



Victor Canada
500-1400 Blair Towers Place
Ottawa, Ontario K1J 9B8
Telephone 613-786-2000
Facsimile 613-786-2001
Toll Free 800-267-6684
www.victorinsurance.ca

Policy

Engineers Professional Liability Insurance for Members of the Ordre des ingénieurs du Québec

Master Policy *L60501E*

Endorsed by: Ordre des ingénieurs du Québec

This POLICY is the contract between YOU and the INSURER and was issued in consideration of the premium YOU have agreed to pay. This POLICY was issued in reliance upon the representations which YOU have made and upon the insurance application which forms part of this contract. This is a claims-made and reported POLICY. Please read the entire POLICY carefully.

Part I – Definitions

Throughout this POLICY certain words have been capitalized to indicate that they have a specific meaning as shown below:

1. **Claim**

- (a) A written or oral demand for money or services; or
- (b) a written or oral allegation;

received by YOU and resulting from a single actual or alleged error, omission or negligent act in YOUR rendering of professional services for others.

2. **Claim Expense(s)**

All the expenses the INSURER incurs to investigate, defend, settle, mediate, arbitrate or litigate a CLAIM covered by this POLICY. This includes costs and fees for the hiring of investigators, adjusters, experts, consultants, arbitrators, mediators and lawyers, and also court and arbitration costs and costs for the attendance of witnesses other than YOU.

3. **Damages**

Compensatory damages and, where insurable by law, punitive or exemplary damages payable to claimants. DAMAGES shall not include fines and penalties or fees which have either not been paid to YOU or which YOU are asked to return. Insurability shall be governed by such applicable laws of the jurisdiction that most favours coverage provided such jurisdiction has a substantial relationship to the relevant INSUREDS or to the CLAIM giving rise to the DAMAGES.

4. **Deductible**

The first portion of the payment under Part II for DAMAGES, payable by YOU for each CLAIM and which amount YOU have agreed to pay in consideration for a reduced premium for this POLICY. It is agreed that the INSURER and YOU shall contribute equally towards DAMAGES until YOU have paid the amount indicated in Item 5 of the Declarations.

In the event of a CLAIM, the applicable DEDUCTIBLE shall be that in effect at the time the CLAIM is made against YOU.

The INSURER agrees that YOU shall not be required to pay more than twice the amount indicated as the DEDUCTIBLE in the Declarations of this POLICY for CLAIMS which the INSURER has paid DAMAGES under this POLICY.

The INSURER agrees that YOUR DEDUCTIBLE obligation, as indicated in Item 5 of the Declarations, is reduced by fifty per cent (50%) up to \$25,000 for any CLAIM that is settled and a contribution for DAMAGES is made by the INSURER on YOUR behalf as a result of a mediation process. For the purpose of this reduced DEDUCTIBLE, “mediation” means a

formal (i.e., judicial alternate dispute resolution process or settlement conference) or a voluntary process by which a mediator assists the parties to achieve a negotiated resolution of a CLAIM.

The INSURER further agrees that YOUR DEDUCTIBLE obligation, as indicated in Item 5 of the Declarations, is reduced by fifty per cent (50%) up to \$25,000 for any CLAIM where, within sixty (60) days of the INSURER'S request, YOU provide the INSURANCE MANAGER with a copy of the written agreement that was executed by YOU and YOUR client prior to YOUR performance of the agreed-to professional services giving rise to such CLAIM, and YOU demonstrate, to the INSURANCE MANAGER'S reasonable satisfaction, YOUR compliance with any three (3) of the following five (5) conditions:

- (a) YOU must show evidence of payment terms/invoicing with YOUR client, as well as agreements with other professionals;
- (b) YOU must show evidence of pre-project planning;
- (c) YOU must show evidence of external/internal peer review;
- (d) YOU must show evidence of a constructability review of the project;
- (e) YOU must show evidence of a management system for the project documents.

Notwithstanding the above, the maximum reduction to YOUR DEDUCTIBLE obligation for any CLAIM will be fifty per cent (50%) of the amount indicated in Item 5 of the Declarations or \$25,000, whichever is less.

5. **Extended Reporting Period**

The additional period of time in which to report CLAIMS following the expiry of this POLICY, as detailed in Part V of this POLICY.

6. **Insurance Manager**

The insurance administrator under this POLICY who is duly authorized to issue this POLICY as well as to issue and receive notices under this POLICY for and on behalf of the INSURER, and whose name and address appear in the Declarations. The INSURANCE MANAGER is not a party to this contract of insurance.

7. **Insured(s)**

- (a) The NAMED INSURED; and
- (b) any present or former partner, officer, director, stockholder or employee of the NAMED INSURED while acting within the scope of their duties for the NAMED INSURED; and
- (c) all newly acquired and/or newly created firms provided that such firm is declared to the INSURANCE MANAGER within sixty (60) days of the date of acquisition or creation, but only for professional services performed for others subsequent to that date and provided that they are then specifically added as a NAMED INSURED; and
- (d) any legal representative of any deceased individual described above but only to the extent of that INSURED'S rights and duties under the POLICY; and
- (e) while acting within the scope of their duties for the NAMED INSURED:
 - (i) any individuals or personal corporation employed by the NAMED INSURED under personal services contract;
 - (ii) employees of third parties who are not engineers members of the Ordre des ingénieurs du Québec on loan to and only while working for and under the guidance of the NAMED INSURED;
 - (iii) any employees, volunteers or trainees who are not paid by the NAMED INSURED;
 - (iv) employees of third parties who are engineers members of the Ordre des ingénieurs du Québec on loan to and only while working for and under the guidance of the NAMED INSURED provided always that the third party or its engineer employees, members of the Ordre des ingénieurs du Québec, on loan to the NAMED INSURED, hold a professional liability insurance policy for engineers under the group supplementary professional liability insurance plan of the Ordre des ingénieurs du Québec in force at the time they are assigned to the NAMED INSURED, or on the condition that these third party employees are exempted from enrolling in the group supplementary plan pursuant to sections 5(3), 5(4) or 6 of the *Regulation respecting professional liability insurance for engineers*.

8. **Insurer**

YOUR insurance companies as subscribed and as indicated in the Declarations.

9. **Named Insured**

The person(s) or organization(s) specifically designated in the Declarations of the POLICY issued to the NAMED INSURED.

10. **Policy**

The POLICY is comprised of the representations made in the application(s) for this insurance, the wording, the Declarations and any endorsements added by the INSURANCE MANAGER.

11. **Policy Period**

The period from the inception date of the POLICY to the expiration date, both as indicated in the Declarations, or such lesser period as a result of the cancellation of the POLICY.

12. **Pollution**

Emission, release, discharge, dispersal, escape or disposal of smoke, gases, vapours, soot, fumes, acids, alkalis, toxic substances, waste materials, irritants, contaminants or pollutants into or upon land or any water of any description no matter where located or how contained, or into any drainage or sewage system, or into the atmosphere.

13. **You, Your**

The NAMED INSURED indicated in the Declarations of this POLICY and all other persons or organizations defined as "INSURED(S)" above.

Part II – Insuring Agreements

1. **The Insurer's Obligations**

The INSURER is formally undertaking to fulfill the following obligations for YOUR benefit, provided that the CLAIM which has been made against YOU is not related to a professional service that YOU have performed before the Retroactive Date, if such a date is shown in the Declarations.

(a) **Damages**

The INSURER will pay on YOUR behalf all sums which YOU become legally liable to pay as DAMAGES arising out of a CLAIM providing YOUR legal liability is the result of an error, omission or negligent act in the performance of professional services for others.

The limit of liability indicated in the Declarations is the maximum amount the INSURER will pay as DAMAGES for each CLAIM, no matter how many INSUREDS there are under this POLICY, or how many persons or organizations make a CLAIM. The aggregate limit of liability is the maximum amount the INSURER will pay as DAMAGES for all CLAIMS made against YOU during the POLICY PERIOD.

(b) **Defence**

The INSURER will defend a CLAIM seeking DAMAGES which are payable under the terms of this POLICY. The INSURER will choose the lawyer for the defence, will conduct such investigation and negotiations, and will choose to participate in the mediation, as it deems expedient. The INSURER'S obligations to defend YOU cease as soon as their limits of liability have been exhausted.

(c) **Supplementary Payments**

Until the INSURER'S limits of liability are exhausted, the INSURER will pay, for each CLAIM, the following:

- (i) CLAIM EXPENSE(S);
- (ii) all premiums on appeal bonds and bonds to release attachments. The INSURER has no obligation to furnish such bonds but only to pay the premiums thereon;
- (iii) all costs taxed against YOU, all court and arbitration costs owed by YOU and all interest upon that part of a judgment which falls within the remaining limits of liability at the time;
- (iv) YOUR expenses incurred for emergency medical and surgical relief to others and which YOU deemed necessary following an accident which YOU honestly believed resulted from YOUR error, omission or negligent act in the performance of professional services for others.

(d) **Expense Reimbursement**

The INSURER will reimburse YOU for the following upon presentation of supporting documentation acceptable to the INSURANCE MANAGER. The INSURER'S limit of liability under each of the following paragraphs (i) to (iv) is \$35,000 per POLICY PERIOD and is in addition to the limits of liability stipulated in the Declarations of YOUR POLICY. It is further agreed that these reimbursements are not subject to a DEDUCTIBLE.

(i) **Regulatory and Administrative Actions**

YOUR legal expenses incurred in YOUR defence of a proceeding brought against YOU by a government agency under the Canadian Human Rights Act, the Occupational Health and Safety Act, the Americans with Disabilities Act of 1990, the Fair Housing Act or any similar federal, provincial or state law or regulation but only with respect to YOUR provision of professional services for others. The INSURER will not pay any expenses incurred by others and assessed against YOU in such a proceeding.

(ii) **Loss of Documents**

In the event that any of YOUR documents have been destroyed, damaged, lost or mislaid, all expenses incurred by YOU in replacing and restoring such documents. For the purpose of this coverage, the term "documents" is defined as those used in the rendering of professional services for others.

(iii) **Crisis Management**

YOUR crisis event expenses incurred as a result of a crisis event that occurs during the POLICY PERIOD. For the purpose of this coverage, the term "crisis event" is defined as any:

- (a) incident of negligence or POLLUTION;
- (b) death, departure or debilitating illness of a partner, officer, director or member of the NAMED INSURED;
- (c) potential dissolution of the NAMED INSURED for any reason other than bankruptcy;
- (d) violent act, kidnapping, sexual assault, criminal firearm use or workplace accident resulting in negative local or national media coverage of the NAMED INSURED;

that the NAMED INSURED reasonably believes will have material adverse effect upon the NAMED INSURED'S reputation.

Furthermore, the term "crisis event expenses" is defined as reasonable fees, costs and expenses incurred by YOU for consulting services provided by a public relations firm to the NAMED INSURED in response to a crisis event, but only for up to sixty (60) days following the crisis event.

(iv) **Attendance Costs**

Reasonable expenses incurred by YOU for YOUR attendance at discoveries, pre-trial, trial and any form of alternative dispute resolution (including mediation and arbitration) in the defence of a CLAIM reported under YOUR POLICY.

For the purpose of this coverage, such costs as reimbursement for time shall be for actual hours in YOUR attendance at discoveries, pre-trial, trial and any form of alternative dispute resolution and shall be limited to fifty percent (50%) of YOUR customary billing rate per hour up to \$100 per hour. The costs reimbursed for expenses shall also include those amounts reasonably incurred by YOU for YOUR travel, accommodation and meals in YOUR attendance at discoveries, pre-trial, trial and any form of alternative dispute resolution.

(e) **Breach of Confidentiality**

The INSURER will defend YOU, make supplementary payments with respect to and pay on YOUR behalf all sums which YOU become legally obligated to pay as DAMAGES as a result of a CLAIM made against YOU for an inadvertent breach of confidentiality by YOU arising out of YOUR performance of professional services for others and provided further that YOU are not otherwise insured under any other insurance policy. This coverage is provided up to the limits of liability indicated in the Declarations but not exceeding \$1,000,000 per CLAIM and \$2,000,000 per POLICY PERIOD. This INSURER'S obligation shall not serve to increase the limits of liability indicated in the Declarations.

(f) **Libel and Slander**

The INSURER will defend YOU, make supplementary payments with respect to and pay on YOUR behalf all sums which YOU become legally obligated to pay as DAMAGES as a result of a CLAIM made against YOU for an unintentional libel or slander uttered or published by YOU arising out of YOUR rendering of professional services for

others and provided further that YOU are not otherwise insured under any other insurance policy. In the event of a CLAIM, YOU shall, upon the request of the INSURANCE MANAGER, issue, publish or broadcast, in a manner and at such time or times as the INSURANCE MANAGER may determine an apology and expression of regret in a form approved by the INSURANCE MANAGER. This coverage is provided up to the limits of liability indicated in the Declarations but not exceeding \$1,000,000 per CLAIM and \$2,000,000 per POLICY PERIOD. This INSURER'S obligation shall not serve to increase the limits of liability indicated in the Declarations.

(g) Intellectual Property Infringement

The INSURER will defend YOU, make supplementary payments with respect to and pay on YOUR behalf all sums which YOU become legally obligated to pay as DAMAGES as a result of a CLAIM for any actual or alleged unauthorized use or violation by YOU of any intellectual property, including a certification mark, trademark (including collective or service mark), trade name, trade dress, trade secret or copyright, in the rendering of professional services for others, except for any domestic or foreign patent or patent-related rights and provided that YOU are not otherwise insured under any other insurance policy. This coverage shall be subject to a sublimit of \$250,000 per CLAIM and in the aggregate per POLICY PERIOD. This sublimit is included in the INSURER'S limits of liability.

(h) Pollution Liability

The INSURER will defend YOU, make supplementary payments with respect to and pay on YOUR behalf all sums which YOU become legally obligated to pay as DAMAGES as a result of a POLLUTION incident that results in a CLAIM made against YOU provided that such liability arises out of YOUR rendering of professional services for others and provided further that YOU are not otherwise insured under any other insurance policy.

2. Your Policy Territory

Except as otherwise stated, coverage shall apply worldwide.

3. Your Policy Period

YOUR POLICY covers CLAIMS made against YOU for the first time and reported to the INSURANCE MANAGER during the POLICY PERIOD no matter when the actual or alleged error, omission or negligent act took place.

4. Circumstances and Mitigation of a Claim

In accordance with Item 1 (a) (i), Notice, of Part IV – General Conditions, if during the POLICY PERIOD or EXTENDED REPORTING PERIOD YOU report to the INSURANCE MANAGER circumstances of an error, omission or negligent act in YOUR rendering of professional services for others which could reasonably give rise to a CLAIM, then the INSURER will consider these a CLAIM in order to rectify or mitigate its consequences, even if a formal demand is advanced against YOU only after the POLICY PERIOD or EXTENDED REPORTING PERIOD.

Any such CLAIM shall be subject to the limits of liability and DEDUCTIBLE in effect at the time the circumstances were reported to the INSURANCE MANAGER.

5. The Insurer's Limits of Liability

In excess of the DEDUCTIBLE, the maximum amounts the INSURER will pay as DAMAGES per CLAIM and in the aggregate are as indicated in the Declarations of this POLICY and shall apply separately to each twelve (12) month period or part thereof counting from the inception date also indicated in the Declarations, no matter how many INSUREDS there are under this POLICY or how many persons or organizations make a CLAIM.

All CLAIMS or circumstances of an error, omission or negligent act which might give rise to a CLAIM, which arise from a single error, omission or negligent act shall be considered a single CLAIM regardless of the number of INSUREDS or the number of persons or organizations making a CLAIM.

The INSURER'S obligations to defend YOU and to make supplementary payments are in addition to the limits of liability stipulated in the Declarations of YOUR POLICY.

Part III – The Exclusions to Your Insurance Coverage

The INSURER will not pay DAMAGES, provide YOU with a defence or make supplementary payments regarding the following instances:

1. Bankruptcy/Insolvency

YOUR insolvency or bankruptcy or YOUR undergoing receivership or liquidation.

2. **Delays**

YOUR failure to complete drawings, plans, specifications, reports or schedules on time, or YOUR failure to act upon shop drawings on time, unless such failure is the result of an error or inaccuracy in the preparation of these documents.

3. **Employer**

(a) Services YOU provided as an employee of YOUR previous employer(s), unless that previous employer is specifically included as a NAMED INSURED under YOUR POLICY;

(b) CLAIMS made against YOU by:

(i) YOUR present or past employers or their parent companies, including their employees, directors, partners or officers;

(ii) any firm or entity owned by YOUR present or past employers, or that YOUR present or past employers controlled or managed.

4. **Economic Return**

Representations, forecasts or estimates of profit, return on capital or economic return.

5. **Express Warranties, Guarantees and Penalty Clauses**

CLAIMS arising out of express warranties, guarantees and penalty clauses to which YOU have agreed, unless YOUR legal liability would have already existed at law in the absence thereof.

6. **Faulty Workmanship**

Faulty workmanship, construction or work which is alleged or in fact not constructed in accordance with the design of the project or the construction documents unless such CLAIM arises solely out of YOUR provision of field services rendered as part of YOUR professional services for others.

7. **Insurance/Suretyship/Bond**

YOUR advising or requiring, or failure to advise or require, any form of insurance, suretyship or bond.

8. **Joint Venture**

YOUR participation in a joint venture, partnership, association or any other entity which has not been endorsed on this POLICY as an additional NAMED INSURED unless this POLICY was specifically issued for this purpose. This exclusion shall not apply with respect to YOUR participation in a joint venture, partnership or association established with another firm of engineers, architects, landscape architects, land surveyors, interior designers or environmental consultants for the performance of professional services for others covered under the terms of this POLICY.

9. **Liability of Others**

The liability of others YOU have assumed under contract except that the INSURER will cover YOU for YOUR legal liability and that of YOUR employees, agents, servants and subconsultants to the extent that such liability would have existed in the absence of the contract.

10. **Nuclear Liability**

(a) Liability imposed by or arising under any *Nuclear Liability Act* or any law governing nuclear energy, or the amendments thereof;

(b) bodily injury or property damage with respect to which an INSURED under this POLICY is also insured under a contract of nuclear energy liability insurance (whether the INSURED is named or unnamed in such contract and whether or not it is legally enforceable by the INSURED) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers, or would be an INSURED under any such policy but for its termination upon exhaustion of its limits of liability;

(c) bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:

(i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an INSURED; and

(ii) the furnishing by an INSURED of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and

- (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) sold, handled, used or distributed by an INSURED.

In the context of this exclusion:

- (a) The term “nuclear energy hazard” means the radioactive, toxic, explosive or other hazardous properties of radioactive material.
- (b) The term “radioactive material” means uranium, thorium, plutonium, neptunium, their respective derivatives and other compounds, radioactive isotopes of other elements and any other substances that the Canadian Nuclear Safety Commission may, by regulation, designate as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.
- (c) The term “nuclear facility” means:
 - (i) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium, or any one or more of them;
 - (ii) any equipment or device designed or used for:
 - (a) separating the isotopes of plutonium, thorium and uranium, or any one or more of them;
 - (b) processing or utilizing spent fuel;
 - (c) handling, processing or packaging waste;
 - (iii) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them, if at any time the total amount of such material in the custody of the INSURED at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - (iv) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.
- (d) The term “fissionable substance” means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
- (e) With respect to property, loss of use of such property shall be deemed to be property damage.

11. Ownership Interest

CLAIMS made against YOU by a business enterprise in which YOU either directly or indirectly have an interest or that directly or indirectly has an interest in YOU, or by an employee, director, partner or officer of any such business enterprise.

This exclusion shall not apply where the interest held by the business enterprise in YOU or the interest held by YOU in the business enterprise, whether held as equity, ownership or voting rights, is less than or equal to twenty-five per cent (25%) or if the CLAIM originates from an independent third party.

12. Prior Knowledge

YOUR knowledge of CLAIMS or circumstances which could reasonably give rise to a CLAIM, reported or not in the application, known to YOU before the effective date of the initial POLICY issued to YOU and renewed without interruption by the INSURANCE MANAGER.

13. Products Liability

The design or manufacture of any goods or products sold or supplied by YOU, or designed, manufactured, sold or supplied by others under licence from YOU.

14. Services Not Usual or Customary

The performance of services not usual or customary for professional engineers.

Part IV – General Conditions

1. Your Duties in the Event of a Claim

(a) What You Must Do

(i) Notice

As soon as YOU become aware of a CLAIM, YOU must immediately provide written notice to the INSURANCE MANAGER at the address indicated in the Declarations or to newclaims.ca@victorinsurance.com, giving all pertinent details as to the circumstances surrounding the CLAIM. As events unfold which may have an effect on the CLAIM, YOU must continue to keep the INSURANCE MANAGER informed.

Notwithstanding the foregoing, any late notice or absence of notice required by this condition shall result in the forfeiture of YOUR rights if the INSURER sustains injury therefrom.

If during the POLICY PERIOD or EXTENDED REPORTING PERIOD YOU become aware of a fact, situation or circumstance which could reasonably give rise to a CLAIM, and YOU deliver written notice thereof to the INSURANCE MANAGER prior to the date of expiry of the POLICY, any CLAIM arising out of such reported fact, situation or circumstance shall be treated as a CLAIM made during the POLICY PERIOD in which such written notice was delivered. The written notice shall include a description of the specific error, omission or negligent act committed by YOU in the rendering of professional services for others which forms the basis of the potential CLAIM; the name of the potential claimant(s); and the circumstances by which YOU first became aware of the specific error, omission or negligent act.

(ii) Co-operation

YOU must co-operate with the INSURANCE MANAGER and, upon request, provide written statements, submit to examinations and questioning, assist in effecting settlement, secure and give evidence and assist in any reasonable way the INSURANCE MANAGER deems necessary. YOU must give this co-operation at YOUR own cost.

(iii) Deductible

YOU must pay YOUR DEDUCTIBLE immediately upon request.

(b) What You Must Not Do

(i) Admissions

YOU must not admit responsibility, assume any obligation or make any commitment of money or services without the INSURANCE MANAGER'S consent, even if YOU believe there may have been an error, omission or negligent act in the rendering of professional services for others on YOUR part. Any such admission, obligation or commitment will vitiate this POLICY as far as that particular CLAIM is concerned. The only exception to this is the cost of emergency medical or surgical relief to others YOU have incurred in good faith.

(ii) Recoveries

YOU must not do anything which will prejudice the INSURER'S rights of recovery against any other party.

2. The Insurance Manager's Duties in the Event of a Claim

The INSURANCE MANAGER agrees to provide written notice to YOU and to the Secrétaire de l'Ordre des ingénieurs du Québec, if coverage is denied under the policy.

3. Your Consent to Settle

The INSURANCE MANAGER will not settle any CLAIM without the consent of the NAMED INSURED.

If the NAMED INSURED refuses to consent to the settlement of a CLAIM as recommended by the INSURANCE MANAGER, then the INSURER'S liability for that CLAIM shall not exceed the amount for which the CLAIM could have been settled including supplementary payments incurred up to the date of YOUR refusal to consent.

4. Other Insurance

This POLICY shall be in excess of all other valid and collectible insurance available to YOU. This POLICY shall apply when the available limit of liability and any deductible or retention amounts of the other insurance has been exhausted.

In the event that a CLAIM is not covered under the terms of the other insurance but would be covered under YOUR POLICY, coverage will be extended under YOUR POLICY, subject to the terms and conditions of YOUR POLICY.

5. The Insurer's Rights to Recover From Others

After the INSURER has paid DAMAGES under this POLICY, YOUR rights to recover against any other party are automatically transferred to the INSURER to the extent of the payment it made. YOU shall do everything needed to assist the INSURER and YOU must not prejudice its rights of recovery. It is agreed the INSURER waives its rights of subrogation under the POLICY against YOUR clients to the extent that YOU had a written agreement to waive such rights prior to a CLAIM or a circumstance likely to give rise to a CLAIM.

6. Assignment of Policy

YOU cannot assign YOUR rights under this POLICY to anyone else without the INSURANCE MANAGER'S consent. If YOU should be adjudged bankrupt, insolvent, incompetent or die during the POLICY PERIOD, this POLICY will cover YOUR legal representatives in the same manner as it presently covers YOU.

YOU agree that any notice of any kind the INSURANCE MANAGER mails to the NAMED INSURED at the address indicated in the Declarations shall constitute notice to YOUR legal representatives.

7. More Than One Insured

If there is more than one NAMED INSURED under this POLICY, then, as far as CLAIMS advanced by others are concerned, this POLICY will be applied as if a separate POLICY had been issued to each. This will not, however, increase the INSURER'S limits of liability.

8. The Insurer's Right of Audit

During the POLICY PERIOD, during any extension thereof and for one (1) year thereafter, the INSURER has the right to inspect YOUR premises and operations, and to examine and audit YOUR books, but strictly as they relate to this POLICY or to the calculation of the premium for this POLICY. The INSURER assumes no responsibility whatsoever by exercising or declining to exercise such right.

9. Premium

YOUR premium for this POLICY as indicated in the Declarations is a fixed premium.

10. Cancellation by You

YOU may cancel this POLICY at any time by giving the INSURANCE MANAGER notice in writing stating the date cancellation is to take effect.

11. Cancellation by the Insurer

The INSURER may cancel YOUR POLICY only if YOU have not paid the entire premium. The INSURER shall then provide YOU with at least ninety (90) days written notice to this effect stating the date on which the cancellation is to take effect.

If the INSURER cancels or decides to not renew YOUR POLICY, the INSURER agrees to provide at least ninety (90) days written notice to this effect to:

Ordre des ingénieurs du Québec
Attention: Secrétaire de l'Ordre
1801 McGill College Avenue, 6th Floor
Montreal, Quebec H3A 2N4

If, following cancellation, there is a return premium payable to YOU, the INSURER'S cheque will be sent to YOU as soon as possible, but the cancellation is not contingent upon this.

12. Premium Adjustment for Cancellation

In the event of cancellation by the INSURER, the amount of earned premium calculated upon cancellation shall be computed on a pro rata basis in accordance with the number of days during which the POLICY was in force.

In the event of cancellation by YOU, the amount of earned premium shall be calculated on a short rate basis in accordance with the number of days during which the POLICY was in force.

13. Notice to Each Other

The NAMED INSURED shall be considered the agent of all other INSUREDS under this POLICY.

All notices the INSURER sends to YOU under this POLICY must be sent to the NAMED INSURED at the address indicated in the Declarations.

All notices YOU send to the INSURER under this POLICY must be sent to the INSURANCE MANAGER at the address indicated in the Declarations.

14. **Interpretation**

This POLICY shall be interpreted and construed in accordance with the laws of the Canadian province in which the POLICY was issued.

15. **Policy Conformity With Statutes**

The terms of this POLICY that are in conflict with the terms of any applicable laws construing this POLICY, including the Quebec Civil Code, are hereby amended to conform to such laws.

16. **Continuity**

In the event this POLICY replaces, without interruption, a prior POLICY issued by the INSURANCE MANAGER, any CLAIMS or circumstances that could reasonably give rise to a CLAIM of which YOU are aware and which YOU report to the INSURANCE MANAGER shall be deemed to have been reported on the date YOU first became aware of such CLAIM or circumstances, and coverage for same will be applied in accordance with the terms, conditions and limits of liability of the POLICY in force on such date.

17. **Trade or Economic Sanctions**

This POLICY does not apply to the extent that trade or economic sanctions, prohibitions, restrictions, or similar laws or regulations prohibit the coverage provided by this POLICY. Should the INSURANCE MANAGER be required by any such sanctions, prohibitions, restrictions, laws or regulations to cancel coverage, the INSURANCE MANAGER may also be prohibited from paying any return premium.

Part V – Extended Reporting Period

1. In the event this POLICY is non-renewed or cancelled, YOU are entitled to an EXTENDED REPORTING PERIOD of five (5) years, without additional charge. The EXTENDED REPORTING PERIOD starts upon the expiry date of the POLICY PERIOD of this POLICY. The EXTENDED REPORTING PERIOD does not apply to claims that are covered by any subsequent insurance the INSURED purchases, regardless that the limits of liability of the subsequent insurance are exhausted or not.
2. The EXTENDED REPORTING PERIOD does not extend the POLICY PERIOD or change the scope of coverage provided, or reinstate or increase the limits of liability stated as such in the Declarations.
3. A CLAIM is covered by the INSURER during the EXTENDED REPORTING PERIOD only if each of the following conditions are met:
 - (a) the CLAIM shall be made against the INSURED for the first time during the POLICY PERIOD or EXTENDED REPORTING PERIOD;
 - (b) the INSURED shall report this CLAIM to the INSURANCE MANAGER during the EXTENDED REPORTING PERIOD;
 - (c) the CLAIM shall result from professional services that have been rendered:
 - (i) during the POLICY PERIOD; or
 - (ii) before the POLICY PERIOD to the extent that the professional services were rendered after the Retroactive Date, if such a date is shown in the Declarations, and to the extent that there was no interruption in coverage since the original policy issued by the INSURANCE MANAGER.
4. Any CLAIM that is first made and reported to the INSURANCE MANAGER during the EXTENDED REPORTING PERIOD will be deemed to have been reported on the last day of the POLICY PERIOD.
5. The INSURER agrees that no DEDUCTIBLE is applicable to a member of the Ordre des ingénieurs du Québec for CLAIMS reported to the INSURER during the EXTENDED REPORTING PERIOD.



Victor Canada
500-1400 Blair Towers Place
Ottawa, Ontario K1J 9B8
Telephone 613-786-2000
Facsimile 613-786-2001
Toll Free 800-267-6684
www.victorinsurance.ca

Endorsement

Endorsement No.: 1
Standard Form: AE112OIQ
Attached to and forming part
of Policy Number:

Provisions Related to the Extended Reporting Period for Prior Policies

It is agreed that Item 7 (c) of Part I – Definitions is deleted.

It is further agreed that Items 3 and 5 of Part I – Definitions are amended to read as follows:

3. Damages

Compensatory damages and, where insurable by law, punitive or exemplary damages payable to claimants. DAMAGES shall not include fines and penalties or fees which have either not been paid to YOU or which YOU are asked to return.

5. Extended Reporting Period

The allowed period of time in which to report CLAIMS, as detailed in Part V – Extended Reporting Period of this POLICY.

It is further agreed that the following is added to Part I – Definitions:

14. Prior Policy

The PRIOR POLICY includes only the professional liability or errors and omissions insurance issued on a claims-made and reported basis, which expired or was cancelled prior to the effective date of this POLICY. The PRIOR POLICY does not include insurance contracts issued specifically for any project, or any other comprehensive insurance contract.

It is further agreed that Part II – Insuring Agreements is deleted and replaced with the following:

Part II – Insuring Agreements

1. The Insurer's Obligations

The INSURER is formally undertaking to fulfill the following obligations for YOUR benefit, provided that the CLAIM which has been made against YOU is not related to a professional service that YOU have performed before the Retroactive Date, if such a date is shown in the Declarations.

(a) Damages

The INSURER will pay on YOUR behalf all sums which YOU become legally liable to pay as DAMAGES arising out of a CLAIM providing YOUR legal liability is the result of an error, omission or negligent act in the performance of professional services for others and only for services rendered by an engineer member of the Ordre des ingénieurs du Québec.

It is further agreed that the INSURER will not pay DAMAGES, provide YOU with a defence or make supplementary payments for CLAIMS arising out of YOUR professional services rendered entirely by YOUR office(s) located outside the province of Quebec, except for CLAIMS arising out of YOUR professional services rendered by an engineer member of the Ordre des ingénieurs du Québec for:

- (i) clients based in the province of Quebec; or
- (ii) clients based outside the province of Quebec and where the related loss is located in the province of Quebec.

The limit of liability indicated in the Declarations is the maximum amount the INSURER will pay as DAMAGES for each CLAIM, no matter how many INSUREDS there are under this POLICY, or how many persons or organizations make a CLAIM. The aggregate limit of liability is the maximum amount the INSURER will pay as DAMAGES for all CLAIMS made against YOU during the EXTENDED REPORTING PERIOD.

(b) Defence

The INSURER will defend a CLAIM seeking DAMAGES which are payable under the terms of this POLICY. The INSURER will choose the lawyer for the defence, will conduct such investigation and negotiations, and will choose to participate in the mediation, as it deems expedient. The INSURER'S obligations to defend YOU cease as soon as their limits of liability have been exhausted.

(c) Supplementary Payments

Until the INSURER'S limits of liability are exhausted, the INSURER will pay, for each CLAIM, the following:

- (i) CLAIM EXPENSE(S);
- (ii) all premiums on appeal bonds and bonds to release attachments. The INSURER has no obligation to furnish such bonds but only to pay the premiums thereon.
- (iii) all costs taxed against YOU, all court and arbitration costs owed by YOU and all interest upon that part of a judgment which falls within the remaining limits of liability at the time.

- (iv) YOUR expenses incurred for emergency medical and surgical relief to others and which YOU deemed necessary following an accident which YOU honestly believed resulted from YOUR error, omission or negligent act in the performance of professional services for others.

(d) Pollution Liability

The INSURER will defend YOU, make supplementary payments with respect to and pay on YOUR behalf all sums which YOU become legally obligated to pay as DAMAGES as a result of a POLLUTION incident that results in a CLAIM made against YOU provided that such liability arises out of YOUR rendering of professional services for others and provided further that YOU are not otherwise insured under any other insurance policy.

2. Your Policy Territory

Coverage shall apply worldwide. It is further agreed that this coverage shall not apply to CLAIMS arising out of YOUR professional services rendered entirely by YOUR office(s) located outside the province of Quebec, except for CLAIMS arising out of YOUR professional services rendered by an engineer member of the Ordre des ingénieurs du Québec for:

- (i) clients based in the province of Quebec; or
- (ii) clients based outside the province of Quebec and where the related loss is located in the province of Quebec.

3. Insurance coverage

YOUR POLICY covers CLAIMS made against YOU for the first time and reported to the INSURANCE MANAGER during the EXTENDED REPORTING PERIOD no matter when the actual or alleged error, omission or negligent act took place.

4. The Insurer's Limits of Liability

In excess of the DEDUCTIBLE, the maximum amounts the INSURER will pay as DAMAGES per CLAIM and in the aggregate are as indicated in the Declarations of this POLICY, no matter how many INSUREDS there are under this POLICY or how many persons or organizations make a CLAIM.

All CLAIMS which arise from a single error, omission or negligent act shall be considered a single CLAIM regardless of the number of INSUREDS or the number of persons or organizations making a CLAIM.

The INSURER'S obligations to defend YOU and to make supplementary payments are in addition to the limits of liability stipulated in the Declarations of YOUR POLICY.

It is further agreed that Item 6 of Part III – The Exclusions to Your Insurance Coverage is deleted and replaced with the following:

6. Design-build, Fabrication and Remediation

CLAIMS arising from services YOU may render for projects where the construction, installation, erection, fabrication, assembly, manufacturing, decommissioning, remediation, cleanup, removal, containment, detoxification or neutralization of any property, pollutants or contaminants on any site and whether such activities are performed by YOU or on YOUR behalf, or by or on behalf of an associated business enterprise in which YOU either directly or indirectly has an interest, or that directly or indirectly has an interest in YOU.

It is further agreed that Item 12 of Part III – The Exclusions to Your Insurance Coverage is amended to read as follows:

12. Prior Knowledge

YOUR knowledge of CLAIMS or circumstances which could reasonably give rise to a CLAIM, reported or not in the application, known to YOU before the effective date of this POLICY.

It is further agreed that the following is added to Part III – The Exclusions to Your Insurance Coverage:

15. Products

The supply or sale of any goods or products.

16. Pre-purchase

The performance of building inspection services for a real estate transaction prior to a sale or purchase.

17. Services Reserved for Engineers

Services that are reserved for engineers under the Engineers Act, RLRQ, c. I-9 in force at the time the professional services in question were provided.

It is further agreed that Item 1 (a) (i) of Part IV – General Conditions is amended to read as follows:

(i) Notice

As soon as YOU become aware of a CLAIM, YOU must immediately provide written notice to the INSURANCE MANAGER at the address indicated in the Declarations or to newclaims.ca@victorinsurance.com, giving all pertinent details as to the circumstances surrounding the CLAIM. As events unfold which may have an effect on the CLAIM, YOU must continue to keep the INSURANCE MANAGER informed.

Notwithstanding the foregoing, any late notice or absence of notice required by this condition shall result in the forfeiture of YOUR rights if the INSURER sustains injury therefrom.

It is further agreed that the following is added to Item 1 (a) of Part IV – General Conditions:

(iv) Non-renewal or cancellation of the prior policy

If, during the POLICY PERIOD, the PRIOR POLICY is non-renewed or cancelled, YOU must immediately give notice to the INSURANCE MANAGER specifying the date of non-renewal or cancellation.

It is further agreed that Item 4 of Part IV – General Conditions is amended to read as follows:

4. Other Insurance

The insurance coverage provided by this POLICY does not apply to CLAIMS that are covered under another valid and collectible insurance policy, unless the limits of that insurance coverage have been exhausted.

It is further agreed that Item 16 of Part IV – General Conditions is deleted.

It is further agreed that Part V – Extended Reporting Period is deleted and replaced with the following:

Part V – Extended Reporting Period

1. In the event the PRIOR POLICY or this POLICY is non-renewed or cancelled, this POLICY provides YOU with insurance coverage for CLAIMS of which YOU first became aware during the EXTENDED REPORTING PERIOD. The EXTENDED REPORTING PERIOD is for a period of five (5) years and is effective upon non-renewal or cancellation of the PRIOR POLICY or this POLICY. The EXTENDED REPORTING PERIOD does not apply to CLAIMS that are covered by any other insurance, regardless that its limits of liability are exhausted or not.
2. The EXTENDED REPORTING PERIOD does not commit YOU to the coverage under the PRIOR POLICY, nor does it extend its policy period.
3. A CLAIM is covered by the INSURER during the EXTENDED REPORTING PERIOD only if each of the following conditions are met:
 - (a) the CLAIM shall be made against the INSURED for the first time during the EXTENDED REPORTING PERIOD; and
 - (b) the INSURED shall report this CLAIM to the INSURANCE MANAGER during the EXTENDED REPORTING PERIOD; and
 - (c) the CLAIM shall result from professional services that have been rendered before the non-renewal or cancellation of the PRIOR POLICY, and after its retroactive date, if such a date is shown in this POLICY.
4. The INSURER agrees that no DEDUCTIBLE is applicable to a member of the Ordre des ingénieurs du Québec for CLAIMS reported to the INSURER during the EXTENDED REPORTING PERIOD.

Except as otherwise provided by this endorsement, all terms, provisions and conditions of this POLICY shall have full force and effect.