



INSURANCE FOR FITNESS CLUBS AND INSTRUCTORS

Medsurance® FIT Policy Document

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PREAMBLE

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

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

IMPORTANT: INSURING CLAUSES 2 and 3 provide cover on a claims made and reported basis. Under these **INSURING CLAUSES** a **claim** must be first made against the company named as the Insured in the Declarations or any **subsidiary** during the **period of the policy** and notified to **us** during the **period of the policy** to be covered.

In consideration of the Premium and in reliance upon the information that **you** have provided to us prior to commencement of this insurance and which is deemed to form the basis of this insurance, **we** agree to provide the cover as set out below.

INSURING CLAUSES

INSURING CLAUSE 1: GENERAL AND PROFESSIONAL LIABILITY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** arising out of accidental:

- a) **injury**; or
- b) **advertising injury**; or
- c) **damage**;

occurring during the **period of the policy** in the course of **your business activities**.

Where the **injury**, **advertising injury** or **damage** arises from continuous or repeated exposure to substantially the same general conditions, the **injury**, **advertising injury** or **damage** shall be deemed to have occurred when the first exposure to those conditions took place.

We will also pay **costs and expenses** on **your** behalf.

INSURING CLAUSE 2: SEXUAL MISCONDUCT AND PHYSICAL ABUSE LIABILITY

We agree to pay on **your** behalf to the extent the law allows all **costs and expenses** incurred as a result of any **claim** first made against **you** (regardless of who caused the **claim**) and notified to **us** during the **period of the policy** arising out of **sexual misconduct** or **physical abuse** in the course of **your business activities**. Where an act of **sexual misconduct** or **physical abuse** occurs more than once, the **sexual misconduct** or **physical abuse** shall be deemed to have occurred when the first occurrence took place.

INSURING CLAUSE 3: PRODUCTS AND COMPLETED OPERATIONS LIABILITY

We agree to pay on **your** behalf all sums which **you** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** first made against **you** (regardless of who caused the **claim**) and notified to **us** during the **period of the policy** arising out of accidental **injury** or **damage** caused directly by **your products**.

We will also pay **costs and expenses** on **your** behalf.

INSURING CLAUSE 4: TENANTS' LIABILITY

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

We will also pay **costs and expenses** on **your** behalf.

INSURING CLAUSE 5: MEDICAL EXPENSES

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

- a) on premises **you** own or rent; or
- b) on ways next to premises **you** own or rent; or

- c) because of **your business activities**;
- provided that:

- a) the injured person, at the time of the accident, is not entitled to benefits under any workers compensation or disability benefits law or similar law; and
- b) the **medical expenses** are incurred and notified to **us** within one year of the date of the accident; and
- c) the injured person submits to examination, at **our** expense, by physicians of **our** choice as often as **we** reasonably require.

We will make these payments regardless of fault.

INSURING CLAUSE 6: COMMERCIAL PROPERTY

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

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

- i) the costs **you** incur to replace locks and keys necessary to maintain the security of **your premises** or safes following theft of keys involving force and violence occurring during the **period of the policy**; or
- j) the amount of any rent for **your premises** which **you** are legally obliged to pay for any period during which **your premises** or any part of it is unusable as a result of **damage** covered under this **INSURING CLAUSE**; or
- k) loss of merered water or gas, as a result of **damage** resulting in a water or gas charge that **you** are unable to recover from any other party.

We also agree to pay:

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

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

INSURING CLAUSE 7: BUSINESS INTERRUPTION

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

- a) **insured damage to your premises or contents of every description** or to any other property used by **you** at **your premises**; or
- b) **insured damage** to property in the vicinity of **your premises** which prevents or hinders **your** access to **your premises**; or
- c) **insured damage** at the **premises** of one of **your** suppliers, other than a supplier of water, gas, electricity or telephone services; or
- d) failure in the supply of water, gas, electricity, or telephone services to **your premises** for more than 24 consecutive hours caused by **insured damage** to any property; or
- e) **your** inability to use **your premises** due to restrictions imposed by a public authority following:
 - i) a murder or suicide; or
 - ii) an occurrence of a notifiable human disease; or
 - iii) **injury** traceable to food or drink consumed at **your premises**; or

- iv) vermin or pests at **your premises**.

INSURING CLAUSE 8: LOSS MITIGATION

We agree to pay any reasonable costs necessarily incurred by **you** in respect of measures taken by **you** for the sole purpose of mitigating a **claim, potential claim, injury, loss** or **damage** for which **you** would be entitled to indemnity under any **INSURING CLAUSE** of this Policy for which **you** have purchased cover had these measures not been taken, provided that:

- a) **you** have previously notified **us** of the **claim, potential claim, injury, loss** or **damage**; and
- b) the costs in respect of measures taken by **you** to mitigate the **claim, potential claim, injury, loss** or **damage** are less than the expected costs of the **claim, potential claim, injury, loss** or **damage**; and
- c) the costs do not include any provision for salaries or other remuneration of **your employees**, any provision for **your** loss of profit or any provision for **your** normal operating expenses; and
- d) the costs are incurred with **our** prior written agreement (such agreement not to be unreasonably withheld).

INSURING CLAUSE 9: COURT ATTENDANCE COSTS

We agree to reimburse **you**, subject to **our** prior written agreement (such agreement not to be unreasonably withheld), for **your** reasonable costs incurred to attend court or any tribunal, arbitration, adjudication, mediation or other hearing as a witness in connection with a **claim** covered under any **INSURING CLAUSE** of this Policy for which **you** have purchased cover.

INSURING CLAUSE 10: REPUTATION AND BRAND PROTECTION

We agree to pay costs reasonably incurred, subject to **our** prior written agreement (such agreement not to be unreasonably withheld), for the services of a public relations consultancy for the purpose of averting or mitigating damage to **your** reputation or brand caused by a **claim, injury, loss** or **damage** that is covered under any **INSURING CLAUSE** of this Policy for which **you** have purchased cover where an event has been publicised through the media, including but not limited to television, print, radio or the internet which might reasonably be considered to create a material threat to **your** reputation.

The public relations consultancy shall be chosen by the Claims Managers who shall take into account the nature of the **claim, injury, loss** or **damage** and the cost and quality of the services that they can deliver, unless **you** have reasonable cause to request a different public relations consultancy and the Claims Managers and **you** mutually agree upon this company.

HOW MUCH WE WILL PAY

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

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

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

Where cover for any **claim** or **loss** is provided under multiple **INSURING CLAUSES** subject to the **aggregate limit of liability** only one **limit of liability** shall be payable in respect of that **claim** or **loss** and this shall be the highest **limit of liability** of the **INSURING CLAUSES** under which cover is provided.

We may at any time pay to **you** in connection with any **claim** the amount of the **aggregate limit of liability** or **limit of liability** (after deduction of any amounts already paid). Upon such payment being made **we** shall relinquish the conduct and control of the **claim** and be under no further liability in connection with such **claim** except for the payment of **costs and expenses**

incurred prior to the date of such payment (unless the **aggregate limit of liability** or **limit of liability** is stated to be inclusive of **costs and expenses**).

In respect of **INSURING CLAUSE 6** only:

- a) at **our** option, **we** will pay for any **damaged** property on the following basis:
 - i) for **your premises**, the cost of rebuilding or replacing the **damaged** property;
 - ii) for **contents of every description**, the cost of repair or replacement as new;
- b) if, at the time the **damage** occurs, the **amount insured** is less than 85% of the total value of the **premises** or **contents of every description** insured, the amount **we** will pay will be reduced in the same proportion as the **amount insured** bears to the total value of the **premises** or **contents of every description** insured;
- c) the **amount insured** for **your premises** and **contents of every description** will be adjusted monthly in line with any increase in nationally published indices. **We** will not reduce the **amount insured** without **your** consent.

In respect of **INSURING CLAUSE 7** the amount **we** will pay will be:

- a) the difference between **your** actual **income** during the **indemnity period** and the **income** it is estimated **you** would have earned during that period or, if this is **your** first trading year, the difference between

your income during the **indemnity period** and during the period immediately prior to the **loss**, less any savings resulting from the reduced **costs and expenses you** pay out of **your income** during the **indemnity period**; and

- b) any additional **costs and expenses**; and
- c) any **accounts receivable**, provided **you** keep a record of all amounts owed to **you** and keep a copy of the record away from **your premises**.

If due to an emergency, our prior written agreement cannot reasonably be obtained prior to **costs and expenses** being incurred with respect to any **claim**, **we** can provide retrospective approval for those **costs and expenses** during the period of 14 days immediately following the date on which the **claim** was first made or instituted.

YOUR DEDUCTIBLE

We shall only be liable for that part of each and every **claim**, **loss** or **medical expense** which exceeds the amount of the Deductible stated in the Declarations. If any expenditure is incurred by **us** which falls within the amount of the Deductible stated in the Declarations, then **you** shall reimburse that amount to **us** on **our** request.

Where more than one **claim**, **loss** or **medical expense** arises from the same

original cause or single source or event all such **claims**, **losses** or **medical expenses** shall be deemed to be one **claim**, **loss** or **medical expense** and only one Deductible will apply.

Where cover is provided under multiple **INSURING CLAUSES** only one Deductible will apply to that **claim** or **loss** and this shall be the highest Deductible of the **INSURING CLAUSES** under which cover is provided.

DEFINITIONS

1. "Accounts receivable"

means:

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

2. "Advertising injury"

means:

- a) oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- b) oral or written publication of material that violates a person's right of privacy;
- c) misappropriation of advertising ideas or style of doing business;
- d) infringement of copyright, title or slogan.

3. "Aggregate limit of liability"

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

4. "Amount insured"

means the maximum amount payable by **us** as shown in the Declarations in respect of each of **INSURING CLAUSES 6** and **7**. The amount applies to each incident of **loss** or **damage** occurring during the **period of the policy** provided always that after the first incident of **loss** or **damage you** comply with **our** recommendations to prevent any further incidents of **loss** or **damage**.

5. "Business activities"

means the Business Activities as stated in the Declarations and shall include, for the purpose of those Business Activities:

- i) the ownership, repair and maintenance of **your** property;
- ii) provision and management of canteen, social, sports and welfare organisations for the benefit of **your senior executive officers** or **employees** and medical, fire fighting, and security services.

6. "Claim"

means:

- a) a demand for money, services, retraction or correction, including the service of suit or institution of arbitration or mediation proceedings; or
- b) a threat or initiation of a suit seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction) or declaratory relief; or
- c) a disciplinary action, regulatory investigation or proceeding

brought by any professional body, occupational health and safety body or regulator.

7. "Contents of every description"

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

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

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

8. "Costs and expenses"

means:

- a) in respect of **INSURING CLAUSES 1** to **4**:
 - i) **your** legal **costs and expenses** in the defence or settlement of any **claim** made against **you**; and
 - ii) the cost of bonds to release attachments but without any obligation to furnish these bonds; and
 - iii) **your** legal costs and expenses in the defense of any criminal claim made against **you**, provided that **we** maintain all rights of subrogation against any **senior executive officer** or **employee** if they are found guilty of such a criminal act; and
 - iv) **your** legal costs and expenses incurred in quashing or challenging the scope of any subpoena or witness summons; and
 - v) interest on that part of any judgment **we** pay that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of the judgment that is within the **limit of liability**;
- b) in respect of **INSURING CLAUSES 6** and **7**, the **costs and expenses** incurred by **you** or on **your** behalf in establishing that

you have sustained a **loss or damage** and the quantum of such **loss or damage** or the **costs and expenses** incurred by you or on your behalf in mitigating any such **loss or damage**;

- c) in respect of **INSURING CLAUSE 6** only, the necessary and reasonable **costs and expenses** you incur to remove debris from the **premises** or the area immediately adjacent, following **damage** covered under this **INSURING CLAUSE**;
- d) in respect of **INSURING CLAUSE 7** only, the **costs and expenses** incurred to continue your **business activities**.

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

If **costs and expenses** are shown in the Declarations to be in addition to the **aggregate limit of liability** or **limit of liability** in respect of any of **INSURING CLAUSES 1 to 4**, and if a payment in excess of the amount of indemnity available hereunder has to be made to dispose of any **claim** or number of **claims**, our liability for such **costs and expenses** shall be such proportion thereof as the amount of indemnity available hereunder bears to the amount required to dispose of such **claim** or **claims**.

Costs and expenses are always included in the **amount insured** in respect of **INSURING CLAUSES 6 and 7**.

- 9. **"Damage"**
means damage to, or destruction of, or loss of possession of, or loss of use of tangible property.
- 10. **"Employee"**
means any person employed by the company named as the Insured in the Declarations, or any **subsidiary**. **Employee** does not include any **senior executive officer**.
- 11. **"Extra expense"**
means the necessary and reasonable extra **costs and expenses** you incur in order to continue your **business activities** during the **indemnity period**.
- 12. **"Fitness training"**
means all personal, corporate, or group fitness training, including, but not limited to, personal training, sports coaching, dance, aerobics, cardiovascular, swimming, aqua aerobics, sports specifics, martial arts, strength, yoga and pilates.
- 13. **"Income"**
means your **total income** from your **business activities** less direct costs.
- 14. **"Indemnity period"**
means the period beginning at the date of the **damage**, or the date the restriction is imposed, and lasting for the period during which your **income** or expenditure is affected as a result of such **damage** or restriction, but for no longer than the number of months shown in the Declarations.
- 15. **"Injury"**
means:
 - a) death, bodily injury, mental injury, illness, disease, shock, mental anguish or humiliation; and
 - b) false arrest, detention or imprisonment; and
 - c) malicious prosecution; and
 - d) wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies.
- 16. **"Insured damage"**
means **damage** to property provided that:
 - a) the **damage** is covered under **INSURING CLAUSE 6**; or
 - b) an insurer has paid the claim, or has agreed to pay the claim, under any other insurance covering such **damage**.
- 17. **"Limit of liability"**
means the maximum amount payable by us as stated in the Declarations in respect of each **claim** or **loss**, or in respect of each accident giving rise to **medical expenses**.

- 18. **"Loss of a limb"**
means loss by physical separation of a hand at or above the wrist, of a foot at or above the ankle, and includes total and irrecoverable loss of use of a hand, arm or leg.
- 19. **"Loss of sight"**
means total and irrecoverable loss of sight.
- 20. **"Loss"**
means direct financial loss sustained by you.
- 21. **"Medical expenses"**
means reasonable expenses for:
 - a) first aid administered at the time of an accident;
 - b) necessary medical, surgical, x ray and dental services, including prosthetic devices;
 - c) necessary ambulance, hospital, professional nursing and funeral services.
- 22. **"Money"**
means cash, cheques, bankers drafts or share or bond certificates.
- 23. **"Period of the policy"**
means:
 - a) the period between the Inception Date shown in the Declarations and the Expiry Date shown in the Declarations; or
 - b) the period between the Inception Date shown in the Declarations and the date on which the Policy is cancelled in accordance with **GENERAL CONDITION 11**.
- 24. **"Permanent total disablement"**
means disablement which entirely prevents the injured person from attending to any business or occupation for which he is reasonably suited by training, education or experience and which lasts for 24 calendar months and at the expiry of that period being beyond hope of improvement.
- 25. **"Physical abuse"**
means:
 - a) death, bodily injury, mental injury, illness, disease, mental anguish or shock caused deliberately by you; or
 - b) the negligent employment, investigation, supervision, hiring, training or retention of a person for whom you are or were at any time responsible and who commits **physical abuse** as defined by a) above; or
 - c) your negligent reporting, or your failure to report, to the proper authorities the conduct of a person for whom you are or were at any time responsible and who commits **physical abuse** as defined by a) above.
- 26. **"Premises"**
means the property (including any outbuildings) you occupy at the address shown in the Declarations as more fully described in the Application Form.
- 27. **"Professional services"**
means the provision by you of professional services, including but not limited to:
 - a) medical, surgical, dental or nursing services or treatment, including the provision of food or beverages in connection with those services; or
 - b) lifestyle and dietary advice; or
 - c) pharmaceutical services; or
 - d) dental and medical devices; or
 - e) handling of, or the performance of post mortem examinations on, human bodies; or
 - f) tonsorial services; or
 - g) physiotherapy, chiropody, osteopathy or chiropractic services or treatments; or
 - h) otorhinolaryngological, optical or optometrical services or treatments.

Professional services does not include **fitness training**.
- 28. **"Product"**
means any tangible property (including containers, packaging, labelling or instructions, but explicitly excluding any software, data, or source

code) after it has left **your** custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered, processed, cleaned, renovated or repaired by **you** or on **your** behalf in the course of **your business activities**.

29. **“Senior executive officer”**

means board members, executive officers, in-house lawyers, risk managers, chief operating officers, chief technology officers, chief information officers, and chief privacy officers of the company named as the Insured in the Declarations, or any **subsidiary**.

30. **“Sexual misconduct”**

means:

- a) any welcome or unwelcome conduct, physical acts, gestures or spoken or written words of a sexual nature, including, but not limited to, sexual intimacy (even if consensual), sexual molestation, sexual assault, sexual battery, sexual abuse, sexual harassment, sexual exploitation or any sexual act; or
- b) the negligent employment, investigation, supervision, hiring, training or retention of a person for whom **you** are or were at any time responsible and who commits **sexual misconduct** as defined by a) above; or
- c) **your** negligent reporting, or **your** failure to report, to the proper authorities the conduct of a person for whom **you** are or were at any time responsible and who commits **sexual misconduct** as defined by a) above.

31. **“Subsidiary”**

means any company which the company named as the Insured in the Declarations controls through:

- a) holding 50% or more of the voting rights; or
- b) having the right to appoint or remove 50% or more of its board of directors; or
- c) controlling alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights therein.

32. **“Temporary total disablement”**

means disablement which entirely prevents the injured person from attending to his business or occupation.

33. **“Third party”**

means any person or company who is not a **senior executive officer** or **employee**.

34. **“We/our/us”**

means the Underwriters named in the Declarations.

35. **“You/your”**

means:

- a) the company named as the Insured in the Declarations, or any **subsidiary**; and
- b) any past, present or future **employee**, trainee or **senior executive officer**.

EXCLUSIONS

We will not:

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

EXCLUSIONS RELATING TO OTHER INSURANCES:

1. **Marine and aviation**

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

2. **Auto**

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

- a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
- b) occurring beyond the limits of any carriageway or thoroughfare and caused by the loading or unloading of any motor vehicle or trailer;
- c) arising out of the use of any motor vehicle or trailer temporarily in **your** custody or control for the purpose of parking; or
- a) occurring beyond the limits of any carriageway or thoroughfare and caused by the use of any unlicensed vehicle, including but limited to snowmobiles and all terrain vehicles, in the course of **your business activities**;

provided always that **we** will not make any payment on **your** behalf or incur any **costs and expenses** in respect of any legal liability for which compulsory insurance or security is required by legislation or for which a government or other authority has accepted responsibility.

3. **Employment practices**

- a) any employer-employee relations, policies, practices, acts, omissions, any actual or alleged refusal to employ any person, or misconduct with respect to **employees**; or
- b) any acts or omissions committed by **you** or any of **your senior executive officers** or **employees** which are in breach of, or are

alleged to be in breach of, any terms and conditions of contract relating to the previous employment of any of **your senior executive officers** or **employees**.

4. **Employers' liability**

arising directly or indirectly out of **injury to your senior executive officers** or **employees**.

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

5. **Directors and officers liability**

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

6. **Professional services**

arising directly or indirectly from **professional services**.

7. **Other insurance**

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

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

EXCLUSIONS RELATING TO THE CONDUCT OF YOUR BUSINESS:

8. **Advertising injury exclusions**

arising from **advertising injury** arising directly or indirectly out of:

- a) oral or written publication of material, if done by **you** or directed by **you**, with **your** knowledge of its falsity; or
- b) oral or written publication of material whose first publication took place prior to the **period of the policy**; or
- c) the willful violation of a penal statute or ordinance by **you** or with **your** consent; or

- d) breach of contract, other than misappropriation of advertising ideas under an implied contract; or
 - e) the failure of goods, products, or services to conform with advertised quality or performance; or
 - f) the wrong description of the price of goods, products or services; or
 - g) the activities of a **subsidiary** whose principal business activity is advertising, broadcasting, publishing or telecasting.
9. **Beauty or esthetics salons and spas**
arising directly or indirectly out of any:
- a) laser operations; or
 - b) equipment not conforming to manufacturer standards or not meeting Canadian government equipment requirements; or
 - c) midwifery or doula services; or
 - d) medical clinic; or
 - e) use of cosmetic nail products containing methyl methacrylate (MMA); or
 - f) re-usage of any type of needle; or
 - g) re-filtering depilatory wax; or
 - h) botox injections; or
 - i) collagen injections; or
 - j) restylane or perlane; or
 - k) mesotherapy; or
 - l) dermabrasion; or
 - m) removal of warts, moles or other growths; or
 - n) tattoo removal or birth mark removal; or
 - o) permanent tattooing; or
 - p) tongue or genital piercing.
10. **Benefit laws**
arising directly or indirectly out of **your** failure to comply with the mandatory provisions of any law concerning workers compensation, unemployment insurance, social security, disability benefits or pension benefits.
11. **Circumstances known at inception**
in respect of **INSURING CLAUSES 2 and 3** only, arising out of any circumstances or occurrences which could give rise to a **claim** of which **you** are aware, prior to the Inception Date of this Policy, whether notified under any other insurance or not.
12. **Criminal acts**
arising out of any wilful, criminal or fraudulent act or omission committed by **you**.
- This **EXCLUSION** shall not apply to **INSURING CLAUSE 2**.
13. **Faulty workmanship**
arising from **damage to your premises** caused directly or indirectly by misuse, inadequate or inappropriate maintenance, faulty workmanship, defective design, the use of faulty materials or whilst being cleaned, worked on or maintained.
14. **Hazardous devices**
in respect of **INSURING CLAUSE 3** only, arising directly or indirectly from any product which with **your** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, military vehicle, hovercraft, waterborne craft or any medical equipment.
15. **Legal Action**
where action for damages is brought in a court of law outside of those territories specified in the Declarations, or where action is brought in a court of law within those territories to enforce a foreign judgment whether by way of reciprocal agreement or otherwise.
16. **Limiting recovery rights**
arising directly or indirectly out of **your** failure to take reasonable steps to ensure that **our** rights of recovery against any **third party** are not unduly restricted or financially limited by a specific term in any contract or agreement.
17. **Liquor liability**
arising directly or indirectly from the provision of alcoholic beverages by **you**.

18. **Machinery or computer breakdown**
in respect of **INSURING CLAUSE 6** only, arising directly or indirectly from:
- a) **damage to your** electrical or mechanical plant; or
 - b) loss or distortion of **your** data or **your** computer systems, television or video equipment, photographic, photocopying, surveying or telecommunications equipment; or
- resulting from its own breakdown, explosion or collapse.

However, **we** will reimburse **you** under **INSURING CLAUSE 6** up to the **amount insured for loss** occurring during the **period of the policy** following breakdown of **your** computer systems, but only if **your** computer systems are subject to a manufacturer's guarantee or a maintenance contract providing free parts and labor in the event of a breakdown.

19. **Metabolic or diet drugs**
arising directly or indirectly out of the sale or recommendation by **you** of metabolic or diet drugs.
20. **Patents**
arising out of the actual or alleged infringement of any patent or inducing the infringement of any patent.
21. **Product liability**
arising directly or indirectly from **your products**.
- This **EXCLUSION** shall not apply to **INSURING CLAUSE 3**.
22. **Sexual misconduct and physical abuse**
arising directly or indirectly out of **sexual misconduct** or **physical abuse**.
- This **EXCLUSION** shall not apply to **INSURING CLAUSE 2**.
23. **Sun-tanning studios**
arising directly or indirectly out of any:
- a) sun-tanning equipment not conforming to manufacturer standards or not meeting Canadian government equipment requirements; or
 - b) failure by **you** to provide instruction for the use of **your** sun-tanning equipment including the provision of health and safety equipment; or
 - c) use of **your** sun-tanning equipment where the release or waiver forms have not been signed by the client or by the parent or guardian for clients under the age of 16 years.

24. **Water ingress (applicable to British Columbia only)**
arising out of, or relating directly or indirectly to, in whole or in part, the **infiltration of precipitation** into the **building envelope** of a building located in the Province of British Columbia, or into a **multi-unit building** located in the Province of British Columbia.

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

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

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

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

GENERAL INSURANCE EXCLUSIONS:

25. **Asbestos**
arising from or contributed to by the manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials or products containing asbestos, or asbestos fibres or dust, unless arising directly from an act or omission committed by **you**:
- a) on or after 1st January 1990; or

- b) on or after the date specified as the Retroactive Date in the Declarations;
whichever is the later, in the course of **your business activities**.
26. **Associated companies**
- in respect of any **claim** made by any company firm or partnership in which the company named as the Insured in the Declarations has an executive or financial interest, unless such **claim** emanates from an independent **third party**; or
 - in respect of any **claim** made by or any company firm partnership or individual which has an executive or financial interest in the company named as the Insured in the Declarations or any **subsidiary**, unless such **claim** emanates from an independent **third party**; or
 - arising out of or resulting from any of **your** activities as a trustee, partner, officer, director or employee of any employee trust, charitable organization, corporation, company or business other than that of the company named as the Insured in the Declarations or any **subsidiary**; or
 - in respect of any **claim** made by or on behalf of the company named as the Insured in the Declarations or any **subsidiary**.
27. **Earthquake**
in respect of **INSURING CLAUSES 6** and **7** only, caused by earthquake, except for:
- ensuing **loss** or **damage** which results directly from fire, explosion, smoke or leakage from fire protective equipment; or
 - ensuing **damage** to **contents of every description** while in transit.
28. **Electromagnetic fields**
directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.
29. **Flood**
in respect of **INSURING CLAUSES 6** and **7** only, caused by flood, including waves, tides, tidal waves, or the rising of, the breaking out, or the overflow, of any body of water whether natural or manmade, but this **EXCLUSION** does not apply to:
- ensuing **loss** or **damage** which results directly from fire, explosion, smoke or leakage from fire protective equipment; or
 - ensuing **damage** to **contents of every description** while in transit.
30. **Fines**
for fines, penalties, civil or criminal sanctions and for punitive, multiple or exemplary damages unless insurable under the applicable law.
31. **Insolvency**
arising out of or relating directly or indirectly from **your** insolvency or bankruptcy, or the insolvency or bankruptcy of any **third party**. Furthermore, no coverage is provided under **INSURING CLAUSE 7** if **you** become insolvent or bankrupt.
32. **Land or water**
arising directly or indirectly from **damage** to land or water within or below the boundaries of any land or **premises** presently or at any time previously owned or leased by **you** or otherwise in **your** care, custody or control.
33. **Miscellaneous property exclusions**
in respect of **INSURING CLAUSES 6** and **7** only, arising directly or indirectly from:
- wear and tear, inherent defect, rot, vermin or infestation, or any gradually operating cause; or
 - dryness or humidity, being exposed to light or extreme temperatures, unless the **damage** is caused by storm or fire; or
 - coastal or river erosion; or
 - theft from an unattended vehicle unless the item is out of sight; or
 - frost, other than **damage** due to water leaking from burst pipes forming part of the permanent internal plumbing provided **your premises** are occupied and in use; or
 - arising directly or indirectly from unexplained loss or disappearance or inventory shortage of **your** property.
34. **Nuclear**
arising directly or indirectly from or contributed to by:
- ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
 - the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
35. **Pollution**
arising directly or indirectly out of:
- pollution or contamination of the atmosphere, or of any water, land, buildings or other property; or
 - any enforcement action in connection with the containment, clean-up, removal or treatment of such pollution or contamination;
- but this **EXCLUSION** shall not apply in respect of:
- premises** leased to, hired by, on loan to or held in trust by **you** or otherwise in **your** care, custody or control in respect of:
 - injury** caused by smoke, fumes, vapor or soot from equipment used to heat the building; or
 - injury** or **damage** arising out of heat, smoke or fumes from a **hostile fire**. For the purpose of this **EXCLUSION** a **hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be; or
 - INSURING CLAUSES 5** and **6** to the backing up of sewers, sumps, septic tanks or drains.
36. **Retroactive Date**
in respect of **INSURING CLAUSES 2** and **3** only, arising out of **sexual molestation, physical abuse, injury** or **damage** first occurring, in whole or in part, before the date specified as the Retroactive Date in the Declarations.
37. **Toxic mold / fungus**
arising directly or indirectly from any loss, **injury, damage**, costs or expenses, including, but not limited to, losses, **damage**, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:
- any **fungus, mold, mildew** or yeast; or
 - any **spore** or toxins created or produced by or emanating from such **fungus, mold, mildew** or yeast; or
 - any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus, mold, mildew** or yeast; or
 - any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbours, nurtures, or acts as a medium for any **fungus, mold, mildew, yeast** or **spore** or toxins emanating therefrom;
- regardless of any other cause, event, material, product or building component that contributed concurrently or in any sequence to that loss, **injury, damage**, cost or expense.
- For the purposes of this **EXCLUSION** the following definitions are added to the Policy:
- Fungus** includes, but is not limited to, any plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including **molds, rusts, mildews, smuts** and mushrooms.
- Mold** includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and **fungi** that produced molds.
- Spore** means any dormant or reproductive body produced by or arising from or emanating out of any **fungus, mold, mildew, plants, organisms** or microorganisms.
38. **War and terrorism**
directly or indirectly caused by, resulting from or in connection with

any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the **claim, loss, damage, costs and expenses** or **medical expenses**:

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

For the purpose of this **EXCLUSION** an **act of terrorism** means an act, including but not limited to the use of force or violence or the

threat thereof, of any person or groups of persons, whether acting alone or on behalf of or in connection with any organisations or governments, committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public, or any section of the public, in fear.

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

GENERAL CONDITIONS

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

Should any **senior executive officer** become aware of any **claim, injury, advertising injury, sexual misconduct, physical abuse, loss or damage** the following obligations must be complied with by **you**:

- a) **you** must not admit liability for or settle or make or promise any payment in respect of any **claim, injury, advertising injury, sexual misconduct, physical abuse, loss or damage** which may be covered under this Policy. Neither must **you** incur any costs or expenses in connection with the **claim, injury, advertising injury, sexual misconduct, physical abuse, loss or damage** without **our** written agreement.

However, **you** should arrange for any urgent repairs following **damage** covered under **INSURING CLAUSE 6** to be done immediately. Before any other repair work begins **we** have the right to inspect **your damaged** property. **We** will notify **you** if **we** intend to do this.

- b) **We** have nominated Claims Managers to accept notice on **our** behalf. **Our** Claims Managers are specified in the Declarations and must be notified as soon as is reasonably possible.

Due to the nature of the coverage offered by this Policy, any unreasonable delay by any **senior executive officer** in notifying the Claims Managers could lead to the size of the **claim, loss or damage** increasing or to **our** rights being restricted. **We** shall not be liable for that portion of any **claim** that is due to any unreasonable delay in any **senior executive officer** notifying the Claims Managers of any **claim, loss or damage** in accordance with this **GENERAL CONDITION**.

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

2. What you must do in the event of a circumstance which may give rise to a claim

Should a **senior executive officer** become aware of:

- a) a situation that could give rise to a **claim** against **you**; or
- b) an allegation or complaint made or intimated against **you**;

then the **senior executive officer** must report the matter to **us** during the **period the policy** or the period of any applicable Extended Reporting Period.

We will require **you** to provide **us** with full details of the circumstance, including the reasons why **you** believe that the circumstance is likely to result in a **claim**.

Any situation in a) and b) which is reported to **us** and accepted by **us** during the **period of the policy** or the period of any applicable Extended Reporting Period which does give rise to a **claim** after the Expiry Date shown in the Schedule shall be deemed by **us** to be a **claim** first made during the **period of the policy**.

3. Continuous cover

In respect of **INSURING CLAUSES 2** and **3** only, if **you** have neglected, through error or oversight only, to report a **claim** made against **you** during the period of a previous renewal of this Policy issued to **you** by **us**, then provided that **you** have maintained uninterrupted insurance of the same type with **us** since the expiry of that earlier Policy, then, notwithstanding **EXCLUSION 11**, **we** will permit the matter to be reported under this Policy and will indemnify **you**, provided that:

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

4. Fraudulent claims

If **you** notify **us** of any claim knowing that claim to be false or fraudulent in any way, **we** shall have no responsibility to pay that claim or any other claims under this insurance and the Policy will be treated as if it had not been effected.

5. Agreement to pay claims

We have the right and duty to take control of and conduct in **your** name the investigation settlement or defence of any **claim**. **We** shall also pay on **your** behalf **costs and expenses** incurred with **our** prior written agreement (subject to the Limits of Liability and applicable Deductible shown in the Declarations) provided that **we** shall not pay for the **costs and expenses** of any part of a claim that is not covered by this Policy;

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

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

6. Innocent non-disclosure

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

7. Your duty to advise us of changes

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

8. Risk management conditions

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

9. Our rights of recovery

If any payment is made under this Policy in respect of a **claim, loss or damage** and there is available to **us** any of **your** rights of recovery against any other party then **we** maintain all such rights of recovery. **We** shall not exercise these rights against any past, present or future **employee** or **senior executive officer**, unless the payment is in respect of any fraudulent or dishonest acts or omissions as proven by final non-appealable adjudication or arbitral tribunal or a written admission by any past, present or future **employee** or **senior executive officer**.

You must do nothing to impair any rights of recovery. At **our** request **you** will bring proceedings or transfer those rights to **us** and help **us** to enforce them. Any recoveries shall be applied as follows:

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

10. Waiver of subrogation

Notwithstanding **GENERAL CONDITION 9** above **we** agree to waive **our** rights of subrogation against a responsible **third party** of **yours** but only if **you** and the **third party** have entered into a contract that contains a provision requiring **us** to do this.

11. Cancellation

This Policy may be cancelled:

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

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

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

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

12. Additional insureds

We shall indemnify any **third party** as an additional Insured under this Policy, but only in respect of sums which they become legally obliged to pay (including liability for claimants' costs and expenses) as a result of a **claim** arising solely out of an act, error or omission committed

by **you** or arising solely out of accidental **injury** or **damage** caused by **you**, provided that:

- you** contracted in writing to indemnify the **third party** for such a **claim** prior to it first being made against them; and
- had the **claim** been made against **you**, then **you** would be entitled to indemnity under this Policy.

As a condition of **our** indemnification of any additional Insured:

- they shall prove to **our** satisfaction that the **claim** arose solely out of an act, error or omission committed by **you** or arose solely out of accidental **injury** or **damage** caused by **you**; and
- they shall fully comply with **GENERAL CONDITION 1(a)** above as if they were **you**.

Where a **third party** is indemnified as an additional Insured as a result of this **GENERAL CONDITION**, it is understood and agreed that any **claim** made by that **third party** against **you** shall be treated by **us** as if they were a **third party**, not an additional Insured.

13. Prior subsidiaries

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

14. Mergers and acquisitions

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

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

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

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

15. Automatic extended reporting period

In respect of **INSURING CLAUSES 2** and **3** only, an extended reporting period of 60 days following the Expiry Date as shown in the Declarations shall be automatically granted at no additional premium. This extended reporting period shall cover **claims** first made against **you** during the **period of the policy** and reported to **us** during this 60 day extended reporting period but only in respect of any **sexual misconduct, physical abuse, injury** or **damage** occurring prior to the Expiry Date shown in the Declarations, and subject to all other terms, conditions and exclusions of the policy. No **claim** shall be accepted by **us** in this 60 day extended reporting period if **you** are entitled to indemnity under any other insurance, or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

16. Optional extended reporting period

In respect of **INSURING CLAUSES 2** and **3** only, in the event **we** or **you** decline to renew or cancel this Policy then **you** shall have the right, upon payment of the Optional Extended Reporting Period Premium shown in the Declarations in full and not proportionally or otherwise in part, to have issued an endorsement providing an Optional Extended Reporting Period for the duration shown in the

Declarations which shall be effective from the cancellation or non-renewal date. Such Optional Extended Reporting Period shall cover **claims** first made against **you** and notified to **us** during this Optional Extended Reporting Period but only in respect of any **claim** arising out of any **sexual misconduct, physical abuse, injury or damage** committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions and exclusions of the Policy.

In order for **you** to invoke the Optional Extended Reporting Period option, the payment of the Optional Extended Reporting Period Premium shown in the Declarations for this Optional Extended Reporting Period must be paid to **us** within 45 days of the date of the non-renewal or cancellation.

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

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

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

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

In no event shall the granting of the Extended Reporting Period or the Optional Extended Reporting Period increase the **limit of liability** or **aggregate limit of liability**.

17. Choice of law

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

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

STATUTORY CONDITIONS

1. Misrepresentation

If a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the Insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

2. Property of others

Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured therein is stated in the contract.

3. Change of interest

The Insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act or change of title by succession, by operation of law, or by death.

4. Material change

Any change material to the risk and within the control and knowledge of the Insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the Insured in writing that, if he desires the contract to continue in force, he must within fifteen (15) days of the receipt of the notice, pay to the Insurer an additional premium; and in default of such payment the contract is no longer in force and the Insurer shall return the unearned portion, if any, of the premium paid.

5. Termination

1. This contract may be terminated:
 - a) by the Insurer giving to the Insured fifteen (15) days' notice of termination by registered mail or five (5) days' written notice of termination personally delivered;
 - b) by the Insured at any time on request.
2. Where this contract is terminated by the Insurer:
 - a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but in no event, shall the pro rata premium for the expired time be less than any minimum retained premium specified; and

- b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.

3. Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time, be deemed to be less than any minimum retained premium specified.

4. The refund may be made by money, postal or express company money order or cheque payable at par.

5. The fifteen (15) days mentioned in clause (1) (a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

6. Requirements after loss

1. Upon the occurrence of any loss of or damage to the insured property, the Insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of Conditions 9, 10 and 11:
 - a) forthwith give notice thereof in writing to the Insurer;
 - b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
 - i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes,
 - iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the Insured,
 - iv) showing the amount of other insurance and the names of other Insurers,
 - v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,

- vii) showing the place where the property insured was at the time of loss,
 - c) if required give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
2. The evidence furnished under Clauses 1 (c) and (d) of this condition shall not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.
- 7. Fraud**
Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.
- 8. Who may give notice and proof**
Notice of loss may be given, and proof of loss may be made, by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.
- 9. Salvage**
- 1. The Insured in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to any such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
 - 2. The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the Insured and required under subparagraph 1 of this condition according to the respective interests of the parties.
- 10. Entry, control, abandonment**
After loss or damage to insured property, the Insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and after the Insured has secured the property, a further right of access and entry sufficient to enable them

to make appraisal or particular estimate of the loss or damage, but the Insurer is not entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.

- 11. Appraisal**
In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the Insurance Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specified demand therefor is made in writing and until after proof of loss has been delivered.
- 12. When loss payable**
The loss is payable within sixty (60) days after completion of the proof of loss, unless the contract provides for a shorter period.
- 13. Replacement**
- 1. The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.
 - 2. In that event the Insurer shall commence to so repair, rebuild or replace the property within forty-five (45) days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.
- 14. Action**
Every action or proceeding against the Insurer for the recovery of any claim under or by virtue of this contract is absolutely barred unless commenced within one year next after the loss or damage occurs.
- 15. Notice**
Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agent or head office of the Insurer in the Province. Written notice may be given to the Insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

PRIVACY NOTICE

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

- the communication with Lloyd's policyholders
- the underwriting of policies
- the evaluation of claims
- the detection and prevention of fraud
- the analysis of business results

- purposes required or authorised by law

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

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

ONTARIO COMMERCIAL LIABILITY NOTICE

Notice to Insureds:

Pursuant to the **Freedom Of Information And Protection Of Privacy Act, R.S.O. 1990, c.F31 (as amended)**

Important

The notice below applies to insurance contracts containing non-automobile legal liability coverages in provinces where statistical data relating to such contracts must be reported to the Superintendent of Insurance.

Legal authority for collection

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

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

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

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

Manager, Statistical Services
 Financial Services Commission of Ontario
 5160 Yonge Street, 17th Floor
 Box 85
 North York, Ontario M2N 6L9

Telephone: (416) 250-7250

Fax: (416) 590-7070

FOI (1/1/1999)

COMPLAINTS PROCEDURE

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

OR

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

GIO - Atlantic Provinces

(902) 429-2730

Toll-free: 1-800-565-7189

Website: www.gio-scad.org

GIO - British Columbia & Yukon

(604) 684-3635

Toll-free: 1-877-772-3777

Website: www.gio-scad.org

GIO - Ontario

(416) 362-9528

Toll-free: 1-800-387-2880

Website: www.gio-scad.org

GIO - Prairies, Northwest Territories & Nunavut

(780) 423-2212

Toll-free: 1-800-377-6378

Website: www.gio-scad.org

Province of Québec

GIO

(514) 288-6015

Toll-free: 1-800-361-5131

Website: www.gio-scad.org

OR

Autorité des marchés financiers (l'Autorité)

Québec City (418) 525-0311

Montréal (514) 395-0311

Toll-free: 1-866-526-0311

E-mail: Renseignements-consommateur@lautorite.qc.ca

GIO – Alberta

(780) 421-8181

Toll-free: 1-888-421-4212

Website: www.gio-scad.org

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

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

Lloyd's Canada Inc.

Broker Management Services

1155 rue Metcalfe, Suite 1540

Montreal, Quebec H3B 2V6

Tel: 1-877-4LLOYDS

Fax: (514) 861-0470

E-mail: lineage@lloyds.ca

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

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

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

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

SUBSCRIPTION NOTICE

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

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

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

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

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

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

FIT



INSURANCE FOR FITNESS CLUBS AND INSTRUCTORS



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