



# INSURANCE PROGRAM

BROKER

 **Alternative Risk Services**

The logo for Alternative Risk Services consists of a stylized, grey, three-dimensional letter 'R' with a white outline, positioned to the left of the company name.

ONTARIO, CANADA

# CONTACT INFORMATION

## INSURANCE BROKER

### Alternative Risk Services

36 Toronto Street, Suite 510  
Toronto, ON  
M5C 2C5  
Tel: 1-866-426-1666  
Fax: 1-855-529-9462  
E-mail: [info@ar-services.ca](mailto:info@ar-services.ca)  
Web: [www.reco-claims.ca](http://www.reco-claims.ca)

Policy Wording/Coverage Questions  
Excess Coverage  
Extended Coverage

## CLAIMS ADJUSTER

### Granite Claims Solutions

16700 Bayview Ave, Suite 211,  
Newmarket ON L3X 1W1  
Toll Free: 1-877-740-1913  
Toll Free Fax: 1-866-735-1033  
Email: [claims@reco-claims.ca](mailto:claims@reco-claims.ca)

Errors & Omissions Claims Notification  
Commission Protection Claims Notification

## RECO

### RECO Insurance Department

3300 Bloor Street West  
West Tower, Suite 1200  
Toronto, ON  
M8X 2X2  
Tel: 416-207-4800  
Toll free: 1-800-245-6910  
Fax: 416-207-4820  
E-mail: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

Consumer Deposit Claims Notification  
Certificates  
Insurance Renewals

*Claim reporting forms are available online at [www.reco.on.ca](http://www.reco.on.ca)*

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**PROFESSIONAL LIABILITY INSURANCE**

Effected with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services

36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

**DECLARATIONS**

**THIS IS A CLAIMS-MADE INSURANCE POLICY. PLEASE READ CAREFULLY.**

**Name of Canadian Intermediary:** Alternative Risk Services

**Policy No.:** RECO092014-01

**Replaces Policy No.:** RECO092013-01

**Endorsements Issued at Inception:** USA Jurisdiction, Terrorism Exclusion, Nuclear Incident Exclusion

1. **Named Insured:** Real Estate Council of Ontario
2. **Named Insured Address:** 3300 Bloor Street West, West Tower, Suite 1200  
Toronto, ON M8X 2X2
3. **Policy Period:** From: September 1, 2014 To: September 1, 2015  
Both days at 12:01 a.m. Standard Time at the address of the **Named Insured**
4. **Limits of Liability:**
  - Coverage A: Errors & Omissions Insurance  
Limits: \$1,000,000 each **Claim**/\$3,000,000 Annual Aggregate
  - Coverage B: Commission Protection Insurance Extension  
Limits: \$100,000 each **Claim**/\$1,000,000 Aggregate each Occurrence
  - Coverage C: Consumer Deposit Insurance Extension  
Limits: \$100,000 each **Claim**/\$1,000,000 Aggregate each Occurrence
5. **Deductibles:**
  - Coverage A: Errors & Omissions Insurance
    - (a) \$2,500 for each **Claim** that resulted in a payment for settlement or judgment plus, if applicable:
    - (b) a further \$2,500 for each additional **Claim** against the same **Insured Member** reported within the current and prior three Policy Periods which results in a payment for settlement or judgment under this or a prior Policy.
  - Coverage B: Commission Protection Insurance Extension \$250 each **Claim**
  - Coverage C: Consumer Deposit Insurance Extension \$Nil
6. **Annual Premium:** \$345.00 per **Registrant**
7. **Minimum Retained Premium:** \$345.00 per **Registrant**
8. **Professional Services:** As defined herein
9. **Notice of Claim:** Errors & Omissions and Commission Protection      Consumer Deposit
  - To: Granite Claims Solutions  
16700 Bayview Ave., Suite 211  
Newmarket, ON L3X 1W1  
Toll Free: 1-877-740-1913  
Fax: 1-866-735-1033  
Email: [claims@reco-claims.ca](mailto:claims@reco-claims.ca)
  - To: Insurance Department  
Real Estate Council of Ontario  
3300 Bloor Street West  
West Tower, Suite 1200  
Toronto, ON M8X 2X2  
Phone: 416-207-4800  
Toll Free: 1-800-245-6910  
Fax: 416-207-4820  
Email: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

The insurance contract consists of this DECLARATIONS page as well as all coverage wordings, riders, or endorsements that are attached hereto.

**IDENTIFICATION OF INSURER/ACTION AGAINST INSURER**

This insurance has been effected in accordance with the authorization granted to the Coverholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to Agreement No. PFDO11814 (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own part and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters, they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they 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, Québec H3B 2V6.

**NOTICE**

Any notice to the Underwriters may be validly given to the Coverholder.

In witness whereof this POLICY has been signed, as authorized by the Underwriters, by 3303128 Canada Inc. T/A Alternative Risk Services.

The **Named Insured** is requested to read this POLICY and, if incorrect, return it immediately for alteration.

In the event of an occurrence likely to result in a **Claim** under this insurance, immediate notice should be given to the Coverholder whose name and address appears above. All inquiries and disputes are also to be addressed to the Coverholder.

For purposes of the Insurance Companies Act (Canada), this Canadian Policy was issued in the course of Lloyd's Underwriters' insurance business in Canada.

**THIS POLICY CONTAINS A CLAUSE WHICH MAY LIMIT THE AMOUNT PAYABLE.**

**COVERAGE A**

**ERRORS & OMISSIONS INSURANCE POLICY**

**Section I — Insuring Agreements**

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

**1. Damages**

To pay on behalf of the **Insured** all sums that the **Insured** shall become legally obligated to pay as **Damages** arising out of any **Claim** or **Claims** first made against an **Insured** during the **Policy Period** for **Professional Services**:

- (a) by reason of any act, error or omission wherever or whenever committed or alleged to have been committed in connection with or incidental to the **Insured's** activities as a **Salesperson, Broker or Brokerage**;
- (b) because of **Personal Injury** arising out of the **Insured's** activities as a **Salesperson, Broker or Brokerage**.

This POLICY shall only apply to **Claims** made against the **Insured** during the **Policy Period** and where the act, error or omission:

- (i) was committed during the **Policy Period**; or
- (ii) was committed prior to the **Policy Period** but of which the **Insured** had no knowledge prior to September 1, 2007, or of which the **Insured** had knowledge but could not have reasonably foreseen prior to September 1, 2007 that such act, error or omission would result in a **Claim** against the **Insured**, and which is not covered by any other insurance.

Notwithstanding the foregoing, if, during the **Policy Period** or EXTENDED REPORTING PERIOD (if the right is exercised in accordance with Condition 9 or 10), the **Insured** shall first become aware of any acts or circumstances which may subsequently give rise to a **Claim** against him/her which is insured hereunder and shall, during the **Policy Period** or EXTENDED REPORTING PERIOD (if applicable), give written notice to the **Insurer** of such acts or circumstances, then any **Claim** which is subsequently made against the **Insured** arising out of such acts or circumstances shall, for the purposes of this POLICY, be deemed to have been made against the **Insured** during the **Policy Period**.

**2. Defence and Payment of Costs**

This insurance applies to **Claims** anywhere in the world provided that the suit is brought within Canada or the United States. In respect of the insurance coverage under this POLICY, the **Insurer** will:

- (a) defend in the name and on behalf of the **Insured** any action which may be brought against the **Insured**, even if such action is groundless, false or fraudulent, arising out of any **Claim** coming under the terms of this POLICY. The **Insurer** shall have the right to make such investigation, negotiation and settlement of any **Claim** or suit as may be deemed expedient by the **Insurer**;
- (b) pay all costs of any appeal only as so directed by the **Insurer**, attachment or similar bonds required to be furnished in connection with the contest of any **Claims** covered hereunder, but without any obligation to apply for or furnish such bonds;
- (c) pay all costs assessed against the **Insured** in any action defended by the **Insurer** and any interest accruing after the date of action upon the part of the judgment which is within the limits of the **Insurer's** liability;
- (d) reimburse the **Insured** for all reasonable expenses, including legal costs other than loss of earnings, incurred at the **Insurer's** request;

- (e) notwithstanding the foregoing sub-paragraphs (a), (b), (c) and (d), retain the right to indemnity by the **Insured Member** for **Damages** paid by the **Insurer** but only up to the applicable **Deductible**.

### 3. Coverage Limits and Deductible

- (a) The **Limit of Liability** – each **Claim** stated in the DECLARATIONS and the **Deductible** stated in the DECLARATIONS shall apply to each **Claim**. Where more than one **Claim** against one **Insured Member** or against more than one **Insured Member** from the same **Insured Firm** arises out of substantially the same cause, then both the **Limit of Liability** – each **Claim** and the **Deductible** stated in the DECLARATIONS shall apply as an aggregate over all such **Claims**.
- (b) The **Limit of Liability** – Annual Aggregate stated in the DECLARATIONS shall be the maximum liability of the **Insurer** for each **Insured Member**, as respects all **Claims** during any annual period beginning with the inception date of the **Certificate of Insurance** issued to the **Insured Member** by the **Named Insured** and ending with the expiry date of the POLICY.
- (c) The **Insurer** shall only be liable for **Damages** that are in excess of the **Deductible** and, moreover, all **Defence Costs** shall be paid by the **Insurer** in addition to the **Limit of Liability** and the **Deductible** shall not apply to **Defence Costs**.
- (d) If **Damages** are payable for settlement or judgment pursuant to this POLICY, the **Insured Member** (never the **Named Insured**) shall pay the **Deductible** stated in Item 5.A of the DECLARATIONS. For greater certainty, each **Claim** that resulted in a payment for settlement or judgment requires the payment of a \$2,500 **Deductible** under Item 5.A (a) of the DECLARATIONS, which amount shall be increased under Item 5.A (b) of the DECLARATIONS, by a further \$2,500 for each additional **Claim** against the same **Insured Member** reported within the current and prior three Policy Periods which results in a payment for settlement or judgment under this or a prior Policy.
- (e) When one or more **Claims** arising out of an error, omission, negligent act or **Personal Injury** giving rise to coverage under this POLICY are made jointly or severally against two or more **Insured Firms** or **Insured Members** at separate **Insured Firms**, then both the **Limit of Liability** – each **Claim** and the **Deductible** stated in the DECLARATIONS shall apply separately to each **Insured Firm** as an aggregate over all **Claims** against one or more **Insured Members** from the same **Insured Firm**.
- (f) If requested by the **Insurer**, the **Insured Member** shall make direct payments for **Claims** within the **Deductible** to the **Insurer** or to other parties.
- (g) All the terms and conditions of this POLICY apply notwithstanding that the amount of the **Claim** may be less than the **Deductible** stated in Item 5 of the DECLARATIONS.

### Section II — Definitions

“**Anniversary**” means twelve (12) months after the inception date of this POLICY and every twelve (12) months thereafter.

“**Annual Premium**” is the amount per **Registrant** that is indicated in the DECLARATIONS and is the Minimum Retained Premium in the event that a **Registrant** shall either retire from the business or leave the business for any reason during the **Policy Period**. However, a pro-rata of the **Annual Premium** may be charged to any **Registrant** that becomes a **Registrant** during the **Policy Period**. The Total Annual Premium is the total annual premium from all **Registrants** including any pro-rata premiums adjustments made for new **Registrants** during the **Policy Period**.

“**Broker**” means an individual registered by the **Named Insured** as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.

“**Brokerage**” is a corporation, partnership, sole proprietor, association or other organization or entity registered by the **Named Insured** as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.

**“Certificate of Insurance”** means the certificate issued or to be issued to an **Insured Member** or an **Insured Firm** by the **Named Insured** pursuant to Section IV 2 of this POLICY.

**“Claim”** means an oral or written demand or the filing of a suit or the initiation of an arbitration proceeding seeking **Damages** for an alleged error, omission, negligent act, or **Personal Injury** arising out of **Professional Services**; or a circumstance of which the **Insured** has knowledge that may result in a demand seeking **Damages** arising out of **Professional Services**.

**“Damages”** means compensatory damages and includes:

- (a) repair costs;
- (b) pre-judgment interest; and
- (c) costs of a claimant that are assessed or fixed by a court;

but does not include:

- (i) fines or penalties;
- (ii) punitive or exemplary damages.

**“Deductible”** is that indicated in the DECLARATIONS, Item 5, Coverage A and Clause 3 of Section I of this POLICY.

**“Defence Costs”** means costs incurred by the **Insurer** or the **Named Insured** in defending or settling a **Claim**, including legal fees and disbursements of counsel appointed by the **Insurer**; the fees and disbursements of experts, appraisers and witnesses; costs of alternative dispute resolution; and adjuster’s fees incurred on the instructions of counsel in defending or settling a **Claim**.

**“Insured”** means:

- (a) the **Named Insured**;
- (b) any **Insured Member**;
- (c) any **Insured Firm** but only with respect to the rendering of **Professional Services** directly or indirectly by a **Registrant**;
- (d) any past, present or future officer, director, employee or independent contractor of the **Named Insured, Insured Firm** or **Insured Member** but only with respect to the rendering of **Professional Services** directly or indirectly by a **Registrant**;
- (e) the heirs, executors, administrators, assigns and legal representatives of each **Insured** in the event of death, incapacity or bankruptcy.

**“Insured Firm”** means any **Brokerage, Broker**, partnership or company, and any franchisor with which the **Broker** is associated, as well as their respective subsidiaries or parent companies, if any, whether created or acquired during the **Policy Period** with which the **Registrant**, whose actions or omissions are alleged to have given rise to a **Claim**, is or may have been associated.

**“Insured Member”** means a **Registrant** for whom the **Named Insured** has issued a valid and current **Certificate of Insurance** under the terms of this POLICY or a **Brokerage**.

**“Insurer”** is that indicated in the DECLARATIONS.

**“Limits of Liability”** is that indicated in the DECLARATIONS.



“**Named Insured**” is that indicated in the DECLARATIONS.

“**Personal Injury**” means:

- (a) false arrest, humiliation, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy, or malicious prosecution;
- (b) libel, slander or other defamatory or disparaging material, or publication or an utterance in violation of an individual’s right of privacy.

“**Policy Period**” is that indicated in the DECLARATIONS.

“**Professional Services**” means work as a **Salesperson** or **Broker** registered by the **Named Insured** under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in the Province of Ontario in real estate and shall be deemed to include, but not be limited to, the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, the provision of **Real Estate Appraisal Services**, work as a real estate consultant, real estate counselor, property manager, property management consultant and rental agent but does not include any paralegal service which is regulated by the Law Society Act, R.S.O. 1990, C. L.8 or successor legislation as from time to time amended.

“**Real Estate Appraisal Services**” means the provision of a market value opinion by an **Insured** in the course of providing **Professional Services** provided that a **Registrant** is either the author of the said opinion or has reviewed and approved the opinion but does not include an opinion that is done for the purpose of financing, whether secured or unsecured, or an opinion that is done in the usual course of business by anyone with Accredited Appraiser Canadian Institute (AACI), Canadian Residential Appraiser (CRA), Professional Appraiser (P.App), Professional Valuator (P.Val) or Canadian National Association of Real Estate Appraisers (CNAREA) designations.

“**Registrant(s)**” is a person(s) currently or previously registered(s) by the **Named Insured** under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended and can be a **Salesperson, Broker or Brokerage**.

“**Salesperson**” is an individual registered by the **Named Insured** as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.

### Section III — Exclusions

This POLICY does not apply to any **Claim** or **Claims** for, or arising out of:

- (a) acts, errors or omissions which are fraudulent, dishonest, criminal or malicious. However, the **Insured** shall be reimbursed for all amounts which would have been collectible under this POLICY if such allegations are not subsequently proven. This exclusion does not apply to any **Insured** who is neither the author nor an accomplice of the said acts, errors or omissions;
- (b) bodily injury to, or sickness, disease, mental anguish, mental distress or death of, any person or damage to, or destruction of, or theft of, any property, including the loss of use thereof. However, this POLICY shall cover, subject to all the terms and conditions and exclusions contained herein and subject to a \$25,000 sub-limit of liability, damage to or destruction of or theft of any property in the care, custody and control of the **Insured** for purposes of selling the property. This sub-limit of liability is part of and not in addition to the **Limit of Liability** otherwise afforded by this POLICY. Any **Claim** payable under this exclusion shall be subject to a deductible of \$500;
- (c) failure to procure or maintain adequate insurance or bonds on assets or property;
- (d) any **Claim** in any way related to, or arising out of, disputes relating to commissions, fees, compensation, reward or any other form of remuneration;

- (e) any act, error or omission based upon, arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement;
- (f) any **Claim**, which is insured by any other existing valid policy or policies except in respect of any excess beyond the amount or amounts of insurance provided by such other policy or policies;
- (g) fines, penalties, taxes assessed against the **Insured** except that if a suit shall have been brought against the **Insured** on a **Claim** falling within the coverage hereof, seeking both compensatory damages and fines, penalties, taxes, then the **Insurer** shall indemnify the **Insured** for the costs incurred with the **Insurer's** consent to defend such action until judgment in the trial court, but the **Insurer** shall not have any liability for such fines, penalties and taxes. However, this exclusion does not apply to fines, penalties or taxes incurred by a third party and included in their **Claim** for **Damages** against the **Insured**;
- (h) any **Claim** against an **Insured** where such **Insured** has provided **Professional Services** with respect to a real estate transaction in which the **Insured** has a direct or indirect interest (including as a shareholder or otherwise as a principal in the transaction) unless the **Insured** has fully complied with the notice requirements under Section 32 of the Real Estate and Business Brokers Act, 2002 and Section 18, Disclosure of Interest, of the Code of Ethics as set out in Ontario Regulation 580/05 under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended;
- (i) any **Claim** in any way related to or arising out of disputes relating to money or other property held on deposit by an **Insured**;
- (j) property management where greater than 35% of either the **Registrant's** gross revenue or the gross revenue of the **Insured Firm** is derived from property management;
- (k) to any **Claim** in any way relating to, or arising out of, an **Insured** acting as a mortgage broker. This exclusion does not apply to an **Insured** who identifies a source of funding to a borrower and directs the borrower to the source of funding for a fee.

#### Section IV — Conditions

##### 1. Severability of Interest

It is a condition precedent of this POLICY that the activities of the **Insured Member** that are alleged to give rise to a **Claim** against the **Insured** were performed by the **Insured Member** while he or she was registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario. No **Insured** shall be entitled to the benefit of this POLICY unless this condition is fulfilled except that coverage will apply to any **Insured** who inadvertently or unknowingly employs or becomes associated with a **Salesperson, Broker or Brokerage** who is not a **Registrant** and against whom a **Claim** is made and such **Insured** is alleged or found to be vicariously liable. Notwithstanding the foregoing, it is agreed by the **Insurer** that an **Insured** shall be entitled to the benefit of this POLICY with respect to a **Claim** which arises out of the activities of an **Insured Member** during a period when the registration of the **Insured Member** with the **Named Insured** has lapsed or been suspended due to administrative error on the part of the **Named Insured**.

##### 2. Certificates of Insurance

The **Named Insured** shall issue **Certificates of Insurance** to **Insured Members** for a maximum period of one (1) year. A **Certificate of Insurance** for any EXTENDED REPORTING PERIOD as provided for in Condition 9 or 10 of this POLICY shall be issued by the **Insurer**.

The **Named Insured** shall act on behalf of all **Insureds** with respect to giving and receiving notice of cancellation, the negotiation of, or any revision to, any terms and conditions on issuance or renewal of this POLICY, the payment

of premiums and the receiving of any return premiums that may become due under this POLICY, and the acceptance of any endorsement issued to form a part hereof.

Any error and/or omission of the **Named Insured** in the issuance of a **Certificate of Insurance**, including, but not limited to, the name of the **Insured Member**, description, location, address or certificate number of the **Certificate of Insurance**, or inadvertent deletion of a **Certificate of Insurance**, shall not void or in any way impair the insurance afforded to the **Insured Member**, and the **Insurer** releases the **Named Insured** from any and all liability arising out of any such error and/or omission.

### 3. **Notice of Claim**

The **Insured** shall, as a condition precedent to the availability of the rights provided under this POLICY, give written notice to the **Insurer** as soon as practicable of any **Claim** made against the **Insured** or any circumstance likely to give rise to a **Claim** under this POLICY. The **Insured** shall promptly forward to the **Insurer** any demand, notice or summons received by the **Insured**. Notice given by or on behalf of the **Insured** to any authorized representative of the **Insurer** with particulars sufficient to identify the **Insured** shall be deemed notice to the **Insurer**.

It is agreed, however, that failure to give notice of any **Claim** or circumstance as outlined above, which, at the time of its happening, did not appear to involve this POLICY but which, at a later date, would appear to give rise to **Claim** hereunder, shall not prejudice such **Claim**.

Failure to give the above notices will not affect the right of any **Insured** who did not have knowledge of the act, the circumstance or the **Claim** made by a third party on condition that the failure to give any such notices be corrected during the **Policy Period**, or any renewal thereof.

Furthermore, the failure to give the above notices in said time will not affect the right of the **Insured**, if such failure has not caused prejudice to the **Insurer** and on condition that the failure to give any such notice be corrected during the **Policy Period**, or any renewal thereof.

Except for **Claims** against the **Named Insured**, notice to the **Named Insured** shall be deemed to be notice to the **Insurer**.

### 4. **Cooperation**

The **Insured** shall cooperate with the **Insurer** and, upon the **Insurer's** request, assist in making settlements and in the conduct of suits or proceedings. The **Insured** shall attend hearings, mediations, arbitrations, trials and examinations and shall assist in securing and giving evidence and obtaining the attendance of witnesses. The **Insured** shall not voluntarily make any payment, assume any obligation, make any admission to any claimant or incur any expense without the consent of the **Insurer**.

### 5. **Consent**

The **Insurer** shall not settle any **Claim** without the consent of the **Insured** such consent not to be unreasonably withheld. If, however, the **Insured** shall refuse to consent to any settlement recommended by the **Insurer**, the **Insured** is deemed to have elected to contest the **Claim** or continue any legal proceedings in connection with such **Claim**, then the **Insurer's** liability for the **Claim** shall not exceed the amount for which the **Claim** could have been settled, less the **Deductible** set out in Item 5. Coverage A (a) of the DECLARATIONS, plus **Defence Costs** incurred up to the time of such refusal. If more than one **Insured** is involved in a **Claim** and a consensus on the issue of consent to settle cannot be reached, then the **Insurer** shall have the right to act in its absolute discretion without such consent to settle.

6. **Fraud**

If the **Insured** shall make any **Claim** knowing the same to be false or fraudulent as regards the amount or otherwise, coverage for such **Insured** shall become null and void and all rights of the **Insured** herein shall be forfeited. Coverage shall continue to apply for the benefit of any other **Insured** who is not complicit in the fraud.

7. **Action Against the Insurer**

No action shall lie against the **Insurer** unless, as a condition precedent thereto, the **Insured** shall have fully complied with all terms of this POLICY, nor until the amount of the **Insured's** obligation to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured** and the claimant, subject to the prior written consent of the **Insurer**. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this POLICY to the extent of the insurance afforded by this POLICY. No person or organization shall have any right under this POLICY to join the **Insurer** as a party to any action against the **Insured** to determine the **Insured's** liability, nor shall the **Insurer** be impeded by the **Insured** or his/her legal representative.

8. **Cancellation**

This POLICY may be cancelled:

1. by mutual consent of the **Named Insured** and the **Insurer**;
2. by the **Insurer** for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
3. by the **Named Insured** if a change in legislation, a change in the regulations, or a change in the by-laws of the **Named Insured** precludes the necessity of this insurance. Such cancellation may be effected by written notice to the **Insurer** stating when thereafter the cancellation shall be effective.

9. **EXTENDED REPORTING PERIOD – Named Insured**

If the **Insurer** or the **Named Insured** shall cancel or not renew this POLICY for any reason, the coverage granted by this POLICY may be extended at the option and sole discretion of the **Named Insured** for (a) an additional twelve (12) months upon payment of an additional premium of 50% (fifty percent) of the total annual premium or (b) an additional thirty-six (36) months for an additional premium of 100% (one hundred percent) following the effective date of such cancellation or non-renewal with respect to any **Claim(s)** which may be made against any **Insured** after termination of this POLICY but only with respect to an act, error or omission committed prior to the effective date of termination of this POLICY and otherwise insured hereunder.

The rights contained in this clause shall not arise, however, unless written notice of such election, together with the additional premium due, is received by the **Insurer** within thirty (30) days after the effective date of cancellation or non-renewal. This clause shall not apply to any cancellation resulting from non-payment of premium.

A **Claim(s)** first made during the EXTENDED REPORTING PERIOD shall be deemed to have been made on the last day of the **Policy Period**.

10. **EXTENDED REPORTING PERIOD – Insured Member**

If any **Insured Member** shall either retire from the business or leave the business for any reason other than for disciplinary reasons, he/she shall be insured for a period of sixty (60) months following the date of such retirement or leave from the business for any reason other than for disciplinary reasons with respect to any **Claim** which may be made against such **Insured Member** during that sixty (60) months period but only with respect to an act, error or omission committed prior to such retirement or leave from the business and otherwise insured hereunder.

11. **Arbitration**

In the event of a dispute between the **Insured** and/or the **Named Insured** and/or the **Insurer** as to the interpretation of this POLICY, or the settlement of **Claims**, or the apportionment of liability, or amount of the **Deductible**, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

12. **Assignment**

This POLICY shall be void if assigned or transferred without the written consent of the **Insurer**. If the **Insured** shall die or be adjudged incompetent, this POLICY will protect the **Insured's** heir and legal representative as the **Insured** with respect to **Claims** reported during the **Policy Period** and arising out of any error, omission or negligent act committed prior to the date of death or adjudged incompetency, and insured under this POLICY.

13. **Insolvency**

Bankruptcy or insolvency of the **Insured** or of the **Insured's** estate shall not relieve the **Insurer** of any obligation hereunder.

14. **Agent**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or change in any part of this POLICY or stop the **Insurer** from asserting any right under the terms of this POLICY, nor shall the terms of this POLICY be waived or changed, except by endorsement issued to form part of this POLICY and signed by an authorized representative of the **Insurer**.

15. **Language**

This POLICY shall be deemed to be the language of the **Insurer**.

16. **Claims Summary Report**

The **Insurer** will remit claims summary reports, including claims reserve, to the **Named Insured** when necessary or upon request.

17. **Subrogation and Recovery**

In the event of any payment under this POLICY, the **Insurer** shall be subrogated to all rights of recovery against any person and the **Insured** shall execute and deliver instruments and papers and render assistance to secure such rights. The **Insured** shall do nothing after loss to prejudice such rights.

Any recoveries, whether effected by the **Insurer** or by the **Named Insured**, shall be applied net of the expense of such recovery, firstly to the **Insurer** as reimbursement of amounts paid in settlement of any **Claim** including **Defence Costs** incurred by the **Insurer**; secondly, to the **Insured** in satisfaction of any retention within the **Deductible**.

18. **Notice of Renewal Terms and Notice of Non-Renewal**

The **Insurer**, no less than one hundred and sixty-five (165) days prior to the **Anniversary**, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The **Named Insured** may accept or reject said offer no less than forty-five (45) days prior to the subsequent **Anniversary**.

19. **Canadian Currency Clause**

All **Limits of Liability**, premiums and other amounts as expressed in this POLICY are in Canadian currency.

20. **Choice of Law**

The **Insurer** and all **Insureds** under this POLICY agree that it is to be governed by and interpreted according to the laws of the Province of Ontario and any applicable Federal legislation of Canada.

21. **Economic or Financial Sanctions**

The **Insurer** shall not knowingly provide cover or be liable to pay any **Claim** or provide benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.

## COVERAGE B

### COMMISSION PROTECTION INSURANCE EXTENSION

#### Section I — Insuring Agreements

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

1. **Loss of Commission**

To pay on behalf of the **Insured** the amount of any **Claim** for **Loss** sustained by a **Claimant** in a trade in the Province of Ontario in real estate arising out of an **Occurrence** discovered during the **Policy Period**. Payment of any **Claim** shall only apply for the benefit of a **Claimant**.

2. **Defence and Payments of Costs**

In respect of the insurance coverage under this POLICY, the **Insurer** will:

- (a) defend any action against the **Named Insured** or an **Administrative Employee** relating to any **Claim** that relates directly or indirectly to **Loss**;
- (b) subject to the COVERAGE LIMITS set out below, pay all **Defence Costs**, it being understood that the payment of **Defence Costs** will not erode the **Limits of Liability** provided by this POLICY.

3. **Coverage Limits**

- (a) The **Limit of Liability** – each **Claim** stated in the DECLARATIONS shall be the maximum liability of the **Insurer** for **Loss** in any **Claim**.
- (b) The **Limit of Liability** – Aggregate each **Occurrence** stated in the DECLARATIONS shall be the maximum liability of the **Insurer** for any **Occurrence**. If the total amount of all **Claims** in relation to any **Occurrence** exceeds the aggregate **Limit of Liability**, then **Claims** will be settled on a pro-rata basis in the same proportion that the aggregate **Limit of Liability** bears to the total amount of all **Claims**.
- (c) If payment is made for a **Claim** under this POLICY, the **Claimant** (never the **Named Insured**) shall pay the **Deductible** stated in Item 5.B of the DECLARATIONS. The **Deductible** shall apply to each **Claim** for **Loss** but shall not apply to **Defence Costs**.

#### Section II — Definitions

The definitions under Coverage A apply to Coverage B except for the following:

“**Administrative Employee**” means a present or former employee, director, officer, manager, volunteer or committee member of the **Named Insured** acting within the scope of his or her duties in that capacity.

“**Claim**” under Coverages B and C means a demand for money.

“**Claimant**” means a **Brokerage, Broker** or **Salesperson** or their estates who has sustained a **Loss**, but shall not include any third party who may assert a **Claim** under a contract of assignment or factoring, provided such **Brokerage, Broker** or **Salesperson** was not the subject of, or responsible for, the **Occurrence**.

“**Commission**” is the remuneration owing to, to be paid to, or earned by, a **Registrant(s)** for a trade in the Province of Ontario in real estate within twenty-four (24) months prior to the date of first notification of the **Occurrence** to the **Insurer**.

**“Commission Trust”** means a constituted trust where all deposits and other monies received by or due to a **Brokerage** directed to satisfy **Commission** payable or damages or other compensation in lieu of **Commission**, plus applicable taxes, on any trade in real estate are received and held by the **Brokerage** in trust. Where the deposit is received by a listing **Brokerage**, the beneficiaries of the **Commission Trust** shall be the cooperating **Brokerage** and any listing **Salesperson** or listing **Broker** to the extent of any agreed **Commission** amount, and the listing **Brokerage** as to the balance after payment of such agreed **Commission**. Where the funds are received and held by the cooperating **Brokerage**, the beneficiaries of the **Commission Trust** shall be the cooperating **Salesperson** or cooperating **Broker** to the extent of any agreed **Commission** amount and the cooperating **Brokerage** as to the balance after payment of such agreed **Commission**.

In the event that the cooperating **Brokerage** receives the deposit, the beneficiaries to the **Commission Trust** shall be the listing **Brokerage** and any cooperating **Salesperson** or cooperating **Broker** to the extent of any agreed **Commission** amount and the cooperating **Brokerage** as to the balance after payment of such agreed **Commission**. Where the funds are received and held by the listing **Brokerage**, the beneficiaries of the **Commission Trust** shall be the listing **Salesperson** or listing **Broker** to the extent of any agreed **Commission** amount, and the listing **Brokerage** as to the balance after payment of such agreed **Commission**.

**“Commission Trust Account”** means a trust account maintained at a Canadian chartered bank or a trust company and designated as a **“Commission Trust Account”**. The **Commission Trust Account** shall be used only for the receipt and disbursement of **Commission Trust** funds, and kept separate and apart from the statutory trust account that a **Brokerage** is required to maintain for customer and/or client funds.

**“Deductible”** is that indicated in the DECLARATIONS, Item 5, Coverage B.

**“Insured”** under Coverages B and C means:

- (a) the **Named Insured**;
- (b) an **Administrative Employee**; or
- (c) a **Registrant**.

**“Limits of Liability”** is that indicated in the DECLARATIONS, Item 4, Coverage B.

**“Loss”** means loss of **Commission** which has been or, in the normal course in a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, would have been or ought to have been entrusted to or received by one **Registrant** in its/his/her **Professional Capacity** but is owed to another **Registrant** in its/his/her **Professional Capacity**.

**“Occurrence”** means

- (a) insolvency of a **Registrant**; or
- (b) all acts of theft, fraud, misappropriation or wrongful conversion combined, committed directly or indirectly by a **Registrant** or present or former employee, director, officer or manager of a **Registrant** of moneys or other property entrusted to, or received by, the **Registrant** in the **Registrant’s Professional Capacity**.

Regardless the number of such incidents of insolvency or the number of such acts of theft, fraud, misappropriation or wrongful conversion, they will be grouped as and amount to only one **Occurrence**, regardless of the number of **Claimants** who suffer a **Loss**.

**“Professional Capacity”** means the capacity as a **Salesperson, Broker** or **Brokerage**.



### Section III — Exclusions

This POLICY does not apply to any **Claim**:

1. on account of acts by any **Registrant** while acting as executor, administrator, trustee, guardian, conservator or in any fiduciary capacity other than as a **Brokerage, Salesperson or Broker** for a person other than itself/himself/herself;
2. on account of any **Occurrence** arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement.

### Section IV — Conditions

#### 1. Severability of Interest

It is a condition precedent of this POLICY that the **Occurrence** which is alleged to give rise to a **Claim** is related to a **Registrant** while it, he or she was registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario. No **Insured** shall be entitled to the benefit of this POLICY unless this condition is fulfilled except that coverage will apply to any **Insured** who inadvertently or unknowingly employs or becomes associated with a **Salesperson, Broker or Brokerage** who is not registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario and against whom a **Claim** is made and such **Insured** is alleged or found to be vicariously liable. Notwithstanding the foregoing, it is agreed by the **Insurer** that an **Insured** shall be entitled to the benefit of this POLICY with respect to a **Claim** which arises out of an **Occurrence** during a period when the registration of the **Registrant** with the **Named Insured** has lapsed or been suspended due to administrative error on the part of the **Named Insured**.

#### 2. Notice and Cooperation

The **Insured** will give notice, by submitting a detailed Notice of Claim in the prescribed form, of a **Claim** or an **Occurrence** that could result in a **Claim** to the **Insurer** as soon as practicable. For the purposes of this Section, the **Insurer** will also accept as notice of claim under this POLICY a Notice of Occurrence with sufficient particulars from an **Insured** where such **Occurrence** later gives rise to a **Claim** from a **Claimant**.

All **Claims** arising out of an **Occurrence** must be reported to the **Insurer** within twenty-four (24) months of the date of first notification of the **Occurrence** to the **Insurer**.

The **Insured** making the **Claim** and/or the **Claimant** shall cooperate with the **Insurer** and, upon the **Insurer's** request, assist in making settlements and in the conduct of suits or proceedings. The **Insured** and/or the **Claimant** shall attend hearings, mediations, arbitrations, trials and examinations and shall assist in securing and giving evidence and obtaining the attendance of witnesses.

Upon the **Insurer's** request, the **Insured** and/or the **Claimant** shall produce for the **Insurer's** examination all pertinent records in his/her/their possession, care or control at such reasonable times and places as the **Insurer** shall designate, and shall cooperate with the **Insurer** in all matters with respect thereto. Notwithstanding the foregoing, the obligation of the **Named Insured** to produce records to the **Insurer** is subject to the **Named Insured's** duties and responsibilities under legislation related to real estate or the **Named Insured** in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the **Named Insured** and the Province of Ontario and/or the by-laws of the **Named Insured** and/or any applicable privacy laws.

The **Insurer** will have a maximum period of one (1) year from the receipt of Notice of Claim in which the **Insurer** must complete, finalize and close its investigation and present its findings on any potential **Claim** to the **Insured** and/or the **Claimant**. This period is granted regardless of cancellation, termination or expiration of this POLICY.

#### 3. Claims Summary Reports

The **Insurer** will remit claims summary reports to the **Named Insured** when necessary or upon request.

4. **Proof of Loss**

A detailed and signed Notice of Claim shall constitute proof of **Loss** for each **Claim** submitted to the **Insurer** by an **Insured** and/or the **Claimant** making the **Claim**. Upon completing its investigation and being satisfied that coverage exists, subject to the terms and conditions of this POLICY, the **Insurer** shall settle each **Claim** within a reasonable period of time not to exceed ninety (90) days.

5. **Other Insurance, Trust and Other Accounts**

If there is available to the **Insured** or **Claimant** other insurance, indemnity, trust or other accounts, the **Insurer** shall be liable hereunder only for the part of any payment which is in excess of the amount actually recovered by the **Insured** or **Claimant** from such other insurance, indemnity, trust or other accounts.

6. **Subrogation and Recovery**

In the event of any payment under this POLICY, the **Insurer** shall be further subrogated to all rights of recovery of the **Insured** against any person and the **Insured** and/or the **Named Insured** shall execute and deliver instruments and papers and render assistance to the **Insurer** to secure such rights subject to the **Insured's** and/or **Named Insured's** duties and responsibilities under legislation related to real estate or the **Named Insured** in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the **Named Insured** and the Province of Ontario and/or the by-laws of the **Named Insured** and/or any applicable privacy laws.

Any recoveries effected by the **Insurer** shall be applied net of the expense of such recovery, firstly to the **Insurer** as reimbursement of amounts paid in settlement of any **Claim**, and secondly to the **Insured** in satisfaction of any retention within the **Deductible**.

The **Insurer** expressly waives all rights of subrogation or recovery against any **Registrant** of a corporation or partnership who is neither an author, accomplice nor acting in collusion with the dishonest **Registrant** in respect of any **Occurrence** resulting in any **Claim** paid under this POLICY.

7. **Cancellation**

This POLICY may be cancelled:

- (a) by mutual consent of the **Named Insured** and the **Insurer**;
- (b) by the **Insurer** for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
- (c) by the **Named Insured** if a change in legislation, a change in the regulations or a change in the by-laws of the **Named Insured** precludes the necessity of this insurance. Such cancellation may be effected by written notice to the **Insurer** stating when thereafter the cancellation shall be effective.

8. **Notice of Renewal Terms and Notice of Non-Renewal**

The **Insurer**, no less than one hundred and sixty-five (165) days prior to the **Anniversary**, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The **Named Insured** may accept said offer forty-five (45) days prior to the subsequent **Anniversary**.

9. **Assignment**

No coverage shall apply in respect of any **Claim** where an **Insured** has assigned or transferred rights to making a **Claim** under this Coverage B without the express written consent of the **Insurer**.

**10. Action Against the Insurer**

No suit, action or proceeding of any kind to recover under this POLICY shall be brought after the expiration of five (5) years from the termination or cancellation of this POLICY in its entirety, provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this POLICY, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

**11. Arbitration Clause**

In the event of a dispute between the **Insured** and/or the **Named Insured** and/or the **Insurer** as to the interpretation of this POLICY, or the settlement of **Claims**, or the apportionment of liability, or amount of the **Deductible**, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

**12. Canadian Currency Clause**

All **Limits of Liability**, premiums and other amounts as expressed in this POLICY are in Canadian currency.

**13. Economic or Financial Sanctions**

The **Insurer** shall not knowingly provide cover or be liable to pay any **Claim** or provide benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.

## COVERAGE C

### CONSUMER DEPOSIT INSURANCE EXTENSION

#### Section I — Insuring Agreements

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

1. **Loss of Deposits**

To pay on behalf of the **Insured** the amount of any **Claim** for **Loss** sustained by a **Claimant** in a trade in the Province of Ontario in real estate arising out of an **Occurrence** discovered during the **Policy Period**. Payment of any **Claim** shall only apply for the benefit of a **Claimant**.

2. **Defence and Payment of Costs**

In respect of the insurance coverage under this POLICY, the **Insurer** will:

- (a) defend any action against the **Named Insured** or an **Administrative Employee** relating to any **Claim** that relates directly or indirectly to **Loss**;
- (b) subject to the COVERAGE LIMITS set out below, pay all **Defence Costs**, it being understood that the payment of **Defence Costs** will not erode the **Limits of Liability** provided by this POLICY.

3. **Coverage Limits**

- (a) The **Limit of Liability** – each **Claim** stated in the DECLARATIONS shall be the maximum liability of the **Insurer** for **Loss** in any **Claim**.
- (b) The **Limit of Liability** – Aggregate each **Occurrence** stated in the DECLARATIONS shall be the maximum liability of the **Insurer** for any **Occurrence**. If the total amount of all **Claims** in relation to any **Occurrence** exceeds the aggregate **Limit of Liability**, then **Claims** will be settled on a pro-rata basis in the same proportion that the aggregate **Limit of Liability** bears to the total amount of all **Claims**.

#### Section II — Definitions

The definitions under Coverages A and B apply to Coverage C except for the following:

“**Claimant**” under Coverage C means a customer or client of a **Registrant** and includes an individual or any proprietorship, partnership, cooperative, society, business, association, joint venture, syndicate, company, corporation, firm or other legal or commercial entity.

“**Limits of Liability**” is that indicated in the DECLARATIONS, Item 4, Coverage C.

“**Loss**” under Coverage C means loss of deposit in the form of moneys or other property which has been or, in the normal course in a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, would have been or ought to have been entrusted to or received by a **Registrant** in its/his/her **Professional Capacity** from a customer or client or their legal representative arising out of a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, but does not include **Commission**.

#### Section III — Exclusions

This POLICY does not apply to any **Claim**:

1. on account of acts by any **Registrant** while acting as executor, administrator, trustee, guardian, conservator or in any fiduciary capacity other than as a real estate **Brokerage, Salesperson** or **Broker** for a **Claimant** other than itself/himself/herself;
2. on account of any **Occurrence** arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement.

#### Section IV — Conditions

##### 1. **Discovery and Notice**

When the **Named Insured** becomes aware of evidence of an actual or alleged **Occurrence**, the **Named Insured** will give notice to the **Insurer** as soon as practicable but within the **Policy Period**. **Claims** shall be reported to the **Named Insured** or the **Insurer** as soon as practicable but no later than thirty-six (36) months after the date of discovery of an actual or alleged **Occurrence**.

##### 2. **Claims Summary Reports**

The **Named Insured** will remit claims summary reports to the **Insurer** when necessary or upon request. The **Insurer** may request additional details on any **Claim** and reserves the right to an independent review in the settlement of any **Claim**.

##### 3. **Cooperation and Proof of Loss**

Upon the **Insurer's** request, the **Insured** shall produce for the **Insurer's** examination all pertinent records at such reasonable times and places as the **Insurer** shall designate, and shall cooperate with the **Insurer** in all matters with respect thereto. Notwithstanding the foregoing, the obligation of the **Named Insured** to produce records to the **Insurer** is subject to the **Named Insured's** duties and responsibilities under legislation related to real estate or the **Named Insured** in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the **Named Insured** and the Province of Ontario and/or the by-laws of the **Named Insured** and/or any applicable privacy laws.

A detailed and signed Notice of Claim shall constitute proof of **Loss** for each **Claim** submitted to the **Insurer** by an **Insured** and/or the **Claimant** making the **Claim**. Upon completing its investigation and being satisfied that coverage exists subject to the terms and conditions of this POLICY, the **Insurer** shall settle each **Claim** within a reasonable period of time not to exceed ninety (90) days.

##### 4. **Other Insurance, Trust and Other Accounts**

If there is available to the **Insured** or **Claimant** other insurance, indemnity, trust or other accounts, the **Insurer** shall be liable hereunder only for the part of any payment which is in excess of the amount actually recovered by the **Claimant** from such other insurance, indemnity, trust or other accounts.

##### 5. **Subrogation and Recovery**

In the event of any payment under this POLICY, the **Insurer** shall be subrogated to all rights of recovery against any person and the **Insured** shall execute and deliver instruments and papers and render assistance to secure such rights subject to the **Named Insured's** duties and responsibilities under legislation related to real estate or the **Named Insured** in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the **Named Insured** and the Province of Ontario and/or the by-laws of the **Named Insured** and/or any applicable privacy laws.

Any recoveries, whether effected by the **Insurer** or by the **Named Insured**, shall be applied net of the expense of such recovery to the **Insurer** as reimbursement of amounts paid in settlement of any **Claim**.

It is expressly agreed between the **Insured** and the **Insurer** that the **Insurer** shall be subrogated to all of the **Insured's** rights of recovery, including the value of any dishonest **Registrant's** interest in any partnership as determined by closing the said partnership's books as of the date of the discovery of the **Occurrence** by the **Named Insured**, including any amounts owing to such dishonest **Registrant** by the said partnership but in no event for more than the amount of coverage applicable to the INSURING AGREEMENTS of this POLICY. The **Insurer** expressly acknowledges that it shall waive all rights of recovery against any **Registrant** of the partnership in question who was neither an author, accomplice nor acting in collusion with the dishonest **Registrant** in respect of any **Occurrence** resulting in any **Claim** paid under this POLICY.

#### 6. **Cancellation**

This POLICY may be cancelled:

- (a) by mutual consent of the **Named Insured** and the **Insurer**;
- (b) by the **Insurer** for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
- (c) by the **Named Insured** if a change in legislation, a change in the regulations or a change in the by-laws of the **Named Insured** precludes the necessity of this insurance. Such cancellation may be effected by written notice to the **Insurer** stating when thereafter the cancellation shall be effective.

#### 7. **Notice of Renewal Terms and Notice of Non-Renewal**

The **Insurer**, no less than one hundred and sixty-five (165) days prior to the **Anniversary**, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The **Named Insured** may accept said offer forty-five (45) days prior to the subsequent **Anniversary**.

#### 8. **Action Against the Insurer**

No suit, action or proceeding of any kind to recover under this POLICY shall be brought after the expiration of five (5) years from the termination or cancellation of this POLICY in its entirety, provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this POLICY, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

#### 9. **Arbitration Clause**

In the event of a dispute between the **Insured** and the **Insurer** as to the interpretation of this POLICY, or the settlement of **Claims**, or the apportionment of liability, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

#### 10. **Canadian Currency Clause**

All **Limits of Liability**, premiums and other amounts as expressed in this POLICY are in Canadian Currency.

#### 11. **Economic or Financial Sanctions**

The **Insurer** shall not knowingly provide cover or be liable to pay any **Claim** or provide benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.



**PROFESSIONAL LIABILITY INSURANCE**  
Effected with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved  
Coverholder ("the Coverholder"):  
3303128 Canada Inc. T/A Alternative Risk Services  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

**ENDORSEMENT NO. 1**

**USA JURISDICTION ENDORSEMENT**

It is hereby understood and agreed that in respect of any action brought in a court of law or in respect of any judgment, award, payment or settlement within the United States of America or within countries which operate under the laws of the United States of America (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part), the following conditions shall apply:

- (a) **Defence Costs** incurred with the consent of the Underwriters in the defence or settlement or compromise of any such **Claim** are included within the **Limit of Liability** and the **Deductible**;
- (b) the **Limits of Liability** is restated as follows:

**Limits of Liability:**

Errors & Omissions Insurance	(a) Each <b>Claim</b>	\$1,000,000
	(b) Aggregate	\$1,000,000
Commission Protection Insurance Extension	(a) Each <b>Claim</b>	\$100,000
	(b) Aggregate	\$100,000
Consumer Deposit Insurance Extension	(a) Each <b>Claim</b>	\$100,000
	(b) Aggregate	\$100,000

- (c) Underwriters will not be liable to indemnify the **Insured** for any **Claim**:
  - (i) for or arising out of or relating directly or indirectly to actual, alleged or threatened seepage, pollution or contamination of any kind; or
  - (ii) arising out of awards or damages of a punitive or exemplary nature whether in the form of fines, penalties, multiplication of compensation awards or damages or aggravated damages or in any other form whatsoever.

**ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.**



**PROFESSIONAL LIABILITY INSURANCE**

Effected with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services

36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

**ENDORSEMENT NO. 2**

**TERRORISM EXCLUSION ENDORSEMENT**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto, it is agreed that this insurance excludes liability for loss, injury, damage, cost or expense of whatsoever nature, directly or indirectly caused by, resulting from, or in connection with, any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this Endorsement, an act of terrorism means an act, including, but not limited to, the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of, or in connection with, any organisation(s) or government(s), committed for political, religious, ideological or similar purposes, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Endorsement also excludes loss, injury, damage, cost or expense 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 any act of terrorism.

If the Underwriters allege that, by reason of this exclusion, any loss, injury, damage, cost or expense is not covered by this insurance, the burden of proving the contrary shall be upon the **Insured**.

In the event any portion of this Endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

**ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.**

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14/07/2002





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**ENDORSEMENT NO. 3**

**NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) – CANADA**

It is agreed that this POLICY does not apply:

- (a) to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- (b) to 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 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 limit of liability; nor
- (c) to 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;
  - (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) used, distributed, handled or sold by an Insured.

As used in this policy:

1. The term "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material.
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.
3. The term "nuclear facility" means:
  - (a) 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;
  - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilising spent fuel, or (iii) handling, processing or packaging waste;
  - (c) 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;

(d) 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.

4. 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.
5. With respect to property, loss of use of such property shall be deemed to be property damage.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Clause is subject to the terms, exclusions, conditions and limitations of the POLICY to which it is attached.

**ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.**

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#### PROFESSIONAL LIABILITY INSURANCE

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### LLOYD'S UNDERWRITERS CODE OF CONSUMER RIGHTS & RESPONSIBILITIES

**Lloyd's Underwriters are committed to safeguarding your rights when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your Underwriters and the insurance laws of your province/territory. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to the Underwriters with whom insurance is being negotiated. Your policy outlines other important responsibilities. Underwriters and intermediaries acting on your behalf, and governments also have important roles to play in ensuring that your rights are protected.**

#### *Right to Be Informed*

In dealing with Lloyd's Underwriters, you will be represented by an intermediary, such as a broker acting as your agent, and they may deal with other intermediaries. From the intermediary with whom you deal, you can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how premiums are calculated based on relevant facts.

A policy issued by Lloyd's Underwriters will expire on the day specified in the policy. If you wish to renew the policy, the intermediary with whom you deal will have to approach the Underwriters participating in it, often through another intermediary. If Lloyd's Underwriters are given the information they require to determine renewal terms for the policy at least 45 days prior to its expiry, under normal circumstances, they will advise the intermediary who approaches them of any changes to the policy terms at least 30 days prior to the expiration of the policy. Terms may subsequently change if there is a change in material facts prior to the expiration date.

Intermediaries may receive payments from Lloyd's Underwriters in a variety of ways, which may include the payment of commissions. Lloyd's strongly supports the disclosure and transparency of these commission arrangements. You have the right to ask the intermediary with whom you deal for details of how and by whom the intermediary is being paid.

Lloyd's Underwriters accept business as members of syndicates each of which is managed by a 'managing agent'. Lloyd's has risk management procedures in place in respect of the relationship between Lloyd's managing agents and any related companies that act as intermediaries. This is to ensure that the managing agent makes proper disclosures of any such arrangements. A policyholder may ask the intermediary whom he is dealing to disclose if it is a related company to a Lloyd's managing agent. Depending on the jurisdiction, disclosure may be required in writing.

#### *Responsibility to Ask Questions and Share Information*

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through brochures and websites, as well as through one-on-one meetings with the intermediary with whom you deal. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your Underwriters of any change in your circumstances through the intermediary with whom you deal. The Underwriters with whom renewal is being negotiated must be given information required to determine renewal terms of your policy, via the intermediary whom you are dealing with, at least 45 days prior to the expiration of the policy.

### ***Right to Complaint Resolution***

Lloyd's Underwriters are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access the Lloyd's complaint resolution process for Canada. The intermediary with whom you deal can provide you with information about how you can ensure that your complaint is heard and promptly handled. Disputes involving claims settlement matters may be handled by the independent General Insurance OmbudService [www.gioscad.org](http://www.gioscad.org) where your complaint may be referred to an independent mediator or Senior Adjudicative Officer.

### ***Responsibility to Resolve Disputes***

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

### ***Right to Professional Service***

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

### ***Right to Privacy***

Because it is important for you to disclose any and all information required by Underwriters with whom insurance is being negotiated on your behalf to provide the insurance coverage that best suits you, you have the right to know from the intermediary with whom you deal the purposes for which Lloyd's Underwriters will use your personal information. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada's privacy laws with respect to their business in Canada.



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**LLOYD'S UNDERWRITERS' POLICYHOLDERS' COMPLAINT PROTOCOL**

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

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

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

Please forward your complaint to:

**Lloyd's Underwriters**

Attention: Complaints Officer

1155 rue Metcalfe, Suite 2220, Montréal (Québec) H3B 2V6

Tel: 1-877-455-6937, Fax: (514) 861-0470

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

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

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

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

Toll free number: 1-877-225-0446

[www.giocanada.org](http://www.giocanada.org)

**For Quebec clients:**

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

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

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

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the Financial Consumer Agency of Canada (FCAC).

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

427 Laurier Avenue West, 6th Floor, Ottawa ON K1R 1B9

Services in English: 1-866-461-FCAC (3222)

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

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



To Contact Alternative Risk Services

Tel: 1-866-426-1666 • Fax: 1-855-529-9462

Email: [info@ar-services.ca](mailto:info@ar-services.ca) • Web: [www.reco-claims.ca](http://www.reco-claims.ca)

To Contact RECO

3300 Bloor Street West, West Tower, Suite 1200, Toronto, ON M8X 2X2

Tel: 416-207-4800 • Toll free: 1-800-245-6910 • Fax: 416-207-4820

E-mail: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

**[www.reco.on.ca](http://www.reco.on.ca)**