2025
EXCESS MALPRACTICE INSURANCE

Policy Terms and Conditions

Policy Number 8934500

ADVICE.
INSURANCE.
INVESTMENTS.

CDSPI

ZURICH

EXCESS Liability Special Form and Endorsements

EXCESS LIABILITY SPECIAL FORM 907110

I.   INSURING AGREEMENT

1.   This Insurer will pay its share of "excess damages" for which an Insured is legally liable and to which this form applies.

2.   The amount this Insurer will pay as "excess damages" is limited as described in IV. LIMITS OF INSURANCE.

3.   This Insurer has no other obligation to make payments or undertake acts or services.

II.   COVERAGE

1.   This form applies only:

   a.   to an Insured's liability for any "loss":

   i.   to the same extent that valid "underlying insurance" for such liability would exist if the Insured's per claim limit or the Insured's individual annual aggregate limit had not already been exhausted; and

   ii.   in accordance with the terms and conditions of the "governing underlying insurance", except with respect to any contrary provision contained in this form;

   b.   if the applicable Insured's per claim or the Insured's individual annual aggregate limit, plus any deductible or self-insured retention, of all such "underlying insurance" has or have been exhausted by payments for such "loss", which payments previously have been determined by:

   i.   a final settlement or judgment after an actual trial has taken place; or

   ii.   the conclusion of a written agreement between that Insured, the insurers of all applicable "underlying insurance" and the claimant or the claimant's representative; and

   c.   for the avoidance of doubt, this form does not apply if a shared aggregate limit has exhausted the Insured's "underlying insurance".

2.   a.   To the extent that any part of the "governing underlying insurance" is on a claims-made-and-reported basis:

   i.   this form applies only to a "claim" that is first made against an Insured and reported to this Insurer during:

   (a)   the policy period of this form; or

   (b)   if applicable, the "extended reporting period";

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ii. any retroactive date specified in that part of the "governing underlying insurance" also applies to this form; and

iii. any "extended reporting period" available in that part of the "governing underlying insurance" is also available under this form.

b. To the extent that any part of the "governing underlying insurance" is not on a claims-made-and-reported basis, the coverage provided by this form applies only to a "loss" occurring during the policy period of this form.

III. EXCLUSIONS

Regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "loss", this form does not apply to:

a. **Loss excluded by underlying insurance**

Any "loss" that is excluded by the "governing underlying insurance".

b. **Nuclear risks**

i. Liability imposed by or arising from any nuclear liability act, law or statute, or any amendment to these.

ii. "Loss" with respect to which any Insured is also insured under a contract of nuclear energy liability insurance (whether that Insured is unnamed in such contract and whether or not it is legally enforceable by that Insured) issued by the Nuclear Insurance Association of Canada or any other insurer or pool of insurers, or would be an insured under any such contract but for its termination upon exhaustion of its limit of liability.

iii. "Loss" resulting directly or indirectly from the nuclear energy hazard arising from:

(a) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of any Insured;

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

(c) the possession, consumption, use, handling, disposal or transportation of fissionable substances or of other radioactive material used, distributed, handled or sold by any Insured.

This exclusion does not apply to the possession, consumption, use, handling, disposal or transportation of radioactive isotopes, away from a nuclear facility, used, distributed, handled or sold by an Insured, which have reached the final stage of fabrication so as to be useable for any scientific, medical, agricultural, commercial or industrial purpose.

As used in this exclusion:

(1)   fissionable substance means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.

(2)   nuclear energy hazard means the explosive, radioactive, toxic or other hazardous properties of radioactive material.

(3)   nuclear facility:

(aa) means:

(i)   any apparatus designed or used to:

- sustain nuclear fission in a self-supporting chain reaction; or

- 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:

- separating the isotopes of plutonium, thorium and uranium or any one or more of them; or

- processing or packaging waste radioactive material; and

(iii)   any equipment or device used for the alloying, fabricating or processing of plutonium, thorium and 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 both; or

- 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.

(ab) includes:

(v)   the site on which any of such apparatus, equipment, device, structure, basin, excavation, premises or place is located;

(vi)   all operations conducted on such site; and

(vii)   all premises used for such operations.

(4)   radioactive material means:

(aa) neptunium, plutonium, thorium and uranium, including their derivatives and compounds; or

(ab) radioactive isotopes of other elements and any other substances which may be designated by any nuclear liability act, law or statute or any law amending such act, law or statute as being:

    (i)   prescribed substances capable of releasing atomic energy; or

    (ii)   required for the application, production or use of atomic energy.

c.   **Cyber and Data Exclusion**

Any loss, damage, liability, claim, fines, penalties, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any:

(a)   Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident;

(b)   loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any Data, including any amount pertaining to the value of such Data; or

(c)   complaint, investigation, or proceedings arising directly or indirectly from a breach or alleged breach of the *Personal Information Protection and Electronic Documents Act*, Canada's Anti-Spam Legislation, any or any similar Canadian federal, provincial or territorial statute or regulation,

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

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

As used in this Section III.c(c), "**Computer System**" means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party;

"**Cyber Act**" means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System;

"**Cyber Incident**" means:

(a)   any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or

(b)   any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System; and

"**Data**" means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

    d.   **Terrorism**

"Loss" arising directly or indirectly, in whole or in part, from:

    i.   terrorism; or

    ii.   any activity or decision of a government agency or other entity to prevent or respond to or terminate terrorism.

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

    e.   **War**

"Loss" arising directly or indirectly, in whole or in part, from war, invasion, act of foreign enemy, hostilities (whether or not war has been declared), civil war, rebellion, revolution, insurrection or military power.

IV.   LIMITS OF INSURANCE

1.   The limits of insurance shown for this form on the "Memorandum of Insurance" and the following rules fix the most this Insurer will pay as "excess damages", regardless of the number of:

    a.   Insureds;

    b.   "claims" made or "actions" brought; or

    c.   people or organizations making "claims" or bringing "actions".

2.   If this Insurer's share of the limits of insurance is shown on the "Memorandum of Insurance" as less than 100%, this Insurer shall be liable for no more than the indicated share of the limits of insurance.

3.   a.   "Loss" which is subject to an aggregate limit in the "governing underlying insurance" is subject to the Aggregate limit shown for this form on the "Memorandum of Insurance";

    b.   if the policy period of this form shown on the "Memorandum of Insurance" is 12 months or less, the Aggregate limit is the most this Insurer will pay during the policy period; or

    c.   if the policy period of this form shown on the "Memorandum of Insurance" is extended after issuance of this policy, the additional period will be considered part of the immediately preceding policy period for the purpose of determining the Aggregate limit available under this form.

4.   "Loss" which is not subject to an aggregate limit in the "governing underlying insurance" is subject to the Each Loss limit shown for this form on the "Memorandum of Insurance".

V. INSUREDS

Any person or professional corporation that is an Insured in the "governing underlying insurance" is an Insured, to the same extent, under this form.

VI. CONDITIONS

The following conditions, as modified or supplemented in forms or endorsements attached to this policy, apply to this form.

1. **APPEAL RIGHTS OF THIS INSURER**

   If an Insured or any insurer of the "underlying insurance" does not appeal a judgment that exceeds the sum of the applicable limits of "underlying insurance", this Insurer may make such an appeal at its own cost.

2. **BANKRUPTCY OF INSURED**

   Bankruptcy or insolvency of an Insured or of an Insured's estate will not affect this Insurer's obligations.

3. **CHANGES TO POLICY**

   This policy contains all the agreements between the Insured and this Insurer concerning the insurance provided. Notice to any agent or knowledge possessed by any agent or by any other person will not affect a waiver or a change in any part of this policy or estop this Insurer from asserting any right under the terms of this policy. The policy terms can be amended or waived only by an endorsement issued by this Insurer to form part of the policy.

4. **CONFORMITY WITH LEGISLATION**

   If any term, condition, exclusion or limitation of this policy conflicts with applicable provincial or territorial legislation, such term, condition, exclusion or limitation is amended to conform to such legislation. All other terms, conditions, exclusions and limitations of this policy are unchanged.

5. **CURRENCY**

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

6. **DEFENCE AND INVESTIGATION OF CLAIMS AND ACTIONS**

   This Insurer has no obligation to investigate a "claim" or defend an "action".

7. **EMERGENCY – EXTENSION OF POLICY PERIOD**

   a. Paragraphs b through g apply only if the "governing underlying insurance" is subject to a substantially similar condition.

   b. The effective date of termination of this policy by this Insurer or the expiry date of this policy is extended, subject to the conditions and definitions set out below, as follows when an "emergency" is declared by a Canadian public authority designated by statute for the purpose of issuing such an order.

   c. The "emergency" must have a direct effect or impact on:

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      i.   the Insured, located in the declared emergency area; or

      ii.   the operations of this Insurer or its agent/broker located in the declared emergency area.

    d.   The time limitation described in Condition 17. TERMINATION OF INSURANCE with respect to termination of this policy by this Insurer, will not continue to run until the "emergency" is terminated plus the lesser of:

      i.   30 consecutive days; or

      ii.   the number of consecutive days equal to the total time the "emergency" order was in effect.

    e.   If this policy is due to expire during an "emergency", it will continue in force until the "emergency" is terminated plus the lesser of:

      i.   30 consecutive days; or

      ii.   the number of consecutive days equal to the total time the "emergency" order was in effect.

    f.   In no event shall the total term of this extension exceed 120 consecutive days.

    g.   The "Named Insured" agrees to pay the pro rata premium earned for the additional time this Insurer remains on risk as a result of the above.

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8. **EXAMINATION OF INSURED'S RECORDS**

This Insurer may examine and audit the records of any Insured as they relate to this insurance at any time during the policy period and up to 3 years afterwards. This condition will not restrict this Insurer's rights as they relate to any "claim" or "action" presented under this policy.

9. **EXCLUSION TITLES**

Exclusion titles are solely for reference and do not in any way affect the content of the exclusions to which they relate.

10. **LEGAL ACTION AGAINST THIS INSURER**

    a.   A person or entity may sue this Insurer to recover on an agreed settlement or on a final judgment against an Insured for "excess damages" that are payable under this insurance and within the applicable limit of insurance. An agreed settlement means a settlement and release from liability signed by this Insurer, any Insured and the claimant or the claimant's legal representative.

    b.   Otherwise, no person or entity has a right under this insurance to:

      i.   join this Insurer as a party or otherwise bring this Insurer into any "action" seeking "excess damages" from an Insured; or

      ii.   sue this Insurer on this insurance unless all its conditions have been fully complied with.

c. Every action or proceeding against the Insurer for the recovery of insurance money payable under contract is absolutely barred, unless commenced within the time set out in the Insurance Act or other applicable legislation.

11. **NOTICE OF ACTION, CLAIM OR LOSS**

a. The "Named Insured" must notify this Insurer as soon as practicable of any "loss" which may result in a "claim" or "action" to which this insurance may apply. Notice should include, to the extent possible:

   i. how, when and where the "loss" took place; and

   ii. the names and addresses of any injured persons, organizations and witnesses.

b. If a "claim" is made or an "action" is brought against any Insured, the "Named Insured" must:

   i. immediately record the specifics of the "claim" or "action" and the date received; and

   ii. provide this Insurer with written notice of the "claim" or "action" as soon as practicable.

c. The "Named Insured" and any other Insured involved must:

   i. immediately send this Insurer copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "action";

   ii. authorize this Insurer to obtain records and other information; and

   iii. help this Insurer, upon request, in the enforcement of any right against any person or organization which may be liable to the Insured because of the "loss".

d. No Insured, except at the Insured's own cost, will voluntarily make any payment or assume any obligation without this Insurer's written agreement.

12. **OTHER INSURANCE**

a. If other valid and collectible insurance with any other insurer is available to an Insured for liability covered by this insurance, this insurance will be excess of the other insurance.

b. Paragraph a. does not apply to other insurance which is specifically stated to be excess of this insurance.

13. **PREMIUM PAYMENT**

The first "Named Insured" shown on the "Memorandum of Insurance":

a. is responsible for the payment of all premiums; and

b. will be the payee for any premium refunds.

14. **REPRESENTATIONS**

By accepting this policy, the "Named Insured" agrees:

a. the information on the "Memorandum of Insurance" is accurate and complete;

b. that information is based upon representations the "Named Insured" made to this Insurer; and

c. this Insurer has issued this policy in reliance upon the representations of the "Named Insured".

15. **SEPARATION OF INSUREDS AND CROSS-LIABILITY**

Except with respect to the limits of insurance and any rights and duties specifically assigned to the first "Named Insured" shown on the "Memorandum of Insurance", this insurance applies:

a. as if each "Named Insured" is the only "Named Insured"; and

b. separately to each Insured against whom "claim" is made or "action" is brought.

16. **SHORT RATE CANCELLATION TABLE**

Time on Risk Days	Returned %	Time on Risk Days	Returned %	Time on Risk Days	Returned %	Time on Risk Days	Returned %	Time on Risk Days	Returned %	Time on Risk Days	Returned %	Time on Risk Days	Returned %
1	99.73%	53	85.48%	105	71.23%	157	56.99%	209	42.74%	261	28.49%	313	14.25%
2	99.45%	54	85.21%	106	70.96%	158	56.71%	210	42.47%	262	28.22%	314	13.97%
3	99.18%	55	84.93%	107	70.68%	159	56.44%	211	42.19%	263	27.95%	315	13.70%
4	98.90%	56	84.66%	108	70.41%	160	56.16%	212	41.92%	264	27.67%	316	13.42%
5	98.63%	57	84.38%	109	70.14%	161	55.89%	213	41.64%	265	27.40%	317	13.15%
6	98.36%	58	84.11%	110	69.86%	162	55.62%	214	41.37%	266	27.12%	318	12.88%
7	98.08%	59	83.84%	111	69.59%	163	55.34%	215	41.10%	267	26.85%	319	12.60%
8	97.81%	60	83.56%	112	69.32%	164	55.07%	216	40.82%	268	26.58%	320	12.33%
9	97.53%	61	83.29%	113	69.04%	165	54.79%	217	40.55%	269	26.30%	321	12.05%
10	97.26%	62	83.01%	114	68.77%	166	54.52%	218	40.27%	270	26.03%	322	11.78%
11	96.99%	63	82.74%	115	68.49%	167	54.25%	219	40.00%	271	25.75%	323	11.51%
12	96.71%	64	82.47%	116	68.22%	168	53.97%	220	39.73%	272	25.48%	324	11.23%
13	96.44%	65	82.19%	117	67.95%	169	53.70%	221	39.45%	273	25.21%	325	10.96%
14	96.16%	66	81.92%	118	67.67%	170	53.42%	222	39.18%	274	24.93%	326	10.68%
15	95.89%	67	81.64%	119	67.40%	171	53.15%	223	38.90%	275	24.66%	327	10.41%
16	95.62%	68	81.37%	120	67.12%	172	52.88%	224	38.63%	276	24.38%	328	10.14%
17	95.34%	69	81.10%	121	66.85%	173	52.60%	225	38.36%	277	24.11%	329	9.86%
18	95.07%	70	80.82%	122	66.58%	174	52.33%	226	38.08%	278	23.84%	330	9.59%
19	94.79%	71	80.55%	123	66.30%	175	52.05%	227	37.81%	279	23.56%	331	9.32%
20	94.52%	72	80.27%	124	66.03%	176	51.78%	228	37.53%	280	23.29%	332	9.04%
21	94.25%	73	80.00%	125	65.75%	177	51.51%	229	37.26%	281	23.01%	333	8.77%
22	93.97%	74	79.73%	126	65.48%	178	51.23%	230	36.99%	282	22.74%	334	8.49%
23	93.70%	75	79.45%	127	65.21%	179	50.96%	231	36.71%	283	22.47%	335	8.22%
24	93.42%	76	79.18%	128	64.93%	180	50.68%	232	36.44%	284	22.19%	336	7.95%
25	93.15%	77	78.90%	129	64.66%	181	50.41%	233	36.16%	285	21.92%	337	7.67%
26	92.88%	78	78.63%	130	64.38%	182	50.14%	234	35.89%	286	21.64%	338	7.40%
27	92.60%	79	78.36%	131	64.11%	183	49.86%	235	35.62%	287	21.37%	339	7.12%
28	92.33%	80	78.08%	132	63.84%	184	49.59%	236	35.34%	288	21.10%	340	6.85%
29	92.05%	81	77.81%	133	63.56%	185	49.32%	237	35.07%	289	20.82%	341	6.58%
30	91.78%	82	77.53%	134	63.29%	186	49.04%	238	34.79%	290	20.55%	342	6.30%
31	91.51%	83	77.26%	135	63.01%	187	48.77%	239	34.52%	291	20.27%	343	6.03%
32	91.23%	84	76.99%	136	62.74%	188	48.49%	240	34.25%	292	20.00%	344	5.75%
33	90.96%	85	76.71%	137	62.47%	189	48.22%	241	33.97%	293	19.73%	345	5.48%
34	90.68%	86	76.44%	138	62.19%	190	47.95%	242	33.70%	294	19.45%	346	5.21%
35	90.41%	87	76.16%	139	61.92%	191	47.67%	243	33.42%	295	19.18%	347	4.93%
36	90.14%	88	75.89%	140	61.64%	192	47.40%	244	33.15%	296	18.90%	348	4.66%
37	89.86%	89	75.62%	141	61.37%	193	47.12%	245	32.88%	297	18.63%	349	4.38%
38	89.59%	90	75.34%	142	61.10%	194	46.85%	246	32.60%	298	18.36%	350	4.11%
39	89.32%	91	75.07%	143	60.82%	195	46.58%	247	32.33%	299	18.08%	351	3.84%
40	89.04%	92	74.79%	144	60.55%	196	46.30%	248	32.05%	300	17.81%	352	3.56%
41	88.77%	93	74.52%	145	60.27%	197	46.03%	249	31.78%	301	17.53%	353	3.29%
42	88.49%	94	74.25%	146	60.00%	198	45.75%	250	31.51%	302	17.26%	354	3.01%
43	88.22%	95	73.97%	147	59.73%	199	45.48%	251	31.23%	303	16.99%	355	2.74%
44	87.95%	96	73.70%	148	59.45%	200	45.21%	252	30.96%	304	16.71%	356	2.47%
45	87.67%	97	73.42%	149	59.18%	201	44.93%	253	30.68%	305	16.44%	357	2.19%
46	87.40%	98	73.15%	150	58.90%	202	44.66%	254	30.41%	306	16.16%	358	1.92%
47	87.12%	99	72.88%	151	58.63%	203	44.38%	255	30.14%	307	15.89%	359	1.64%
48	86.85%	100	72.60%	152	58.36%	204	44.11%	256	29.86%	308	15.62%	360	1.37%
49	86.58%	101	72.33%	153	58.08%	205	43.84%	257	29.59%	309	15.34%	361	1.10%
50	86.30%	102	72.05%	154	57.81%	206	43.56%	258	29.32%	310	15.07%	362	0.82%
51	86.03%	103	71.78%	155	57.53%	207	43.29%	259	29.04%	311	14.79%	363	0.55%
52	85.75%	104	71.51%	156	57.26%	208	43.01%	260	28.77%	312	14.52%	364	0.27%
												365	0.00%

17. **TERMINATION OF INSURANCE**

    a.   For the purposes of this condition, the first "Named Insured" shown on the "Memorandum of Insurance" is mandated by every "Named Insured" to send and receive any notice of termination.

    b.   The first "Named Insured" shown on the "Memorandum of Insurance" can cancel this policy by delivering or mailing to this Insurer advance written notice of termination.

    c.   This Insurer can cancel this policy:

        i.   in the province of Quebec, by delivering written notice of termination by registered mail to the first "Named Insured" shown on the "Memorandum of Insurance" at least:

            (a)   15 days before the effective date of termination, if termination is due to non-payment of premium; or

            (b)   30 days before the effective date of termination, if termination is due to any reason except non-payment of premium.

        ii.   in the provinces of Alberta and British Columbia, by giving to the first "Named Insured" shown on the "Memorandum of Insurance":

            (a)   15 days' notice of termination by registered mail or personally delivered if the contract is terminated for non-payment of premium; or

            (b)   30 days' notice of termination by registered mail or personally delivered if the contract is terminated for any other reason.

        The notice periods referred to in ii. (a) and (b) start to run on the day the registered letter or notification of it is delivered.

        iii.   in any province or territory except the provinces of Alberta, British Columbia and Quebec, by written notice of termination to the first "Named Insured" shown on the "Memorandum of Insurance" at least:

            (a)   15 days before the effective date of termination by registered mail or personally delivered, if termination is due to non-payment of premium; or

            (b)   30 days before the effective date of termination by registered mail or personally delivered, if termination is due to any reason except non-payment of premium

    d.   This Insurer will deliver or mail the notice of termination to the last mailing address known to this Insurer of the first "Named Insured" shown on the "Memorandum of Insurance".

    e.   The policy period will end on the date termination takes effect.

    f.   If this policy is cancelled, this Insurer will deliver or mail to the first "Named Insured" shown on the "Memorandum of Insurance" any premium refund due. If the first "Named Insured" shown on the "Memorandum of Insurance" cancels, the refund will be calculated in accordance with the Short Rate Cancellation Table shown in Condition 16. SHORT RATE CANCELLATION TABLE. If the Insurer cancels, the refund will be the

proportional share of the premium paid, if any. The termination will be effective even if the Insurer does not make or offer a refund.

18. **TRANSFER OF INSURED'S RIGHT OF RECOVERY**

If an Insured has the right to recover, from another person or entity, all or part of any payment made under this insurance by this Insurer, that right is transferred to this Insurer. No Insured may do anything after a "loss" has occurred to impair that right. At this Insurer's request, the Insured will bring an "action" on or transfer to this Insurer that right and help this Insurer enforce that right. This Insurer waives transfer of the right to recover against any Insured.

19. **TRANSFER OF NAMED INSURED'S RIGHTS AND DUTIES**

    a.   If an individual "Named Insured" dies, and until the legal representative of that "Named Insured" is appointed, anyone having proper temporary custody of the property of that "Named Insured" will have the rights and duties of that "Named Insured", but only with respect to that property. Once the legal representative of that "Named Insured" is appointed, the rights and duties of that "Named Insured" under this policy will be transferred to that representative, but only insofar as the representative is acting within the scope of duties as the legal representative of that "Named Insured".

    b.   Otherwise, the rights and duties of the "Named Insured" under this policy may not be transferred without this Insurer's written consent.

20. **COVID-19 / CORONAVIRUS CONDITIONS PRECEDENT TO LIABILITY**

It is a condition precedent to coverage under this policy that the Insured's respective and applicable provincial or territorial health authority guidelines / advice / regulations, including also those of the regulatory college in the provincial or territorial jurisdiction where the applicable dental treatment or services were rendered, are fully adhered to by the Insured (including sub-contractors, agency persons, and those acting at the direction of and/or on behalf of the Insured or whom constitute an Insured under this policy) with respect to the control, restriction, isolation, treatment, assessment, management, prevention of:

    a.   Coronavirus disease (COVID-19);

    b.   Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2); and

    c.   any mutation or variation of SARS-CoV-2.

21. **UNDERLYING INSURANCE MAINTENANCE**

    a.   The "Named Insured" will not cancel, reduce coverage under or allow to lapse any of the "underlying insurance". Reduction in an aggregate limit of insurance due to the payment of claims is not considered a reduction of coverage.

    b.   If the "Named Insured" fails to comply with paragraph a., this Insurer will be liable only to the same extent as if the "Named Insured" had complied with paragraph a.

22. **UNDERLYING INSURANCE NON-CONCURRENCY**

If the policy period of any "underlying insurance" differs from the policy period of this form, when determining the reduction of the limit of such "underlying insurance" due to payments for "loss", the following will not be deemed to reduce such "underlying insurance" limit:

a.   if such "underlying insurance" is on a claims-made-and-reported basis, payments for any "loss" that was first reported to the insurer of the "underlying insurance" before or after the policy period of this form; or

b.   if such "underlying insurance" is not on a claims-made-and-reported basis, payments for any "loss" that began to occur before the policy period of this form.

23.   **UNDERLYING INSURANCE REDUCTION**

If the limits of the "underlying insurance" have been reduced by payments for "loss" which took place during the policy period of this form, this form will drop down to become immediately excess of the reduced underlying limits, provided all "underlying insurance" applies to such "loss" and also drops down.

24.   **SANCTIONS**

Notwithstanding any other terms of this Policy, the Insurer shall not be deemed to provide coverage or required to make any payments or provide any service or benefit to any Insured or other party to the extent that such cover, payment, service, benefit and/or any business or activity of the Insured would violate any applicable trade or economic sanctions law or regulation.

25.   **WORDS AND PHRASES IN QUOTATION MARKS**

Words and phrases in quotation marks have special meaning as described in VII. DEFINITIONS.

VII.   **DEFINITIONS**

Wherever used in this form and endorsements attached to this policy, words and phrases in quotation marks have the same meaning as in the "governing underlying insurance", except as follows:

1.   "excess damages" means the total amount of "damages" payable because of settlements or judgements after deduction of all the applicable "underlying insurance".

2.   "extended reporting period" means the extended reporting period which will terminate on the earliest of (i) the date the Insurer ceases to be the insurer of this policy, and (ii) the date of termination of the extended reporting period under the "underlying insurance".

3.   "governing underlying insurance" means the insurance policy or policies designated as such on the "Memorandum of Insurance".

4.   "loss" means, to the same extent as insured by the "governing underlying insurance":

a.   "bodily injury";

b.   "personal and advertising injury";

c.   "property damage";

d.   "wrongful acts"; and

e.   defence and investigation costs, if such costs reduce the limit of the "underlying insurance".

5.   "Memorandum of Insurance" means the memorandum of insurance applicable to this policy for the current policy period, including any attached supplementary pages or schedules.

6.   "Named Insured" means any Insured named on the "Memorandum of Insurance".

7.   "underlying insurance" means:

      a.   the insurance policy or policies shown as Governing Underlying Insurance and other Underlying Insurance on the "Memorandum of Insurance"; and

      b.   renewals of and replacements for such policies.

EXCESS MALPRACTICE INSURANCE ENDORSEMENT

This endorsement changes the coverage provided by:

EXCESS LIABILITY SPECIAL FORM 907110

A.   In II. COVERAGE, sub-paragraph iv. is added to paragraph 2.a. as follows:

        8.   iv. if any Insured shall become a "former member" within the definition of the underlying insurance, during the policy period of this policy, such Insured shall be entitled, without additional premium, to an "extended reporting period" under this form, which will terminate on the earliest of (i) the date the Insurer ceases to be the insurer of this policy, and (ii) the date of termination of the extended reporting period under the "underlying insurance".

B.   Condition VI.6. DEFENCE AND INVESTIGATION OF CLAIMS AND ACTIONS is deleted and replaced by the following:

        6.   DEFENCE AND INVESTIGATION OF CLAIMS AND ACTIONS

            a.   In the event of a "loss" to which this form applies, the Insurer will assume the defence of any claim or action for such "loss", but only if:

                i.   all the insurers providing "underlying insurance" are obligated by the terms and conditions of their policies to defend such claim or action;

                ii.   all the applicable limits of insurance of such "underlying insurance" have been exhausted by actual payments for such "loss"; and

                iii.   any outstanding premium owing to the Insurer shall be deducted from the amount of the defence costs payable by the Insurer.

            b.   If a "loss" requires the payment of "excess damages" under this form, this Insurer will also pay:

                i.   all investigation and defence expenses incurred directly and voluntarily by this Insurer;

                ii.   the pre-judgment interest on this Insurer's proportionate share of the "excess damages"; and

                iii.   the interest on this Insurer's proportionate share of "excess damages" that accrues after entry of the judgment but before this Insurer has paid, offered to pay or deposited into court its share of the judgment.

            c.   i.   If the investigation and defence costs incurred under any of the "underlying insurance" reduces the limit of such "underlying insurance", the payments described in 6. b. will reduce the applicable limit of this form.

                ii.   If the investigation and defence costs incurred under any of the "underlying insurance" reduces none of the limits of such "underlying insurance", the payments described in 6. b. will be made in addition to the applicable limit of this form.

C.   Paragraph f of condition VI.17. TERMINATION OF INSURANCE is deleted and replaced by the following:

f.   If this policy is cancelled, this Insurer will deliver or mail to the first "Named Insured" shown on the "Memorandum of Insurance" any premium refund due. Any premium refund due will be determined as a proportional share of the premium paid, if any. The termination will be effective even if the Insurer does not make or offer a refund.

D.   Definition VII.5. "Memorandum of Insurance" is deleted and replaced by the following:

5.   "Memorandum of Insurance" means:

a.   the memorandum of insurance applicable to this policy for the current policy period, including any attached supplementary pages or schedules; or

b.   each memorandum of insurance issued by the broker applicable to this policy for the current policy period.

E.   Definition VI.7. "underlying insurance" is deleted and replaced by the following:

7.   "underlying insurance" means:

a.   the insurance policy or policies shown as Governing Underlying Insurance and other Underlying Insurance on the "Memorandum of Insurance", including any policy issued in respect of the plan of professional liability insurance for Ontario Dentists (the RCDSO Plan) sponsored by the Royal College of Dental Surgeons of Ontario (RCDSO) or Alberta dentists (the CDSA Plan) sponsored by the College of Dental Surgeons of Alberta (CDSA);

b.   RCDSO's liability for "claims" within the amount stipulated as the Group Deductible under the RCDSO Plan;

c.   CDSA's liability for "claims" within the amount stipulated as the Group Deductible under the CDSA Plan;

d.   any agreement in respect of a plan to exchange reciprocal obligations of indemnity or a similar type of arrangement within the amount stipulated as the Group Deductible under the RCDSO Plan or CDSA Plan; and

e.   renewals of and replacements for such policies, plans, agreements or arrangements.

All other terms, conditions, exclusions and limitations of the policy are unchanged.

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