



INSURANCE FOR ARCHITECTS & ENGINEERS

ProSurance™ A&E

Policy Document

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CFC Underwriting Limited
85 Gracechurch Street
London EC3V 0AA
United Kingdom
T: +44 (0) 207 220 8500
F: +44 (0) 207 220 8501
E: enquiries@cfcunderwriting.com
W: www.cfcunderwriting.com

PREAMBLE

This Policy is a contract of insurance between you and us. Your Policy contains all the details of the cover that we provide, subject always to our receipt of the Premium. This Policy consists of and must be read together with the Declarations and any Endorsements. This Policy is not complete unless it is signed and a Declarations page is attached.

The Sections of this policy are identified by BLUE LINES across the page with WHITE UPPER CASE PRINT. Clause headings in blue UPPER CASE PRINT are for information only and do not form part of the cover given by this Policy. Other terms in bold lower case print are defined terms and have a special meaning as set forth in the DEFINITIONS section and elsewhere. Words stated in the singular shall include the plural and vice versa. However, this protocol does not apply to the STATUTORY CONDITIONS and subsequent Sections.

IMPORTANT: INSURING CLAUSES 1 and 2 provide cover on a claims made basis. Under these INSURING CLAUSES a claim must be first made against the company named as the Insured in the Declarations or any subsidiary during the period of the policy and notified to us during the period of the policy to be covered.

In consideration of the Premium and in reliance upon the information that you have provided to us prior to commencement of this insurance and which is deemed to form the basis of this insurance:

INSURING CLAUSES

INSURING CLAUSE 1: ERRORS & OMISSIONS

SECTION A: PROFESSIONAL LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of any:

- a) negligent act, error or omission, negligent misstatement or negligent misrepresentation;
- b) breach of any contractual term implied by law concerning necessary quality, safety or fitness, or your duty to use reasonable care and skill;
- c) breach of warranty of authority, breach of duty, breach of trust, breach of confidence, misuse of information or breach of privacy;
- d) libel, slander or defamation;
- e) dishonesty of your directors, partners, officers or employees provided that we maintain all rights of subrogation to recover such legal costs and expenses from any director, partner, officer or employee if they are found guilty of such a dishonest act; or
- f) other act, error or omission giving rise to civil liability to your clients but not any breach of contract save as specified above;

committed by you or on your behalf in the course of your business activities. We will also pay costs and expenses on your behalf.

SECTION B: BREACH OF CONTRACT

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim by a client first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of any breach of client contract. We will also pay costs and expenses on your behalf.

SECTION C: INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of your infringement of any intellectual property right in the course of your business activities. We will also pay costs and expenses on your behalf.

SECTION D: POLLUTION LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of:

- a) pollution or contamination of the atmosphere, or of any water, land, buildings or other property;

- b) any enforcement action in connection with the containment, clean-up, removal or treatment of such pollution or contamination.

We will also pay costs and expenses on your behalf.

SECTION E: LOSS OF DOCUMENTS

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of destruction of, damage to, loss or mislaying of your documents or documents in your care, custody or control. We will also pay costs and expenses on your behalf.

SECTION F: COMPUTER VIRUS AND HACKING ATTACK

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy as a direct result of:

- a) any third parties' financial losses arising directly from a hacking attack or virus that has emanated from or passed through your computer systems, or
- b) any third parties' financial losses arising directly from their inability to access your computer systems in the way in which you have authorised them to as a direct result of your computer systems' failure or impairment due to a hacking attack or virus, or
- c) any third parties' financial losses arising directly from the loss or theft of your data or data for which you are responsible or held to be responsible arising directly from a hacking attack or virus.

We will also pay costs and expenses on your behalf.

SECTION G: LOSS MITIGATION

We agree to pay any reasonable costs necessarily incurred by you with our prior written consent in respect of measures taken by you for the sole purpose of avoiding or mitigating a claim or potential claim for which you would be entitled to indemnity under INSURING CLAUSE 1 of this Policy had such measures not been taken.

SECTION H: PAYMENT OF WITHHELD FEES

We agree to pay your withheld fees with our prior written consent in the event that your client brings or threatens to bring a claim against you that would be covered under INSURING CLAUSE 1, SECTIONS A or B for an amount greater than your withheld fees if you attempt to recover the withheld fees from them. Prior to payment of your withheld fees you must obtain written confirmation from your client that they will not bring a claim against you if you agree not to pursue them for your withheld fees and provide it to us.

ALL SECTIONS

We will not make any payment on your behalf under any SECTION of

this **INSURING CLAUSE** in respect of any claim arising directly or indirectly out of injury or damage:

- a) from products or workmanship; or
- b) that did not occur directly as a result of your business activities.

INSURING CLAUSE 2: EMPLOYEE BENEFITS LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during the period of the policy arising out of any negligent act, error or omission committed by you or on your behalf in the administration of your employee benefit program. We will also pay costs and expenses on your behalf.

Furthermore, we agree to pay on your behalf any costs and expenses necessarily incurred with our prior written consent in respect of measures taken by you with the object of avoiding or mitigating a claim for which you would be entitled to indemnity hereunder had such measures not been taken.

INSURING CLAUSE 3: THIRD PARTY LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of accidental injury or damage occurring during the period of the policy in the course of your business activities. We will also pay costs and expenses on your behalf.

However, we will not make any payment on your behalf under this **INSURING CLAUSE** in respect of any claim:

- a) which is covered under **INSURING CLAUSE 1**, or would be covered under **INSURING CLAUSE 1** but for the exhaustion of the limit of liability or aggregate limit of liability of **INSURING CLAUSE 1**;
- b) arising directly or indirectly out of any product.

INSURING CLAUSE 4: PRODUCTS LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of accidental injury or damage occurring during the period of the policy in the course of your business activities in connection with any product. We will also pay costs and expenses on your behalf.

However, we will not make any payment on your behalf under this **INSURING CLAUSE** in respect of any claim which is covered under **INSURING CLAUSE 1**, or would be covered under **INSURING CLAUSE 1** but for the exhaustion of the limit of liability or aggregate limit of liability of **INSURING CLAUSE 1**.

INSURING CLAUSE 5: TENANTS' LEGAL LIABILITY

We agree to pay on your behalf all sums which you become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any claim arising out of accidental damage to premises leased to, hired by, on loan to or held in trust by you or otherwise in your care, custody or control occurring during the period of the policy in the course of your business activities. We will also pay costs and expenses on your behalf.

However, we will not make any payment on your behalf under this **INSURING CLAUSE** in respect of any claim:

- a) which is covered under **INSURING CLAUSE 1**, or would be covered under **INSURING CLAUSE 1** but for the exhaustion of the limit of liability or aggregate limit of liability of **INSURING CLAUSE 1**;
- b) arising directly or indirectly out of any product.

INSURING CLAUSE 6: MEDICAL EXPENSES

We agree to pay medical expenses for injury caused by an accident occurring during the period of the policy:

- a) on premises you own or rent;
 - b) because of your business activities;
- provided that:
- c) 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
 - d) the medical expenses are incurred and notified to us within one year of the date of the accident; and
 - e) the injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

We will make these payments regardless of fault.

INSURING CLAUSE 7: COMMERCIAL PROPERTY

We agree to reimburse you up to the amount insured shown in the Declarations for:

- a) the cost of repairing damage occurring during the period of the policy to your office buildings, including landlord's fixtures and fittings, walls, gates and fences, yards, car parks and pavements, piping, ducting, cables, wires and associated control gear and accessories on the premises and extending to the public mains but only to the extent of your responsibility;
- b) damage occurring during the period of the policy to contents of every description contained in your office;
- c) damage occurring during the period of the policy to contents of every description kept at the home of your directors, officers, partners or employees in the course of your business activities;
- d) damage occurring during the period of the policy to contents of every description temporarily elsewhere, including while in transit; the necessary and reasonable costs you incur following damage occurring during the period of the policy to glass which belongs to you or for which you are legally responsible for:
 - i) temporary boarding up;
 - ii) repair of window frames or removal or replacement of fixtures and fittings in the course of replacing the glass;
 - iii) replacement lettering or other ornamental work and alarm foil on glass;
- f) damage occurring during the period of the policy to money held in the course of your business activities:
 - g) in the office during business hours, in transit or in a Bank Night Safe;
 - h) in the office outside business hours in a locked safe;
 - i) at the home of your directors, officers, partners or employees;
 - j) damage occurring during the period of the policy to the personal belongings of your employees or visitors to the office provided they are not covered under any other insurance;
- k) the reasonable cost of compiling the documents, books of account, drawings, card index systems or other records including film, tape, disc, drum, cell or other magnetic recording or storage media for electronic data processing that you need to continue your business activities if these items have been lost or distorted as a direct result of damage covered under this **INSURING CLAUSE**;
- l) the costs you incur to replace locks and keys necessary to maintain the security of your office or safes following theft of keys involving force and violence occurring during the period of the policy;
- m) the amount of any rent for the office which you are legally obliged to pay for any period during which the office or any part of it is unusable as a result of damage covered under this **INSURING CLAUSE**.

We also agree to pay:

- a) costs and expenses on your behalf;
- b) compensation as shown in the Declarations if any of your directors, officers, partners or employees who are aged between 16 and 70 on the Inception Date shown in the Declarations suffers an injury in the course of your business activities in a robbery or attempted robbery and suffers:
 - i) death, permanent total disablement, loss of a limb or loss of sight as a direct result of the injury within one year of the date of its occurrence;
 - ii) temporary total disablement. The compensation for temporary total disablement will be the amount shown in the Declarations per week, for a maximum of 104 weeks.

However, we will not pay compensation under more than one heading in the Declarations for the same injury.

INSURING CLAUSE 8: BUSINESS INTERRUPTION

We agree to reimburse you up to the amount insured shown in the Declarations for your loss of income, extra expense, loss of research and development expenditure, project delay costs and accounts receivable resulting solely and directly from an interruption to your business activities caused by:

- a) insured damage to your office or contents of every description or to any other property used by you at your office;
- b) insured damage to property in the vicinity of your office which prevents or hinders your access to your office;
- c) insured damage at the premises of one of your suppliers, other than a supplier of water, gas, electricity or telephone services;

- d) failure in the supply of water, gas, electricity, or telephone services to your office for more than 24 consecutive hours caused by insured damage to any property;
- e) your inability to use your office due to restrictions imposed by a public authority following:
 - i) a murder or suicide;
 - ii) an occurrence of a notifiable human disease;
 - iii) injury traceable to food or drink consumed at your office;
 - iv) vermin or pests at your office.

HOW MUCH WE WILL PAY

The maximum amount payable by us for all claims, losses, damage, costs and expenses and medical expenses shall not exceed the amounts shown in the Declarations in respect of each INSURING CLAUSE unless limited below.

However, solely with respect to any claims under this Policy that shall and must be governed by Quebec law on the scope of our liability, we agree to pay costs and expenses in addition to the Limits of Liability stated in the Declarations.

Where more than one claim or loss arises from the same original cause or single source or event all such claims or losses shall be deemed to be one claim or loss and only one limit of liability shall be payable in respect of the aggregate of all such claims or losses.

Where cover is provided under multiple SECTIONS of INSURING CLAUSE 1 only one Limit of Liability shall be payable in respect of that claim.

In respect of INSURING CLAUSES 1 to 5 we may at any time pay to you in connection with any claim the amount of the aggregate limit of liability or limit of liability (after deduction of any amounts already paid). Upon such payment being made we shall relinquish the conduct and control of and be under no further liability in connection with such claim except for the payment of costs and expenses incurred prior to the date of such payment (unless the aggregate limit of liability or limit of liability is stated to be inclusive of costs and expenses).

In respect of INSURING CLAUSE 7 only:

- a) At our option, we will pay for any damaged property on the following basis:
 - i) for the office, the cost of rebuilding or replacing the damaged property;

- ii) for contents of every description, the cost of repair or replacement as new.
- b) If, at the time the damage occurs, the amount insured is less than 85% of the total value of the office or contents of every description insured, the amount we will pay will be reduced in the same proportion as the amount insured bears to the total value of the office or contents of every description insured.
- c) The amount insured for the office and contents of every description will be adjusted monthly in line with any increase in nationally published indices. We will not reduce the amount insured without your consent.

In respect of INSURING CLAUSE 8 the amount we will pay will be:

- a) the difference between your actual income during the indemnity period and the income it is estimated you would have earned during that period or, if this is your first trading year, the difference between your income during the indemnity period and during the period immediately prior to the loss, less any savings resulting from the reduced costs and expenses you pay out of your income during the indemnity period; and
- b) any additional costs and expenses;
- c) any project delay costs during the indemnity period, including the total value of any milestone payments that were due in the indemnity period but will no longer be received by you either during the indemnity period or at any point in the future due to permanent termination of the project;
- d) any research and development expenditure irrevocably lost during the indemnity period; and
- e) any accounts receivable, provided you keep a record of all amounts owed to you and keep a copy of the record away from your office.

YOUR DEDUCTIBLE

We shall only be liable for that part of each and every claim, loss or medical expenses (which for the purpose of this clause shall be deemed to include all costs and expenses incurred) which exceeds the amount of the Deductible stated in the Declarations. Where more than one claim, loss or medical expenses arises from the same original cause or single source or event all such claims, losses or medical expenses shall be deemed to be one claim, loss or medical expenses and only one

Deductible will apply.

If any expenditure is incurred by us which by virtue of this clause is your responsibility then you shall reimburse such amount to us on our request or where possible we will deduct such amount from any payment we make to you.

DEFINITIONS

1. "Accounts receivable"

means:

- a) all sums due to you from customers, provided you are unable to effect collection thereof as the direct result of insured damage to records of accounts receivable;
- b) interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such insured damage;
- c) collection expense in excess of normal collection cost and made necessary because of insured damage.

2. "Administration"

means:

- a) counseling employees, including their dependants and beneficiaries, with respect to your employee benefit program;
- b) handling records in connection with your employee benefit program;
- c) effecting enrolment or termination of any employee's participation in a plan included in your employee benefit program;

- d) interpreting your employee benefit program.

3. "Aggregate limit of liability"

means the maximum amount payable as stated in the Declarations by us in respect of all claims, or in respect of all accidents giving rise to medical expenses.

4. "Amount insured"

means the maximum amount payable by us as shown in the Declarations in respect of each of INSURING CLAUSES 7 and 8. The amount applies to each incident of loss or damage occurring during the period of the policy provided always that after the first incident of loss or damage you comply with our recommendations to prevent any further incidents of loss or damage.

5. "Breach of client contract"

means your unintentional breach of a written contract relating to the performance of your business activities for a client.

6. "Business activities"

means:

- a) in respect of **INSURING CLAUSE I**, the **business activities** as stated in the Declarations.
- b) in respect of all other **INSURING CLAUSES**, the **business activities** as stated in the Declarations and shall include, for the purpose of those **business activities**:
 - i) the ownership, repair and maintenance of your property;
 - ii) provision and management of canteen, social, sports and welfare organisations for the benefit of your directors, officers, partners or **employees** and medical, fire fighting, and security services;
 - iii) attendance at conferences and tradeshow as either an exhibitor or visitor.

7. **"Claim"**

means a demand received by you for money or services, including the service of suit or institution of arbitration proceedings. "Claim" shall also mean a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction).

8. **"Client"**

means any third party with whom you have a written or implied contract in place for the supply of your **business activities** in return for a fee.

9. **"Contents of every description"**

means the contents of your office used in connection with your **business activities** which are owned by you or for which you are legally responsible, including:

- a) computer and ancillary equipment (including monitors, keyboards, printers and software), television and video equipment, photographic, photocopying, surveying and telecommunications equipment;
- b) documents, briefs, manuscripts, plans, business books, computers systems records and programs;
- c) goods held in trust, stock and samples;
- d) wines, spirits and tobacco kept for entertainment purposes;
- e) works of art or precious metals;
- f) fixed glass in windows, doors and fanlights, glass showcases, glass shelves, mirrors and sanitary fixtures and fittings;
- g) heating oil for the office contained in fixed tanks in the open at the address shown in the Declarations;
- h) tenant's improvements, decorations, fixtures and fittings including, if attached to the building, external signs, aerials and satellite dishes;
- i) pipes, ducting, cables, wires and associated control equipment at the address shown in the Declarations and extending to the public mains.

"Contents of every description" does not include money or the personal belongings of your employees or visitors to the office.

10. **"Costs and expenses"**

means:

- a) in respect of **INSURING CLAUSES I (SECTIONS A to F only)** and 2,
 - i) your legal costs and expenses in the defence or settlement of any claim made against you, and
 - ii) your legal costs and expenses in the defence of any criminal claim made against you, provided that we maintain all rights of subrogation to recover such legal costs and expenses from any director, officer, partner or employee if they are found guilty of such a criminal act, and
 - iii) the cost of bonds to release attachments but without any obligation to furnish these bonds, and
 - iv) interest on that part of any judgment we pay that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the limit of liability.
- b) in respect of **INSURING CLAUSES 3 to 5**,
 - i) your legal costs and expenses in the defence or settlement of any claim made against you, and
 - ii) the cost of bonds to release attachments but without any obligation to furnish these bonds, and

- iii) interest on that part of any judgment we pay that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the limit of liability.
- c) in respect of **INSURING CLAUSES 7 and 8**, the costs and expenses incurred by you or on your behalf in establishing that you have sustained a loss or damage and the quantum of such loss or damage or the costs and expenses incurred by you or on your behalf in mitigating any such loss or damage.
- d) in respect of **INSURING CLAUSE 7** only, the necessary and reasonable costs and expenses you incur to remove debris from the premises or the area immediately adjacent, following damage covered under this **INSURING CLAUSE**.

Subject to all costs and expenses being incurred with the Claims Managers' written consent (such consent not to be unreasonably withheld).

If costs and expenses are shown in the Declarations to be in addition to the aggregate limit of liability or limit of liability in respect of any of **INSURING CLAUSES 1 to 5**, and if a payment in excess of the amount of indemnity available hereunder has to be made to dispose of any claim or number of claims, our liability for such costs and expenses shall be such proportion thereof as the amount of indemnity available hereunder bears to the amount required to dispose of such claim or claims.

Costs and expenses are always included in the amount insured in respect of **INSURING CLAUSES 7 and 8**.

11. **"Damage/damaged"**

means direct physical damage to, or destruction of, or loss of possession of, or loss of use of, tangible property. In respect of **INSURING CLAUSES 1, 3 and 4** damage does not include damage to or destruction of, or loss of possession of, or loss of use of, or corruption of, data.

12. **"Documents"**

means deeds, wills, agreements, maps, plans, records, books, letters, certificates, forms, computer programmes or information stored, written or punched into card or tape or magnetic discs or tapes or any other data media and documents of any nature whatsoever, whether written, printed or reproduced by any other method (other than bearer bonds, coupons, bank notes, currency notes and negotiable instruments).

13. **"Employee"**

means any person employed by the company named as the Insured in the Declarations, or any subsidiary. Employee does not include any director, officer or partner of the company named as the Insured in the Declarations, or any subsidiary.

14. **"Employee benefit program"**

means group automobile insurance, group homeowners insurance, group life insurance, group dental insurance, group health insurance, profit sharing plans, pension plans, early retirement offerings, employee investment subscription plans, Workers' Compensation, Unemployment Insurance, Social Security, Disability Benefit Insurance, travel, savings or vacation plans or any similar benefit programs.

15. **"Extra expense"**

means the necessary and reasonable extra costs and expenses you incur in order to continue your business activities during the indemnity period.

16. **"Hacking attack"**

means any malicious or unauthorised electronic attack including but not limited to any fraudulent electronic signature, brute force attack, phishing, denial of service attack, that has been initiated by any third parties or by any employees and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of computer systems, software and ancillary equipment.

17. **"Income"**

means your total income from your business activities.

18. "Indemnity period"
means the period beginning at the date of the **damage**, or the date the restriction is imposed, and lasting for the period during which **your income** or expenditure is affected as a result of such **damage** or restriction, but for no longer than the number of months shown in the Declarations.
19. "Injury"
means:
a) in respect of **INSURING CLAUSE 1** death, bodily injury, mental injury, illness or disease;
b) in respect of all other **INSURING CLAUSES**:
i) death, bodily injury, mental injury, illness, disease, shock, mental anguish or humiliation; and
ii) false arrest, detention or imprisonment; and
iii) malicious prosecution; and
iv) wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies.
20. "Insured damage"
means **damage** to property provided that:
a) the **damage** is covered under **INSURING CLAUSE 7**; or
b) an insurer has paid the claim, or has agreed to pay the claim, under any other insurance covering such **damage**.
21. "Intellectual property right"
means any **intellectual property right** including but not limited to trademarks, trade secrets, broadcasting rights, domain names, metatags and copyrights but does not include patents.
22. "Limit of liability"
means the maximum amount payable by us as stated in the Declarations in respect of each **claim** or **loss**, or in respect of each accident giving rise to **medical expenses**.
23. "Loss of a limb"
means loss by physical separation of a hand at or above the wrist, of a foot at or above the ankle, and includes total and irrecoverable loss of use of a hand, arm or leg.
24. "Loss of sight"
means total and irrecoverable loss of sight.
25. "Loss"
means direct financial loss sustained by **you**.
26. "Money"
means cash, bank and currency notes, cheques, travellers' cheques, postal orders, **money** orders, crossed bankers' drafts, current postage stamps, savings stamps and certificates, trading stamps, gift tokens, customer redemption vouchers, company sales vouchers, credit card counterfoils, travellers tickets and contents of franking machines, all belonging to **you**.
27. "Medical expenses"
means reasonable expenses for:
a) first aid administered at the time of an accident;
b) necessary medical, surgical, x ray and dental services, including prosthetic devices;
c) necessary ambulance, hospital, professional nursing and funeral services.
28. "Office"
means the **office space** (including any outbuildings) **you** occupy at the address shown in the Declarations as more fully described in the application form.
29. "Period of the policy"
means the period between the Inception Date shown in the Declarations and the Expiry Date shown in the Declarations or until the Policy is cancelled in accordance with **GENERAL CONDITION 10** of this Policy.
30. "Permanent total disablement"
means disablement which entirely prevents the injured person from attending to any business or occupation for which he is reasonably suited by training, education or experience for 24 calendar months and at the expiry of that period being beyond hope of improvement.
31. "Project delay costs"
means any additional **costs and expenses** incurred by **you** as a direct result of a delay to a project, including the interest charges incurred from any reasonable loan required as a result of a delayed milestone payment.
32. "Product"
means any tangible property (including containers, packaging, labelling or instructions, but explicitly excluding any software, data, or source code) after it has left **your** custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered, processed, cleaned, renovated or repaired by **you** or on **your** behalf in the course of **your business activities**.
33. "Research and development expenditure"
means **your** expenditure on research and development less the cost of reusable materials consumed for the purposes of the research and development.
34. "Subsidiary"
means any company which the company named as the Insured in the Declarations controls through:
a) holding 50% or more of the voting rights, or
b) having the right to appoint or remove 50% or more of its board of directors; or
c) controlling alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights therein.
35. "Temporary total disablement"
means disablement which entirely prevents the injured person from attending to his business or occupation.
36. "Third party"
means any person or company who is not a director, officer, partner or **employee** of the company named as the Insured in the Declarations, or any **subsidiary**.
37. "Virus"
means any malicious software code including but not limited to any logic bomb, Trojan horse or worm that has been introduced by any **third parties** or by any **employees** and that is designed to **damage, destroy, corrupt, overload, circumvent** or impair the functionality of computer systems, software and ancillary equipment.
38. "We/our/us"
means the Underwriters named in the Declarations.
39. "Withheld fees"
means any contractually due fee that **your client** refuses to pay **you**, but excludes any part of the fee that represents **your** profit or mark-up or liability for taxes.
40. "Workmanship"
means any physical **workmanship** in manufacture, fabrication, construction, erection, installation, assembly, alteration, servicing, remediation, repair, demolition or disassembly (including any materials, parts or equipment furnished in connection therewith) by **you**.
41. "Wrongful act"
means any act or event the subject of **INSURING CLAUSE 1** of this Policy for which **you** have purchased coverage.
42. "You/your"
means:
a) the company named as the Insured in the Declarations, or any **subsidiary**, and
b) any past, present or future **employee, trainee, director, officer** or partner of the company named as the Insured in the Declarations or any **subsidiary**.

EXCLUSIONS

We will not

- a) make any payment on your behalf for any claim, or
- b) incur any costs and expenses, or
- c) reimburse you for any loss, damage, legal expenses, fees or costs sustained by you, or
- d) pay any medical expenses.

EXCLUSIONS RELATING TO OTHER INSURANCES:

1. Marine and aviation

arising directly or indirectly from the ownership, possession or use by you or on your behalf of any aircraft, hovercraft, offshore installation, rig, platform or watercraft.

2. Auto

arising directly or indirectly from the ownership, possession or use by you or on your behalf of any motor vehicle or trailer other than injury or damage:

- a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
- b) occurring beyond the limits of any carriageway or thoroughfare and caused by the loading or unloading of any motor vehicle or trailer;
- c) arising out of the use of any motor vehicle or trailer temporarily in your custody or control for the purpose of parking;

provided always that we will not make any payment on your behalf or incur any costs and expenses 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.

3. Project-specific insurance

arising out of any projects for which you have purchased project specific insurance.

4. Product guarantee

for costs incurred in the repair, alteration, reinstatement, inspection, reconditioning or replacement of any product or part thereof and any financial loss consequent upon the necessity for such repair, alteration, reinstatement, inspection, reconditioning or replacement, other than in respect of INSURING CLAUSE 1 when you are legally obliged to pay these sums to a client.

5. Product recall

arising directly or indirectly from the recall of any product or part thereof except for claims made under INSURING CLAUSE 1 where you are legally liable for these costs to a third party as the direct result of a wrongful act committed or alleged to have been committed by you.

6. Employment practices

arising out of or resulting from any employer-employee relations, policies, practices, acts, omissions, any actual or alleged refusal to employ any person, or misconduct with respect to employees.

7. Employers' liability

arising directly or indirectly out of injury to your directors, officers, partners or employees.

However, this EXCLUSION shall not apply to employees on whose behalf contributions are required to be made by you under the provisions of any Workers' Compensation Law in respect of whom liability has been denied by any Workers' Compensation authority.

8. Directors' and Officers'

arising out of any personal liability incurred by your directors or officers when they are acting in that capacity or managing you, or arising from any statement, representation or information regarding your business contained within any accounts, reports or financial statements.

9. Double insurance

for which you are entitled to indemnity under any other insurance except for:

- a) any additional sum which is payable over and above such other insurance, or
- b) any contribution that we are obliged to make by law and that contribution shall be in proportion to the respective limits of liability or amounts insured of the Policies.

EXCLUSIONS RELATING TO THE CONDUCT OF YOUR BUSINESS:

10. Benefit laws

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

11. Circumstances known at inception

arising out of any circumstances or occurrences which could give rise to a claim, loss or damage under this Policy or any accidents giving rise to medical expenses of which you are aware, or ought reasonably to be aware, prior to the Inception Date of this Policy, whether notified under any other insurance or not.

12. Computer failure

in respect of INSURING CLAUSES 7 and 8 only, arising directly or indirectly from loss or distortion of your data or damage to your electrical or mechanical plant resulting from a failure of your computer or ancillary equipment (including monitors, keyboards, printers or software), television or video equipment, photographic, photocopying, surveying or telecommunications equipment. However, we will reimburse you up to the amount insured for damage occurring during the period of the policy to your office computer and ancillary equipment, but only if your office computer and ancillary equipment is subject to a manufacturer's guarantee or a maintenance contract providing free parts and labour in the event of a breakdown.

13. Contractual fines and penalties

for fines and penalties arising from your breach of contract, including any liquidated damages, service credits or associated penalties arising from your failure to perform under a service level agreement

14. Employee benefit program advice

arising directly or indirectly from:

- a) advice given to any person to participate or not to participate in any plan included in your employee benefit program;
- b) the failure of any investment to perform as represented by you.

15. ERISA

arising out of or resulting from your acts related to any pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts; or any violation of any provision of the Employee Retirement Income Security Act of 1974, or any amendment to the Act or any violation of any regulation, ruling or order issued pursuant to the Act.

16. Failure to ensure feasibility of contracts

arising from any contract where before entering into or amending the contract you failed to take reasonable steps to ensure that you could fulfil all your obligations in accordance with the terms of the contract.

17. Faulty workmanship

arising from damage to your property or office caused directly or indirectly by misuse, inadequate or inappropriate maintenance, faulty workmanship, defective design, the use of faulty materials or whilst being cleaned, worked on or maintained.

18. Hazardous devices

arising directly or indirectly from any product which with your 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.

19. Legal Action

where action for damages is brought in a court of law outside the territories specified in the Declarations, or where action is brought in a court of law within those territories to enforce a foreign judgement whether by way of reciprocal agreement or otherwise.

20. Limiting recovery rights

arising directly or indirectly out of your failure to take reasonable steps to ensure that our rights of recovery against any third party are not unduly restricted or financially limited by a specific term in any contract or agreement.

21. Patents

arising out of the actual or alleged infringement of any patent or inducing the infringement of any patent.

22. Retroactive Date

in respect of **INSURING CLAUSES 1 and 2** only, arising out of any actual or alleged wrongful act or negligent act, error or omission committed before the date specified as the Retroactive Date in the Declarations.

23. RICO

for or arising out of any actual or alleged violation of the Organised Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organisation Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal, state or local law, whether such law is statutory, regulatory or common law.

24. SEC

for or arising out of the actual or alleged violation of the Securities Act of 1933, the Securities Exchange Act of 1934, or any similar state or federal law, or any amendment to the above laws or any violation of any order, ruling or regulation issued pursuant to the above laws.

25. Unjust enrichment

in respect of **INSURING CLAUSE 1** only, for that part of any claim that results in you being in a better financial position as a direct result of your wrongful act than you would have been if you had not committed the wrongful act.

26. Water ingress (applicable to British Columbia only)

arising out of, or relating directly or indirectly 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 climatic 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.

27. Wilful or dishonest acts of directors

in respect of **INSURING CLAUSES 1 and 2** only, arising out of any wilful, malicious, reckless or dishonest act or omission by any director, partner or officer of the company named as the Insured in the Declarations or any subsidiary, unless such person had already ceased to be a director, partner or officer of the company named as the Insured in the Declarations and all subsidiaries at the time of their first wilful, malicious, reckless or dishonest act or omission, or unless specifically covered under **INSURING CLAUSE 1 SECTION A (e)**. We will not provide any cover for any director, partner or

officer of the company named as the Insured in the Declarations or any subsidiary who commits, condones or ignores any dishonesty.

GENERAL INSURANCE EXCLUSIONS:

28. 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 unless insurable under the applicable law.

29. Asbestos

arising from or contributed to by the manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials or products containing asbestos, or asbestos fibres or dust, unless arising directly from a wrongful act committed by you:

- a) on or after 1st January 1990, or
- b) on or after the date specified as the Retroactive Date in the Declarations,
- c) whichever is the later, in the course of your business activities.

30. Associated companies

- a) in respect of any claim made by any company firm or partnership in which the company named as the Insured in the Declarations has an executive or financial interest, unless such claim emanates from an independent third party; or
- b) in respect of any claim made by any company firm partnership or individual which has an executive or financial interest in the company named as the Insured in the Declarations or any subsidiary, unless such claim emanates from an independent third party; or
- c) arising out of or resulting from any of your activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the company named as the Insured in the Declarations or any subsidiary; or
- d) in respect of any claim made by or on behalf of the company named as the Insured in the Declarations or any subsidiary.

31. Earthquake

in respect of **INSURING CLAUSES 7 and 8** only, caused by earthquake, except for:

- a) ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment; or
- b) ensuing damage to contents of every description while in transit.

32. Electromagnetic fields

directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.

33. Flood

in respect of **INSURING CLAUSES 7 and 8** only, caused by flood, including waves, tides, tidal waves, or the rising of, the breaking out, or the overflow, of any body of water whether natural or manmade, but this **EXCLUSION** does not apply to:

- a) ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment; or
- b) ensuing damage to contents of every description while in transit.

34. Fines

for fines, penalties, civil or criminal sanctions and for punitive, multiple or exemplary damages unless insurable under the applicable law.

35. Insolvency

arising out of or relating directly or indirectly from your insolvency or bankruptcy, or the insolvency or bankruptcy of any third party. Furthermore, no coverage is provided under **INSURING CLAUSE 8** if you become insolvent or bankrupt.

36. Land or water

arising directly or indirectly from damage to land or water within or

below the boundaries of any land or premises presently or at any time previously owned or leased by you or otherwise in your care, custody or control.

37. **Miscellaneous property exclusions**

in respect of **INSURING CLAUSES 7 and 8** only, arising directly or indirectly from:

- a) wear and tear, inherent defect, rot, vermin or infestation, or any gradually operating cause;
- b) dryness or humidity, being exposed to light or extreme temperatures, unless the **damage** is caused by storm or fire;
- c) coastal or river erosion;
- d) theft from an unattended vehicle unless the item is out of sight;
- e) frost, other than **damage** due to water leaking from burst pipes forming part of the permanent internal plumbing provided the **office** is occupied and in use;
- f) arising directly or indirectly from unexplained loss or disappearance or inventory shortage of your property;
- g) a **hacking attack** or virus.

38. **Nuclear**

arising directly or indirectly from or contributed to by :

- 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.

39. **Pollution**

arising directly or indirectly out of :

- a) pollution or contamination of the atmosphere, or of any water, land, buildings or other property;
- b) any enforcement action in connection with the containment, clean-up, removal or treatment of such pollution or contamination;

but this **EXCLUSION** shall not apply in respect of :

- i) **INSURING CLAUSE 1, SECTION D**; or
- ii) **INSURING CLAUSES 7 and 8** to the backing up of sewers, sumps, septic tanks or drains.

40. **Toxic mould / fungus**

arising directly or indirectly from any loss, injury, damage, costs or expenses, including, but not limited to, losses, damage, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

- a) any fungus, mould, mildew or yeast, or
- b) any spore or toxins created or produced by or emanating from such fungus, mould, mildew or yeast, or
- c) any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any fungus, mould, mildew or yeast, or
- d) any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbours, nurtures, or acts as a medium for any fungus, mould, mildew, yeast or spore or

toxins emanating therefrom,

regardless of any other cause, event, material, product or building component that contributed concurrently or in any sequence to that loss, injury, damage, cost or expense.

However, this **EXCLUSION** shall not apply in respect of **INSURING CLAUSE 1** where the loss, injury, damage, costs or expenses arose directly from a **wrongful act** committed by you in the course of your business activities.

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

Fungus includes, but is not limited to, any plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including moulds, rusts, mildews, smuts and mushrooms.

Mould includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produced moulds.

Spore means any dormant or reproductive body produced by or arising from or emanating out of any fungus, mould, mildew, plants, organisms or microorganisms.

41. **Trade Debt**

arising out of or in connection with any trading losses or trading liabilities incurred by any business managed or carried on by you, or any loss of your profit arising from the loss of any client, account or business.

42. **War and terrorism**

directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the claim, loss, damage, costs and expenses or medical expenses:

- a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) any act of terrorism.

For the purpose of this **EXCLUSION** an act of terrorism means an act, including but not limited to the use of force or violence or the threat thereof, of any person or groups of persons, whether acting alone or on behalf of or in connection with any organisations or governments, committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public, or any section of the public, in fear.

This **EXCLUSION** also excludes claims, losses, damage, costs and expenses or medical expenses of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to a) or b) above.

This **EXCLUSION** does not apply to any claim or loss arising directly from a **hacking attack** or virus.

GENERAL CONDITIONS

I. **What you must do in the event of a claim or loss**

Should any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary become aware of any claim, loss or damage or of any situation that could give rise to a claim or loss or should an allegation, complaint or claim be made or intimated against you, the following obligations must be complied with by you:

- a) You must not admit liability for or settle or make or promise any payment in respect of any claim, loss or damage which may be covered under this Policy. Neither must you incur any costs or expenses in connection with such a claim, loss or damage without our written consent. However, you should arrange for any urgent repairs following damage covered under **INSURING CLAUSE 7** to be done immediately. Before any other repair

work begins we have the right to inspect your damaged property. We will notify you if we intend to do this.

- b) The Claims Managers, as specified in the Declarations, must be notified as soon as is reasonably possible if during the period of the policy:

- i) you suffer any loss or damage that could be covered by this Policy or any allegation, complaint or claim is made or intimated against you, whether verbal or made in writing,
- ii) any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary become aware of the intention of any person to make a complaint allegation or claim against you, whether verbal or in writing. Once notice has been

made to us, we will regard any subsequent claim that may arise as notified under this Policy.

- iii) you become aware of an action of yours that could give rise to a loss, allegation, complaint or claim being made or intimidated against you. Once notice has been made we will regard any subsequent claim that may arise as notified under this Policy.
- iv) you discover reasonable cause for suspicion of fraud or dishonesty whether this could give rise to a claim under this Policy or not and we shall not be liable under this Policy for any claim or loss sustained in consequence of any fraudulent or dishonest act or omission committed after the date of such discovery.

We have nominated the Claims Managers to accept notice on our behalf.

Due to the nature of the coverage offered by this Policy, any unreasonable delay by any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary in notifying the Claims Managers of (i), (ii), (iii) or (iv) above could lead to the size of the claim, loss or damage increasing or to our rights being restricted. We shall not be liable for that portion of any claim that is due to any unreasonable delay in any director, partner, or senior executive officer of the company named as the Insured in the Declarations and any subsidiary notifying the Claims Managers of any claim, loss or damage in accordance with this **GENERAL CONDITION**.

- c) We will expect you to provide us with full and accurate information about any matter that you notify to us under your obligations set out above. Once notice has been made you must give the Claims Managers all the assistance and information that is reasonably required. You must follow their advice and do anything that they reasonably require you to do to avoid, minimise, settle or defend any claim, loss or damage.

If you think a crime has been committed you must report it to the appropriate law enforcement authorities. You must also permit the Claims Managers and any other parties that are appointed by the Claims Managers to notify the appropriate law enforcement authorities of any claim, loss or damage where this action is deemed necessary, and you must comply with the advice given by such authorities.

If any of your computer or ancillary equipment is lost or stolen while it is temporarily removed from the office, we will not make any payment unless you report the loss to the police within 48 hours after you become aware of it.

2. Continuous cover

If you have neglected, through error or oversight only, to report a claim made against you during the period of a previous renewal of this Policy issued to you by us, then provided that you have maintained uninterrupted insurance of the same type with us since the expiry of that earlier Policy, then, notwithstanding **EXCLUSION 11**, we will permit the matter to be reported under this Policy and will indemnify you, provided that:

- a) the indemnity will be subject to the applicable **aggregate limit of liability or limit of liability** of the earlier Policy under which the matter should have been reported or the **aggregate limit of liability or limit of liability** of the current Policy, whichever is the lower;
- b) we may reduce the indemnity entitlement by the monetary equivalent of any prejudice which has been suffered as a result of the delayed notification;
- c) the indemnity will be subject in addition, to all of the terms, **CONDITIONS, DEFINITIONS and EXCLUSIONS**, other than the **aggregate limit of liability or limit of liability**, contained in this current Policy.

3. Fraudulent claims

If you notify us of any claim knowing that claim to be false or fraudulent in any way, we shall have no responsibility to pay that claim

or any other claims under this insurance and the Policy will be treated as if it had not been effected.

4. Agreement to pay claims

We have the right and duty to take control of and conduct in your name the investigation settlement or defence of any claim. We shall also pay on your behalf costs and expenses incurred with our prior written consent (subject to the Limits of Liability and applicable Deductible shown in the Declarations) provided that we shall not

- a) pay for the costs and expenses of any part of a claim that is not covered by this Policy.
- b) incur any costs and expenses in the defence of any claim unless there is a reasonable prospect of success, taking into account the commercial considerations of the costs of defence.

We shall always endeavour to settle any claim through negotiation, mediation or some other form of alternative dispute resolution and shall pay on your behalf the amount so agreed by us and the claimant. If we cannot settle by such means, we shall pay the amount which you are found liable to pay either in court or through arbitration proceedings, subject always to the limit of liability shown in the Declarations.

If you refuse to consent to a settlement that we recommend and that the claimant will accept, you must then defend, investigate or settle the claim at your own expense. As a consequence of your refusal, our liability for any claim shall not be more than the amount that we could have settled the claim for had you consented, plus any costs and expenses incurred prior to the date of such refusal.

5. Innocent non-disclosure

We will not seek to avoid the Policy or reject any claim on the grounds of non-disclosure or misrepresentation except where the non-disclosure or misrepresentation was reckless or fraudulent or you failed to conduct a full inquiry prior to providing the information that forms the basis of this insurance. In the event that we seek to avoid the Policy or reject any claim on this basis the burden of proving otherwise rests solely with you.

6. Your duty to advise us of changes

If you become aware that any of the information that you have given us in the Application Form or elsewhere in connection with your application for this insurance has materially changed then you must advise us as soon as is practicable. In this event, we reserve the right to amend the terms, conditions or premium of the Policy.

7. Risk management conditions

If we attach any additional conditions to your Policy regarding any risk survey or risk management timetable or any other similar conditions then it is your responsibility to ensure that these conditions are complied with by the deadlines shown in the conditions.

8. Our rights of recovery

If any payment is made under this Policy in respect of a claim, loss or damage and there is available to us any of your rights of recovery against any other party then we maintain all such rights of recovery. We shall not exercise these rights against any past, present or future employee, director, officer or partner of the company named as the Insured in the Declarations or any subsidiary, unless such payment is in respect of any wilful, malicious or dishonest acts or omissions. You must do nothing to impair any rights of recovery. At our request you will bring proceedings or transfer those rights to us and help us to enforce them. Any recoveries shall be applied as follows:

- a) first, to us up to the amount of our payment on your behalf including costs and expenses;
- b) then to you as recovery of your Deductible or other amounts paid as compensation or costs and expenses.

9. Waiver of subrogation

Notwithstanding **GENERAL CONDITION 8** above we agree to waive our rights of subrogation against a responsible third party client of yours but only if you and your client have entered into a contract that contains a provision requiring us to do this.

10. Cancellation

This Policy may be cancelled:

- a) by you at any time on request; or
- b) by us if we give you 30 days written notice, or
- c) by us if we give you 15 days written notice, should any amount in default not be paid within 15 days of the due date shown in the Debit Note that accompanies this Policy.

If you give us notice of cancellation in accordance with a) above, the earned Premium shall be computed at pro rata to the number of days that the Policy is in effect subject to a minimum amount of 30% of the Premium.

If we give you notice of cancellation in accordance with b) or c) above, the Premium shall be computed at pro rata to the number of days that the Policy is in effect.

The Policy Administration Fee shall be deemed fully earned upon inception of the Policy.

11. Prior subsidiaries

In respect of **INSURING CLAUSE 1** only, should an entity cease to be a subsidiary after the Inception Date of this Policy, cover in respect of such entity shall continue as if it was still a subsidiary, until the termination of this Policy, but only in respect of any claim or loss that arises out of any act, error or omission committed by that entity prior to the date that it ceased to be a subsidiary.

12. Mergers and acquisitions

During the period of the policy, if the company named as the Insured in the Declarations or any subsidiary

- a) purchases assets or acquires liabilities from another entity in an amount greater than 10% of the assets of the company named as the Insured in the Declarations as listed in its most recent financial statement; or
- b) acquires another entity whose annual revenues are more than 10% of the annual revenues of the company named as the Insured in the Declarations for their last completed financial year;

then you shall have no coverage under this Policy for any claim, loss or damage that arises directly or indirectly out of the purchased or acquired entity unless the company named as the Insured in the Declarations gives us written notice prior to the purchase or acquisition, obtains our written consent to extend coverage to such additional entities, assets or exposures, and agrees to pay any additional premium required by us.

If during the period of the policy the company named as the Insured in the Declarations consolidates or merges with or is acquired by another entity, then all coverage under this Policy shall terminate at the date of the consolidation, merger or acquisition unless we have issued an endorsement extending coverage under this Policy, and the company named as the Insured in the Declarations has agreed to any additional premium and terms of coverage required by us.

13. Extended reporting period

In respect of **INSURING CLAUSES 1 and 2** only, an Extended Reporting Period of 60 days following the Expiry Date as shown in the Declarations shall be automatically granted hereunder at no additional premium. Such Extended Reporting Period shall cover claims first made and reported to us during this 60 day Extended Reporting Period but only in respect of any act, error or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the policy. No claim shall be accepted by us in this 60 day Extended Reporting Period if you are entitled to indemnity under any other insurance, or would have been entitled to indemnity under such insurance but

for the exhaustion thereof.

14. Optional extended reporting period

In respect of **INSURING CLAUSES 1 and 2** only, in the event of:

- a) cancellation or non-renewal of this Policy by us, or
- b) cancellation or non-renewal of this Policy by you because you have ceased to trade as the direct result of the retirement or death of all of your directors, officers or partners;

then you shall have the right, upon payment of the Optional Extended Reporting Period Premium shown in the Declarations in full and not proportionally or otherwise in part, to have issued an endorsement providing a 365 day Optional Extended Reporting Period from the cancellation or non-renewal date. Such Optional Extended Reporting Period shall cover claims first made against the company named as the Insured in the Declarations or any subsidiary and notified to us during this Optional Extended Reporting Period but only in respect of any claim arising out of any act, error or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the policy.

In order for you to invoke the Optional Extended Reporting Period option, the payment of the Optional Extended Reporting Period Premium shown in the Declarations for this Optional Extended Reporting Period must be paid to us within 15 days of the date of the non-renewal or cancellation.

At the commencement of this Optional Extended Reporting Period the entire premium shall be deemed earned and in the event that you terminate the Optional Extended Reporting Period for any reason prior to its natural expiration, we will not be liable to return any premium paid.

The right to the Extended Reporting Period or the Optional Extended Reporting Period shall not be available to you where:

- a) Cancellation or non-renewal by us is due to non-payment of premium, or
- b) Cancellation or non-renewal by us is due to your failure to pay such amounts in excess of the applicable Limit of Liability or within the amount of the applicable Deductible as is required by this Policy in the payment of claims.

At the renewal of this Policy, our quotation of different premium, Deductible or Limit of Liability or changes in policy language shall not constitute non-renewal by us for the purposes of granting this Optional Extended Reporting Period.

In no event shall the granting of the Extended Reporting Period or the Optional Extended Reporting Period increase our Limit of Liability, including costs and expenses, as shown in the Declarations.

15. Choice of law

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 company named as the Insured in the Declarations and for this purpose, we and you agree to submit to the exclusive jurisdiction of the courts within the territorial limits and jurisdiction of the place of registration of the company named as the Insured in the Declarations.

In any action to enforce our obligations under this Policy we can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on Lloyd's Underwriters liable under this Policy as if we had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is 1155, rue Metcalfe, Suite 2220, Montreal, Quebec, H3B 2V6.

STATUTORY CONDITIONS**1. Misrepresentation**

If a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known

to the Insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. **Property of others**
Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured therein is stated in the contract.
3. **Change of interest**
The Insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act or change of title by succession, by operation of law, or by death.
4. **Material change**
Any change material to the risk and within the control and knowledge of the Insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the Insured in writing that, if he desires the contract to continue in force, he must within fifteen (15) days of the receipt of the notice, pay to the Insurer an additional premium; and in default of such payment the contract is no longer in force and the Insurer shall return the unearned portion, if any, of the premium paid.
5. **Termination**
 1. This contract may be terminated:
 - a) by the Insurer giving to the Insured fifteen (15) days' notice of termination by registered mail or five (5) days' written notice of termination personally delivered;
 - b) by the Insured at any time on request.
 2. Where this contract is terminated by the Insurer:
 - a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but in no event, shall the pro rata premium for the expired time be less than any minimum retained premium specified; and
 - b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
 3. Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time, be deemed to be less than any minimum retained premium specified.
 4. The refund may be made by money, postal or express company money order or cheque payable at par.
 5. The fifteen (15) days mentioned in clause (1) (a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.
6. **Requirements after loss**
 1. Upon the occurrence of any loss of or damage to the insured property, the Insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of Conditions 9, 10 and 11:
 - a) forthwith give notice thereof in writing to the Insurer;
 - b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
 - i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes,
 - iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the Insured,
 - iv) showing the amount of other insurance and the names of other Insurers,
 - v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
 - vii) showing the place where the property insured was at the time of loss,
 - c) if required give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
 2. The evidence furnished under Clauses 1 (c) and (d) of this condition shall not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.
7. **Fraud**
Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.
8. **Who may give notice and proof**
Notice of loss may be given, and proof of loss may be made, by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.
9. **Salvage**
 1. The Insured in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to any such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
 2. The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the Insured and required under subparagraph 1 of this condition according to the respective interests of the parties.
10. **Entry, control, abandonment**
After loss or damage to insured property, the Insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and after the Insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer is not entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.
11. **Appraisal**
In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the Insurance Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specified demand therefor is made in writing and until after proof of loss has been delivered.
12. **When loss payable**
The loss is payable within sixty (60) days after completion of the proof of loss, unless the contract provides for a shorter period.
13. **Replacement**
 1. The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.
 2. In that event the Insurer shall commence to so repair, rebuild or replace the property within forty-five (45) days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

14. Action

Every action or proceeding against the Insurer for the recovery of any claim under or by virtue of this contract is absolutely barred unless commenced within one year next after the loss or damage

occurs.

15. Notice

Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agent or head office of the Insurer in the

PRIVACY NOTICE

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

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

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

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

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.B, section 101(1).

Principal purpose for which personal information is intended to be used
Information collected by insurers from insureds or supplied to insurers
pertaining to the attached document will be used:

- to compile aggregate statistical data to be used in monitoring trends in the insurance industry;

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

The Public Official who can answer questions about the collection is:

Manager, Statistical Services
 Financial Services Commission of Ontario
 5160 Yonge Street, 17th Floor
 Box 85
 North York, Ontario M2N 6L9
 Telephone: (416) 250-7250
 Fax: (416) 590-7070

FOI (11/1999)

COMPLAINTS PROCEDURE

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

OR

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

GIO - Atlantic Provinces

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

GIO - British Columbia & Yukon

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

GIO - Ontario

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

GIO - Prairies, Northwest Territories & Nunavut

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

Province of Québec

GIO
 (514) 288-6015

Toll-free: 1-800-361-5131
 Website: www.gio-scad.org

OR

Autorité des marchés financiers (l'Autorité)

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

GIO - Alberta

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

For more information or to submit the facts of your insurance-related dispute, please visit the GIO website at www.gio-scad.org.

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

Lloyd's Canada Inc.
 Broker Management Services
 1155 rue Metcalfe, Suite 2220
 Montreal, Quebec H3B 2Y6
 Tel: 1-877-4LLOYDS
 Fax: (514) 861-0470
 E-mail: lineage@lloyds.ca

Your written complaint will be forwarded to Lloyd's Complaints Department in London which ensures that Lloyd's Underwriters and their representatives deal with claims and complaints in an acceptable manner. It acts as an impartial mediator. When undertaking a review this Department takes account of general legal principles, good insurance practice, and whether all events surrounding a given case have been considered fairly.

If you are dissatisfied with Lloyd's final letter, you may ask the GIO to arrange for mediation. Mediation is not available until Lloyd's has issued its final letter of position on your complaint.

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

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

SUBSCRIPTION NOTICE

IN CONSIDERATION OF THE INSURED having paid or agreed to pay each of the INSURERS named in the List of Subscribing Companies forming part hereof, or to INSURERS whose names are substituted therefor or added thereto by endorsement, hereinafter called "THE INSURERS", the Premium set against its name in the List of Subscribing Companies (attached hereto),

THE INSURERS SEVERALLY AND NOT JOINTLY agree, each for the Sum(s) Insured or Percentage(s) and for the Coverage(s) Insured set against its name in the List of Subscribing Companies, and subject always to the terms and conditions of this Policy, that if a loss occurs for which insurance is provided by this Policy at any time while it is in force, they will indemnify the INSURED against the loss so caused; the liability of each insurer individually for such loss being limited to that proportion of the loss payable according to the terms and conditions of this Policy which the Sum Insured or the amount corresponding to the Percentage set against its name in the List of Subscribing Companies, or such other sum or percentage as may be substituted therefor by endorsement, bears to

the total of the sums insured or of the amounts corresponding to the percentages of the sums insured respectively set out against the coverage concerned on the Declarations page(s).

Wherever in this Policy, or in any endorsement attached hereto, reference is made to "The Company", "The Insurer", "This Company", "we", "us", or "our", reference shall be deemed to be made to each of the Insurers severally.

This policy is made and accepted subject to the foregoing provisions, and to the other provisions, stipulations and conditions contained herein, which are hereby specially referred to and made a part of this Policy, as well as such other provisions, agreements or conditions as may be endorsed hereon or added hereto.

IN WITNESS WHEREOF THE INSURERS through their representative(s) duly authorized by them for this purpose have executed and signed this Policy.

A&E



INSURANCE FOR ARCHITECTS & ENGINEERS



CFC Underwriting Limited
85 Gracechurch Street
London EC3V 0AA
United Kingdom
T: +44 (0) 207 220 8500
F: +44 (0) 207 220 8501
E: enquiries@cfunderwriting.com
W: www.cfunderwriting.com