



Policy

Non-Profit Entity

Directors & Officers Liability Insurance

SECTION I - INSURING AGREEMENT

The INSURER, in consideration of the payment of premium, in reliance upon the statements made in the application for this insurance which is made a part thereof and subject to all of the terms and conditions of this policy, agrees to pay on behalf of the INSURED(S) all LOSS that they may become legally obligated to pay as a result of a CLAIM.

This policy applies only to CLAIMS first made against the INSURED(S) during the POLICY PERIOD and then only if reported to the INSURANCE MANAGER during the POLICY PERIOD.

SECTION II - DEFINITIONS

- A. "CLAIM" means written or oral notice received by the INSURED(S) from any party that it is the intention of such party to hold the INSURED(S) responsible for a WRONGFUL ACT.
- B. "DAMAGES" means compensatory damages which the INSURED(S) are legally obligated to pay as a result of a judgement or settlement.
- C. "DEFENCE COSTS" means legal, accounting, adjusting or investigating expenses incurred for the defence of CLAIMS seeking DAMAGES payable under the terms of this policy.
- D. "ENTITY" means the non-profit organization or association named in the Declarations and any non-profit SUBSIDIARY.
- E. "INSURED(S)" means the ENTITY and any individual who was, now is or shall be a director, officer, trustee, employee, volunteer or member of any duly constituted committee of the ENTITY, including the estates, heirs, legal representatives or assigns of any said deceased, incompetent, insolvent or bankrupt individual(s).
- F. "INSURER" means the insurance companies and underwriters at Lloyd's whose names appear in the Declarations.
- G. "LOSS" means DAMAGES and DEFENCE COSTS. "LOSS" does not include fines, penalties or punitive, exemplary, or multiplied damages.
- H. "INSURANCE MANAGER" means the insurance administrator whose name and address appear in the Declarations which is authorized to be the agent of the INSURER. The INSURANCE MANAGER is not a party to this contract of insurance.
- I. "POLICY PERIOD" means the period from the inception date of this policy to the policy expiration date as set out in the Declarations or a shorter period in the event the policy is cancelled.
- J. "POLLUTANTS" means any solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste reconditioned or reclaimed materials as well as any air emission, odor, waste water, oil or oil products, infectious or biological waste, asbestos, or asbestos products or any noise.
- K. "SUBSIDIARY" means any non-profit organization or association more than fifty percent (50%) owned by the ENTITY. Coverage will apply to all non-profit SUBSIDIARIES formed or acquired after the inception date of this policy, subject to (a) receipt of written notice to the INSURER within ninety (90) days of acquisition or formation; and (b) coverage revision and premium adjustment as may be required by the INSURER.
- In the event of sale or dissolution of any SUBSIDIARY after the inception date of this policy, the policy shall cease to apply to the INSURED(S) of the SUBSIDIARY with respect to CLAIMS for WRONGFUL ACTS as of the effective date of sale or dissolution.
- L. "WRONGFUL ACT" means any actual or alleged defamation, breach of duty, neglect, error, misstatement, misrepresentation, omission or other act done or attempted by any INSURED in the discharge of their duties solely in their capacity with the ENTITY or any matter claimed against them solely by reason of their status as an individual INSURED in their capacity with the ENTITY.

SECTION III - EXTENSIONS

Subject to the terms, conditions and exclusions of this policy:

A. Discovery Period

If the INSURER cancels or refuses to renew this policy for reasons other than non-payment of the premiums due hereunder, the INSURED(S) shall have the right within fifteen (15) days of the effective date of cancellation or expiry of this policy and upon payment of a premium calculated as a percentage (see below) of the "full annual premium", to an extension of the cover granted by this policy for CLAIMS made against the INSURED(S) during the period of one (1) year after the effective date of cancellation or expiry of this policy, but only with respect to any WRONGFUL ACT occurring prior to the date of such cancellation or expiry.

As used herein, "full annual premium" means the premium level in effect immediately prior to the effective date of cancellation or expiry.

Premium Calculation:

50% if purchased following the initial policy issued by the INSURER;
40% if purchased following the second consecutive policy issued by the INSURER;
30% if purchased following the third consecutive policy issued by the INSURER;
20% if purchased following the fourth or subsequent consecutive policy issued by the INSURER.

If the Discovery Period extension is purchased, the entire premium shall be deemed earned at its commencement without any obligation by the INSURER to return any part thereof and it shall not in any way increase the limit of liability set forth in the Declarations.

The acceptance by the INSURED(S) of the INSURER'S offer of a new policy relieves the INSURER of any obligation it may have had to provide Discovery Period coverage under this policy.

B. Spousal Clause

Coverage as afforded by this policy shall apply to the spouse of an INSURED provided that: (a) such spouse is named as a codefendant in a CLAIM against an INSURED; and (b) such spouse is so named solely by reason of (i) his/her status as the spouse of an INSURED or (ii) his/her ownership interest in property which the claimant seeks as recovery in such CLAIM; and (c) it is not alleged in the CLAIM that the spouse is liable to the claimant for any reasons other than those contemplated above; and (d) coverage is provided by this policy to the INSURED(S) for the CLAIM.

C. Penal Defence Cost Reimbursement Clause

The INSURER will reimburse the INSURED(S) for the DEFENCE COSTS incurred in defending

CLAIMS made against the INSURED(S) for penal offences in respect of charges laid in Canada if the defence of same proves to be fully successful. For the purposes of this clause, "fully successful" means acquittal, the return of a "not guilty" verdict or the withdrawal of charges with respect to all INSURED(S). The aggregate limit of liability under this clause shall be \$500,000 (CAN) which amount shall be included in the aggregate limit of liability of the INSURER as stated in the Declarations.

SECTION IV - EXCLUSIONS

This insurance does not apply to:

- A. CLAIMS arising from any WRONGFUL ACT if notification has been given under any policy which has expired prior to or upon the inception of this policy and if such prior policy affords coverage (or would afford such coverage except for the exhaustion of its limits of liability) for such LOSS, in whole or in part, as a result of such notice;
- B. CLAIMS arising out of or attributable to bodily injury, sickness, mental anguish, disease or death of any person or damage to or destruction of any tangible property including loss of use thereof or injury resulting from false arrest, detention, imprisonment, wrongful entry, eviction;
- C. CLAIMS based on or attributable to the actual, alleged or threatened discharge, dispersal, release or escape of POLLUTANTS into or upon land, the atmosphere or water, whether such discharge, release or escape is intentional or accidental; or to LOSS resulting from any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize POLLUTANTS;
- D. CLAIMS for an actual or alleged breach of contract except that this exclusion shall not apply to:
 - 1. any allegations of tortious conduct arising out of or attributable to an actual or alleged breach of contract; or
 - 2. one hundred (100) percent of DEFENCE COSTS for CLAIMS arising out of or attributable to an actual or alleged breach of an employment contract;
- E. CLAIMS arising out of or attributable to the rendering or failure to render any kind of professional service for others, either gratuitously or for a fee;
- F. CLAIMS arising out of or attributable to any fraudulent or dishonest act committed in fact by any INSURED(S);
- G. CLAIMS arising out of or attributable to the INSURED(S) gaining in fact any profit, remuneration or advantage to which such INSURED(S) were not legally entitled;
- H. CLAIMS already covered under another insurance policy. However, this exclusion does not apply to the

difference between the limit of liability under this policy and that of such other insurance policy;

- I. CLAIMS initiated or instituted by the ENTITY against the INSURED(S).

NOTE: The WRONGFUL ACT of any INSURED shall not be imputed to any other INSURED for purposes of determining the applicability of the Exclusions in Section IV.

SECTION V - NUCLEAR INCIDENT EXCLUSION

This insurance does not apply to CLAIMS based on or attributable to:

1. liability imposed by or arising under the Nuclear Liability Act;
2. bodily injury or property damage with respect to which the INSURED is 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 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; and
3. bodily injury or property damage resulting directly or indirectly from the NUCLEAR ENERGY HAZARD arising from:
 - (a) the ownership, maintenance, operation or use of a NUCLEAR FACILITY by or on behalf of the INSURED;
 - (b) the furnishing by the INSURED of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any NUCLEAR FACILITY; and
 - (c) the possession, consumption, use, handling, disposal or transportation of FISSIONABLE SUBSTANCE, or of other RADIOACTIVE MATERIAL (except radioactive isotopes, away from a NUCLEAR FACILITY, which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by the INSURED.

As used in this exclusion:

- (a) "FISSIONABLE SUBSTANCE" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
- (b) "NUCLEAR FACILITY" means:
 - (i) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to

contain a critical mass of plutonium, thorium, uranium or any one or more of them;

- (ii) any equipment or device designed or used for (a) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (b) processing or utilizing spent fuel, or (c) handling, processing or packaging waste;
- (iii) 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 is 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;
- (iv) 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.

- (c) "RADIOACTIVE MATERIAL" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substance 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.

SECTION VI - COMPUTATION OF AMOUNTS PAYABLE

- A. The INSURER shall pay one hundred percent (100%) of LOSS in excess of the retention stated in the Declarations up to the limit of liability stated in the Declarations. The retention shall apply to DAMAGES but not to DEFENCE COSTS.
- B. More than one (1) CLAIM arising out of the same act by one or more INSURED(S) shall be considered a single CLAIM and only one (1) retention shall be applied to each CLAIM.
- C. The fact that this policy may be extended by virtue of the exercise of the Discovery Period shall not in any way increase the limit of liability set forth in the Declarations.

SECTION VII - NOTICE OF CLAIM

The INSURED(S) shall deliver written notice by mail, facsimile or by hand to the INSURANCE MANAGER at the address indicated in the Declarations as soon as practicable after being made aware of a CLAIM for which coverage would be afforded by this policy, but in no event later than fifteen (15) days following the expiration date of

the POLICY PERIOD. This fifteen day extended reported period will only apply if no replacement coverage is obtained during such fifteen day period.

If during the POLICY PERIOD the INSURED(S) become aware of a WRONGFUL ACT which could reasonably give rise to a CLAIM, the INSURED(S) shall deliver written notice thereof to the INSURANCE MANAGER as soon as practicable and prior to the date of expiry of the policy. The written notice shall include:

1. the names of the potential claimants and a description of the specific WRONGFUL ACT which forms the basis of their potential CLAIM,
2. the consequences which have resulted or may result from such specific WRONGFUL ACT,
3. the nature of the potential damages arising from such specific WRONGFUL ACT, and
4. the circumstances by which the INSURED(S) first became aware of the specific WRONGFUL ACT.

Any CLAIM arising out of such reported WRONGFUL ACT shall be treated as a CLAIM made during the POLICY PERIOD in which such written notice was delivered.

If the effective date of termination of the policy is a Saturday, Sunday, or Statutory Holiday, any CLAIM reported to the INSURANCE MANAGER on the business day immediately following the termination date, will be deemed to have been reported within the POLICY PERIOD.

Notwithstanding the aforementioned, any late notice or absence of notice is cause of forfeiture of the rights of the INSURED(S), if the INSURER sustains injury therefrom.

SECTION VIII - DEFENCE AND SETTLEMENT

The INSURER shall have the duty and right to defend any CLAIM made against the INSURED(S) seeking DAMAGES payable under this policy. No DEFENCE COSTS payable under this policy shall be incurred without the INSURER'S consent, which is not to be unreasonably withheld.

The INSURER shall not settle or compromise any CLAIM without the written consent of the INSURED(S) involved in the CLAIM. If, however, the INSURED(S) shall refuse to consent to any settlement recommended by defence counsel and the INSURER and shall elect to contest the CLAIM, then the INSURER'S liability for the CLAIM shall not exceed the amount for which the CLAIM could have been so settled plus the DEFENCE COSTS incurred with its consent up to the date of such refusal. Such amounts are subject to the provisions of Section VI of the policy.

The INSURED(S) shall give the INSURER such information and cooperation as it may reasonably require and as shall be in the power of the INSURED(S) to provide.

SECTION IX - GENERAL CONDITIONS

A. Authorized Agent of the INSURED(S)

In consideration of the issuance of this policy, the INSURED(S) agree that the ENTITY is hereby appointed and authorized to act as agent on behalf of the INSURED(S) with respect to all matters of any nature or kind relating to or affecting this policy.

B. Cancellation

This policy may be cancelled by the INSURED(S) by delivering written notice by mail, facsimile or by hand to the INSURANCE MANAGER stating when thereafter such cancellation shall be effective. This policy may be cancelled by the INSURANCE MANAGER by said delivery of a written notice of cancellation to the INSURED at the address shown in the Declarations stating when not less than ninety_(90) days thereafter, such cancellation shall be effective. However, if the INSURANCE MANAGER cancels the policy because of non-payment of premium when due, this policy may be cancelled by the INSURANCE MANAGER by said delivery of written notice of cancellation to the INSURED(S) at the address shown in the Declarations stating when, not less than fifteen (15) days thereafter, such cancellation shall be effective. The delivery of notice as aforesaid shall be sufficient proof of notice and the effective date and hour of cancellation stated in the notice shall become the end of the POLICY PERIOD.

If the INSURED(S) cancel, unearned premium shall be computed on a short rate basis. If the INSURANCE MANAGER cancels, unearned premium shall be computed pro rata. The INSURER'S cheque delivered as aforesaid shall be a sufficient tender of any refund of premium due hereunder. Payment or tender of any unearned premium by the INSURER shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.

C. Allocation of LOSS

If a CLAIM made against the INSURED(S) involves both covered and uncovered allegations and/or parties, the INSURED(S) recognize that there must be an allocation between insured and uninsured LOSS. The INSURED(S) and the INSURER shall exert their best efforts to agree upon a fair and proper allocation between insured and uninsured LOSS.

D. Action Against INSURER

No action shall be taken against the INSURER unless, as a condition precedent thereto, the INSURED(S) shall have been in full compliance with all the terms of this policy.

E. Subrogation

In the event of any payment under this policy, the INSURER shall be subrogated to the extent of such payment to all the rights of recovery of the INSURED(S) and the INSURED(S) shall execute all

papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the INSURER effectively to bring suit in the name of the INSURED(S).

F. Severability

Subject to all of its terms and conditions, this policy shall apply to each INSURED in the same manner and to the same extent as if a separate policy had been issued to each. The LOSS payable hereunder on behalf of the INSURED(S) and notwithstanding the number of INSURED(S) involved, shall not exceed the limit of liability stated in the Declarations.

G. Territory

This policy applies only to CLAIMS first brought within the territorial limits and jurisdiction of Canada.

H. Conformity to Statute

The terms of this policy which are in conflict with the terms of any applicable laws construing this policy are hereby amended to conform to such laws.

I. Interpretation

This policy shall be interpreted and construed in accordance with the laws of the Canadian province in which the policy was issued.

J. Declarations

In consideration of the payment of the premium, in reliance upon the statements made in the application for this insurance which is made a part hereof and subject to all of the terms and conditions of this policy, the INSURER has caused this policy to be executed on the Declarations.