

## Our promise to you

In return for the premium **you** have paid, **we** agree to insure **you** in accordance with the terms and conditions of this **policy**.

**Vishal Kundi**

CEO, BOXX Insurance Inc.

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## Conditions precedent

**This Policy contains a clause which may limit the amount payable.**

Please read this wording, together with any **endorsements** and the schedule, very carefully. If anything is not correct, please notify **us** immediately.

In return for the premium **you** have paid, **we** agree to insure **you** in accordance with the terms and conditions of the **policy**.

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## Definitions

Words shown in **bold** type have the same meaning wherever they appear in this **policy**. The words defined below are used throughout this **policy**.

### Additional business expenses

The reasonable and necessary additional costs incurred as a direct result of a **cyber attack**, but not including any normal overhead costs, general business expenses, salaries or wages incurred by **you** or any other person or entity entitled to coverage under this **policy**.

### Advertising

Advertising, publicity or promotion in or of **your** products or services.

### Breach

The unauthorised acquisition, access, use or disclosure of, or the loss or theft of, **personal data** or confidential corporate information.

### Breach costs

The reasonable and necessary costs incurred by **you** with **our** prior written agreement in direct response to an actual or suspected **breach**, including but not limited to:

1. legal costs to:
  - a. provide advice to **you** in connection with **your** investigation of a **breach**;
  - b. assist with the preparation of notifications to any regulator and affected **data subjects**; and
  - c. determine and pursue any indemnity under a written agreement with a third-party;
2. **breach forensic costs**;
3. costs incurred to notify:
  - a. each affected **data subject** of the **breach**; and
  - b. any regulatory body, including but not limited to the Office of the Privacy Commissioner of Canada or any equivalent provincial office, of the **breach**;

where **you** are required by any law or regulation to do so or where **you** do so voluntarily;

4. costs **you** incur to use a third-party call centre to answer enquiries from affected **data subjects** following notification of the **breach** to such **data subjects**;
5. **credit monitoring costs**; and
6. costs to monitor the dark web for the appearance of any information accessed in the course of a **breach**;

but not including any overhead costs, general business expenses, salaries or wages incurred by **you** or any other person or entity entitled to coverage under this **policy**.

**Breach forensic costs**

Costs **you** incur for:

1. computer forensic analysis conducted by outside forensic experts to:
  - a. confirm whether or not a **breach** has occurred;
  - b. identify any affected **data subjects**; and
  - c. stop or contain the **breach**; and
2. outside legal fees necessary for the preservation of the lawyer-client privilege of forensic reports and findings.

**Bricking costs**

The costs of rectifying or replacing any part of the **your computer system**, where such part has not been physically damaged or destroyed but cannot be used as a direct result of a **security failure**.

However **bricking costs** do not include:

1. **data recovery costs**; and
2. the costs of rectifying or replacing any part of any hardware or software dedicated to detecting or causing changes in physical processes through the direct monitoring or controlling of physical devices, including but not limited to programmable logic controllers, supervisory control and data acquisition (SCADA) systems, computer numerical control systems, or distributed control systems.

**Business**

**Your** business or profession identified in **your** proposal for this insurance.

**Claim**

Any written demand or civil, criminal, regulatory or arbitration proceeding or any assertion of liability or any written demand for financial compensation or injunctive relief first made against **you** within a court of competent jurisdiction anywhere in the world.

**Computer system**

Any **programs**, computer network, hardware, software, information technology or communications system, including any email system, intranet, extranet or website.

**Computer system** shall also include an **Employee** owned device while being used for your business.

However, solely for the definition of **cyber operation** and for **What is not covered**, B., 4. War and cyber operation, **computer system** means:

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

**Credit monitoring costs**

The reasonable and necessary costs incurred by **you** with **our** prior written agreement to provide credit monitoring services or other credit protection services to each affected **data subject**.

**Cyber attack**

Any digital attack designed to disrupt access to or the operation of a **computer system**, including but not limited to any:

1. malicious search engine optimisation;
2. malicious clicking on any pay-per-click links;

3. crypto-jacking; or
4. denial of service attack or distributed denial of service attack.

**Cyber operation**

The use of a **computer system** by or on behalf of a **state** to disrupt, deny, degrade, manipulate or destroy information in a **computer system** of or in another **state**.

**Cyber ransom losses**

Following an **illegal threat**:

1. the reasonable and necessary fees of **our** appointed consultant, incurred by **you** with **our** prior written agreement, for advising **you** on the handling and negotiation of the ransom demand;
2. the cost of any ransom demand from the third-party or, if the demand is for goods or services, their market value at the time of the surrender; and
3. the amount of any stolen ransom, where such theft occurs at or in transit to the agreed location for payment of the ransom.

**Cyber terrorism**

Any act or series of acts, or the threat of such act or acts, of any person or group of persons, whether acting alone or on behalf of or in connection with any organization, through the use of computer systems to destruct, disrupt or subvert any computer system, computer network, infrastructure, the Internet, an intranet, telecommunications and/or its content, with the intention to cause harm or committed for political, religious or ideological purposes, including but not limited to the influencing of any government and/or to put the public or a section of the public in fear.

**Data asset**

Any electronic data or software.

**Data recovery costs**

The reasonable and necessary costs and expenses incurred with **our** prior written agreement to regain access to **your data asset**, or to replace, restore or repair **your data asset** from back-ups, originals, or other sources.

This does not include:

1. costs incurred after it has been established that **your data asset** cannot be replaced, restored or repaired, or access to it cannot be regained;
2. the economic value of **your data asset**, including the value of any trade secrets;
3. costs to restore, update, or replace **your data asset** to a level beyond that which existed prior to the event, unless **your data asset** can only be replaced, restored or repaired by purchasing a newer equivalent; or
4. costs to research or develop **your data asset** or to recreate, gather or assemble facts, concepts or information needed to reproduce **your data asset**.

**Data subject**

Any natural person who is the subject of **personal data**.

**Defence costs**

The reasonable and necessary lawyers' and experts' fees and legal costs incurred with **our** prior written agreement in investigating, settling, defending, appealing or defending an appeal against a covered **claim**.

**Dependent business**

Any individual or entity that provides **you** with **information technology services** pursuant to a written contract.

**Employee**

Any individual:

1. performing employment duties; or

	<p>2. carrying out voluntary work,</p> <p>solely on <b>your</b> behalf in the ordinary course of <b>your business</b> and who is subject to <b>your</b> sole control and direction and to whom <b>you</b> supply the instruments and place of work necessary to perform such duties or work. This does not include <b>you</b> or <b>your</b> sub-contractors or outsourcers.</p>
<b>Endorsement</b>	A change to the terms of the <b>policy</b> .
<b>Hacker</b>	Anyone, including an <b>employee</b> or <b>supervised contractor</b> of <b>yours</b> , who gains unauthorised access to or unauthorised use of <b>your computer system</b> or <b>your data asset</b> held by <b>you</b> or on <b>your</b> behalf.
<b>Illegal threat</b>	<p>Any threat from a third-party, including an <b>employee</b> or <b>supervised contractor</b> but not <b>you</b>, to:</p> <ol style="list-style-type: none"> <li>1. damage, destroy or corrupt <b>your computer system</b>, a <b>data asset</b> <b>you</b> hold electronically or any data for which <b>you</b> are responsible, including by specifically introducing a <b>virus</b>; or</li> <li>2. disseminate, divulge or use any electronically held commercial or personal information which: <ol style="list-style-type: none"> <li>a. <b>you</b> are responsible for; and</li> <li>b. will cause commercial harm if made public,</li> </ol> <p>following any unauthorised external electronic access by that third-party; or</p> </li> <li>3. carry out a <b>cyber attack</b> against <b>you</b>.</li> <li>4. not withdraw from doing anything in 1. to 3. above.</li> </ol>
<b>Income</b>	The total net income (net profit or loss before income taxes) of your business, less any savings resulting from the reduced costs and expenses.
<b>Increased costs of working</b>	The reasonable and necessary costs and expenses incurred by <b>you</b> for the sole purpose of minimising the reduction in <b>income</b> during the <b>indemnity period</b> , but not exceeding the reduction in <b>income</b> saved.
<b>Indemnity period</b>	The period, in months, beginning at the date the interruption to <b>your business</b> or <b>voluntary shutdown</b> commences and lasting for the period during which <b>your income</b> is affected as a result of such interruption or <b>voluntary shutdown</b> , but for no longer than the number of months shown in the schedule.
<b>Information technology services</b>	Computer and electronic technology services, including but not limited to cloud computing and other hosted computer resources. However, this does not include any internet service provider or telecommunications provider.
<b>Insured person</b>	Any natural person who is, or during the <b>period of insurance</b> becomes, a statutory director, partner or officer of <b>you</b> .
<b>Loss</b>	Any financial harm caused to <b>your business</b> .
<b>Money</b>	Cash, coin, bank and currency notes, bullion, funds, cheques, registered cheques, travellers' cheques, postal orders, bank drafts, or money orders. Money does not include any electronic, digital, online currency or any cryptocurrency.
<b>Nuclear risks</b>	<ol style="list-style-type: none"> <li>1. Any sort of nuclear material, nuclear reaction, nuclear radiation or radioactive contamination;</li> </ol>

2. any products or services which include, involve or relate in any way to anything in 1. above, or the storage, handling or disposal of anything in 1. above;
3. all operations carried out on any site or premises on which anything in 1. or 2. above is located.

<b>PCI charges</b>	Any charges, fines, penalties, levies, costs, recertification costs, expenses, assessments, contractual damages or imposition of liabilities of any nature arising as a direct result of <b>your</b> failure to comply with <b>PCI DSS</b> due to a <b>breach</b> , including any sums in relation to card reissuance or fraudulent transactions.
<b>PCI DSS</b>	Payment Card Industry Data Security Standard or any similar or successor standard or regime.
<b>Pending and prior litigation date</b>	The date stated as the pending and prior litigation date in the schedule.
<b>Period of insurance</b>	The time for which this <b>policy</b> is in force as shown in the schedule.
<b>Personal data</b>	Any non-public individually identifiable information about a <b>data subject</b> that constitutes personal information under the Personal Information Protection and Electronic Documents Act, S.C. 2000 c. 5 ("PIPEDA") or the Privacy Act, R.S.C. 1985, c.P-21, as amended ("Privacy Act"), and regulations issued pursuant to such Acts or any similar Canadian federal, provincial or territorial statute or regulation, or any equivalent legislation outside of Canada or the, including any successor legislation or regulation.
<b>Policy</b>	This insurance document and the schedule, including any <b>endorsements</b> .
<b>Pollutant</b>	Any solid, liquid, gaseous, biological, radiological, or thermal irritant or contaminant, including smoke, vapor, asbestos, silica, dust, nanoparticles, fibers, soot, fumes, acids, alkalis, chemicals, germs and waste, including but not limited to materials to be recycled, reconditioned or reclaimed.
<b>Pollution risks</b>	Any actual, alleged, or threatened discharge, dispersal, release, or escape of a <b>pollutant</b> , including any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize a <b>pollutant</b> .
<b>Privacy forensic costs</b>	The reasonable and necessary costs incurred by <b>you</b> with <b>our</b> prior written agreement for forensic services conducted by outside forensic experts to assist in the defence of a <b>claim</b> .
<b>Privacy investigation</b>	Any official examination, official inquiry or official investigation based on the same circumstances as any <b>breach</b> or <b>claim</b> under <b>What is covered, B. Claims and investigations against you</b> , Privacy liability 1. a., b., or d., conducted by any regulator, government department or other legally empowered body anywhere in the world.
<b>Privacy investigation costs</b>	The reasonable and necessary lawyers' and experts' fees and legal costs incurred with <b>our</b> prior written agreement in investigating, settling, defending, appealing or defending an appeal against a <b>privacy investigation</b> or an investigation for any actual or alleged breach of PIPEDA or the Privacy Act or regulations issued pursuant to such Acts or any similar Canadian federal, provincial or territorial statute or regulation, or any equivalent legislation outside of Canada, including any successor legislation or regulation.
<b>Program</b>	A set of instructions written in a computer language which tells a computer how to process data or interact with ancillary equipment.
<b>Property</b>	Tangible property.

<b>Public relations costs</b>	<p>The reasonable costs incurred with <b>our</b> prior written agreement:</p> <ol style="list-style-type: none"> <li>1. for a public relations or crisis management consultant to assist <b>you</b> in re-establishing <b>your</b> business reputation and to respond to media reports, including the development and communication of a strategy to repair <b>your</b> reputation;</li> <li>2. to issue statements via email or <b>your</b> website and social media accounts, including managing and monitoring <b>your</b> social media sites; and</li> <li>3. for any other reasonable and proportionate measures taken to protect or re-establish the reputation of <b>your business</b>.</li> </ol>
<b>Regulatory award</b>	<p>Following a <b>privacy investigation</b>, any civil or regulatory sanctions, fines, penalties, disgorgement of profits, treble damages or multiple damages, including but not limited to those imposed by any national, federal, state or local governmental body or any licensing organisation, if insurable in the jurisdiction where such award was first ordered, but not including <b>PCI charges</b>.</p>
<b>Retention</b>	<p>The amount <b>you</b> must bear as the first part of each agreed <b>claim</b> or <b>loss</b>.</p>
<b>Rogue employee</b>	<p>An <b>employee</b> who deliberately acts outside the course and scope of their employment duties or disobeys <b>your</b> rules and policies, and whose conduct is intended to cause harm to <b>you</b> or to another person or business.</p>
<b>Securities</b>	<p>Negotiable and non-negotiable instruments or contracts, in physical or electronic form, which represent <b>money</b> or <b>property</b>.</p>
<b>Security failure</b>	<p>Any failure by <b>you</b> or by others on <b>your</b> behalf (including but not limited to <b>your</b> sub-contractors and outsourcers) in securing <b>your computer system</b> against unauthorised electronic access or use.</p>
<b>Social engineering communication</b>	<p>Any request directed to <b>you</b> or someone on <b>your</b> behalf by a person improperly seeking to obtain possession or the transfer to a third-party of <b>money</b>, <b>securities</b> or <b>property</b> that such person or third- party is not entitled to, where such person improperly:</p> <ol style="list-style-type: none"> <li>1. impersonates or claims to be another person who would be lawfully entitled to possession of or access to, or to authorise transactions in respect of, such <b>money</b>, <b>securities</b> or <b>property</b> had they made such a request; or</li> <li>2. assumes the identity of another person who <b>you</b> or someone on <b>your</b> behalf reasonably believes exists and would be lawfully entitled to possession of or access to such <b>money</b>, <b>securities</b> or <b>property</b> had they existed and made such request.</li> </ol>
<b>State</b>	<p>Sovereign state.</p>
<b>Subsidiary</b>	<p>An entity domiciled in Canada:</p> <ol style="list-style-type: none"> <li>1. that has been identified in the presentation of the risk for this <b>policy</b> and of which <b>you</b> own more than 50% of the book value of the assets or of the outstanding voting rights on the first day of the <b>period of insurance</b>; or</li> <li>2. which <b>you</b> create or acquire during the <b>period of insurance</b>: <ol style="list-style-type: none"> <li>a. where its consolidated revenues at the date of creation or acquisition are less than 20% of <b>your</b> existing consolidated revenues;</li> <li>b. where the acquired entity's business activities are similar to <b>yours</b>; and</li> </ol> </li> </ol>

- c. which has not suffered any loss or been subject to any claim with a value greater than the **retention**, which would have been covered under this **policy**.

If **your** new subsidiary does not qualify for automatic coverage as provided above, **we** will insure it for 30 days after the acquisition or creation while **we** underwrite the new subsidiary. **We** will only provide coverage beyond the 30 day period by **our** written agreement.

**Supervised contractor**

Any independent contractor when performing work for **you** under **your** direction and supervision.

**System failure**

Any:

1. accidental, unintentional or negligent act, error, or omission in the operation or maintenance of **your computer system**;
2. failure in power supply, but only if the power supply is under **your** direct operational control; or
3. other unplanned outage of **your computer system**.

**Terrorism**

An act, or the threat of an act, by any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, that:

1. is committed for political, religious, ideological or similar purposes; and
2. is intended to influence any government or to put the public, or any section of the public, in fear; and
  - a. involves violence against one or more persons; or
  - b. involves damage to property; or
  - c. endangers life other than that of the person committing the action; or
  - d. creates a risk to health or safety of the public or a section of the public.

**Terrorism** does not include any of the elements described under **cyber terrorism**.

**Virus**

**Programs** that are secretly introduced without **your** permission or knowledge including, but not limited to, malware, worms, trojans, rootkits, spyware, dishonest adware, crimeware and other malicious unwanted software.

**Voluntary shutdown**

Voluntary shutdown means a shut-down by **you** of all or part of **your computer system** to attempt to prevent or mitigate any interruption or degradation of **your computer system** resulting from a **breach, security failure, illegal threat, cyber attack** against **you** or **system failure** (if **your** schedule shows this cover is provided), but only where the shut-down is deemed appropriate in **our** reasonable opinion in order to attempt to reduce business interruption costs due to the interruption or degradation.

**Waiting period**

The period shown in the schedule as the waiting period, being the period immediately following an interruption or **voluntary shutdown** during which no cover is provided under **What is covered, A. Your own losses, f. Business interruption losses, g. Reputation protection, Dependent business interruption or System failure** (if **your** schedule shows this cover is provided).

**War**

means:

1. The use of physical force by a **state** against another **state** or as part of a civil war, rebellion, revolution, insurrection, and/or
2. military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority,

whether war be declared or not.

**We/Us/Our**

The insurers named in the schedule.

**You/Your**

The insured named in the schedule and also:

1. any person who was, is or during the **period of insurance** becomes **your** partner, director, trustee, in-house counsel, chief information security officer, risk manager or chief privacy officer in actual control of **your** operations; and
2. any **subsidiary** including any person who was, is or during the **period of insurance** becomes a partner, director, trustee, in-house counsel, chief information security officer, risk manager or chief privacy officer of any **subsidiary** in actual control of its operations.

## What is covered

**A. Your own losses**

If during the **period of insurance**, and in the course of **your business** or **advertising**, **you** discover or reasonably suspect any:

1. **breach**;
2. **security failure**;
3. **illegal threat**; or
4. **cyber attack** against **you**;

**we** will pay:

Breach costs

- a. **breach costs**;

Cyber ransom losses

- b. **cyber ransom losses**;

Cyber attack losses

- c. **additional business expenses**, including but not limited to:

- i. the increased cost of power;
- ii. the increased cost of internet usage;
- iii. the reasonable and necessary costs to restore **your** search engine rating; and
- iv. the cost of any malicious pay-per-click clicks,

suffered or incurred by **you** as a direct result of a **cyber attack**;

Data recovery costs

- d. **data recovery costs**;

Bricking costs

- e. **bricking costs** (this cover is optional: **your** schedule will show if it is covered and the limit that applies, which limit is included within the overall limit of indemnity for this policy shown in the schedule.);



Business interruption losses	<p>f. <b>your:</b></p> <ul style="list-style-type: none"> <li>i. loss of <b>income</b>; and</li> <li>ii. <b>increased costs of working</b>;</li> </ul> <p>resulting solely and directly from a partial or total interruption to <b>your business</b> or <b>voluntary shutdown</b> commencing during the <b>period of insurance</b> and lasting longer than the <b>waiting period</b>;</p>
Reputation protection	<p>g. i. <b>public relations costs</b>; and</p> <ul style="list-style-type: none"> <li>ii. <b>your loss of income</b> and any <b>increased costs of working</b> resulting solely and directly from the damage to <b>your</b> reputation.;</li> </ul>
Key person cover	<p>h. the reasonable and necessary costs incurred by <b>you</b> with <b>our</b> prior written agreement to engage a consultant to:</p> <ul style="list-style-type: none"> <li>i. undertake the day-to-day work of a senior manager or director to the extent that such individual is unable to fulfil his or her usual responsibilities as a direct result of their time being diverted to the management of a covered <b>breach, security failure, illegal threat or cyber attack</b>; or</li> <li>ii. manage <b>your</b> response to a covered <b>breach, security failure, illegal threat or cyber attack</b>, to enable a senior manager or director to fulfil his or her usual responsibilities.</li> </ul>
Breach by suppliers	<p><b>We</b> will indemnify <b>you</b> against any <b>loss</b> falling within the scope of <b>What is covered, A. Your own losses</b>, which arises as a result of any <b>breach</b> directly caused by a supplier of <b>yours</b>.</p>
Rogue employees	<p><b>We</b> will pay any <b>loss</b> falling within the scope of <b>What is covered, A. Your own losses</b>, caused by a <b>rogue employee</b>.</p>
Dependent business interruption	<p>The following cover is provided up to the corresponding limit shown in the schedule, which is included within the overall limit of indemnity for this <b>policy</b> shown in the schedule.</p> <p>If <b>you</b> suffer a partial or total interruption to <b>your business</b>, which commences during the <b>period of insurance</b> and lasts longer than the <b>waiting period</b>, and which is caused by a <b>dependent business</b> suffering a <b>security failure</b> or <b>cyber attack</b>, <b>we</b> will pay <b>your</b>:</p> <ul style="list-style-type: none"> <li>1. loss of <b>income</b>;</li> <li>2. <b>increased costs of working</b>;</li> <li>3. <b>data recovery costs</b>; and</li> <li>4. <b>public relations costs</b>;</li> </ul> <p>resulting solely and directly from such <b>security failure</b> or <b>cyber attack</b>. For the purposes of this cover, the <b>dependent business</b> shall be treated as 'you' for the purposes of the definition of <b>security failure</b>.</p>
System failure	<p>This cover for <b>system failure</b> is optional. <b>Your</b> schedule will show if it is covered. If cover is provided it will be up to the corresponding limit shown in the schedule, which is included within the overall limit of indemnity for this <b>policy</b> shown in the schedule.</p> <p>If <b>you</b> suffer a partial or total interruption to <b>your business</b>, which commences during the <b>period of insurance</b> and lasts longer than the <b>waiting period</b>, and which is caused by a <b>system failure</b>, <b>we</b> will indemnify <b>you</b> against any:</p>

1. loss of **income**;
2. **increased costs of working**;
3. **data recovery costs**; and
4. **public relations costs**;

resulting solely and directly from such **system failure**.

**B. Claims and investigations against you**

If during the **period of insurance**, and in the course of **your business** or **advertising** anywhere in the world:

Privacy liability

1. any party brings a **claim** against **you** for any actual or alleged:
  - a. breach, violation or infringement of any right to privacy, consumer data protection law, or other legal protection for **personal data**;
  - b. breach of duty to maintain the security or confidentiality of **personal data**;
  - c. breach of any duty of confidence, including in respect of any commercial information; or
  - d. breach of any contractual duty to maintain the security or confidentiality of **personal data**, including under a payment card processing agreement with any bank or payment processor or under **your** public facing privacy policy;

Privacy investigations

2. **you** are the subject of a **privacy investigation**;

Data protection investigations

3. **you** are the subject of an official examination, official inquiry or official investigation based on any actual or suspected breach of PIPEDA or the Privacy Act or regulations issued pursuant to such Acts or any similar Canadian federal, provincial or territorial statute or regulation, or any equivalent legislation outside of Canada, including any successor legislation or regulation;

PCI liability

4. any party brings a **claim** against **you** for any actual or alleged breach of **PCI DSS**;

Online liability

5. any party brings a **claim** against **you** for any actual or alleged:
  - a. infringement of any intellectual property rights;
  - b. defamation, including but not limited to libel, slander, trade libel, product disparagement or malicious falsehood; or
  - c. breach of any licence;

which directly arises from the content of **your** email, business social media accounts, intranet, extranet or website, including alterations or additions made by a **hacker**; or

Network security and personal data events

6. any party brings a **claim** against **you** for any actual or alleged:
  - a. transmission of a **virus**;
  - b. denial of service attack against a third party;
  - c. unauthorised acquisition, access, use, or disclosure of **personal data** or confidential corporate information that is held or

transmitted in any form; or

- d. prevention of authorised electronic access to any **computer system, personal data** or confidential corporate information;

**we** will pay:

- a. the amount agreed by **you** and **us** through good faith negotiation, mediation or some other form of alternative dispute resolution to settle the **claim** or the amount to satisfy a judgment or arbitration award against **you**, including any judgment or award ordering **you** to pay claimants' lawyers' fees and costs;
- b. any **regulatory award**;
- c. **PCI charges**;
- d. **privacy forensic costs** and **privacy investigation costs**; and
- e. **defence costs**, but **we** will not pay costs for any part of a **claim, privacy investigation** or investigation not covered by this **policy**.

Cyber trauma

- 7. Where **we** have accepted as covered under this **policy** any **claim** against **you** for actual or alleged breach of privacy under **What is covered B.1** or defamation under **What is covered B.5**, **we** will also pay that part of the said **claim** agreed as damages for mental anguish or distress, but only where such damages solely stem from the covered claim for breach of privacy or defamation.

Activities of employees

- 8. Coverage under What is covered, B. Claims and investigations against you will include a claim brought:
  - a. against any of your **employees** to the extent they were acting on your behalf;
  - b. against **you** arising out of the activities of a **rogue employee** where **you** are liable for that **claim**.

### C. Financial crime and fraud

This cover for financial crime and fraud is optional. **Your** schedule will show if it is covered. If cover is provided it will be up to the corresponding limit shown in the schedule, which is included within the overall limit of indemnity for this **policy** shown in the schedule.

If during the **period of insurance**, and in the course of **your business** anywhere in the world, **you** discover a **loss** directly from:

Electronic theft

- 1. the taking or misappropriation of **money, securities, or property** belonging to **you** through the unauthorised access or unauthorised use of **your computer system**;

Theft of funds held in escrow

- 2. the criminal taking or misappropriation by a **hacker**, but not an **employee** or **supervised contractor** of yours, of **money, securities, or property** belonging to a third party, from a bank account held by **you** on their behalf;

Telephone toll fraud

- 3. the unauthorised and criminal use by someone, other than **you** or an **employee** or **supervised contractor**, operating outside of premises used for **your business**, of any telephone lines used by **you**, including but not limited to fixed line, voice over internet protocol and mobile;

Social engineering

- 4. the transfer by **you** of **your money, securities or property** in direct response to a **social engineering communication**;

Client social engineering loss

5. a client transferring **money, securities or property**, which **you** were entitled to receive, to a third-party in direct response to a **social engineering communication** sent from **your computer system** as a direct result of a **hacker** (for the purposes of this cover the client shall be treated as 'you' for the purposes of the definition of **social engineering communication**, and the definition of **hacker** does not include any of **your employees, supervised contractors**, sub-contractors or outsourcers);

Fraudulent use of your electronic identity

6. the fraudulent or dishonest use of the electronic identity of **your business**, including but not limited to:

- a. the obtaining of credit in **your** name;
- b. the electronic signing of any contract;
- c. the creation or use of a website designed to copy or imitate that of **your business**; or
- d. the use by a third-party of **your** digital or electronic identity;

**we** will pay:

- a. the value or amount of any taken or misappropriated **money, securities or property** or, in the case of telephone toll fraud, the cost to **you** of the fraudulent calls;
- b. the reasonable and necessary costs incurred with **our** prior written agreement to extricate **your business** from any contract or arrangement entered into through such fraudulent or dishonest use of the electronic identity of **your business**; and
- c. **public relations costs**.

#### D. Additional covers

The following additional covers are optional. **Your** schedule will show if they are covered. If cover is provided it will be up to the corresponding limit shown in the schedule. Cover for repeat event mitigation and directors' personal cover is included within the overall limit of indemnity for this **policy** shown in the schedule. Cover for court attendance compensation is in addition to the overall limit of indemnity for this **policy** shown in the schedule.

Repeat event mitigation

Following any payment under **What is covered A. to C.** above, **we** will pay the reasonable and necessary costs and expenses incurred by **you** with **our** prior agreement to:

1. upgrade existing hardware or software forming part of **your computer system**; and
2. obtain risk management advice,

which is necessary to prevent or minimise the chance of a reoccurrence of the event that gave rise to the payment under this **policy**.

Directors' personal cover

If:

1. any **insured person** suffers a direct financial loss; or
2. a **claim** is brought against an **insured person**,

in their personal capacity but which would have been covered under this **policy** if the same **claim** had been brought against **you** or if **you** had suffered the same loss, **we** will cover the **insured person** under this **policy** as if they were **you**.

Court attendance compensation If any individual within the definition of **you** or any **employee** or **supervised contractor**, has to attend court as a witness in connection with a **claim** against **you** covered under this **policy**, **we** will pay **you** the amount stated in the schedule as compensation for each day or part of a day that their attendance is required by **us**.

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**What is not covered**

- A. **We** will not make any payment for any **claim**, **loss** or any other liability under this **policy** directly or indirectly due to:
- 1. any **claim** under **What is covered, B. Claims and investigations against you**, 1. Privacy liability arising from the provision by **you** of any professional advice or services, other than where the **claim** arises out of the activities of a **hacker**.
  - 2. any failure or interruption of service provided by an internet service provider, telecommunications provider, utilities supplier or other infrastructure provider. However, this exclusion does not apply where **you** provide such services as part of **your business**.
  - 3. any actual or alleged infringement, use or misappropriation of any intellectual property, including but not limited to patent, trade secret, copyright, trademark, trade dress, service mark, service name, title or slogan, or any publicity rights violations, cybersquatting violations, moral rights violations, or any act of passing-off. However, this exclusion does not apply to:
    - a. any otherwise covered **claim**:
      - i. arising directly due to a **breach** by a third party;
      - ii. arising directly due to a **security failure**;
      - iii. under **What is covered, B. Claims and investigations against you**, 5. Online liability; or
    - b. any otherwise covered **loss** under **What is covered, C.6. Fraudulent use of your electronic identity** (if **your** schedule shows this cover is provided).
  - 4. any individual **hacker** within the definition of **you**.
  - 5. any loss, theft, damage, destruction or loss of use of any **property**. However, this does not apply to any:
    - a. **breach**, which is itself caused by the loss or theft of data; or
    - b. otherwise covered **bricking costs** under **What is covered A. Your own losses** (if **your** schedule shows this cover is provided).
  - 6. any death or bodily injury or disease suffered or alleged to be suffered by anyone.
  - 7. any
    - a. degradation, deterioration or reduction in performance of **your computer system** caused gradually or as a result of the recommended use or **your** ordinary use of the system; or
    - b. loss of, reduction in or loss of use of bandwidth, unless caused by an identifiable malicious act;

including where caused by increased use of the **computer system** or by steps taken by **you** to upgrade the system. However, this exclusion does not

apply to any covered **loss** under **What is covered, A. Your own losses**, System failure (if **your** schedule shows this cover is provided).

- |                             |  |
|-----------------------------|--|
| Outdated systems            | 8. the use by <b>you</b> of any software or systems that are unsupported by the developer.   |
| Seizure and confiscation    | 9. any confiscation, requisition, expropriation, appropriation, seizure or destruction of property by or under the order of any government or public or local authority, or any order by such authority to take down, deactivate or block access to <b>your computer system</b> .  |
| Nuclear risks               | 10. <b>nuclear risks</b> .   |
| Pollution risks             | 11. <b>pollution risks</b> .   |
| Insolvency                  | 12. <b>your</b> insolvency or the insolvency of <b>your</b> suppliers, sub-contractors and outsourcers.  |
| Pre-existing problems       | 13. <ul style="list-style-type: none"> <li>a. anything likely to lead to a <b>claim, loss</b> or other liability under this <b>policy</b>, which <b>you</b> knew or ought reasonably to have known about before <b>we</b> agreed to insure <b>you</b>.</li> <li>b. any demand, suit, or other pending proceeding, or order, decree or judgment entered against <b>you</b> on or prior to the <b>pending or prior litigation date</b>, or the same or substantially the same facts underlying or alleged therein;</li> <li>c. any circumstance which has been the subject of any written notice given and accepted under any policy of which this <b>policy</b> is a renewal or replacement.</li> </ul> |
| Dishonest and criminal acts | 14. any; <ul style="list-style-type: none"> <li>a. fraudulent, dishonest, malicious or criminal conduct intended to cause harm to another person or business, or any knowing or wilful violation of a law, whether committed by <b>you</b> or committed by another whose conduct or violation of the law <b>you</b> have ratified or actively condoned; or</li> <li>b. act <b>you</b> knew, or reasonably ought to have known at the time <b>you</b> performed it, would give rise to a <b>claim, loss</b> or any other liability under this <b>policy</b>. This includes any statement <b>you</b> knew, or ought reasonably to have known, was defamatory at the time of publication.</li> </ul>      |

However, this exclusion will not apply unless:

- i. such conduct, violation of the law or act has been established by a final adjudication in any judicial, administrative, or alternative dispute resolution proceeding;
- ii. such conduct, violation of the law or act has been established by **your** admission in a proceeding or otherwise; or
- iii. **you** or **we** discover evidence of such conduct, violation of the law or act;

at which time **you** shall reimburse **us** for all payments made by **us** in connection with such conduct, violation of the law or act and all of **our** duties in respect of that **claim, loss** or other liability under this **policy** shall cease.

This exclusion will not apply to the cover for any **loss** under **What is**

**covered A**, Rogue employees or for any **claim** arising out of the activities of a **rogue employee** under **What is covered B**, activities of employees.

Personal social media

15. any post from a social media account that does not belong to **your business**.

Fraudulent use of your electronic identity

16. the fraudulent or dishonest use of the electronic identity of **your business**. However, this exclusion does not apply to:
- a. the extent of any covered **loss** under **What is covered, C. Financial crime and fraud** (if **your** schedule shows this cover is provided); or
  - b. any **claim** under **What is covered, B. Claims and investigations against you** arising as a direct result of a **hacker**.

Unsolicited communications

17. any unsolicited communications arising directly or indirectly from any actual or alleged violation of;
- a. the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;
  - b. the Telephone Consumer Protection Act (TCPA) of 1991 or any subsequent amendments to that Act; or
  - c. any other law, regulation or statute relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

Natural perils

18. fire, flood, storm, lightning, frost, explosion or extremes of weather or temperature. However, this exclusion does not apply to any **claim, loss** or any other liability arising directly from a **breach**, which is itself caused by such natural peril.

**B. We will not make any payment for:**

Claims brought by a related party

1. any **claim** brought by any person or entity within the definition of **you** or any party with a financial, executive or managerial interest in **you**, including any parent company or any party in which **you** have a financial, executive or managerial interest.

However, this exclusion does not apply to a **claim** based on a liability to an independent third- party directly arising out of **your business**.

Online liability claims by employees

2. any **claim** under **What is covered, B. Claims and investigations against you**, 5. Online liability made by any person or entity that **you** currently employ or engage, or formerly employed or engaged, including but not limited to **employees, supervised contractors**, sub-contractors and outsourcers.

Claims brought against directors and officers

3. any **claim** brought by **you** or any of **your employees** or shareholders due to the personal liability incurred by a director or officer of **yours** when acting in that capacity or managing **your business**.

War and cyber operation

4. any loss, damage, liability, cost or expense of any kind (together "loss") directly or indirectly occasion by, happening through or in consequence of **war** or **cyber operation**.

**We** will have the burden of proving that this exclusion applies.

The primary but not exclusive factor in determining attribution of a **cyber**

**operation** shall be whether the government of the **state** (including its intelligence and security services) in which the **computer system** affected by the **cyber operation** is physically located attributes the **cyber operation** to another **state** or those acting on its behalf.

Pending attribution by the government of the **state** (including its intelligence and security services) in which the **computer system** affected by the **cyber operation** is physically located, **we** may rely upon an inference which is objectively reasonable as to attribution of the **cyber operation** to another **state** or those acting on its behalf. It is agreed that during this period no loss shall be paid.

In the event that the government of the **state** (including its intelligence and security services) in which the **computer system** affected by the **cyber operation** is physically located either:

- a. takes an unreasonable length of time to; or
- b. does not; or
- c. declares it is unable to;

attribute the **cyber operation** to another **state** or those acting on its behalf, it shall be for **us** to prove attribution by reference to such other evidence as is available.

Bricking costs following terrorism

- 5. **bricking costs** directly or indirectly due to damage to or destruction of **property** caused by **terrorism**.

Fines, penalties and sanctions

- 6. criminal, civil or regulatory sanctions, fines, penalties, disgorgement of profits, punitive damages, exemplary damages, treble damages or multiple damages which **you** are legally obliged to pay, including but not limited to those imposed by any national or local governmental body or any licensing organisation.

However, this exclusion does not apply to:

- a. **PCI charges**; or
- b. **regulatory awards**.

Non-specific investigations

- 7. any **privacy investigation** or investigation arising from any routine regulatory supervision, inquiry or compliance review, any internal investigation or any investigation into the activities of **your** industry which is not solely related to any actual or alleged breach, violation or infringement of any right to privacy, consumer data protection law, or other legal protection for **personal data** by **you**.

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## How much we will pay

**We** will pay up to the overall limit of indemnity shown in the schedule for the total of all claims under each section or sections within **What is covered**, including all costs and expenses, unless limited below or otherwise in the schedule.

The amount **we** pay for a particular type of **claim** or **loss** may be further limited in the schedule.

Retention

**You** must:

- 1. pay the relevant **retention** shown in the schedule; and



2. bear any loss or expense suffered during the **waiting period** in respect of each covered:
  - a. partial or total interruption to **your business** or **voluntary shutdown**;
  - b. **loss** under **What is covered, A. Your own losses**, Dependent business interruption, System failure (if **your** schedule shows this cover is provided) or Reputation protection g.ii.

The **retention** shown in the schedule is not payable in respect of any **loss** in respect of which **you** have borne the **waiting period**.

24-hour retention waiver

If **you** notify **us** within 24 hours of **your** first awareness of any actual or reasonably suspected **breach**, the **retention** will not apply against any **losses** suffered as a result of the **breach**. However **we** will only waive **retentions** up to a total of CAD 25,000 for all **claims** and **losses** combined. This waiver does not apply to any **waiting period**.

Overheads and business expenses

Any amounts to be paid by **us** shall not include or be calculated based on any of **your** overhead expenses, **your** liability for debt, taxes, lost costs or profits, salaries or wages ordinarily incurred in the performance of **your business**, or any future cost of doing business, including but not limited to the cost of any future licence or royalty, or costs of improving **your** security or performing audits.

However, this does not apply to any costs or expenses covered under **What is covered, D. Additional covers**, Repeat event mitigation (if **your** schedule shows this cover is provided) or **What is covered, A. Your own losses**, c. Cyber attack losses.

Bricking costs

For **bricking costs**, **we** will cover the costs of rectifying or replacing any part of **your computer system**, where such part has not been physically damaged or destroyed but cannot be used as a direct result of a **security failure**. It shall be at **our** option whether to rectify or replace such part or to pay for a functionally equivalent part where replacement with a similar part is not possible.

The most **we** will pay for **bricking costs** is the amount shown in the schedule.

Business interruption

Following a covered interruption or **voluntary shutdown**, or a covered **loss** under **What is covered, A. Your own losses**, g. Reputation protection, Dependent business interruption or System failure (if **your** schedule shows this cover is provided), **we** will pay 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 interruption, **voluntary shutdown** or **loss**, less any savings resulting from the reduced costs and expenses **you** pay out of **your income** during the **indemnity period**. **We** will also pay for **increased costs of working**.

Financial crime and fraud

The most **we** will pay under **What is covered, C. Financial crime and fraud** (if **your** schedule shows this cover is provided) is the amount shown in the schedule.

Repeat event mitigation

The most **we** will pay under **What is covered, D. Additional covers**, Repeat event mitigation is 10% of the amount of the corresponding **claim, loss** or liability, or the amount shown on the schedule, whichever is lower.

For the costs of upgrading software covered under **What is covered, D. Additional covers**, Repeat event mitigation, where any such upgrade requires the purchase of a software license, the most **we** will pay is the cost of a license for 12 months.

Any amount **we** pay under **What is covered, D. Additional covers**, Repeat event mitigation, is included within and not in addition to the corresponding limit of indemnity for the event that gave rise to the payment of such mitigation costs.

Breach notification costs

The most **we** will pay for notification costs described in clause 3. of the definition of breach costs and covered under **What is covered, A. Your own losses**, a. Breach

costs, is the amount shown in the schedule. This amount is addition to the overall limit of indemnity shown in the schedule, not included within it.

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## Control of defence

Defence arrangements

**We** have the right, but not the obligation, to take control of and conduct in **your** name, the investigation, settlement or defence of any **claim, privacy investigation, investigation or loss**. If **we** think it necessary **we** will appoint an adjuster, solicitor or any other appropriate person to deal with the **claim, privacy investigation, investigation or loss**.

Proceedings will only be defended if there is a reasonable prospect of success and taking into account the commercial considerations of the costs of defence.

**We** will not pay any costs or expenses for any part of any **claim, loss** or any other liability not covered by this **policy**.

Paying out the limit of indemnity

At any stage of a **claim, loss** or other liability under this **policy**, **we** can pay **you** the applicable limit of indemnity or what remains after any earlier payment from that limit. **We** will pay covered costs and expenses already incurred at the date of **our** payment. **We** will then have no further liability for that **claim, loss** or liability, including any costs or expenses.

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## Your obligations

If a problem arises

1. **We** will not make any payment under this **policy** unless **you**:
  - a. notify **us** as soon as practicable and in no event later than 60 days after the **period of insurance**, or during the extended reporting period if applicable, of **your** first awareness within the **period of insurance** of any **breach, security failure, illegal threat, cyber attack, system failure** (if applicable), **claim, privacy investigation, loss**, business interruption, dependent business interruption, **voluntary shutdown** or any other liability for which **you** may seek indemnification, reimbursement or payment under this **policy**.
  - b. give **us**, at **your** expense, any information which **we** may reasonably require and co-operate fully in the investigation of any claim under this **policy**.

Loss minimisation

2. **You** must:
  - a. make every reasonable effort to minimise any loss or liability and take appropriate emergency measures immediately if they are required to reduce any claim; and
  - b. give **us** all assistance which **we** may reasonably require to pursue recovery of amounts **we** may become legally liable to pay under this **policy**, in **your** name but at **our** expense.

If **you** fail to do so, **you** shall be liable to **us** for an amount equal to the detriment **we** have suffered as a result of **your** failure to comply with this obligation, which **we** may deduct from any payment **we** make under this **policy**.

Potential losses and claims

3. **You** may notify **us** of facts, matters or circumstances which you first become aware of within the **period of insurance**, or extended reporting period if applicable, and which **you** believe are reasonably likely to give rise to a **breach, security failure, illegal threat, cyber attack, system failure** (if applicable), **claim, privacy investigation, loss**, business interruption,

dependent business interruption, **voluntary shutdown** or any other liability under this **policy**.

If **we** accept **your** notification **we** will regard any subsequent **breach, security failure, illegal threat, cyber attack, system failure** (if applicable), **claim, privacy investigation, loss**, business interruption, dependent business interruption or any other liability as notified to this policy.

Cyber extortion

4. **We** will not make any payment under **What is covered, A. Your own losses**, b. Cyber ransom losses unless:
- a. the ransom was paid, or the goods or services were surrendered, under duress;
  - b. before agreeing to the payment of the ransom or the surrender of goods or services, **you** made all reasonable efforts to determine that the **illegal threat** was genuine and not a hoax;
  - c. an individual within the definition of **you** has obtained written agreement from us to proceed with the payment of the ransom or the surrender of the goods or services.
- However, **we** will only provide written agreement if the proposed payment:
- i. will limit further losses; and
  - ii. will be more cost-effective than not paying the ransom or surrendering the goods or services;
- d. **you** inform, or allow **us** to inform, the appropriate law enforcement authorities where any **illegal threat** was made; and
  - e. **you** keep **us** fully informed of all developments concerning any **illegal threat** or ransom demand.

Cyber attack losses

5. If **you** suffer a **loss** under **What is covered, A. Your own losses**, c. Cyber attack losses, **you** must take all reasonable steps to negotiate with the supplier of any services to reduce or waive any charges relating to services that were not legitimately incurred for the purposes of **your business**. If **you** do not, **we** may reduce any payment **we** make under this **policy** by an amount equal to the detriment **we** have suffered as a result.

Admissions and offers

6. When dealing with any client or third-party, **you** must not admit that **you** are liable for what has happened or make any offer, deal or payment, unless **you** have **our** prior written agreement. If **you** do, **we** may reduce any payment **we** make under this **policy** by an amount equal to the detriment **we** have suffered as a result.

Client social engineering

7. If **you** suffer a **loss** under **C. Financial crime and fraud**, 5. Client social engineering loss (if **your** schedule shows this cover is provided), **you** must give **us** all assistance **we** reasonably require to pursue a recovery against **your** client, in **your** name but at **our** expense.

Payment processes

8. **We** will not make any payment under **What is covered, C. Financial crime and fraud** unless:
- a. **you** ensure that any individual within the definition of **you**, or any of **your employees**, who has the authority to make payments greater than CAD 2,000 has received appropriate financial crime training;
  - b. **you** or **your employees** ensure that any payment transfers greater than CAD 2,000 have undergone a two-party sign off process;

- c. **you** or **your employees** or clients verify any changes to existing invoices, bank deposit information and contact information; and
- d. **you** or **your employees** or clients verify the legitimacy of any instructions to process a payment or change vendor account details by making an answered telephone call to the number held on file for the third-party or authorised person prior to processing such payment or changing vendor account details.

## Extended notification period

If this **policy** is cancelled (other than for non-payment of premium) or non-renewed by **you** or **us**, then **you** have the right to purchase an extended notification period of 12 months after the expiry of the **period of insurance**, to provide notice to **us** of:

- a. any discovered **loss**; or
- b. any **claim** or **privacy investigation** first brought against **you** during the **period of insurance** or extended reporting period alleging acts, incidents or circumstances occurring prior to the expiry of the **period of insurance**.

The additional premium **you** must pay for the extended reporting period shall be 100% of the annual premium shown on the schedule. This extended notification period is only available if **we** receive written notice of purchase from **you** and the additional premium is paid to **us** within 90 days following the end of the **period of insurance**.

The extended notification period shall be non-cancellable and the entire additional premium is considered fully earned at the beginning of the extended notification period.

The election of this extended reporting period shall not increase the overall limit of indemnity provided by this **policy** or any sub-limits.

## Conditions

The following conditions apply to the whole of this **policy**.

Providing information to us

1. In agreeing to insure **you** and in setting the terms and premium, **we** have relied on the information **you** have given **us**. **You** must provide a fair presentation of the risk to **us** and must take care when answering any questions **we** ask by ensuring that all information provided is accurate and complete. A fair presentation is one which clearly discloses in a reasonably clear and accessible manner all material facts which **you** (including **your** senior management and those responsible for arranging this insurance) know or ought to know following a reasonable search.

**You** must also tell **us** as soon as reasonably possible of any change in circumstances during the **period of insurance** which may materially affect this **policy**. **We** may then change the terms and conditions of this **policy** or cancel it in accordance with the Cancellation condition.

A material fact or circumstance is one which might affect **our** decision to provide insurance or the conditions of that insurance.

If you fail to make a fair presentation or notify a change in circumstances

2. If **we** establish that **you** deliberately or recklessly failed to present the risk to **us** fairly, **we** may treat this **policy** as if it never existed and refuse to make any payment under it. **You** must reimburse all payments already made by **us** and **we** will be entitled to retain all premiums paid.

If **we** establish that **you** deliberately or recklessly failed to notify **us** of a change in circumstances which may materially affect the **policy** (or to make a fair presentation of the risk to **us** when providing **us** with information in relation to a change of circumstances) **we** may treat this **policy** as if it no longer existed from the date of such change of circumstances and refuse to make any payment under it in respect of any claim made or any loss occurring after that date. **You** must reimburse all payments already made by **us** relating to claims made or losses occurring after such date. **We** will be entitled to retain all premiums paid.

If **we** establish that **you** failed to present the risk to **us** fairly or to notify **us** of a change in circumstances but that **your** failure was not deliberate or reckless, the remedy **we** will have available to **us** will depend upon what **we** would have done had **you** made a fair presentation of the risk or notified the change in circumstances to **us**, as follows:

- a. if **we** would not have provided this **policy**, **we** may treat it as if it never existed and refuse to make any payment under it. **You** must reimburse all payments already made by **us**. **We** will refund any premiums **you** have paid; or
- b. if **we** would have cancelled this **policy**, **we** may treat it as cancelled from the date that such cancellation would have been effective and refuse to make any payment under it in respect of any claim made or any incident occurring after that date. **You** must reimburse any payments already made by **us** relating to claims made or losses occurring after such date. **We** will refund any premiums **you** have paid in respect of any period after the date when cancellation would have been effective; or
- c. if **we** would have provided this **policy** on different terms (other than as to premium), **we** will treat it as if it had been provided on such different terms from the start of the **period of insurance** or the date when **your** circumstances changed. This may result in **us** making no payment for a particular claim or loss. **You** must reimburse any payment made by **us** that **we** would not have paid if such terms had been in effect.

Change of ownership

3. If during this **policy**, **you** are purchased, acquired or merged into another entity such that **you** no longer hold or control the voting rights of the insured named in the schedule, **we** will continue to insure **you** for the remainder of the **period of insurance**, but only for activities or incidents that occurred prior to the acquisition or merger.

Reasonable precautions

4. **You** must take reasonable steps to prevent loss or any incident that may give rise to a claim under this **policy**. **We** will not make any payment under this **policy** in respect of any incident occurring whilst **you** are not in compliance with this condition unless **you** can demonstrate that such non-compliance could not have increased the risk of the loss or incident occurring in the circumstances in which it occurred.

Premium payment

5. **We** will not make any payment under this **policy** until **you** have paid the premium.

Cancellation

6. **You** or **we** can cancel the **policy** by giving 30 days' written notice. **We** will give **you** a pro-rata refund of the premium for the remaining portion of the **period of insurance** after the effective date of cancellation for which **you** have already paid.

If **we** have agreed that **you** can pay **us** the premium by instalments and **we** have not received an instalment 14 days after the due date, **we** may cancel the **policy**. In this event, the **period of insurance** will equate to the period for which premium instalments have been paid to **us**. **We** will confirm the cancellation and amended **period of insurance** to **you** in writing.

Multiple insureds

7. The most **we** will pay is the relevant amount shown in the schedule.

If more than one insured is named in the schedule, the total amount **we** will pay will not exceed the amount **we** would be liable to pay to any one of **you**.

**You** agree that the insured named in the schedule, or if there is more than one insured named in the schedule the first of them, is authorised to receive all notices and agree any amendments to the **policy**.

Severability of insureds

8. **We** will not impute any conduct or knowledge of any of those included in the definition of you to any individual insured under this **policy**. However, **we** will impute the conduct or knowledge of any of those included in the definition of **you** to the entity named in the schedule and any **subsidiary**.

Other insurance

9. Any payment due under this **policy** with respect to **What is covered, A. Your own losses**, shall be applied as primary insurance. Any other payment due under this **policy** shall be specifically excess of and will not contribute with any other valid and collectible insurance available to **you**, unless such other insurance is written as excess insurance over the limit of indemnity of this **policy**.

Allocation of costs

10. If a **claim** is only partially covered by **us**, either because of uncovered matters or because it includes uncovered parties, **we** will use **our** best efforts to agree a fair and proper allocation based upon the relative legal exposure to such covered and uncovered parties and/or matters. The allocation will ultimately, be **our** decision, however.

Governing law and jurisdiction for disputes

11. This **policy** will be governed by and interpreted according to the laws of the province or territory stated in the schedule and the laws of Canada applicable in such province or territory.

Any dispute arising out of or relating to this insurance, including over its construction, application and validity, will be submitted to the exclusive jurisdiction of the courts of the province or territory stated in the schedule.

Sanctions

12. **We** will not be liable to pay any claim or provide any benefit under this **policy** which would expose us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Canada or the United States of America.

In the event of the above, **we** will treat this **policy** as if it had never existed.

Fraud

13. If **you** or anyone entitled to cover in respect of any claim or loss, or anyone on behalf of **you** or such other person, tries to deceive **us** by deliberately giving **us** false information or making a fraudulent claim under this **policy** then:
- a. **we** shall be entitled to give **you** notice of termination of the **policy** with effect from the date of any fraudulent act or claim or the provision of such false information;
  - b. **we** shall be entitled to refuse to make any payment under the **policy** in respect of any claim made or any loss occurring after the date of any fraudulent act or claim or the provision of such false information;
  - c. **you** must reimburse all payments already made by **us** relating to claims made or losses occurring after the date of any fraudulent act or claim or the provision of such false information; and
  - d. **we** shall be entitled to retain all premiums paid.

This does not affect **your** rights in relation to any claim made or loss occurring before the date of any fraudulent act or claim or the provision of such false information.

14. Where this **policy** provides cover for any individual who, or entity that, is not a party to the **policy**, and where such an individual or entity (or anyone on their behalf) tries to deceive **us** by deliberately giving **us** false information or making a fraudulent claim under this **policy**, **our** rights set out in 13. above

apply only to any individual or entity that gave the false information or made the fraudulent claim.

## NOTICE TO ASSUREDS Pursuant to the Freedom of Information And Protection Act, 1997

The logo for Lloyd's, featuring the word "LLOYD'S" in a white, serif font on a black rectangular background.

### IMPORTANT

The notices 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 and Lloyds Canada.

#### LEGAL AUTHORITY FOR COLLECTION

Insurance Act, R.S.O. 1990, c.l.8, section 101(1).

#### PRINCIPAL PURPOSE FOR WHICH PERSONAL INFORMATION IS INTENDED TO BE USED

Information collected by Underwriters from Assureds or supplied to Assureds 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, 17<sup>th</sup> Floor Box 85 North York, Ontario M2N 6L9

Telephone (416) 250-7250  
Fax (416) 590-7070

#### Notice concerning Personal Information

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

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

For the purposes identified, personal information may be disclosed to Lloyd's related or affiliated organizations or companies, their agents/mandataries, and to certain non-related or unaffiliated organizations 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](mailto:info@lloyds.ca)



# Code of Consumer Rights & Responsibilities

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

## Right to Be Informed

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

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

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

## Responsibility to Ask Questions and Share Information

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

## Right to Complaint Resolution

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

## Responsibility to Resolve Disputes

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

## Right to Professional Service

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

## Right to Privacy

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



## Lloyd's Underwriters' Policyholders Complaint Protocol

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

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

Firstly, please contact the broker who arranged the insurance on your behalf about your concerns so that he or she may have the opportunity to help resolve the situation. If your broker is unable to help resolve your concerns, we ask that you provide us in writing an outline of your complaint along with the name of your broker and your policy number.

Please forward your complaint to:

### **Lloyd's Underwriters**

Attention: Complaints Officer:

1155 rue Metcalfe, Suite 2220, Montréal (Québec) H3B 2V6 Tel: 1-877-455-6937 - Fax: (514) 861-0470

E-mail: [info@lloyds.ca](mailto:info@lloyds.ca)

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

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

**General Insurance OmbudService (GIO):** assists in the resolution of conflicts between insurance customers and their insurance companies. The GIO can be reached at:

Toll free number: 1-877-225-0446 [www.giocanada.org](http://www.giocanada.org)

### **For Québec clients:**

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

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the FCAC.

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

427 Laurier Avenue West, 6th Floor, Ottawa ON K1R 1B9 Services in English: 1-866-461-FCAC (3222)

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

[www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca)

09/14

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**STATUTORY CONDITIONS**  
**(Alberta)**

**Property of others**

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

**Change of interest**

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

**Material change in risk**

4.
  - (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - (a) material to the risk, and
    - (b) within the control and knowledge of the insured.
  - (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - (a) terminate the contract in accordance with Statutory Condition 5,or
    - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

**Termination of insurance**

5.
  - (1) The contract may be terminated
    - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - (b) by the insured at any time on request.

- (2) If the contract is terminated by the insurer,
  - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Notice**

- 14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

01/07/12

**STATUTORY CONDITIONS  
(British Columbia)**

**Property of others**

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

**Change of interest**

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

**Material change in risk**

4.
  - (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - (a) material to the risk, and
    - (b) within the control and knowledge of the insured.
  - (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - (a) terminate the contract in accordance with Statutory Condition 5,  
or
    - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

**Termination of insurance**

5.
  - (1) The contract may be terminated
    - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - (b) by the insured at any time on request.

- (2) If the contract is terminated by the insurer,
  - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Notice**

- 14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

01/07/12

**STATUTORY CONDITIONS  
(Manitoba)**

**Property of others**

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

**Change of interest**

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

**Material change in risk**

4. (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
  - (a) material to the risk, and
  - (b) within the control and knowledge of the insured.
- (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
  - (a) terminate the contract in accordance with Statutory Condition 5,or
  - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

**Termination of contract**

5. (1) The contract may be terminated
  - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
  - (b) by the insured at any time on request.

- (2) If the contract is terminated by the insurer,
  - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15-day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Notice**

- 14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to the insured's last known address as provided to the insurer by the insured.

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## GENERAL CONDITIONS

**This policy is subject to the Civil Code of the Province of Québec**

**Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.**

For all coverages except where inapplicable.

### 1. STATEMENTS

#### 1.1 Representation of risk (Article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

#### 1.2 Material change in risk (Articles 2466 and 2467)

The Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty days of the proposal, the policy ceases to be in force.

#### 1.3 Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the client or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

#### 1.4 Warranties (Article 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Insured.

## 2. GENERAL PROVISIONS

### 2.1 **Insurable interest** (Articles 2481 and 2484) (Applicable only to property insurance)

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

### 2.2 **Changes** (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

### 2.3 **Assignment** (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

### 2.4 **Books and records**

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

### 2.5 **Inspection**

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

### 2.6 **Currency**

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

## 3. LOSSES

### 3.1 **Notice of loss** (Article 2470)

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

### **3.2 Information to be provided** (Article 2471)

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

### **3.3 False representation** (Article 2472)

Any deceitful representation entails the loss of the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

### **3.4 Intentional Fault** (Article 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect of those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

### **3.5 Notice to police** (applicable to property insurance only)

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

### **3.6 Safeguarding and examination of property** (Article 2495) (applicable to property insurance only)

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

### **3.7 Admission of liability and cooperation**

The Insured shall cooperate with the Insurer in the processing of all claims

(The following two paragraphs are applicable to liability insurance only: article 2504)

No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk

**3.8 Right of action** (Article 2502)  
(applicable to liability insurance only)

The Insurer may set up against the injured third person any grounds he could have invoked against the Insured at the time of the loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right of action against the Insured in respect of facts that occurred after the loss.

**4. COMPENSATION AND SETTLEMENT**

**4.1 Basis of settlement** (Articles 2490, 2491, 2493)  
(applicable to property insurance only)

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity in the event of partial loss.

**4.2 Pair and set** (applicable to property insurance only)

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

**4.3 Parts** (applicable to property insurance only)

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

**4.4 Fire insurance** (Articles 2485 and 2486)  
(applicable to property insurance only)

In fire insurance, the insurer is bound to repair any damage which is an immediate consequence of fire or combustion, whatever the cause, including damage to the property during removal or that caused by the means employed to extinguish the fire, subject to the exceptions specified in the policy. The insurer is also liable for the disappearance of insured things during the fire, unless he proves that the disappearance is due to theft which is not covered.

The insurer is not liable for damage caused solely by excessive heat from a heating apparatus or by any process involving the applications of heat where there is no fire or commencement of fire but, even where there is no fire, the insurer is liable for damage caused by lightning or the explosion of fuel.

An insurer who insures a property against fire is not liable for damage due to fires or explosions caused by foreign or civil war, riot or civil disturbance, nuclear explosion, volcanic eruption, earthquake or other cataclysm.

**4.5 Replacement** (Article 2494)  
(applicable to property insurance only)

Subject to the rights of preferred and hypothecary creditors, the Insurer reserves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

**4.6 Time of payment** (Articles 1591, 2469 and 2473)

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

**4.7 Property of others** (applicable to property insurance only)

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

**4.8 Waiver**

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

**4.9 Limitation of actions** (Article 2925)

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

**4.10 Subrogation** (Article 2474)

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

**5. OTHER INSURANCE**

**5.1 Property insurance** (Article 2496)

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

## **5.2 Liability insurance**

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

### **A Contribution by equal share:**

If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

### **B Contribution by limits:**

If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

## **6. CANCELLATION (Articles 2477 and 2479)**

This policy may be cancelled at any time:

- (a) By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.
- (b) By the Insurer giving written notice to each Named Insureds. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

**7. NOTICE**

Any notice to the Insurer may be sent by any recognized means of communication to the Insurer or its authorized representative. Notice may be given to the named Insured by letter personally delivered to him or by mail addressed to him at his last known address.

It is incumbent upon the sender to prove that such notice was received.

Feb. 2011