **Claim**.

PART 6 - DEFENCE AND SETTLEMENT

1. RIGHT AND DUTY TO DEFEND

The Insurer shall have the right and duty to defend any **Claim** covered under this Policy, even if the **Claim** is groundless, false or fraudulent.

2. INSURER'S CONSENT

The **Insured** shall not, except at their own cost, admit any liability, settle or attempt to settle a **Claim**, pay any **Loss**, incur any **Defence Costs** or assume any contractual obligation without the Insurer's consent.

3. INSURED'S CONSENT TO SETTLEMENTS

The Insurer shall have the right to investigate any **Claim** and negotiate the settlement thereof, as it deems expedient, but the Insurer shall not make any settlement without the consent of the **Insured**.

4. TERMINATION OF THE RIGHT AND DUTY TO DEFEND

Notwithstanding section 5. **DEFENCE COSTS** contained under **PART 5 - LIMITS OF LIABILITY AND DEDUCTIBLES**, the Insurer's right and duty to defend a **Claim** shall end when the applicable Limit of Liability is exhausted by payment of **Loss**.

5. ALLOCATION

If the **Insured** incur both **Loss** which is covered by this Policy and also **Loss** which is not covered by this Policy, either because a **Claim** includes both covered and uncovered matters, or because a **Claim** is made against both covered and uncovered parties, then coverage shall apply as follows:

- 5.1. one hundred percent (100%) of **Defence Costs** will be allocated to covered **Loss**;
- 5.2. all **Loss** other than **Defence Costs**, will be allocated between covered **Loss** and uncovered **Loss** based on an assessment of the relative legal and economic exposures of the **Insured** in connection with the covered and uncovered matters and/or covered and uncovered parties.

If the Insurer and the **Insured** cannot agree on any allocation, no presumption as to allocation shall exist in any arbitration, suit or other proceeding. The Insurer, if requested by the **Insured**, shall submit the allocation dispute to a binding arbitration in accordance with the principles set forth under section 16. **ARBITRATION CLAUSE, PART 8 - GENERAL CONDITIONS** of the Policy.

6. PRIORITY OF PAYMENTS

- 6.1. In the event of a **Loss** arising from a **Claim** whose settlement exceeds the available Limits of Liability, the Insurer agrees, up to the Aggregate Limit of the Policy for each **Policy Period**:
 - 6.1.1. first, to commence by settling the **Losses** presented against **Insured Persons** who are not indemnified by the **Insured Organization**; then
 - 6.1.2. to settle, up to any applicable balance, all other **Losses** for the benefit of other **Insured Persons**; then
 - 6.1.3. to settle, up to any applicable balance, all other **Losses**.
- 6.2. In determination of the amounts allocated to the Insuring Agreements in the event of a shared judgement or settlement, the Limits of Liability will be allocated in priority to the settlement of such **Claims** in the order provided for in paragraphs 6.1.1., 6.1.2. and 6.1.3. above, unless a judge has instructed otherwise.
- 6.3. This clause applies even if the Insurer receives a formal notice of the **Insured Organization's Insolvency**.
- 6.4. The **Insured** designated in 6.1.1., like those designated in 6.1.2. and 6.1.3. and within their respective orders of priority, each have the same rights.

PART 7 - NOTICE OF CLAIMS / NOTICE OF FACTS & CIRCUMSTANCES

1. NOTICE OF CLAIMS

The **Insured** shall, as a condition precedent to their rights under this Policy, give written notice of a **Claim** to the Insurer as soon as practicable after the Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** (or equivalent positions) first become aware of such **Claim**, but no later than:

- 1.1. ninety (90) days after expiry or termination of this Policy (hereinafter called the **Reporting Window**), if no renewal or **Extended Reporting Period** is purchased;
- 1.2. expiry of the **Extended Reporting Period**, if purchased.

Any interested person may give such notice.

In the event of a **Claim**, the **Insured** must immediately send the Insurer copies of any demands, notices, summonses or legal papers received in connection with the **Claim**, authorize the Insurer to obtain records and other information, cooperate with the Insurer in the investigation, settlement or defense of the **Claim** and upon the Insurer's request, assist the Insurer in the enforcement of any right against any person or organization which may be liable to the **Insured**.

2. NOTICE OF FACTS & CIRCUMSTANCES

If, during the **Policy Period**, the **Insured** become aware of facts or circumstances which may reasonably be expected to give rise to a **Claim** and if the **Insured** gives written notice thereof to the Insurer before the expiry of the **Reporting Window** or the expiry of the **Extended Reporting Period**, then any **Claim** which may subsequently arise out of such facts or circumstances shall be considered to have been made during the **Policy Period** in which they were first reported to the Insurer. The **Insured** shall give the Insurer such information as it may require regarding such facts or circumstances.

3. WORKPLACE VIOLENCE EXPENSE REPORTING

Notwithstanding the foregoing, the reporting with respect to the **Workplace Violence Expense** coverage requires the following:

- 3.1. a **Workplace Violence Incident** shall be sustained or communicated by or to an **Insured**; and
- 3.2. the **Insured Organization** must file a detailed proof of the loss, duly sworn to, with the Insurer within six (6) months after such incident is communicated or sustained.

Loss under the **Workplace Violence Expense** coverage shall have been deemed to be sustained immediately upon payment by the **Insured Organization** of the **Workplace Violence Expense** incurred by the **Insured**.

PART 8 - GENERAL CONDITIONS

1. POLICY CHANGES

This Policy contains all the agreements between the **Insured** or the **Insured Organization** and the Insurer concerning the insurance afforded. The terms of this Policy shall not be waived or changed, except by endorsement issued by the Insurer and made a part of this Policy.

2. DECLARATIONS, REPRESENTATIONS AND SEVERABILITY

- 2.1. By acceptance of this Policy, the person who signed the **Application**, the **Insured** agrees; that the statements in the **Application** and the Declarations Page are accurate and complete, and are based upon those statements shall constitute representations they made to the Insurer; and that this Policy has been issued in reliance upon such representations. Except with respect to the limits of liability and any rights or duties specifically assigned to the **Insured**, this insurance shall apply in the same manner and to the same extent as if a separate policy had been issued to each **Insured**.
- 2.2. With respect to the Exclusions and to the representations contained in the **Application**, to determine if the coverage provided by this Policy applies:
 - 2.2.1. no statements, declarations made or information detained by an **Insured Person** will be imputed to another **Insured Person**;
 - 2.2.2. statements, declarations made or information detained by Chief Executive Officer, Chairman, or General Counsel of the **Insured Organization** (or equivalent positions) will be imputed to the **Insured Organization**.
- 2.3. If the representations contained in the **Application** were not accurate and/or completed such that the Insurer would not have accepted to issue a policy, no coverage shall be available to the **Insured** who had knowledge of such inaccurate and/or incomplete representations.
- 2.4. If the representations contained in the **Application** were not accurate and/or completed such that the Insurer would still have accepted to issue a policy, coverage shall be available to the proportion of the premium the Insurer collected to the premium it should have collected if the representations were accurate and complete.

3. NON-RESCINDABILITY

The coverage afforded under this Policy shall be non-rescindable by the Insurer.

4. ASSIGNMENT

Assignment of interest under this Policy shall not bind the Insurer unless the Insurer gives its consent in writing to such assignment.

5. CHANGE OF CONTROL

In the event the **Insured Organization** ceases its operations, merges into or consolidates with another organization, or if another organization, person, group of organizations or persons acquires more than 50% of the voting rights or management control of the **Insured Organization**, then coverage under this Policy will continue until its expiry, but only with respect to a **Claim** for a **Wrongful Act** committed or any **Expense Coverage** incurred prior to such cessation of operations, merger, consolidation or acquisition. The **Insured Organization** will give written notice of the cessation of its operations, merger, consolidation or acquisition to the Insurer as soon as practicable together with such information as the Insurer may request.

6. NOTICE OF NON-RENEWAL

If the Insurer elects not to renew the Policy, the Insurer will provide the **Insured** written notice of non-renewal, at least ninety (90) days prior to the expiry of the Policy. Renewal terms which differ in any manner from the terms, conditions and premium of the expiring Policy shall not constitute a refusal to renew.

7. CANCELLATION

- 7.1. The **Parent Organization** may cancel this Policy by mailing or delivering to the Insurer written notice stating when the cancellation will be effective. If no date is specified, cancellation is effective upon receipt of the notice.
- 7.2. The Insurer may only cancel this Policy because of non-payment of premium by giving the **Parent Organization** at the last mailing address known to it, written notice of cancellation by registered mail or personally delivered at least fifteen (15) days before the effective date of such cancellation.
- 7.3. Except in Québec, if notice is mailed, cancellation takes effect fifteen(15) days after receipt of the letter by the post office to which it is addressed. Proof of mailing will be sufficient proof of notice. In Québec, cancellation takes effect fifteen (15) days after receipt of the notice at the last known address of the **Parent Organization**.
- 7.4. If this Policy is cancelled by the **Parent Organization**, the Insurer will send the **Parent Organization** any premium refund due, such refund will be computed pro rata. The cancellation is effective even if the Insurer has not made or offered a refund.
- 7.5. If the Insurer cancels for non-payment of premium, the Insurer shall have the right to require payment for the pro-rated amount owed by the **Parent Organization**.

8. PAYMENT OF PREMIUM

The **Parent Organization** is responsible for the payment of all premiums and will be the payee for any return premiums payable by the Insurer.

9. NOTICE

- 9.1. Notices by the **Insured** to the Insurer will be mailed to the Insurer's address shown in the Declarations Page.
- 9.2. Notices by the Insurer to the **Insured Person** or the **Insured Organization** will be mailed to the **Parent Organization** named in the Declarations Page at the address shown therein or any other address notified in writing to the Insurer.
- 9.3. Notice by the **Parent Organization** as provided hereunder shall constitute notice by the **Insured**. The **Insured** agree that the **Parent Organization** named in the Declarations Page will act on their behalf with respect to any action required or permitted, the giving and receiving of notice of **Claim** or cancellation, the payment of premiums and the receiving of any return premiums that may be due under this Policy or the acceptance of endorsements. Proof of receipt of the notices is the responsibility of the sender.

10. OTHER INSURANCE

- 10.1. If the **Insured** has other valid and collectible insurance against **Loss** covered by this Policy, other than another insurance policy issued by the Insurer, then this Policy will be excess over such other insurance and will not contribute, unless such other insurance is written only as specific excess insurance, in which case this Policy shall be primary.
- 10.2. If the **Insured** has other valid and collectible insurance against **Loss** covered by this Policy, under another policy issued the Insurer, the policy that applies most specifically to the **Claim** will be primary and the other insurance will be excess. The Insurer's liability for any one **Loss**, however, will in no event exceed the highest Limit of Liability applicable to the **Loss** under all policies.
- 10.3. In the event of a **Claim** against an **Outside Organization Executive**, coverage shall apply as excess over any valid or collectible insurance or indemnification provided by the **Outside Organization** or by any other source other than the **Insured Organization**. However, in no event shall the Insurer's liability for any one **Loss** exceed the highest Limit of Liability applicable to the **Loss** under all policies.

11. SUBROGATION

In the event of any payment under this Policy, the Insurer will be subrogated to the extent of such payment to all rights of recovery of the **Insured** against any person or organization, except the **Insured Person**. The Insurer may be fully or partly released from its obligation towards the **Insured** where, owing to any act of the **Insured**, it cannot be so subrogated.

12. CURRENCY

All Limits of Liability, premiums, deductibles and other amounts as expressed in this Policy are in Canadian currency. With respect to the payment of premium, if a judgement is rendered or if a settlement is denominated in a currency other than Canadian dollars, payment under this Policy will be made in Canadian dollars at the noon rate of the exchange set by the Bank of Canada on the date upon which the final judgement is rendered, date of billing or settlement agreed upon, respectively.

13. BANKRUPTCY AND INSOLVENCY

Bankruptcy or **Insolvency** of the **Insured Organization** shall not relieve the Insurer of its obligations under this Policy.

14. ACTION AGAINST THE INSURER

No action shall lie against the Insurer, unless as a condition precedent thereto, there shall have been full compliance by the **Insured** with all the terms of this Policy.

15. STATUTORY CONFORMITY

The terms of this insurance that are in conflict with the terms of any applicable laws construing this insurance are amended to conform to such laws.

16. ARBITRATION CLAUSE

Any dispute between the **Insured** and the Insurer based upon, arising from or in connection with any actual or alleged coverage under this Policy shall be submitted to binding arbitration.

Except with respect to the selection of the arbitration panel, an arbitration shall be governed by the law of the province or territory of the address of the **Insured Organization** and relating to arbitration, including rules, orders, orders in council or regulation promulgated under such law and its amendments or, upon the agreement of both the Insurer and the **Insured** unless the **Insured** and the Insurer expressly agree otherwise in writing. The arbitration panel shall consist of one arbitrator selected by the **Insured**, one arbitrator selected by the Insurer, and a third independent arbitrator selected by the first two arbitrators. The decisions of the panel are final and will not be contested.

17. TERRITORY

This insurance shall apply anywhere in the world.

18. LIBERALISATION CLAUSE

If during the **Policy Period**, the Insurer creates a succeeding version of this form that broadens the coverage, then the succeeding version of this form shall immediately apply to this Policy.

Nothing herein shall be construed, in any manner, to increase or change the limits of liability afforded under this Policy as stated in the Declarations Page or change the applicability of the attached endorsements. The Limits of Liability and deductible amounts stated in the Declarations Page, as well as the terms and conditions of this current Policy shall apply to such **Claims**.

PART 9 - DEFINITIONS

1. **Administration** means:

- 1.1. giving counsel to **Employees**, members and beneficiaries with respect to the **Employment Benefit Plans**;
- 1.2. interpreting the **Employment Benefit Plans**;
- 1.3. handling the records in connection with the **Employment Benefit Plans**;
- 1.4. enrollment, termination or cancellation of **Employees** under the **Employment Benefit Plan**.

2. **Antipollution Measures** means the testing for, remediation, monitoring, removal, containment, treatment, detoxification, decontamination, stabilization or neutralization of **Pollutants** and also means corrective measures, decontamination or clean up operations with respect to **Pollutants**.

3. **Application** means all application forms or portions of thereof, including any attachments, addendums, annexes and other information and material provided to the Insurer in connection to the underwriting of this Policy or for any renewal or replacement of this Policy. All such information shall be deemed attached to and incorporated as a part of this Policy.

4. **Bankruptcy** means the state of the **Insured Organization** which occurs at the time or date of the granting of a receiving order against the **Insured Organization**, the filing of an assignment of property by or in respect of the **Insured Organization** or the event that causes an assignment by the **Insured Organization** to be deemed. **Bankruptcy** shall also include any similar position of the **Insured Organization** under similar legislation of any other country.

5. **Based upon** means based upon, arising out of, in relation to, directly or indirectly resulting from.

6. **Benefits** means perquisites, fringe benefits and other payments in connection with an **Employee Benefit Plan** and any other payment, other than salary or wages, to or for the benefit of an **Employee** arising out of the employment relationship.

7. **Claim** means:

- 7.1. any written demand or allegations seeking non-monetary relief, injunctive relief or monetary damages;
- 7.2. a civil proceeding commenced by the filing of a complaint, demand letter, notice of claim or similar pleading;
- 7.3. a penal or criminal proceeding against an **Insured** commenced by notice of charges, statement of allegations, laying of information, the return of an indictment or similar document;
- 7.4. a civil, criminal, administrative or regulatory investigation commenced by the service upon or other receipt by the **Insured** of a written notice from the investigating authority specifically identifying the **Insured** against whom formal charges may be commenced;
- 7.5. **Extradition Expenses** that are related directly to a formal request, claim, arrest warrant or other proceedings pursuant to the *Extradition Act of Canada* (including its amendments and regulations) or pursuant to the similar legislation of other jurisdictions;
- 7.6. an arbitration or mediation proceeding commenced by receipt of notice to appoint an arbitrator or mediator, an arbitration or mediation petition or similar document; against any **Insured** for a **Wrongful Act**, including an appeal therefrom;
- 7.7. a written request received by an **Insured** to toll or waive a limitation period, relating to any matter outlined in items 7.1 to 7.6 above.

8. **Crisis Consulting Expenses** means the reasonable costs, charges, fees and expenses, incurred by the **Insured Organization** during the **Policy Period** with prior consent of the Insurer, for an independent public relations consultant, crisis management consultant or law firm to make public communication or prevent or minimize business disruption and adverse publicity.

9. **Defence Costs** means reasonable costs, charges, fees (including but not limited to lawyers', accountants' and experts' fees) and expenses (other than regular overtime wages, salaries, fees, and benefit expenses of any **Insured Person**) incurred in defending or investigating **Claims** and shall not include **Derivative Demand Evaluation Expenses**.

The term **Defence Costs** shall also include:

- 9.1. all premiums on bonds to release attachments for an amount not in excess of the Limit of Liability, but without any obligation to apply for or furnish such bonds;

- 9.2. all reasonable expenses (other than loss of earnings) incurred by the **Insured** at the Insurer's request in assisting the Insurer in the investigation or defence of any **Claim** or suit;
- 9.3. all costs taxed against the **Insured** 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 applicable Limit of Liability and before the Insurer has paid, offered to pay, or deposited in court the part of the judgement that is within the applicable Limit of Liability.
10. **Derivative Demand Evaluation Expenses** means reasonable costs and necessary legal accounting, audit or investigating expenses incurred by the **Insured Organization**, its Board of Directors or any of the committees of the Board of Directors, in connection with a derivative demand (excluding salaries, wages or fees of the members of the board, the **Executives** or the **Employees** of the **Insured Organization**) strictly with regards to an evaluation required to determine if its in the best interests of the **Insured Organization** to prosecute the allegations in the derivative demand, and prior to any **Claim** first made that results from or for such derivative demand. **Derivative Demand Evaluation Expenses** do not include any costs, fees or expenses incurred in a **Claim** or any damages.
11. **Employee** means any person whose labour of service was, is or will be directed by the **Insured Organization**. This includes any full-time, part-time, seasonal, temporary worker, volunteer or dependent contractor that works solely for the **Insured Organization** and does not include an independent contractor.
12. **Employee Benefit Plan** means:
- 12.1. any employee benefit plan as outlined in the *Pension Benefits Standards Act*, R.S.C. 1985, c.32 (2nd Supp.) for any plan constituted within the territorial limits and jurisdictions of Canada, or as defined by the *Employee Retirement Income Security Act of 1974* of the United States of America for any plan constituted within the territorial limits and jurisdiction of the United States of America, which is operated solely by the **Insured Organization**, or jointly by the **Insured Organization** and labour organization, for the benefit of any **Employee** or **Executive** of the **Insured Organization**;
 - 12.2. any government mandated insurance program for workers compensation, employment, unemployment, social security or disability benefits for any **Employee**;
 - 12.3. any other employee benefit plan sponsored solely by the **Insured Organization** for the benefit of any **Employee** or **Executive** of the **Insured Organization**.
13. **Employed Lawyer** means any **Employee** who is admitted to practice law within the jurisdiction in which they are providing such services and in good standing with its professional order or association and who was, now is or will be, at the time of the alleged **Wrongful Act**, employed as a lawyer for and salaried by the **Insured Organization**.
14. **Employed Lawyers Wrongful Act** means any error, omission, negligence, breach of duty, misstatement, misleading statement, or any other act, actually or allegedly committed during the performance of legal services by the **Employed Lawyer** on behalf of any **Insured**. **Employed Lawyers Wrongful Act** does not include legal services:
- 14.1. not rendered on behalf of the **Insured** at the **Insured Organization's** request;
 - 14.2. performed by the **Employed Lawyers** for others for a fee;
 - 14.3. arising out of the actual or alleged infringement of copyright, a patent, a trademark, a trade secret, the presentation of a product, a slogan or prejudice to any other intellectual property right;
 - 14.4. attributed by an **Employed Lawyer** in their capacity as an owner, principal, partner, director, officer, member, manager, employee or any equivalent position of an entity that is not the **Insured Organization**; or
 - 14.5. in connection with a trust or estate when such **Employed Lawyer** is also a beneficiary of such trust or estate.
15. **Employment Practices Wrongful Act** means any of the following acts related to employment or the application of employment:
- 15.1. wrongful dismissal, discharge or termination of employment, whether actual or constructive;
 - 15.2. breach of any oral or written employment contract;
 - 15.3. violation of any law concerning discrimination;
 - 15.4. employment-related harassment, including sexual harassment or other harassment in the workplace;
 - 15.5. wrongful deprivation of employment or wrongful deprivation of promotion (including failure to hire and wrongful demotion);
 - 15.6. retaliation;
 - 15.7. wrongful discipline;
 - 15.8. failure to grant tenure;
 - 15.9. negligent evaluation, supervision or training;
 - 15.10. invasion of privacy;
 - 15.11. defamation, libel, slander or humiliation;
 - 15.12. wrongful infliction of emotional distress, humiliation, mental anguish or mental distress; or
 - 15.13. misrepresentation.
- However, **Employment Practices Wrongful Act** shall not include any actual or alleged labour or grievance dispute, negotiation, arbitration, violation or other proceeding pursuant to a collective bargaining agreement.
16. **Executive** means any person who was, now is or will be a duly elected, appointed, deemed or "de facto" director, officer, trustee, observer, member of the board of managers or member of any duly constituted committee or an in house General Counsel, Risk Manager or foreign equivalent of the **Insured Organization**.
17. **Executive Wrongful Act** means any error, omission, negligence, breach of duty, misstatement, misleading statement or any other act actually or allegedly committed by:
- 17.1. any **Insured Person** in the discharge of their duties, or any other matter claimed against an **Insured Person** solely by reason of their being an **Insured Person**;
 - 17.2. the **Insured Organization**.
18. **Expense Coverage** means expenses and costs afforded under **Workplace Violence Expense Coverage**, **Crisis Consulting Expense Coverage** and **Derivative Demand Evaluation Expenses**.
19. **Extended Reporting Period** means the period selected from **PART 3 - EXTENDED REPORTING PERIOD** from the termination of the Policy until the expiry date shown on the endorsement issued after exercise of such clause.
20. **Extradition Expenses** means, in direct relation to an order for the extradition of an **Insured Person** the reasonable and necessary legal fees, costs and expenses that are incurred (with the Insurer's approval and consent beforehand) by an **Insured Person** to obtain legal advice or to initiate, appeal or defend proceedings including such proceedings that are by way of judicial review or other challenge.
21. **Fiduciary** means any person who was, now is or will be a member of any pension committee or board of trustee of the **Employee Benefit Plan**.
22. **Fiduciary Wrongful Act** means any error, omission, negligence or misleading statement actually or allegedly committed by the **Insured**, while engaged in the discharge of his duties;
- 22.1. in the administration of the **Employee Benefit Plan**;
 - 22.2. for any breach of responsibilities, obligations or duties imposed upon the **Insured** with respect to an **Employee Benefit Plan**, by the *Pensions Benefits Standards Act*, 1985, R.S. (1985), c.32 (2nd Supp.), as amended, or similar provisions of any federal, provincial, territorial or local legislation or foreign equivalent;
 - 22.3. by an **Insured Person**, pension committee or board of trustees, in their capacity as a settlor of the **Employee Benefit Plan**;
 - 22.4. against an **Insured** solely because of the **Insured** status as a **Fiduciary** with respect to an **Employee Benefit Plan**.
23. **Insolvency** means:
- 23.1. the financial position of the **Insured Organization** or **Outside Organization** as a debtor as that term is defined and used in Canada within the provisions of the *Bankruptcy and Insolvency Act*, R.S. (1985), c. B-3 and, without limiting the generality of the foregoing, shall occur when any receiver, conservator, liquidator, trustee,

- sequestrator, court or similar provincial or federal official or a creditor takes control of, supervises, manages or liquidates the **Insured Organization** or **Outside Organization**;
- 23.2. a reorganization proceeding of the **Insured Organization** or **Outside Organization** under the *Companies' Creditors Arrangement Act*, R.C.S., 1985, c. C-36;
 - 23.3. the **Insured Organization** or **Outside Organization** becoming a debtor in possession under Chapter 11 of the *United States Bankruptcy Code*;
 - 23.4. the **Insured Organization** or **Outside Organization** being unable to meet its obligations under the **Employee Benefit Plan**; or
 - 23.5. any similar position of the **Insured Organization** or **Outside Organization** under similar legislation of any other country.
24. **Insured** means:
- 24.1. the **Insured Organization**;
 - 24.2. the **Insured Person**;
 - 24.3. the **Employee Benefit Plan**.
25. **Insured Organization** means:
- 25.1. **Parent Organization**;
 - 25.2. any **Subsidiary**.
26. **Insured Person** either in the singular or the plural, means any person who was, now is or will be an **Executive, Employed Lawyer, Fiduciary, Employee** or volunteer of the **Insured Organization** and includes an **Outside Organization Executive** serving an **Outside Organization**.
27. **Loss** means:
- 27.1. compensatory, punitive, exemplary or multiplied damages, judgement (including pre-judgement and post judgement interest) or settlement arising from a **Claim**, within the limits of the Insurer's liability;
 - 27.2. civil fines or civil penalties assessed against an Insured Person, including *Corruption of Foreign Public Officials Act*, S.C. 1998, c. 34, *Canadian Anti-Spam Act*, S.C. 2010, c. 23 or any foreign equivalent;
 - 27.3. all costs assessed against the **Insureds** in any civil action defended by the Insurer and any interest accruing after entry of all judgement upon that part of the judgement which is within the applicable Limit of Liability and before the Insurer has paid, offered to pay or deposited in court the part of the judgement that is within the applicable Limit of Liability;
 - 27.4. **Defense Costs**.
- Loss** shall not include:
- 27.5. fines or penalties against the **Insured Organization**;
 - 27.6. any taxes the **Insured Organization** or the **Outside Organization** owe, or have failed to pay, other than those taxes for which an **Insured Person** (including those serving an **Outside Organization**) becomes personally liable under statutory law;
 - 27.7. with respect to a **Claim** for an **Employment Practices Wrongful Act**, salaries, wages or commissions payable to a claimant for services performed for an **Insured Organization** while employed with the **Insured Organization**;
 - 27.8. with respect to a **Claim** for an **Employment Practices Wrongful Act** against an **Outside Organization Executive**, salaries, wages or commissions payable to a claimant for services performed for an **Outside Organization** while employed with the **Outside Organization**;
 - 27.9. cost of compliance with any order for, grant of or agreement to provide injunctive or non-monetary relief;
 - 27.10. the salary, wages, commissions or **Benefits** of a claimant:
 - 27.10.1. who has been or shall be hired, promoted or reinstated to employment;
 - 27.10.2. whose employment has been or shall be continued;
 - 27.10.3. whose salary or **Benefits** have been increased pursuant to a settlement, order or other resolution;
 - 27.10.4. which constitutes a statutory mandated notice period;
 - 27.11. any costs incurred in connection with cleaning up, removing, eliminating, abating, remediating, containing, treating, detoxifying, decontaminating, neutralizing **Pollutants** or implementation of any **Antipollution Measures**;
 - 27.12. matters uninsurable by law under which this Policy is construed.
28. **Outside Organization** means any not for profit organization having no share capital other than any **Insured Organization**.
29. **Outside Organization Executive** means the position of director, officer, trustee, governor, observer or equivalent **Executive** position held by an **Insured Person** in an **Outside Organization**, provided that service in such position was at the request of the **Insured Organization**.
30. **Parent Organization** means the entity named on the Policy Declarations Page.
31. **Personal Injury Wrongful Act** means libel, slander or defamation of character other than such libel, slander or defamation that is employment-related or that arises from an **Insured** in the business of publishing, advertising or broadcasting.
32. **Policy Period** means the period from the effective date of this Policy to the Policy expiration date as set forth in the Declarations Page, or its earlier cancellation in accordance with section 6. **NOTICE OF NON-RENEWAL**, or section 7. **CANCELLATION of PART 8 - GENERAL CONDITIONS**. Policy Period shall also include the **Extended Reporting Period** if exercised.
33. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste including materials to be recycled, reconditioned or reclaimed.
34. **Premises** means the buildings, facilities or properties occupied by the **Insured Organization** in conducting its business.
35. **Prior and Pending Proceedings Date** means the effective date of this policy (or the first policy issued by the Insurer if this policy forms part of a continuous series of renewals).
36. **Publishers Wrongful Act** means any infringement of copyright, trademark, unauthorized use of title, plagiarism or misappropriation of ideas by the **Insured**.
37. **Stalking Threat** means any conduct by a person who is subject of a temporary restraining order, injunction or similar court order that demonstrates intent to harm an **Employee** or the **Insured Organization**.
38. **Subsidiary** means any non-profit association or organization in which more than 50% of the control or voting rights that is owned by the **Parent Organization** named in the Declarations Page or by one or more of its subsidiaries, including any similar non-profit association or organization which was created or acquired by the **Parent Organization** after the inception date of the policy.
39. **Third Party Employment Practices Wrongful Act** means any **Claim** brought and maintained by or on behalf of a customer, patient, service provider or other business invitee of the **Insured Organization** against any **Insured** for any actual or alleged violation of any law concerning the discrimination or harassment of such customer, patient, service provider or other business invitee, and while such **Insured** is acting within the capacity of their duties for the **Insured Organization**.
40. **Workplace Violence Expenses** means the reasonable and necessary fees and expenses, or cost of:
- 40.1. an independent security consultation for ninety (90) days following the date the **Workplace Violence Incident** occurs;
 - 40.2. an independent public relations consultant for ninety (90) days following the date the **Workplace Violence Incident** occurs;
 - 40.3. a counselling seminar for all **Employees** conducted by an independent consultant following a **Workplace Violence Incident** occurs;

- 40.4. an independent security guard services for fifteen (15) days following the date a **Workplace Violence Incident** occurs;
- 40.5. an independent forensic analyst;
- 40.6. an independent security consultant to assess the **Stalking Threat**.

41. Workplace Violence Incident means any intentional and unlawful act:

- 41.1. of deadly force involving the use of a lethal weapon; or
- 41.2. the threat of deadly force involving the display of a deadly weapon; or
- 41.3. of a **Stalking Threat**;

which occurs on or in the **Premises** and which did or could result in the bodily injury or death to an **Insured Person**.

Workplace Violence Incident shall not include:

- 41.4. any use of, threat of force, or violence occurring on the **Premises** of the **Insured Organization** for the purpose of a robbery or demanding money, securities or property; or
- 41.5. **Claims Based Upon** any civil or foreign war, invasion, hostilities (whether declared or not), act of foreign enemy, rebellion, insurrection, revolution, military or usurped power, marital law or confiscation by order of any government or any public authority.

42. Wrongful Act means including, but not limited to:

- 42.1. any **Executive Wrongful Act**;
- 42.2. any **Employment Practices Wrongful Act**;
- 42.3. any **Third Party Employment Practices Wrongful Act**;
- 42.4. any **Fiduciary Wrongful Act**;
- 42.5. any **Personal Injury Wrongful Act**;
- 42.6. any **Publishers Liability Wrongful Act**;
- 42.7. any **Employed Lawyers Wrongful Act**.