TOKIO MARINE HCC

LLOYD'S Underwriters

Technology Risks Canada

Combined Policy Wording

Preamble

This Policy is a contract of insurance between the **Insured** and the **Insurers**. It contains all the details of the coverage that **Insurers** provide and consists of and must be read together with the **Declarations** and any endorsements. This Policy is not complete unless a **Declarations** page is attached.

Defined terms have a special meaning as set forth in the Definitions section. Words stated in the singular shall include the plural and vice versa.

Cover under Section 1 – Errors and Omissions is provided on a claims made and reported basis. Under the Insuring Clauses a **Claim** must be first made against the **Insured** and notified to **Insurers** during the **Period of insurance** or within any extended reporting period as detailed within the Conditions. The Insuring Clauses do not cover any **Claim** arising out of any actual or alleged wrongful act occurring before the date specified as the **Retroactive date** in the **Declarations**.

Cover under Section 2 (Commercial General Liability) is provided on a losses occurring basis.

In consideration of the premium having been paid and in reliance upon the information, including the **Application** form, that the **Insured** has provided to **Insurers** prior to commencement of this insurance and which is deemed to form the basis of this contract, **Insurers** agree to provide the cover as set out below:

Definitions applicable to all Sections

For the purposes of this Policy the words or terms that appear in **bold** will be interpreted as follows:

Application

means the written application and any renewal declaration signed by the **Insured** together with any other information supplied by the **Insured** to the **Insurer** before inception or renewal of this Policy and which has been relied upon by **Insurers**.

Compensatory damages

means compensatory awards or settlements.

Computer system

means any any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.

Cyber act

means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof, involving access to, processing of, use of or operation of any **Computer system**.

Data

means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer system**.

Declarations

means the document titled **Declarations** that includes the name of the **Insured**, the premium and other variables to this Policy (including endorsement clauses) and is incorporated in this Policy. **Declarations** may be reissued from time to time and each successor overrides the earlier **Declarations**.

Deductible

means the first amount as specified in the **Declarations** payable by the **Insured** in respect of each and every claim after the application of all terms and conditions of this policy. The **Limit of liability** is additional to the **Deductible.** The **Deductible** is not applicable to **Defence costs and expenses** (unless expressly stated otherwise in the **Declarations**).

Defence costs and expenses

means all costs and expenses incurred, with the prior consent of the **Insurer**, in the investigation, defence and settlement of any claim or any **Circumstance**. It does not include the **Insured's** own costs and expenses.

Deliverables

means any hardware, firmware, peripherals, software, cabling or electronic equipment.

Employee

means:

a. any person employed by the **Insured** under a contract of service, training or apprenticeship; and

b. any voluntary worker; and

c. any seasonal or temporary personnel; and

d. any self-employed person or entity acting as a freelance consultant;

but only if such person or entity is working under the **Insured's** direction, control and supervision.

Financially associated person or entity

means:

a. any business controlled or managed by the **Insured** or in which the **Insured** has an executive interest;

b. any company in which the **Insured** directly or indirectly owns or controls more than 15% of the issued share capital;

c. any person having an executive or managerial role in the **Insured** or who would be considered to be a shadow director of the **Insured**;

d. any company that directly or indirectly owns or controls any of the issued share capital of the **Insured** or any of whose issued share capital is directly or indirectly owned or controlled by any other company or person who directly or indirectly owns or controls any of the issued share capital of the **Insured**.

Hacker

means anyone who specifically and maliciously targets the **Insured** and gains unauthorised access to the **Insured's Computer system** by circumventing electronically the security system in place to protect against such unauthorised access to the **Insured's Computer system** or who exploits security access which they are granted in-order to do their job. **Hacker** does not include any principal, director or partner of the **Insured**.

Insured

means any person or firm stated in the **Declarations** and includes:

a. the current or previous partners, directors, principals, members or **Employees** of any firm or company stated in the **Declarations**;

b. any other person who becomes a partner, director, principal, member or **Employee** of any firm or company stated in the **Declarations**;

c. any entity that becomes an additional **Insured** under the terms of Extension 2 – Mergers and Acquisitions.

Insurer

means as stated in the **Declarations**..

Liquidated damages

means a sum of money or formula used to determine a genuine pre-estimate of loss and damage attributable to a specified **Breach of contract** (above any **Deductible** stated in the **Declarations**) on the part of the **Insured**, provided that at the time the sum or formula was created and agreed between the parties to the contract the liquidated damages agreement represented a fair, reasonable and justifiable reflection of the loss occasioned by a breach. Such sum of money or formula cannot be above any amount that would be recoverable had the **Claim** been made and determined as a common law **Claim** for **Breach of contract**.

Multimedia activities

means publishing, broadcasting, communications or any other dissemination of data, text, sounds, images or similar content, acts committed in the process of researching, investigating, gathering, acquiring, obtaining, preparing, compiling, or producing data, text, sounds, images or similar content, or the licensing, syndication, serialisation, distribution, sale or lease of data, text, sounds, images or similar content.

Period of insurance

means that as stated in the **Declarations**.

Professional business

means the business of the **Insured** as stated in the **Declarations** including **Multimedia activities**.

Terrorism

means an activity that (1) involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure or a threat thereof and (2) appears to be intended to (i) intimidate or coerce a civilian population or (ii) disrupt any segment of the economy of a government de jure or de facto state or country; or (iii) overthrow, influence or affect the conduct of policy of any government de jure or de facto by intimidation or coercion; or (iv) affect the conduct of a government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

Virus

means any any unauthorised executable code uploaded to, or replicated through, a **Computer system** or network whether termed a virus or known by any other name and whether it is self-replicating or non-replicating which causes damage or loss to data or the **Computer system**.

Definitions applicable to Section 1 (Errors and Omissions)

For the purposes of this Section the words or terms that appear in **bold** will be interpreted as follows:

Breach of contract

means breach of a written contract to design, produce or supply **IT services** or **Deliverables.**

Circumstance

means any circumstance or state of affairs or event which might reasonably be expected to give rise to a **Claim** against the **Insured**.

Claim

means a written demand for financial compensation from the **Insured** in consequence of an alleged breach of contract or breach of professional duty on the part of the **Insured** which gives rise to a third party loss.

Client

means any party with whom the **Insured** has contracted to undertake **Professional business** in consideration for a fee being paid by the **Client** to the **Insured**.

Cyber extortion payment

means property, money (including digital currency or cryptocurrency) or securities transferred by or on behalf of the **Insured** to a third party to prevent, conclude, or attempt to prevent or conclude, a **Cyber act**.

Data breach

means any of the following if actually or allegedly caused, permitted or made possible by the **Insured**:

a. the inadvertent loss, destruction or alteration of, or

b. the unauthorised disclosure or dissemination of or access to,

any individually identifiable information in respect of any natural person including but not limited to information protected by **Data protection law** or third party corporate information.

Data protection law

means any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time (all as amended, updated or re-enacted from time to time).

IT services

means any services provided in the ordinary course of the **Insured's** business including but not limited to data processing, data warehousing, domain name registration, the provision of outsourced services, systems analysis and design, telecommunications and data services, maintenance, website design, web hosting services.

Limit of liability

means the **Insurer's** total liability to pay **Compensatory damages** and claimant's costs, fees and expenses. This **Limit of liability** shall not exceed the sum stated in the **Declarations,** as the Section 1 Limit of liability, in respect of any one **Claim** or series of **Claims** arising out of one originating cause and in total for all **Claims** made during the **Period of insurance**.

If more than one person is entitled to cover under the terms of this Policy then the **Insurer's** total liability to all such persons shall not exceed the **Limit of liability**.

The **Limit of liability** is additional to the **Deductible** which is the first amount payable by the **Insured** in respect of each and every **Claim** after the application of all terms and conditions of this Policy.

Security breach

means the failure to protect against the fraudulent, malicious or dishonest causing or use of any of the following:

a. the unauthorised access to,

b. the impairment of destruction of data or programs within,

c. the input of unauthorised data or codes into, or

d. disruption or overload of,

the **Insured's Computer system** by any **Hacker**.

Social engineering act

means any fraudulent, malicious or dishonest instructions directed, via any form of electronic communication or telecommunication, to the **Insured**, or any party acting on the **Insured's** behalf, to transfer to any third party any funds to which such third party is not legally entitled.

Definitions applicable to Section 2 (Commercial General Liability)

For the purposes of this Section the words or terms that appear in **bold** will be interpreted as follows:

Additional Insured

means an independent third party which has an interest in the policy in relation to the **Insured's performance** of any **Professional business** undertaken for, on behalf of or in the name of the **Additional Insured**

Cyber incident

means:

a. any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer system**; or

b. any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer system**.

Damage

means loss of possession of or damage to tangible property.

Damages

means monetary compensation capable of being awarded in civil proceedings but excluding aggravated and exemplary damages.

Injury

means death, bodily injury, illness or disease of or to any person, false arrest, detention, imprisonment, malicious prosecution or wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies.

Limit of liability

means the **Insurer's** total liability to pay **Damages** and claimant's costs, fees and expenses. This **Limit of liability** shall not exceed the sum stated in the **Declarations,** as the Section 2 Limits of liability, in respect of any one occurrence or series of occurrences arising out of one originating cause but under Insuring clause 2 and 3 the **Limits of liability** represent the total liability for all occurrences.

If more than one person is entitled to cover under the terms of this Policy then the **Insurer's** total liability to all such persons shall not exceed the **Limit of liability**.

In the event of any one originating cause giving rise to an occurrence or series of occurrences which are covered by more than one Section of Section 2, each Section shall apply separately and be subject to its own separate **Limit of Liability** provided always that the total amount of the **Insurer's** liability shall be limited to the greatest **Limit of Liability** available under one of the Sections affording cover for the occurrence or series of occurrences.

Medical expenses

means reasonable expenses for:

a. first aid administered at the time of an accident; or

b. necessary medical, surgical, x-ray and dental services, including prosthetic devices; or

c. necessary ambulance, hospital, professional nursing and funeral services.

Pollution

means pollution or contamination of the atmosphere or of any water, land or other tangible property.

Product

means any property after it has left the custody or control of the **Insured** which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the **Insured**.

Section 1: Errors and Omissions

Insuring Clauses

In consideration of the premium having been paid to the **Insurer**, the **Insurer** agrees as follows:

1. Errors and omissions

To pay, to or on behalf of the **Insured**, up to the **Limit of liability** for any **Claim** first made against the **Insured** during the **Period of insurance** for which the **Insured** is allegedly liable to pay **Compensatory damages** (including claimant's costs and expenses) and arising out of the ordinary course of the **Professional business** within the geographical limits stated within the **Declarations**, in consequence of:

a. **Breach of contract** to design or supply **Deliverables** or provide **IT services** including cover for **Liquidated damages**;

b. Breach of professional duty, negligent act, negligent error, negligent omission, negligent misstatement or negligent misrepresentation;

c. Defamation or other tort related to disparagement of character, reputation or feelings of any person or organisation including libel, slander, product disparagement and malicious falsehood;

d. Breach of confidentiality or other invasion, misuse of private information, infringement or interference with rights of privacy or publicity including false light and the public disclosure of private facts including misuse of any information which is either confidential or subject to statutory restrictions;

e. Infringement of intellectual property rights including copyright, title, slogan, trademark, trade name, trade secret, domain name or metatag, moral rights, misappropriation of formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork, passing off and plagiarism and commercial appropriation of name or likeness;

f. Dishonest, fraudulent or malicious act or omission of any former or present **Employee**. (which for the avoidance of doubt for the purpose of this Insuring Clause does not include any principal, partner, member or director of the **Insured**) provided that no cover shall be given in the event that any principal, partner, member or director of the **Insured** conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission;

g. Any other civil liability not otherwise excluded.

2. Irrecoverable fees

For matters first notified by the **Insured** during the **Period of insurance** relating to amounts owed to the **Insured**, including amounts legally owed by the **Insured** to sub-contractors or suppliers, due to the refusal of the **Insured's** client to pay for work done by the **Insured** for them where such client has reasonable grounds for being dissatisfied with the work and threatens to bring a **Claim** under Insuring Clause 1 for more than the amount owed. In such circumstances, if it is possible to settle the dispute by agreeing not to pursue the outstanding amount, the **Insurer** will agree to pay the amount owed if they consider that it will avoid a legitimate **Claim** for a greater amount. If, following this, a **Claim** still arises then the amount paid under this Clause will be deducted from the **Limit of liability.** If the **Insured** eventually recovers the debt then the amount paid by the **Insurer** must be repaid to them less the **Insured's** reasonable expenses of recovering the debt due.

3. Network Security & Privacy Liability

The **Insurer** agrees to pay up to the **Limit of liability** to or on behalf of the **Insured** for any **Claim** first made against the **Insured** during the **Period of insurance** for which the **Insured** is allegedly liable, as a result of a negligent act, error

or omission in the ordinary course of the **Professional business**, to pay **Compensatory damages** directly caused by, directly resulting from or directly arising out of:

a. a **Data breach**; or

b. a **Security breach**; or

c. the unintentional transmission of a **Virus**.

In no event shall this Insuring clause provide cover for any of the **Insured's** own loss, damage, fine, penalty, cost or expense (other than as covered by Extension 3) including but not limited to any notification costs, crisis consultancy costs, credit monitoring expenses, cost or expense for replacement of actual credit or payment cards, forensic expenses, public relations expenses, any **Cyber extortion payment**, or any costs of reconstituting or recovering lost, inaccessible or damaged **Data**.

4. Sub-contractors

Where the **Insured** has engaged a third party under a written contract to provide services under the **Insured's** supervision, the **Insurer** will cover the **Insured,** for any **Claim** brought as a result of the sub-contractors work undertaken on the **Insured's** behalf but only in respect of liability incurred by the **Insured** to independent third parties arising directly from the **Professional business** services performed by the sub-contractors on behalf of the **Insured** and subject always to there being cover under Insuring Clause 1 of Section 1 and to the terms and conditions of this Policy. Cover only applies to the extent that the **Insured** has not waived or otherwise impaired any rights of recourse against said sub-contractors.

5. Reputation management

Up to a maximum of CAD 25,000 following a **Claim** under Insuring Clause 1 or 3 for costs incurred with the **Insurers** prior written consent (not to be unreasonably witheld) for a public relations and/or crisis management consultant to avert or mitigate any material damage to the **Insured's** business reputation.

Section 2: Commercial General Liability

Insuring Clauses

In consideration of the premium having been paid to the **Insurer**, the **Insurer** will pay to or on behalf of the **Insured,** up to the **Limit of liability,** all sums that the **Insured** shall become legally obligated to pay as **Damages** (including claimant's costs and expenses) arising out of the **Professional business,** in respect of:

1. Third party liability including Completed Operations

Injury and/or **Damage** occurring during the **Period of insurance** but not against liability:

a. arising out of or in connection with any **Product**;

b. arising out of **Pollution**.

2. Products liability

Injury and/or **Damage** occurring during the **Period of insurance** but only against liability arising out of or in connection with any **Product** and not against liability arising out of **Pollution**.

3. Pollution liability

Injury and/or **Damage** occurring in its entirety during the **Period of Insurance** and arising out of **Pollution** but only to the extent that the **Insured** can demonstrate that such **Pollution:**

a. was the direct result of a sudden, specific and identifiable event occurring during the **Period of insurance**; and

b. was not the direct result of the **Insured** failing to take reasonable precautions to prevent such **Pollution**.

Extensions

In respect of cover provided under this Policy and subject otherwise to Policy terms and conditions the following extensions of cover apply. For the avoidance of doubt the cover provided under these extensions shall not increase the **Limit of liability:**

1. Indemnity to principals

If the **Insured** so requests, the **Insurer** will pay to or on behalf of any third party principal with whom the **Insured** has entered into an agreement as far as is necessary to meet the requirements of such agreement. Such payment will only be made in respect of liability incurred to independent third parties arising directly from the **Professional business** services performed by the **Insured** and only where the **Insured** is or would be entitled to cover elsewhere under this Policy.

2. Mergers and acquisitions

If during the **Period of Insurance** the **Insured**:

a. purchases assets or acquires liabilities from another entity in an amount no greater than 10% of the assets of the **Insured** as listed in its most recent financial statement; or

b. acquires another entity whose annual revenues are no more than 10% of the annual revenues of the **Insured** for their last completed financial year,

then provided that:

a. there is no material deviation to the **Insured's Professional business**; and

b. prior to the acquisition of the acquired company the **Insured** is not aware, having made reasonable enquiry, of any past claims including circumstances that might reasonably be expected to give rise to a claim,

then this Policy shall automatically include such entity as an **Insured** but only in respect of any act or omission occurring on or after the date of merger or acquisition unless otherwise agreed by the **Insurer**.

3. Defence costs and expenses

In respect of a payment for a **Claim** or loss under Insuring Clauses 1 and 5 of Section 1 or Section 2 of this Policy, the **Insurer** will pay in addition to the **Limit of liability, Defence costs and expenses** provided that:

a. if a paid **Claim** or loss exceeds the **Limit of liability** the **Insurer** will only be liable for that proportion of the **Defence costs and expenses** which the **Limit of liability** bears to the amount of the paid **Claim**;

b. in the event that the **Insurer** elects to make a payment to the **Insured** pursuant to Claims Condition 2.2 then the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which such payment is made.

Notwithstanding the above and provided that the United States of America is covered within the Jurisdiction stated in the **Declarations**, the **Limit of liability** will be inclusive of **Defence costs and expenses** in respect of any judgement award or settlement made within countries which operate under the laws of the United States of America (or to any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part).

4. Compensation for court attendance

In the event of any of the persons stated below attending court as a witness at the request of the **Insurer** in connection with a **Claim** or loss in respect of which the **Insured** is entitled to cover elsewhere under this Policy the **Insurer** will provide compensation to the **Insured** at the following rates per day for each day on which attendance is required:

a. any director or partner of the **Insured**: CAD 500;

b. any **Employee** of the **Insured:** CAD 250.

5. Other parties (Section 2 only)

At the request of the **Insured** the cover granted, under Section 2 only, extends to:

a. officials of the **Insured** in their business capacity arising out of the performance of the **Professional business** and/or in their private capacity arising out of their temporary engagement of the **Insured's Employees**;

b. any person or firm arising out of the performance of a contract with the **Insured** constituting the provision of labour only;

c. the officers, committee and members of the **Insured's** canteen, social, sports, medical, fire fighting and welfare organisations in their respective capacity as such;

d. the personal representatives of any person insured under this policy by reason of this Extension in respect of liability incurred by such person;

provided always that all such persons or parties shall observe, fulfil and be subject to the terms**, conditions and e**xclusions of this Policy as though they were the **Insured.**

6. Medical expenses (Section 2 only)

Insurers agree to pay **Medical expenses** for **Injury** caused by an accident occurring during the **Period of Insurance**:

a. on premises occupied by the **Insured** in connection with the **Professional business**; or

b. on ways next to premises occupied by the **Insured** in connection with the **Professional business**; or

c. because of the **Professional business**.

provided that:

i. the injured person, at the time of the accident, is not entitled to benefits under any workers compensation or disability benefits law or similar law; and

ii. the **Medical expenses** are incurred and notified to **Insurers** within one year of the date of the accident; and

iii. the injured person submits to examination, at **Insurers** expense by physicians of **Insurers** choice as often as **Insurers** require; and

iv. the total amount payable by **Insurers** in respect of all accidents occurring during the **Period of Insurance** shall not exceed the **Limit of liability**.

Insurers will make payment regardless of fault.

7. Tenants Legal Liability (Section 2 only)

The **Insurer** will pay to or on behalf of the Insured, up to the **Limit of liability**, all sums that the **Insured** shall become legally obligated to pay in relation to **Damages** resulting from **Damage** to premises tenanted by the **Insured** and occurring during the **Period of insurance**.

However The **Insurer** shall not be liable to cover:

a. any claim for **Damage** that began to occur prior to the **Period of Insurance**

b. **Damage** of which the **Insured** was aware prior to the **Period of Insurance**:

c. **Damage** to premises arising out of a deliberate, conscious or intentional disregard by the **Insured** of the need to take all reasonable steps to prevent such **Damage**;

d. sums that the **Insured** is legally obligated to pay by reason of an assumed liability in a contract or agreement, unless such liability would have existed in the absence of that contract or agreement

8. Additional Insureds

Insurers will indemnify any third party as an **Additional Insured** under Section 2 of this Policy but only in respect of any legal liability which may attach to them as a result of the negligence of the **Insured**, provided that;

a. such negligence relates to works that are within the remit of the **Insured's Professional business.**
b. the **Insured** contracted in writing to indemnify the third party for the **Claim** prior to it first being made against them; and
c. the **Insured** would be entitled to indemnity under this Policy had the **Claim** been made directly against them

Prior to indemnity being provided by **Insurers**, any additional insured must:

a. prove to **Insurers** that the **Claim** arose solely out of an act committed by the **Insured**; and
b. satisfy the requirements under Claims Condition 1 of this Policy as if they were the **Insured**.

Where indemnity is provided to a third party as an **Additional Insured** under this Policy, this Policy will be primary and non-contributory to the third party's own insurance, but only if the **Insured** and the third party have entered into a contract that contains a provision requiring this.

9. Personal and Advertising Injury

The **Insurer** will pay to or on behalf of the **Insured,** up to the **Limit of liability**, all sums that the **Insured** shall become legally obligated to pay as **Damages** (including claimant's costs and expenses) arising out of the **Professional business,** in respect of;

a. Defamation or other tort related to disparagement of character, reputation or feelings of any person or organisation; or

b. Breach of confidentiality or other invasion, misuse of private information, infringement or interference with rights of privacy or publicity; or

c. Infringement of intellectual property rights;

in the **Insured's** advertising or promotional material or

d. any **Injury**

10. Waiver of Subrogation (Section 2 only)

Where required under any contract entered into by the **Insured** except against liability arising out of or in connection with any **Product**, the **Insurer** agrees to waive all rights of subrogation but solely to the extent required by such contract.

Exclusions to all Sections

The **Insurer** shall not be liable to cover the **Insured** against any **Claim:**

1. Asbestos

arising directly or indirectly out of or resulting from or in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity.

2. Antitrust

for or arising out of any actual or alleged antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws or false or deceptive advertising other than where specifically covered under Section 1, Insuring Clause 1c), 1d) or 1e).

3. Benefits laws

arising directly or indirectly out of the failure to comply with the mandatory provisions of any law concerning workers' compensation, unemployment insurance, social security, disability benefits or pension benefits.

4. Cease and desist notices

arising directly or indirectly from actual or alleged wilful, dishonest, deliberate, or reckless failure to comply with any:

a. cease and desist notice received by the **Insured** in relation to any content; or

b. blocking order imposed upon the **Insured**.

5. Chargebacks

arising directly or indirectly from any chargeback, liability or fee incurred as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction.

6. Children's online privacy

arising directly or indirectly from actual or alleged failure to

comply with the requirements of the Children's Online Privacy Protection Act of 1998 (COPPA) or any other similar legislation in a different jurisdiction relating to the security and privacy of minors and their personal information online.

7. Collection of private data without consent

arising directly or indirectly from actual or alleged failure to

obtain explicit consent from any private individual before collecting, storing or sharing any of their personal information, including but not limited to internet search history and internet browsing habits.

8. Deliberate acts

arising directly or indirectly from any deliberate or reckless breach, act, omission, or infringement committed, condoned or ignored by the **Insured,** unless covered under Insuring Clause 1f. of Section 1. For the avoidance of doubt no payment shall be made under Insuring Clause 1f. in the event that any principal, partner, member or director of the **Insured** conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission.

9. Directors and officers

made against any **Insured** in the capacity of:

a. director or officer of the **Insured** or of any other company or arising out of the management of the **Insured** or of any other company; or

b. trustee of any trust or as officer or employee of any pension fund or any other employee benefit scheme, whether for the benefit of members or **Employees** of the **Insured** or otherwise.

10. ERISA

arising from or arising out of the Employment Retirement Income Security Act of 1974, Public Law 93-496, commonly referred to as the Pension Reform act of 1974, and amendments thereto, or similar provisions of any Federal State or Local Statutory Law or Common Law.

11. Employment practices

arising out of or resulting from:

a. any employer-employee relations, policies, practices, acts, omissions, any actual or alleged refusal to employ any person, or misconduct with respect to **Employees** or any director; or

b. any acts or omissions committed by any of the **Insured's Employees** or directors which are in breach of, or are alleged to be in breach of, any terms and conditions of any contract relating to the previous employment of any of the **Insured's Employees** or directors.

12. Financially associated persons or entities

made upon the **Insured** by any **Financially associated person or entity** whether alone or jointly with any other person or entity.

However, this exclusion shall not apply to any **Claim** brought against such **Financially associated person or entity** by an independent third party and which would, but for this exclusion, be covered by this Policy.

13. Insolvency/bankruptcy of Insured

arising out of or relating directly or indirectly to the insolvency or bankruptcy of the **Insured**.

14. Legal action

in respect of an action for **Compensatory damages**:

a. brought outside the Jurisdiction stated in the **Declarations** (the "Jurisdiction") (including the enforcement within the Jurisdiction of a judgment or finding of another court or tribunal that is not within the Jurisdiction);

b. in which it is contended that the governing law is outside the Jurisdiction;

c. brought outside the Jurisdiction to enforce a judgment or finding of a court or other tribunal in any other jurisdiction;

Where no Jurisdiction is specified in the **Declarations** then the Jurisdiction shall be Worldwide but excluding the United States of America, its territories and/or possessions.

15. Nuclear and radiation

directly or indirectly arising from:

a. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;

b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

16. Other insurance

which forms the subject of insurance by any other Policy and this Policy shall not be drawn into contribution with such other insurance.

17. RICO

arising from, directly or indirectly caused by, or contributed to by, any actual or alleged violation of the Racketeer Influenced and Corrupt Organisations Act, 18 USC Sections 1961 et seq., and any amendments thereto, or any rules or regulations promulgated thereunder.

18. SEC

arising from any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State Law or any Common Law relating thereto.

19. Takeover or merger

arising directly or indirectly by reason of acts, errors or omissions committed by the **Insured** after the date of its merger with or acquisition by another entity unless otherwise agreed by the **Insurer**.

20. Toxic mould

arising directly or indirectly out of or resulting from or in consequence of or in any way involving:

a. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind; or

b. any action taken by any party in relation to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of (to include the investigation of, testing for, detection, monitoring, treating, remediating or removal of) any fungi, moulds, spores or mycotoxins of any kind whether in response to any governmental or regulatory order, requirement, directive, mandate, decree or otherwise.

In the event of any dispute as to whether or not this exclusion applies the **Insured** shall have the burden of proving that this exclusion does not apply.

21. Unlawful surveillance

in respect of any actual or alleged eavesdropping, wiretapping, phone hacking, audio or video recording.

22. Unsolicited communications

arising directly or indirectly from any actual or alleged violation of:

a. the CAN-SPAM Act of 2003 or any subsequent amendments to that Act; or

b. the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or

c. any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

23. Virus

arising directly or indirectly from any **Virus** provided that this exclusion shall not apply under Section 1 in respect of:

a. any **Claim** made by an independent third party as a result of the unintentional transmission of a **Virus**, or

b. any **Claim** relating to unauthorised executable code which has been introduced by a **Hacker** and for which cover is otherwise provided for under Insuring Clause 3.

24. Water ingress

directly or indirectly related to, in whole or in part, the **Infiltration of precipitation** into the **Building envelope** of a building located in the Province of British Columbia, or into a **Multi-unit building** located in the Province of British Columbia.

For the purposes of this exclusion the following definitions are added to the Policy:

Multi-unit building means a building containing more than one unit, whether that unit is used for residential, industrial or any other purpose.

Building envelope means the assemblies, components, and materials of a building which are intended to separate and protect the interior space of a building from the adverse effects of exterior climactic conditions.

Infiltration of precipitation means, but is not limited to, the actual, alleged, threatened, or possible infiltration, migration, presence, accumulation, condensation or dispersal of water or moisture on, in, or into the **Building envelope**.

25. War and terrorism

arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority or arising out of **Terrorism**.

26. Web scraping and data harvesting

arising directly from unauthorised use of any web scraping or data harvesting techniques including, but not limited to, the use of any unauthorised application programming interface to automatically collect web based information, or the use of automated tools which directly contravene the target websites terms of use.

Exclusions specific to Section 1

The **Insurer** shall not be liable to cover the **Insured** against any **Claim**:

27. Bodily injury/property damage

for bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property unless such **Claim** arises directly from any advice, design, specification, or formula provided in relation to the **Professional business** or **Deliverables**.

28. Circumstances known at inception

arising out of any **Circumstance** of which the **Insured** was, or ought reasonably to have been, aware at inception of this Policy, whether notified under any other insurance or not.

29. Commercial disputes

arising from any commercial dispute between the **Insured** and their business partners or business associates, including but not limited to any reseller, distributor, original equipment manufacturer, third-party sales agent, systems integrator, or joint venture partner, but only to the extent such a **Claim** is based upon:

a. commission or royalty, or any other term upon which such partner or associate is to be compensated in connection with doing business with the **Insured**, or any compensation or remuneration promised or owed by the **Insured** pursuant to those terms; or

b. the **Insured's** decision to cease doing business with such a partner or associate.

30. Core internet infrastructure failure

arising directly from a failure of any core element of the internet infrastructure that results in a countrywide or global outage of the internet, including a failure of the core DNS root servers or the IP addressing system.

31. Design liability

arising directly or indirectly from any actual or alleged product design other than in relation to **Deliverables**.

32. Employee benefit schemes / stocks and shares

arising directly or indirectly from the operation or administration of any pension or other employee benefit scheme or trust fund, or the sale or purchase or dealing in any stocks, shares or securities or the misuse of any information relating to them or the breach of any related legislation or regulation.

33. Employers liability

arising directly or indirectly from bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any **Employee** arising out of or in the course of their employment by the **Insured**, or for any breach of any obligation owed by the **Insured** as an employer to any partner, principal, director, member or **Employee** or applicant for employment.

34. Financial advice

arising directly or indirectly from any investment, the provision of any finance or other financial advice.

35. Fines and penalties

for penalties, fines, multiple, exemplary, or other non-compensatory damages awarded other than:

a. in actions brought for defamation as far as they are covered by this Policy; or

b. where insurable under the applicable law.

36. Gaming, gambling or lotteries

arising from the outcome or operation of any game, gambling site, promotion or lottery unless such **Claim** arises directly from **Deliverables**.

37. Hazardous devices

arising directly or indirectly from any product which with the **Insured's** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, military vehicle, hovercraft, waterborne craft or any medical equipment.

38. Land, buildings, aircraft, watercraft or vehicles

arising directly or indirectly from the ownership, possession or use by or on behalf of the **Insured** of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.

39. Loss, damage or destruction of bearer bonds or coupons

arising from the loss, damage or destruction of any bearer bonds, coupons, bank or currency notes, share certificates, stamps or other negotiable paper.

40. Misleading advertising

arising directly or indirectly from any actual or alleged advertisement promoting the **Insured's IT services** or **Professional business** which is false or misleading.

41. Obscenity

arising from any obscenity, blasphemy or pornographic material.

42. Patents

notwithstanding Insuring Clause 1e., arising directly or indirectly from the infringement of any patent.

43. Recall costs

arising from the costs and expenses incurred in the recall, repair, and replacement of any **Deliverables** or the refund of any money paid to a third party in connection with the recall of any **Deliverables**.

44. Retroactive date

arising from any act or omission that occurred prior to the Retroactive Date stated in the **Declarations**.

45. Seepage and pollution

based upon, arising out of or relating directly or indirectly to, in consequence of or in any way involving seepage, pollution or contamination of any kind.

46. Third party defect

arising directly or indirectly from any defect in any **Deliverable** supplied by a third party. However, this exclusion does not apply to any amount that the **Insured** satisfies **Insurers** that they are legally able to recover under a written contract.

47. Telecoms, Cloud and Utility providers

arising directly or indirectly from any failure or interruption of service provided to the **Insured** or any other party acting on behalf of the **Insured** by an internet service provider, telecommunications provider, cloud provider or any other utility provider.

48. Trading losses

arising out of:

a. any trading loss or trading liability incurred by any business managed or carried on by the **Insured** (including the loss of any client account or business);

b. loss caused by the **Insured** in consequence of a share or asset sale to any prospective purchaser, associated business, merger partner, joint venture partner or similar because of any misstatement or misrepresentation made by the **Insured**;

c. the actual or alleged over-charging or improper receipt of fees by the **Insured**.

49. Social engineering

arising directly or indirectly from any **Social engineering act.**

50. Cyber and Data Protection law

under Insuring clause 1, arising directly or indirectly from:

a. a **Cyber act;** or

b. any partial or total unavailability or failure of any **Computer system**; or

c. any actual or alleged breach of **Data protection law** by the **Insured** or any other party acting on behalf of the **Insured**.

The above exclusions shall not apply to any **Claim** made against the **Insured** by a **Client** arising directly from a negligent act, error or omission in the design or supply of **Deliverables** or the provision of **IT Services**, provided that **Insurers** shall not be liable to indemnify the **Insured** against any **Claim** in respect of which the **Insured** is, or but for the existence of this Policy would be, entitled to cover under any cyber or other relevant insurance.

In no event shall this Section provide cover for any of the **Insured's** own loss, damage, fine, penalty, cost or expense (other than as specifically covered under Extension 3 or Insuring clause 3) arising out of any event detailed in a. to c. above, including but not limited to any notification costs, crisis consultancy costs, credit monitoring expenses, cost or expense for replacement of actual credit or payment cards, forensic expenses, public relations expenses, any **Cyber extortion payment**, or any costs of reconstituting or recovering lost, inaccessible or damaged **Data**.

Save as expressly provided in this exclusion, or by other restrictions in this Policy specifically relating to the use of, or inability to use, a **Computer system**, no cover otherwise provided under this Policy shall be restricted solely due to the use of, or inability to use, a **Computer system**.

Exclusions specific to Section 2

This Section does not provide cover in respect of liability:

51. Aircraft and watercraft

arising out of the ownership, possession or use by or on behalf of the **Insured** of any aircraft, watercraft or hovercraft (other than watercraft not exceeding 15 metres in length and then only whilst on inland waterways).

52. Aircraft products

arising out of any **Product** which with the **Insured's** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft except where specifically stated to be included in the **Professional business**.

53. Airports

arising out of work on any part of any aerodrome or airport provided for take off or landing of aircraft or the movement of aircraft or parking of aircraft including associated surface roads and ground equipment parking areas.

54. Auto

arising out of ownership, possession or use of any mechanically propelled vehicle other than:

a. vehicles designed primarily to operate as tools of trade (which term shall be deemed to include any plant primarily designed to operate on or about a contract site);

b. other vehicles brought on to site for use on site;

provided that no cover shall be provided in respect of any legal liability for which compulsory insurance or security is required by legislation or for which a government or other authority has accepted responsibility.

55. Automotive products

arising out of any **Product** which is intended for use in a motor vehicle except where especially stated to be included in the **Professional business**.

56. Damage to products

for **Damage** to any **Product** or part thereof.

57. Electromagnetic fields

arising out of or in connection with or contributed to directly or indirectly by the existence of or exposure to magnetic, electric or electromagnetic fields or radiation howsoever caused or generated.

58. Employees

for **Injury** to any **Employee.** However, this Exclusion shall not

apply to senior executive officers or **Employees** on whose behalf contributions are required to be made by the **Insured** under the provisions of any Workers' Compensation Law in respect of whom liability has been denied by any Workers' Compensation authority.

59. Errors and omissions

arising out of or in connection with advice, design, specification, formula or other breach of professional duty by the **Insured**.

60. Fines and penalties

arising out of liquidated damages clauses, penalty clauses or performance warranties until proven that liability would have attached in the absence of such clauses or warranties.

61. Hazardous activities

arising in connection with:

a. any work of demolition except demolition solely undertaken with hand held tools and of structures not exceeding 5 metres in height by **Employees** in the direct service of the **Insured** when such work forms an ancillary part of a contract for construction, alteration or repair carried out by the **Insured**;

b. the construction, alteration or repair of bridges, towers, steeples, chimney shafts, blast furnaces, viaducts, mines, dams or transport tunnels;

c. pile driving, tunnelling or quarrying;

d. the use of explosives for any purpose;

e. excavations below 3 metres in depth;

f. any work carried out at a height in excess of 15 metres;

g. ship repair/ship breaking and/or work on vessels or aircraft.

70.1

62. Marine products

arising out of any **Product** which is intended for incorporation into any marine equipment upon which the navigation or safety of a waterborne vessel depends except where specifically stated in the **Professional business**.

63. Pollution

for **Damage** to

a. premises presently or at any time previously owned or tenanted by the **Insured** caused by **Pollution**; and

b. land or water within or below the boundaries of any land or premises presently or at any time previously owned or leased by the **Insured** or otherwise in the **Insured's** care custody or control caused by **Pollution**.

64. Product guarantee

for costs incurred in the repair, reconditioning or replacement of any **Product** or part thereof and/or any financial loss consequent upon the necessity for such repair, reconditioning or replacement.

65. Product recall

arising out of the recall of any **Product** or part thereof.

66. Property

for **Damage** to property owned, leased or hired by or under hire purchase or on loan to the **Insured** or otherwise in the **Insured's** care, custody or control other than:

a. premises (or the contents thereof) temporarily occupied by the **Insured** for work therein (but no cover is granted for **Damage** to that part of the property on which the **Insured** is working and which arises out of such work);

b. **Employees'** and visitors' clothing and personal effects including vehicles and their contents;

67. Rail products

arising out of any **Product** which is intended for use in connection with railways or tramways except where especially stated to be included in the **Professional business.**

68. Reasonable care

arising out of the deliberate, conscious or intentional disregard by the **Insured's** technical or administrative management of the need to take all reasonable steps to prevent **Injury** or **Damage**.

69. Software

arising out of or in connection with the design, sale or supply of computer software (which shall not include the media or its packaging on which such software is stored).

70. Cyber Act or Cyber incident

directly or indirectly arising out of or in connection with any:

a. **Cyber Act** or **Cyber Incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **Cyber Act** or **Cyber Incident**; or

b. loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any **Data**, including any amount pertaining to the value of such **Data**;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

General Conditions

1. Cancellation

This Policy may be cancelled by or on behalf of the **Insurer** by 60 days' notice being given in writing, to the **Insured** on the basis of the **Insurer** receiving or retaining payment of premium pro rata to the period that the **Insurer** will have been on risk. In the event of non-payment of premium the **Insurer** may cancel the Policy by giving 15 days' notice if the premium is not paid within 15 days of the due date.

This Policy may be cancelled by the **Insured** at any time on request with the **Insurer** receiving or retaining the earned premium calculated at the customary short rate.

2. Extended reporting periods (applicable to Section 1 only)

a. Automatic Extended Reporting Period

An extended reporting period of 60 days following the Expiry Date as shown in the **Declarations** shall be automatically granted at no additional premium. This extended reporting period shall cover **Claims** first made against the **Insured** during the **Period of insurance** or **Circumstances** which the **Insured** first became aware of during the **Period of insurance** and notified to **Insurers** during this 60 day extended reporting period but only in respect of any act, error or omission committed prior to the Expiry Date shown in the **Declarations**, and subject to all other terms, conditions and exclusions of this Policy.

b. **Optional Extended Reporting Period**

If:

1. the **Insurer** cancels or declines to renew this Policy or;
2. the **Insured** dies, retires or closes the business,

then the **Insured** or the **Insured's** legal representatives, shall have the right, upon payment of an additional 75% of the last annual premium, to an endorsement granting a one year optional extended reporting period which shall be effective from the date of cancellation or non-renewal.

This extended reporting period shall only cover **Claims** first made against the **Insured,** or **Circumstances** which the **Insured** first became aware of, during this optional extended reporting period and notified to **Insurers** during this extended

reporting period but only in respect of any act, error or omission committed prior to the cancellation date or non-renewal date, and subject to all other terms, conditions and exclusions of this Policy.

The right to this optional extended reporting period shall lapse unless written notice together with payment of the additional premium is made to **Insurers** or their representatives within 30 days of the date of the cancellation or non-renewal. Failure to do so will entitle **Insurers** to treat the extended reporting period as if it never existed. The additional premium shall be deemed as fully earned at the commencement of the optional extended reporting period and there will, therefore, be no return of premium should the **Insured** terminate or cancel this extension prior to its natural expiration.

This optional extended reporting period is not available if the cancellation or non-renewal by the **Insurers** was due to:

i. non-payment of premium.

ii. the **Insureds** default on any payment required of them in relation to the payment or settlement of a **Claim**.

iii. fraud.

At the renewal of this policy, **Insurers** quoting a different premium, deductible, limit of liability or change in policy wording shall not constitute a non-renewal by the **Insurers** for the purposes of this Condition.

No **Claim** shall be accepted in either extended reporting period if the **Insured** is entitled to cover under any other insurance, or would have been entitled to cover under such insurance but for the exhaustion thereof.

The granting of either of these extended reporting periods shall not under any circumstances increase the **Limit of liability** nor the aggregation of that limit.

3. Reasonable steps to avoid Loss

Without prejudice to Claims Condition 1, the **Insured** shall take all reasonable steps before entering into a contract to ensure that it:

a. could provide the required level and quantity of services using the resources available to the **Insured**, and

b. is capable of performing the contract in accordance with the terms and conditions;

Any unreasonable breach or breaches of this may result in the size of a **Claim** increasing or to **Insurers** rights being restricted or a **Claim** arising that might otherwise have been avoided. **Insurers** shall not be liable for that portion of any **Claim** that is due to any such breach or breaches.

4. Waiver of subrogation against Employees

The **Insurer** shall not exercise any right of subrogation against any former or present **Employee**, unless the **Insurer** shall have made a payment brought about or contributed to by any act or omission of the **Employee** or former **Employee** which was dishonest, fraudulent or malicious or the **Employee** or former **Employee** conspired to commit or condoned any such dishonest, fraudulent or malicious act.

5. Duty to advise Insurers of material changes

If the **Insured** becomes aware that any of the information that the **Insured** has given to the **Insurers** either in the **Application** or elsewhere in connection with the **Insured's** application for this insurance has materially changed then the **Insured** must advise **Insurers** as soon as is practicable.

In this event, **Insurers** reserve the right to amend the terms, conditions or premium of this Policy.

6. Fraudulent claims

If the **Insured** shall submit any claim knowing the same to be false or fraudulent as regards amount or otherwise this Policy shall become void and all claims hereunder shall be forfeited.

7. Invalidity

If any provision of this Policy is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable this will not affect the other provisions of this Policy which will remain in full force and effect.

8. Non-disclosure

The **Insurer** will not exercise its right to avoid this Policy for reasons of non-disclosure, untrue statements or misrepresentation of facts provided that the **Insured** can establish, to the **Insurer's** satisfaction, that any such non-disclosure, untrue statements or misrepresentation of facts were not made negligently and were also free of any fraudulent conduct or intent to deceive.

In the event that **Insurers** do seek to avoid the Policy or reject any **Claim** on this basis the burden of proving otherwise rests solely with the **Insured**.

9. Notices

Notice shall be deemed to be duly received in the course of post if sent by pre-paid letter post properly addressed to:

a. in the case of the **Insured**, either to the **Insured's** last known address or the last known address of the **Insured's** broker;

b. in the case of the **Insurer**, as stated in the **Declarations**, or to **Insurers** representatives.

10. Other parties

The **Insured** and the **Insurer** are the only parties to this contract and no other person has any rights to enforce any term of this Policy. The **Insured** shall not assign or transfer their rights under the Policy without the written agreement of the **Insurer**.

11. Policy construction and disputes

This Policy shall be interpreted under, governed by and construed in all respects in accordance with the law of the jurisdiction of the place of registration of the **Insured** and for this purpose, both the **Insurers** and the **Insured** agree to submit to the exclusive jurisdiction of the courts within the territorial limits and jurisdiction of the place of registration of the **Insured**.

12. International sanctions clause

The **Insurer** will not provide cover, be liable to pay any claim or provide any benefit if to do so would expose the **Insurer** (or any parent company, direct or indirect holding company of the **Insurer**) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to the **Insurer**), arising out of any trade and economic sanctions laws or regulations which are applicable to it.

13. Subscribing Insurers

The **Insurers** obligations under this policy are several and not joint and are limited solely to the extent of their individual subscriptions. The **Insurers** are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

14. Separation of Insureds / Cross Liability

Except with respect to the **Limit of liability** and any rights or duties specifically assigned to the **Insureds**, cover shall apply in the same manner and to the same extent as if a separate Policy had been issued to each **Insured**.

Claims Conditions

1. Claim/circumstance notification

1.1 Notification Requirements

a. (Section 1 – Errors and Omissions)

the **Insured** shall inform the **Insurer** or their representatives as soon as reasonably possible of the receipt, awareness or discovery during the **Period of insurance** of:

i. any **Claim** made against them;

ii. any notice of intention of a **Claim** against them;

iii. any **Circumstance**;

iv. the discovery of reasonable cause for suspicion of dishonesty or fraud;

provided always that such notification is received by the **Insurer** before the expiry of the **Period of insurance,** or, if applicable before the end of the extended reporting period.

Such notice having been given as required in ii., iii. or iv. above, any subsequent **Claim** made shall be deemed to have been made during the **Period of insurance**.

If the **Insured** has neglected, through error or oversight only, to report a **Claim** or a **Circumstance** that the **Insured** became aware during the period of insurance relating to the Policy immediately preceding this Policy and that such preceding Policy was issued by the **Insurers** to the same **Insured** then provided that the **Insured** has maintained uninterrupted insurance of the same type with the **Insurers** since the expiry of that earlier Policy, then, notwithstanding Exclusion 29 the **Insurers** will permit the matter to be reported under this Policy and will cover the **Insured** provided that:

i) cover will be subject to the applicable aggregate limit of liability of the earlier Policy under which the matter should have been reported or the aggregate **Limit of liability** of this Policy, whichever is the lower; and

ii) **Insurers** may reduce any payment entitlement by the monetary equivalent of any prejudice which has been suffered as a result of the delayed notification; and

iii) the cover will be subject to all of the terms, conditions and exclusions (other than as stated in i) above) contained in this Policy;

b. (Section 2 – Commercial General Liability)

The **Insured** shall give written notice to the **Insurer** or their representative as soon as reasonably possible of the receipt, awareness or discovery of any occurrence that may give rise to a claim under Section 2.

1.2 The **Insured** shall not, in the event of a **Claim** or loss, or the discovery of information which may give rise to a **Claim** or loss, admit liability for or settle any **Claim** or loss, or incur any costs or expenses in connection therewith, without the written consent of the **Insurer**;

1.3 The **Insured** shall, as soon as practicable given the circumstances, give all such information and assistance as the **Insurer** may require and provide their full co-operation in the defence or settlement of any such **Claim** or loss or relating to the recovery or subrogation process of any settled **Claim** or loss;

1.4 The **Insured** shall not destroy evidence, supporting information or documentation without the Insurer's prior consent; nor destroy any Deliverables or other property relating to a Claim or loss under this Policy;

Every letter relating to a **Claim** or loss, summons or process and all documents relating thereto and any other written notification of **Claim** or loss shall be forwarded, unanswered, to the **Insurer** immediately they are received;

1.5 The **Insured** shall, upon request by **Insurers**, provide a full list of cease and desist notices within 30 days of any such request. However, neither the receipt by the **Insured** nor the declaration or notification of any such notices to Insurers shall constitute a valid **Claim** or **Circumstance** under this Policy.

2. Conduct of claims

2.1 Following successful notification under Condition 1 above, the **Insurer** shall have a duty to defend such **Claim** or loss and have the right, at its own expense, to take over and, within its sole discretion, to conduct in the name of the **Insured** the defence and settlement of any such **Claim** or loss.

2.2 The **Insurer** will not settle or compromise any **Claim** or loss without the consent of the **Insured**. If, however, the **Insured** refuses to consent to a settlement or compromise recommended by the **Insurer** and elects to contest such **Claim** or loss or continue legal proceedings

in connection with such **Claim** or loss, then the **Insurer's** liability shall not exceed the amount for which the **Claim** or loss could have been so settled plus **Defence costs and expenses** incurred up to the date of such refusal subject always to the **Limit of liability.**

Notwithstanding the above the **Insurer** may at any time in connection with any claim, pay to the **Insured** the **Limit of liability** (after deduction of any sums already paid) and upon such payment being made the **Insurer** shall relinquish the conduct and control of and have no further liability in connection with the claim. For the avoidance of doubt the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which any such payment is made.

3. Multiple Claims from a single source

Under Section 1, all **Claims** and **Circumstances** which arise from the same original cause or event, a single source or a repeated or continuing problem in the **Insured's** work will be treated as a single **Claim** or **Circumstance** regardless of the number of persons claiming against the **Insured**. This includes such **Claims** and **Circumstances** arising after, as well as during, the **Period of insurance**.

4. Dishonest or fraudulent act or omission

Under Section 1, in the event of a **Claim** which involves the dishonest, fraudulent or malicious act or omission of any former or present **Employee** the **Insured** shall take all reasonable action (including legal proceedings) to obtain reimbursement from the **Employee** concerned (and from any **Employee** who may have conspired to commit or have condoned such act) or from the estate or legal representatives of such **Employee**. Any monies which but for such dishonest, fraudulent or malicious act or omission would be due to such **Employee** from the **Insured** or any monies held by the **Insured** for such **Employee** shall be deducted from any amount payable under this Policy.

Notice

Due to the nature of the coverage offered by this Policy, any unreasonable breach or breaches of Claims Condition 1 may result in the size of a **Claim** or loss increasing or to **Insurers** rights being restricted or a **Claim** or loss arising that might otherwise have been avoided. **Insurers** shall not be liable for that portion of any **Claim** or loss that is due to any such breach or breaches.

Notice concerning personal information

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/mandataires, and to certain non-related or unaffiliated organisations or companies, including service providers. These entities may be located outside Canada therefore a customer's information may be processed in a foreign jurisdiction (the United Kingdom and the European Union) and their information may be accessible to law enforcement and national security authorities of that jurisdiction.

To obtain written information about Lloyd's policies and practices in respect of service providers located outside Canada, please contact the Ombudsman at info@lloyds.ca who will also answer customer's questions about the collection, use, disclosure or storage of their personal information by such Lloyd's service providers.

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, 1 877 455 6937, or through info@lloyds.ca

Ontario Commercial Liability Notice

Notice to Insureds:

Pursuant to the Freedom Of Information And Protection Of Privacy Act, R.S.O. 1990, c.F.31 (as amended).

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 customised 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, 17th Floor

Box 85, North York, Ontario M2N 6L9

Telephone: (416) 250-7250

Fax: (416) 590-7070

FOI (11/1999)

Lloyd's Underwriters Policyholders Complaint Protocol

Lloyd's strives to enhance your customer experience with us through superior service and innovative insurance products.

We have developed a formal complaint handling protocol in accordance with the Insurance Companies Act of Canada to ensure your concerns as our valued customer are addressed expeditiously by our representatives. This protocol will assist you in understanding the steps we will undertake to help resolve any dispute which may arise with our product or service. All complaints will be handled in a professional manner. All complaints will be investigated, acted upon, and responded to in writing or by telephone by a Lloyd's representative promptly after the receipt of the complaint. If you are not satisfied with our products or services, you can take the following steps to address the issue:

i) Firstly, please contact the broker who arranged the insurance on your behalf about your concerns so that he or she may have the opportunity to help resolve the situation.

ii) If your broker is unable to help resolve your concerns, we ask that you provide us in writing an outline of your complaint along with the name of your broker and your policy number.

Please forward your complaint to:

Lloyd's Underwriters

Attention: Complaints Officer:

1155 rue Metcalfe, Suite 2220

Montréal (Québec) H3B 2V6

Tel: 1-877-455-6937

Fax: (514) 861-0470

E-mail: info@lloyds.ca

Your complaint will be directed to the appropriate business contact for handling. They will write to you within two business days to acknowledge receipt of your complaint and to let you know when you can expect a full response. If need be, we will also engage internal staff in Lloyd's Policyholder and Market Assistance Department in London, England, who will respond directly to you, and in the last stages, they will issue a final letter of position on your complaint.

In the event that your concerns are still not addressed to your satisfaction, you have the right to continue your pursuit to have your complaint reviewed by the following organizations:

General Insurance OmbudService (GIO) assists in the resolution of conflicts between insurance customers and their insurance companies.

The GIO can be reached at:

Toll free number: 1-877-225-0446

www.giocanada.org

For Quebec clients:

Autorité des marchés financiers (AMF). The regulation of insurance companies in Quebec is administered by the AMF. If you remain dissatisfied with the manner in which your complaint has been handled, or with the results of the complaint protocol, you may send your complaint to the AMF who will study your file and who may recommend mediation, if it deems this action appropriate and if both parties agree to it. The AMF can be reached at:

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

www.lautorite.qc.ca

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the Financial Consumer Agency of Canada (FCAC).

Financial Consumer Agency of Canada (FCAC) provides consumers with accurate and objective information about financial products and services, and informs Canadians of their rights and responsibilities when dealing with financial institutions. FCAC also ensures compliance with the federal consumer protection laws that apply to banks and federally incorporated trust, loan and insurance companies. The FCAC does not get involved in individual disputes. The FCAC can be reached at:

427 Laurier Avenue West, 6th Floor, Ottawa ON K1R 1B9

Services in English: 1-866-461-FCAC (3222)

Services in French: 1-866-461-ACFC (2232)

www.fcac-acfc.gc.ca

Code of Consumer Rights and Responsibilities

Insurers (including Lloyd's Underwriters), along with the brokers and agents who sell home, auto and business insurance are committed to safeguarding your rights both when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your insurer and the insurance laws of your province. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to your insurer. Your policy outlines other important responsibilities. Insurers and their distribution networks, and governments also have important roles to play in ensuring that your rights are protected.

Right to be informed

You can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how insurers calculate price based on relevant facts. Under normal circumstances, insurers will advise an insurance customer or the customer’s intermediary of changes to, or the cancellation of a policy within a reasonable prescribed period prior to the expiration of the policy, if the customer provides information required for determining renewal terms of the policy within the time prescribed, which could vary by province, but is usually 45 days prior to expiry of the policy.

You have the right to ask who is providing compensation to your broker or agent for the sale of your insurance. Your broker or agent will provide information detailing for you how he or she is paid, by whom, and in what ways.

You have a right to be told about insurers' compensation arrangements with their distribution networks. You have a right to ask the broker or agent with whom you deal for details of how and by whom it is being paid. Brokers and agents are committed to providing information relating to ownership, financing, and other relevant facts.

Responsibility to ask questions and share information

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through one-on-one meetings with your broker or agent. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your broker or agent of any change in your circumstances.

Right to complaint resolution

Insurers, their brokers and agents are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access Lloyd's Underwriters` complaint resolution process for Canada. Your agent or broker can provide you with information about how you can ensure that your complaint is heard and promptly handled. Consumers may also contact their respective provincial insurance regulator for information. Lloyd's is a member of an independent complaint resolution office, the General Insurance OmbudService.

Responsibility to resolve disputes

You should always enter into the dispute resolution process in good faith, provide required information in a timely manner, and remain open to recommendations made by independent observers as part of that process.

Right to professional service

You have the right to deal with insurance professionals who exhibit a high ethical standard, which includes acting with honesty, integrity, fairness and skill. Brokers and agents must exhibit extensive knowledge of the product, its coverages and its limitations in order to best serve you.

Right to privacy

Because it is important for you to disclose any and all information required by an insurer to provide the insurance coverage that best suits you, you have the right to know that your information will be used for the purpose set out in the privacy statement made available to you by your broker, agent or insurance representative. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada’s privacy laws - with respect to their business in Canada.