

PERSONAL UMBRELLA LIABILITY

AGREEMENT

"We" provide the insurance described in this policy, subject to the terms and conditions of this policy, for the term for which "you" have paid the premium.

The "Declaration Page" states the limit and the term of the insurance "we" have agreed to provide.

DEFINITIONS:

"**Automobile(s)**" means as described in the "underlying insurance" listed on the automobile policy "Declaration Page".

"**Business**" means any full time or part time pursuit undertaken for financial gain including a trade, profession or occupation.

"**Data**" means representations of information or concepts, in any form.

"**Data Problem**" means:

- (1) erasure, destruction, corruption, misappropriation or misinterpretation of "Data";
- (2) error in creating, amending, entering, deleting or using "Data"; or
- (3) inability to receive, transmit or use "Data"; or
- (4) damage to electronic "data" processing equipment or other related component system, process or device.

"**Declaration Page**" means the Section of "your" Insurance policy containing basic information such as "your" name and address, coverages, premiums and limits of "our" liability and the insured location(s) as well as the Schedule of "Underlying Insurance".

"**Fungi**" includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic, or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any "Fungi" or "Spores" or resultant mycotoxins, allergens or pathogens.

"**Legal Liability**" means responsibility which courts recognize and enforce between persons who sue one another.

"**Occurrence(s)**" means an accident or a happening or event, including continuous or repeated exposure to conditions, which results during this policy term in "personal injury" or "property damage" neither expected nor intended from the standpoint of the Insured. All injury, loss or damage from continuous or repeated exposure to the same general conditions will be considered due to one and the same "occurrence".

"**Personal Injury**"

- (1) Bodily injury, sickness, disease, disability, shock, mental anguish and mental injury;
- (2) False arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution or humiliation;
- (3) Libel, slander, defamation of character or invasion of rights of privacy;

Including death resulting therefrom, sustained by any person.

"**Property Damage**" means damage to or destruction of tangible property including loss of use of same.

"**Residence Employee**" means a person employed by "you" to perform duties in connection with the maintenance or use of the insured "premises". This includes persons who perform household or domestic services or duties of a similar nature for "you". This does not include persons while performing duties in connection with "your" "business" or farming operation.

"**Recreational Motor Vehicle**" means a land motor vehicle, amphibious vehicle, or air cushioned vehicle not subject to motor vehicle registration laws for public road use and which is designed for recreational use off public roads.

"**Retained Limit**" means the amount "you" will pay on any loss covered by this policy but which is not covered by the "underlying insurance" and applies to the first \$500 of any such loss; or amount as shown on the "Declaration Page"; or as otherwise stated under Limit of Liability section of this policy.

"**Spores**" includes, but is not limited to, any reproductive particle or microscopic fragment produced by, emitted from or arising out of any "fungi".

"**Student**" means any "student" insured by this policy, who is temporarily living away from home for the purpose of attending a school, college or university. The "student" must be dependent on the Named Insured or his or her "spouse" for support and maintenance in order for coverage on this policy to extend to him/her.

"**Terrorism**" means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group(s), organization(s) or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public.

"**Ultimate Net Loss**" means the sum actually paid or payable in cash in the settlement or satisfaction of losses for which "you" are liable either by adjudication or compromise with "our" written consent, after making proper deduction for all recoveries and salvages collectible, but excludes all loss expenses and legal expenses (including attorney's fee, court costs and interest on any judgement or any reward) and all salaries of employees and the office expenses of "you", "us" or any underlying insurer.

"**Underlying Insurance**" means:

- (1) the insurance provided by the policy to which this coverage attaches; and

- (2) the insurance provided by the policies listed in the Schedule of "Underlying Insurance" as referenced on the "Declaration Page".

"You" and "Your" means the person(s) named as Insured on the "Declaration Page" and,

- (1) while living in the same household, his or her "spouse", the relatives of either or any person under the age of 21 in their care.
- (2) This also includes any "student" insured by this policy, who is temporarily living away from home for the purpose of attending a school, college or university.
- (3) any person or organization legally liable for damages caused by a watercraft or animal owned by "you", and to which this insurance applies. This does not include anyone using or having custody of the watercraft or animal in the course of any "business" or without "your" permission;
- (4) a "residence employee" while performing their duties for "you";
- (5) "your" legal representative having temporary custody of the insured "premises", if "you" die while insured by this policy, for "legal liability" arising out of the insured "premises";
- (6) any person who is insured by this policy at the time of "your" death and who continues residing on the insured "premises";

Only the person named on the "Declaration Page" may take legal action against "us".

"We", "Us" or "Our" means the Company or Insurer providing this insurance.

INSURING AGREEMENTS

COVERAGE:

"We" agree, subject to all the exclusions, conditions, definitions and other terms of this policy, to pay on "your" behalf the "ultimate net loss" in excess of the applicable "underlying insurance" or "retained limit" shown on the "Declaration Page" of this policy, which "you" shall become legally obligated to pay as compensatory damages because of "personal injury" or "property damage" caused by an "occurrence". This insurance applies only to an "occurrence" which takes place during the policy period indicated on the "Declaration Page".

AUTOMOBILE COVERAGE:

"You" are insured only if an "underlying" automobile insurance policy is listed on the "Declaration Page" of this policy for the following:

With respect to any excess automobile liability insurance provided by this policy and notwithstanding any other provisions, this excess automobile liability insurance shall be subject to and covered by the Excess Automobile Liability Endorsement (S.P.F.7), as approved by the Superintendent of Insurance in the jurisdiction in which this policy is issued.

"We" agree to extend this policy to include the coverage provided by the S.E.F./O.P.C.F. No. 44 Family Protection Endorsement as approved by the Superintendent of Insurance in the jurisdiction in which this policy is issued, but only if "you" maintain that coverage on "your" "underlying" automobile insurance policy with a limit of not less than \$1,000,000.

"We" cover damages for "personal injury" "you" are legally entitled to receive from the owner or operator of an uninsured or underinsured "automobile" if the "personal injury" is caused by an "occurrence" during the policy term, "we" cover these damages in excess of any "underlying insurance", subject to the Limits of Liability shown on the "Declaration Page" of this policy. The most "we" will pay under this coverage for any one "occurrence" is the Limit of Liability shown on the "Declaration Page" of this policy, regardless of the number or type of "automobiles" listed on the "underlying" automobile insurance "Declaration Page" and "we" will not pay more than this amount in any one "occurrence", regardless of how many claimants or "automobiles" are involved in the "occurrence".

If a loss arises from use or operation of an "automobile" outside Canada or the United States of America, such loss will be subject to the laws, regulations, policies, terms, conditions and exclusions in respect to ownership, use and/or operation of "automobiles", applicable to the jurisdiction where the loss occurs. Such laws may restrict or limit the coverage provided in this policy.

AUTOMATIC COVERAGE FOR ADDITIONAL EXPOSURES

Should "you" acquire any additional residence premises, "automobiles", "recreational motor vehicle", watercraft or rented dwellings that are insured by an "underlying insurance" policy, as shown on the "Declaration Page" of this policy, during the term of this policy, "you" shall report such acquisitions to "us" promptly.

"We" will extend the Insuring Agreements to include these additional exposures, as of the date of acquisition, on the condition that the "underlying insurance" with minimum limits of liability of \$1,000,000 is in force. If "you" do not advise "us" of any additional exposures prior to the next policy expiry date of this policy, this automatic coverage will cease on that date even if this policy is renewed.

DEFENSE, SETTLEMENT AND SUPPLEMENTARY PAYMENTS

With respect to any "occurrence" not covered by the required "underlying insurance" or any other "underlying insurance" collectible by "you" but insured under this policy, except for the amount of "retained limit" shown on the "Declaration Page", "we" will:

- (1) defend any law suit seeking compensatory damages against "you" alleging unintentional "personal injury" or "property damage" and that is not subject to any exclusion in this policy even if such suit is groundless, false or fraudulent. "We" reserve the right to select legal counsel, investigate, negotiate and settle any claim if "we" decide this is appropriate. "We" will pay only for the legal counsel "we" select.
- (2) pay all costs charged against "you" in any law suit arising from an "occurrence" insured by this policy;
- (3) pay any interest accruing after judgment on that part of the judgment which is within the Limit of Liability under this policy;
- (4) pay premiums for appeal bonds required in any law suit "we" defend involving "you" and for bonds to release any property that is being held as security, up to the Limit of Liability, but "we" are not obligated to apply for or provide these bonds;
- (5) pay expenses which "you" have incurred for emergency medical or surgical treatment to others following an "occurrence" insured by this policy;
- (6) pay reasonable expenses, including actual loss of earnings, not exceeding \$250 per day, which "you" incur at "our" request;

The amount incurred above, except settlements of claims and law suits, is payable by "us" in addition to the applicable Limit of Liability on this policy.

In jurisdictions where "we" may be prevented by law or otherwise from carrying out this agreement, "we" shall pay any expenses incurred with "our" written consent in accordance with this agreement.

"You" shall promptly reimburse "us" for any amount of "ultimate net loss" paid on "your" behalf within the "retained limit" shown on the "Declaration Page".

LIMIT OF LIABILITY

"We" shall be liable only up to the Limit of Insurance shown on this "Declaration Page", for that portion of the "Ultimate Net Loss", which exceeds the greatest of (1), or (2) below:

- (1) The total amount of all Limits of Liability of "Underlying Insurance";
- (2) With respect to any covered claim or suit for which no "underlying insurance" applies,
 - (a) The limit(s) of liability of any other collectible insurance available to the insured, or
 - (b) The retained limit of \$500 if the loss arises out of liability, other than liability arising from the ownership, use or operation of an automobile
 - (c) The retained limit of \$1,000,000 if the loss arises out of the use or operation of any "automobile" outside of Canada or the United States of America.

The Limit of Liability of the "underlying insurance" are applied even if:

- (1) Any action by "you" releases the underlying insurer from any of its duties, or
- (2) The underlying insurer is bankrupt or insolvent.

The Limit of Liability shown on the "Declaration Page" of this policy is the maximum amount we will pay for all compensatory damages in respect of one "occurrence" regardless of the number of insureds against whom the claim is made or action is brought.

This insurance applies separately to each insured against whom the claim is made or action is brought, but this will not act to increase "our" Limit of Liability.

TERRITORY

This policy applies to "occurrences" happening anywhere in the world.

LOSS OR DAMAGE NOT INSURED:

"You" are not insured for any claims arising from:

- (1) "personal injury" or "property damage" arising out of any property for which insurance is not provided by the "underlying insurance" listed in the "Declaration Page" of this policy;
- (2) any claims for uninsured/underinsured motorist coverage(s) or No-fault benefits unless coverage is provided under the underlying insurance;
- (3) "occurrences" for which coverage by an "underlying insurance" policy (whether scheduled or not) has been denied due to a violation of conditions in such a policy;

- (4) "personal injury" to "you" or to any person residing in "your" household other than a "residence employee" as defined in the "underlying insurance";
- (5) "Property Damage" to:
 - (a) Property "you" own, use, occupy, lease, sell, give away or abandon; except as provided by Tenant's "Legal Liability" in the "underlying insurance" policy;
 - (b) Aircraft, watercraft, or "recreational motor vehicles" rented to, used by or in "your" care, custody or control;
 - (c) property in "your" care, custody or control;
 - (d) personal property or fixtures as a result of work done on them by "you" or anyone on "your" behalf;
- (6) "personal injury" or "property damage" caused by any intentional or criminal act or failure to act by:
 - (a) "you";
 - (b) any other person insured by this policy at "your" direction;
 but this exclusion does not apply to "personal injury" resulting from an act committed for the purpose of protecting or safeguarding persons or property;
- (7) "your" "business" or any "business" or farming use of your "premises" or as a result of "your" personal actions, except to the extent that coverage is provided by the "underlying insurance";
- (8) any liability arising out of the ownership, maintenance, use, loading or unloading of any "automobile", watercraft, "recreational motor vehicle", motorized vehicle, or trailer unless coverage is afforded with respect to "underlying insurance" listed in the "Declaration Page" of this policy and then not for broader coverage than is provided by such "underlying insurance";
- (9) The ownership, use or operation of any "recreational motor vehicle" or motorized snow vehicle unless coverage is provided by the "underlying insurance";
- (10) the ownership, use or operation of any aircraft or "premises" used as an airport or landing strip, and all necessary or incidental operations;
- (11) any actual or alleged abuse or molestation, meaning any form of actual or threatened sexual, physical, psychological, mental and/or emotional abuse, molestation or harassment, including corporal punishment, directly or indirectly, by:
 - (a) any person or named insured who is insured by this policy;
 - (b) any person or named insured who is insured by this policy having knowledge of such an activity taking place;
 - (c) any person or named insured who is insured by this policy failing to prevent such activity from taking place;
 - (d) at the direction of any person or any named insured who is insured by this policy.
- (12) the transmission of communicable disease by "you", or arising out of "your" failure to take steps to prevent the transmission or spread of any communicable disease;
- (13) the erasure, destruction, corruption, misappropriation or misinterpretation of "data" or resulting loss of use;
- (14) erroneously creating, amending, entering, deleting or using "data" or resulting loss of use;
- (15) the distribution or display of "data" by means of an Internet website, the internet, an intranet, extranet, or similar device or system designed or intended for electronic communication of "data";
- (16)
 - (a) directly or indirectly from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of "Fungi" or "Spores" however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of "Fungi" or "Spores"; or
 - (b) any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with (a) above; or
 - (c) any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in (a) or (b) above;
- (17) "personal injury" or "property damage" which is also insured under a nuclear energy liability policy issued by the Nuclear Insurance Association of Canada, or any other group or pool of Insurers regardless of exhaustion of such policy limits or its termination;
- (18) "terrorism" or by any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism" regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the claim;
- (19) war, invasion, act of a foreign enemy, hostilities, civil war, rebellion, revolution, insurrection or military power;
- (20) claims due to liability "you" have assumed by contract, except for the "legal liability" of other persons in relation to "your" premises assumed under a written contract, unless "your" "legal liability" would have applied even if no contract had been in force;
- (21) any act or omission by "you" as an officer or a member of the Board of Directors of any corporation or other organization including Condominiums (profit or not-for profit). This exclusion shall not apply to "you" as a member of a non-profit organizations, associations or corporations.
- (22) "personal injury" arising out of: advertising, broadcasting, or telecasting activities by "you" or for "you";
- (23) the rendering or failure to render any professional service;
- (24) Claims due to "personal injury" or "property damage" that arises out of "your" electronic aggression, including but not limited to harassment or bullying committed:
 - (a) by any mean of an electronic forum, including but not limited to a blog, an electronic bulletin board, an electronic chat room, a gripe site, a social networking site, a website, or a weblog; or
 - (b) by other electronic means, including but not limited to e-mail, instant messaging, or text messaging;

- (25) fines, penalties, punitive or exemplary damages, meaning that part of any award by a court which is in excess of compensatory damages and is intended to be a punishment to "you";
- (26) discrimination based on age, race, colour, sex, creed, national origin, material status or any other discrimination;
- (27) Liability imposed upon or assumed by "you" under the following:
 - (a) worker's compensation statute
 - (b) unemployment compensation
 - (c) disability benefits, or
 - (d) any other laws of the jurisdiction of loss;

CONDITIONS

ACTION AGAINST "US"

No action shall lie against "us" unless, as a condition precedent thereto, "you" have fully complied with all terms of this policy nor until the amount of "your" obligation to pay has been finally determined either by judgment against "you" after actual trial or by written agreement between "you", the claimant and "us".

Any person or organization, or the legal representative thereof, who has secured such judgment or written agreement, shall thereafter be entitled to recover under this coverage to the extent of the insurance afforded by this coverage. Nothing contained in this coverage shall give any person or organization any right to join "us" as co-defendant in any action against "you" to determine "your" liability.

All claims will be settled directly with the person(s) named on the "Declaration Page". Only the person(s) named on the "Declaration Page" may make a claim against this policy and may take legal action against "us".

APPEALS

In the event "you" or "your" "underlying insurance" insurer elects not to appeal a judgment in excess of the underlying limits, "we" may elect to make such appeal at "our" cost and expense, and shall be liable for the taxable costs and disbursements and interest incidental thereto, but in no event shall our liability for "Ultimate Net Loss" exceed the limit shown on the "Declaration Page" for any one "occurrence" and in addition the cost and expense of such appeal.

BANKRUPTCY OR INSOLVENCY

"Your" bankruptcy or insolvency or that of "your" estate shall not relieve "us" of any of "our" obligations under this contract.

CANADIAN CURRENCY LAWS

All limits of liability, premiums and other amounts expressed in this policy are in Canadian currency.

CANCELLATION

This policy may be cancelled by "you" at any time upon request by surrender of the policy to "us" or to any of "our" authorized brokers, or by mailing to "us" written notice stating when such cancellation shall be effective.

This policy may be cancelled by "us" by giving to "you" at the address shown on this policy fifteen (15) days' notice of cancellation by registered mail, or five (5) days' written notice of cancellation personally delivered. Proof of mailing will be sufficient proof of notice.

If "you" cancel, earned premium shall be computed in accordance with the customary short rate table and procedure. If "we" cancel, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter. "Our" refund cheque will be mailed to "you" at "your" last known mailing address.

CHANGES

Notice to or knowledge of any Broker, Agent or other person shall not effect a waiver or change any part of this policy nor stop "us" from asserting any right under it. The terms of this policy cannot be waived or changed except by an endorsement issued by "us".

CO-OPERATION

"We" have the right and must be given the opportunity to associate with "you" in the defence and control of any claim, suit or proceeding reasonably likely to involve this policy. "You" are required to:

- (1) help "us" obtain witnesses, information and evidence about the accident or "occurrence";
- (2) cooperate with "us" in the investigation, settlement or defence of any claim or suit;
- (3) promptly send "us" copies of all notices or legal papers related to the accident or "occurrence".

MAINTENANCE OF "UNDERLYING INSURANCE"

"You" agree to maintain in full force and effect during the term of this policy the forms of coverage, for the amounts of insurance as listed, on the "Declaration Page" as "underlying insurance".

Failure to maintain any part or all of the "underlying insurance" for:

- (1) other than "automobile" shall not invalidate this policy, but in the event of any such failure, "we" will be liable only to the same extent, as "we" would have been had "you" maintained the "underlying insurance" listed;
- (2) "automobile", if "you" cancel or allow to lapse the "underlying insurance" there is no protection provided under the Excess Automobile Liability Endorsement (S.P.F.7).

NOTICE OF "OCCURRENCE"

(Notice) Any written notice to "us" may be delivered at, or sent by registered or certified mail to "our" office.

When an accident or "occurrence" takes place and it appears that it may involve liability against anyone insured by this policy written notice must be sent to "us" as soon as practicable, including

- (1) "Your" name and the policy number;
- (2) The time, place and circumstances of the accident or "occurrence";
- (3) The names and addresses of witnesses and potential claimants.

"You" must not, except at "your" own expense:

- (1) Assume any obligation;
- (2) Voluntarily make any payment, or;
- (3) Incur any expense other than for such immediate medical and surgical relief to others as is necessary at the time of the accident or "occurrence".

The delay or failure to give notice as required by the present article is a cause of forfeiture of "your" rights under the policy if the breach of that obligation has caused prejudice to "us".

OTHER INSURANCE

If other collectible insurance with any other Insurer is available to "you" covering a loss also covered by this policy (except insurance specifically purchased and rated to be in excess of this policy), the insurance provided by this policy shall be in excess of and not contribute with such other insurance.

Nothing herein shall be construed to make this policy subject to the terms, conditions and limitations of other insurance.

PRIOR INSURANCE AND NON-ACCUMULATION OF LIABILITY

If any loss covered hereunder is also covered in whole or in part under any other excess policy issued to "you" prior to the inception date hereof, the Limit of Liability shown on the "Declaration Page" shall be excess of any amounts due to "you" on account of such loss under such prior insurance.

"OUR" RECOURSE AGAINST "YOU"

"We" reserve the right to exercise "our" recourse against "you" if "we" have been obliged to pay an indemnity notwithstanding the fact that "you" were not entitled to the benefit of the insurance coverage.

REPRESENTATIONS

By accepting this policy, "you" agree:

- (1) that the following are "your" agreements and representations:
 - (a) statements in the application;
 - (b) statements in the "Declaration Page";
 - (c) statements or any subsequent notice to "us" relating to the "underlying insurance" term.
- (2) that "we" have relied upon the truth of these representations in issuing and continuing this coverage. "You" also agree that this policy contains all agreements that exist between "you" and "us" or any of "our" authorized representatives relating to this insurance.

SUBROGATION

"We" shall be subrogated to the extent of any payment hereunder to all of "your" rights of recovery therefore; and "you" shall do everything necessary to secure such rights. "You" shall do nothing after a loss to prejudice such rights.

ENDORSEMENTS

ENDORSEMENT 1 EXCESS AUTOMOBILE LIABILITY ENDORSEMENT (S.P.F.7)

NOW THEREFORE, IN CONSIDERATION of the payment of the premium specified and of the statements contained in the application and subject to the limits, special provisions and conditions herein stated and subject, insofar as applicable, to the terms, conditions, general provisions, definitions and exclusions set forth in the first loss policy described in Item 5 of the application, which said terms, conditions, general provisions, definitions and exclusions are by reference incorporated herein, the Excess Insurer agrees to indemnify the Insured under the first loss motor vehicle liability insurance against liability imposed by law upon the Insured for an amount or amounts in excess of the limit(s) of the first loss insurance and the underlying excess

insurance for loss or damage arising from the ownership, use or operation of the automobile(s) covered under such first loss insurance and the underlying excess insurance resulting from Bodily Injury to or Death of any Person or Damage to Property.

SPECIAL PROVISION

- (1) The Excess Insurer's ultimate net loss liability shall not exceed the limit stated in Item 4 of the application in excess of the limit(s) of the first loss policy, and the underlying excess policy or policies stated in Item 5 thereof, or such amounts the first loss Insurer and the underlying excess insurer shall be liable to pay under statute, whichever is the greater.

The words "ultimate net loss" used in this policy mean the amount payable in settlement of the liability of the insured after making deductions for all recoveries and for other valid and collectible insurances excepting the first loss and underlying policy(ies) and shall exclude all expenses and costs.

- (2) The word "costs" used in this policy means interest accruing after entry of judgment upon that part of the judgment which is within the limit of the Excess Insurer's liability, investigation, adjustment and legal expenses, excluding, however, all office expenses of the Insured, all expenses of salaried employees of the Insured and general retainer fees for counsel normally paid by the Insured.
- (3) The Excess Insurer agrees to pay costs incurred by or on behalf of the insured where these costs are not covered by the first loss or underlying excess policy(ies), on the following basis:
- (a) should any claim or claims become adjustable prior to the commencement of trial for not more than the first loss and underlying excess policy limit(s) then no costs shall be payable by the Excess Insurer;
 - (b) should, however, the amount for which said claim(s) may be so adjustable exceed the first loss and underlying excess policy(ies) limit(s), then the Excess Insurer shall contribute to the costs incurred on behalf of the insured in the ratio that the Excess Insurer's proportion of the ultimate net loss as finally adjusted bears to the whole amount of such ultimate net loss;
 - (c) in the event that the insured or the Insurer under the first policy loss elects not to appeal a judgment in excess of the limit(s) of the first loss and underlying excess policy(ies) the Excess Insurer may elect to conduct such appeal and shall be liable for the taxable costs and interest incidental thereto: but in no event shall the total liability of the Excess Insurer exceed the final limit of liability stated in Item 4 of the application, plus the expense of such appeal.
- (4) All recoveries or payments recovered or received subsequent to a loss settlement under this policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the insured and the Excess Insurer, provided always that nothing in this policy shall be construed to mean that losses under this policy are not payable until the Insured's ultimate net loss has finally been ascertained.
- (5) Liability to pay under this policy shall not attach unless and until the first loss and underlying excess Insurer(s) shall have admitted liability for the first loss and underlying excess limit(s) or unless and until the Insured has by final judgment been adjudged to pay an amount which exceeds such first loss and underlying excess limit(s) and then only after the first loss and underlying excess insurer(s) has/have paid or has/have been held liable to pay the full amount of the first loss and underlying excess limit(s).
- (6) Neither the inclusion of more than one entity in the name of the Insured nor the addition of any additional Insureds under this policy shall in any way operate to increase the limit of liability set forth in Item 4 of the application.
- (7) Notwithstanding Statutory Condition 3(1) contained in the first loss policy the Insured is only required to give the Excess Insurer notice of any accident if the claim or claims possibly arising therefrom appear likely to exceed the first loss insurance, in which case immediate written notice thereof must be given to the person or firm mentioned in Item 7 of the application.
- (8) (a) This policy may be terminated
- i. by the Excess Insurer giving to the Insured fifteen days notice of termination by registered mail, or five days written notice of termination personally delivered; or
 - ii. by the Insured at any time on request.
- (b) Where this policy is terminated by the Excess Insurer
- i. the Excess Insurer shall refund the excess of the premium actually paid by the Insured over the pro rata premium for the expired time, but in no event shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified; and
 - ii. 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.

- (c) Where this policy is terminated by the Insured the Excess Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
 - (d) The refund may be made by money, postal or express company order, or by cheque payable at par.
 - (e) The fifteen days mentioned in clause (i) of sub-condition (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.
 - (f) Nothing in this special provision shall in any way affect the operation of the statutory provision in The Insurance Act providing that where the contract or contracts designated in the excess contract terminates or is terminated, the excess contract is automatically terminated. In the event that this policy is automatically terminated, the Excess Insurer agrees to refund the excess of premium actually paid over the pro rata premium for the expired term (subject to any minimum retained premium specified) as soon as practicable, but if there is any pro rata premium unpaid the Insured agrees to pay this.
- (9) Any written notice to the Excess Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Excess Insurer in this province. Written notice may be given to the Insured named in this policy by letter personally delivered to him or by registered mail addressed to him at his latest post office address notified to the Excess Insurer. In this condition the expression "registered" means in or outside of Canada.