

XL SPECIALTY INSURANCE COMPANY

(A Stock Insurance Company Herein Called the "Company")

MASTER POLICY SECONDARY PROFESSIONAL LIABILITY INSURANCE FOR THE PARTICIPATING ASSOCIATION MEMBERS OF ENGINEERS CANADA

The insurance provided by this policy is issued in reliance upon the information and statements furnished by you relating to this insurance and is subject to all terms, conditions and limitations contained herein. This policy is a CLAIMS MADE AND REPORTED form.

Please read this policy and any endorsements carefully and discuss with your Insurance Broker. This policy is intended to provide limited insurance, as set out in the policy, against some liabilities to pay damages to parties other than your employer that you may incur in your capacity as an employed engineer or geoscientist. No insurance is provided under this policy where stand-alone consulting services are or have been provided by you or your employer, except in certain contingent situations as defined in the policy.

Throughout this policy, the words *you*, *your* and *Insured* refer to the Insureds shown in the Declarations and to others as defined in Section I. **INSURING AGREEMENT** Part C. **Who is Insured**. The words *we*, *us*, *our* and *Company* refer to the Company providing this insurance as shown in the Declarations. The words and phrases shown in UPPER CASE PRINT have a definition within this policy.

I. INSURING AGREEMENT

A. What We Insure

We will pay those sums in excess of the Deductible, if any, that you become legally obligated to pay as damages because of CLAIMS to which this policy applies arising out of your PROFESSIONAL SERVICES.

We have the right and the duty to defend such CLAIMS, subject to the following:

1. We may investigate any CLAIM and settle it in accordance with Section VI. **NOTICE, SETTLEMENT AND COOPERATION**. We have the right to designate legal counsel to represent you.
2. The most we will pay is described in Section V. **LIMITS OF INSURANCE AND DEDUCTIBLE**.
3. Our right and duty to defend and pay on your behalf ceases when the applicable limit as described in Section V. **LIMITS OF INSURANCE AND DEDUCTIBLE** is exhausted by the payment of damages or CLAIM EXPENSES, separately or in combination for all CLAIMS.

B. Supplemental Coverage

1. We will pay those sums in excess of the Deductible, if any, for legal obligations to pay damages for CLAIMS MADE AND REPORTED against Engineers Canada, the PARTICIPATING ASSOCIATIONS and any executive officers or directors or staff, or agents thereof but only for CLAIMS to which this policy would apply arising out of PROFESSIONAL SERVICES performed by a MEMBER, if such CLAIMS were made against the MEMBER. The Limits of Insurance available for such CLAIMS are as described in Section V. **LIMITS OF INSURANCE AND DEDUCTIBLE**. Where this policy applies to a CLAIM under this section and also applies to a CLAIM against a MEMBER, arising out of the same act, error or omission or a series of related acts, errors or omissions, all such CLAIMS will be considered a single CLAIM.
2. **WHISTLEBLOWER COVER**
 - a. **Consultation**

We will reimburse you for reasonable legal expenses incurred by you for consultation and advice in respect to activity as a WHISTLEBLOWER by you during the policy year. The maximum payment by us pursuant to this coverage is \$75,000.
 - b. **Defense and Indemnity**

We will pay those sums that you become legally obligated to pay as damages because of CLAIMS to which this policy applies. We have the right and duty to defend such CLAIMS.
 - c. **Lost Income Replacement**

We will reimburse you for actual income lost by you as a result of your employment being terminated due to the activity as a WHISTLEBLOWER by you. The maximum payment by us pursuant to this coverage is \$75,000.

C. Who Is Insured

1. MEMBERS of the PARTICIPATING ASSOCIATION, for PROFESSIONAL SERVICES performed Worldwide.
2. The legal representative of any deceased MEMBER, but only to the extent of that MEMBER'S rights and duties under this policy.

D. When We Insure

This insurance applies to CLAIMS that meet each of the following conditions:

1. The CLAIMS are first made against you during the policy period shown in the Declarations and reported to us during the policy period or within sixty (60) days after the end of the policy period.
2. The CLAIMS arise out of PROFESSIONAL SERVICES performed by you prior to the end of the policy period.
3. You had no knowledge of the CLAIM prior to the Anniversary Date in Item 7. of the Declarations.

II. DEFINITIONS

A. CIRCUMSTANCE means

An event or occurrence from which you reasonably expect that a CLAIM could be made.

B. CLAIM(S) means

1. a demand seeking damages for professional services against you or the filing of a suit or the initiation of an arbitration proceeding naming you, for an alleged error, omission, negligent act or PERSONAL INJURY arising out of your PROFESSIONAL SERVICES or your activity as a WHISTLEBLOWER.

Two or more CLAIMS arising out of a single act, error or omission or a series of related acts, errors or omissions will be considered a single CLAIM.

C. CLAIM EXPENSES means

1. all fees, costs and expenses incurred or authorized by us arising out of the investigation, adjustment or defense of a CLAIM, including but not limited to, costs and fees for legal counsel, investigators, experts, consultants, arbitrators and mediators.
2. your expenses for emergency medical and surgical relief to others following an accident which you believe arose from your negligent act, error or omission.
3. interest payable on that part of any judgement for or legal obligation to pay damages which fall within the limit of insurance for a CLAIM described in Section V. **LIMITS OF INSURANCE AND DEDUCTIBLE.**

D. CLAIMS MADE AND REPORTED means **CLAIMS** that are

1. first made against you during the policy period (and reported to us within the policy period or within sixty (60) days after the policy period) shown in the Declarations; and
2. arising out of your PROFESSIONAL SERVICES performed prior to the end of the policy period, provided that you had no knowledge of the CLAIM, prior to the effective date of this policy.

E. DECISION MAKER means

1. any director, officer, partner, or sole proprietor of an entity or
2. any associate or shareholder that holds more than 10% of the shares of an entity or any shares issued that include voting rights of an entity.

F. MEMBER means an individual who is enrolled with, registered with or licensed by the PARTICIPATING ASSOCIATION within the period of this policy.

G. PARTICIPATING ASSOCIATION means the following associations, both individually and collectively: Association of Professional Engineers and Geoscientists of Alberta (APEGA); Association of Professional Engineers and Geoscientists of British Columbia (APEGBC); Association of Professional Engineers and Geoscientists of Saskatchewan (APEGS); Engineers Geoscientists Manitoba; Engineers and Geoscientists New Brunswick; Engineers Nova Scotia; Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists (NAPEG); Engineers PEI; Association of Professional Engineers of Yukon (APEY); Professional Engineers and Geoscientists Newfoundland and Labrador (PEGNL); Association of Professional Geoscientists of Ontario (APGO); Association of Professional Geoscientists of Nova Scotia (APGNS); Ordre des géologues du Québec (OGQ)

H. PERSONAL INJURY means injury arising out of false arrest, detention or imprisonment; wrongful entry, eviction or other invasion of a right of privacy; libel, slander, utterance, electronic distribution or publication in violation of a right of privacy; malicious prosecution; or the unintentional infringement of copyright or patent.

I. PROFESSIONAL SERVICES means the customary services performed Worldwide, whether paid or unpaid, of engineers and geoscientists provided in their capacity as a MEMBER of the PARTICIPATING ASSOCIATION.

PROFESSIONAL SERVICES does not include actual construction activities.

J. WHISTLEBLOWER means an individual member who, in compliance with the bylaws of a PARTICIPATING ASSOCIATION, may disclose or allege unprofessional, dishonest or unethical conduct or some other professional wrongdoing by any other practitioner.

III. TERRITORY

This insurance applies to CLAIMS arising from PROFESSIONAL SERVICES rendered Worldwide provided that civil suit or arbitration proceedings are brought in Canada and are subject to the laws of Canada.

IV. EXCLUSIONS

This insurance does not apply to:

A. CLAIMS arising out of liability assumed by you under any CONTRACT. This exclusion does not apply if you would have been liable in the absence of that CONTRACT due to your error, omission or negligent act.

CONTRACT means any agreement, whether express or implied, in fact or in law, written or oral, including, but not limited to, hold harmless and indemnity clauses, warranties, guarantees, certifications or penalty clauses.

B. CLAIMS against you by any current or previous employer, or anyone who is alleged to have vicarious liability for you, related to PROFESSIONAL SERVICES provided by you during your employment or employee contract with any such person.

However, this exclusion does not apply to CLAIMS arising out of activity by you as a WHISTLEBLOWER.

C. CLAIMS arising out of PROFESSIONAL SERVICES provided by you outside of your regular employment in your capacity as a member of a PARTICIPATING ASSOCIATION. However, this exclusion shall not apply if the total value of the compensation you receive for all such projects undertaken by you did not exceed \$15,000 per calendar year.

D. CLAIMS arising out of PROFESSIONAL SERVICES provided by you on behalf of an entity that designs and builds, installs or fabricates and of which you are a DECISION MAKER. However, this exclusion shall not apply to that part of a CLAIM that relates specifically to a design rendered by you or under your immediate personal supervision and in which you exercised professional judgement on engineering or geoscience matters embodied in the design.

- E. CLAIMS against you where you are or were a DECISION MAKER of a consulting engineering or geosciences firm. However, this exclusion shall not apply to CLAIMS first made after the six month period following the entry into receivership or bankruptcy of that consulting engineering or geoscience firm; or after a two year period following the closure and cessation of operations of that consulting engineering or geoscience firm, providing that the closure and cessation of operations was not the result of that firm, or some or all of its assets, being purchased by or merged into another firm.

In the event that the closure and cessation of operation of a consulting engineering or geosciences firm is a result of that firm, or some or all of its assets being purchased or merged into another firm, this exclusion shall not apply to CLAIMS first made after a five year period following the closure and cessation of operation of that firm, provided you are no longer employed by that firm or by a firm into which it has been merged, or by any firm which has purchased the business or assets of the firm to which the services were originally provided.

- F. CLAIMS arising out of PROFESSIONAL SERVICES provided by you or on your behalf for a consulting engineering or geoscience firm, or firm that provides stand-alone consulting engineering or geoscience services, if, at the time the CLAIM is made and reported, you are employed by that firm or by a firm into which it has been merged, or by any firm which has purchased the business or assets of the firm to which the services were originally provided.
- G. CLAIMS arising out of dishonest, fraudulent, malicious or criminal acts or omissions committed by you, at your direction or with your knowledge or consent whether or not you intended damage to result. However, we will defend a CLAIM against an Insured who did not have knowledge of or consent to the dishonest, fraudulent, malicious, or criminal acts or omissions.
- H. Punitive damages, exemplary damages, the multiplied portion of damages, aggravated damages, fines or penalties.
- I. CLAIMS against you by an entity in which you maintain a cumulative ownership interest greater than twenty-five percent (25%).
- J. CLAIMS for which you are insured or an Insured under any other professional liability policy, including, but not limited to a project specific policy. This exclusion applies even if those CLAIMS are not covered in whole or in part by that other policy for any reason; or in the event of cancellation or non-renewal of that other policy by you or the insurance company.
- K. CLAIMS arising out of the failure to maintain, obtain, recommend, advise or require any form of insurance, suretyship or bond.
- L. CLAIMS seeking any damage alleged to be due to the infiltration of precipitation into a building envelope of buildings located in British Columbia on which PROFESSIONAL SERVICES were contracted to be performed prior to August 1, 2000. This exclusion applies whether or not the CLAIM alleges other damages which but for the application of this exclusion would have been covered.
- M. CLAIMS arising out of:
 - 1. Liability imposed by or arising under any nuclear liability act, law or statute, or any law amendatory thereof;
 - 2. 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;

3. Bodily injury or property damage 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 an Insured;
 - b. 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;
 - c. 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 from any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

As used in this policy:

4. The term NUCLEAR ENERGY HAZARD means the radioactive, toxic, explosive, or other hazardous properties of RADIOACTIVE MATERIAL;
5. 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 any nuclear liability act, law or statute, or any 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;
6. 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 utilizing 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 contains more than 250 grams of uranium 235;
 - d. any structure, basin, excavation, premises or place prepared or used for the structural 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.
7. 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.
8. With respect to property, loss of use of such property shall be deemed to be property damage.

V. LIMITS OF INSURANCE AND DEDUCTIBLE

- A.** The Limits of Insurance shown in the Declarations are the most we will pay regardless of the number of Insureds, CLAIMS, or individuals or entities making CLAIMS. The most we will pay for CLAIMS arising out of PROFESSIONAL SERVICES against more than one MEMBER that relate to one project shall not exceed an amount of \$500,000.
- B.** The Limits of Insurance will apply as follows:
1. the limit of \$250,000 for each CLAIM is the most we will pay for the sum of damages for any single CLAIM inclusive of any amount paid under Section I. **INSURING AGREEMENT Part B.1. Supplemental Coverage.**
 2. the project limit of \$500,000 is the most we will pay for the sum of damages for all CLAIMS against more than one Insured relating to one project, inclusive of any amount paid under Section I. **INSURING AGREEMENT Part B.1. Supplemental Coverage.**
 3. the policy aggregate shown in the Declarations is the most we will pay for the sum of all payments, including but not limited to damages and CLAIMS EXPENSES, on all CLAIMS MADE AND REPORTED under this policy during each consecutive (12) twelve months of the policy period beginning on the effective date.
- C.** The Limits of Insurance shown in the Declarations apply in excess of the Deductible, if any, described in Section V. **LIMITS OF INSURANCE AND DEDUCTIBLE.**
- D.** The Deductible, if any, shown in the Declarations will apply as follows:
1. You must pay the Deductible before we are obligated to pay. You must make prompt payment of the Deductible upon written request.
 2. The Deductible for each CLAIM is the most you must pay as a Deductible for any single CLAIM.
- E.** Any PROFESSIONAL SERVICES rendered or expenses incurred by you arising out of a CLAIM, or any return, withdrawal or reduction of fees, will not be paid.

VI. NOTICE, SETTLEMENT AND COOPERATION

A. Notice

1. You must promptly notify us or our authorized representative of any CLAIM. Notice must be in writing and include:
 - a. how, when and where the CLAIM took place; and
 - b. the names and addresses of any witnesses or injured individuals.
2. You must also:
 - a. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the CLAIM;
 - b. authorize us to obtain relevant records and other information related to the CLAIM;
 - c. cooperate with us in the investigation, defense and settlement of the CLAIM;
 - d. for CLAIMS in venues where we do not provide a defense, allow us to monitor with your designated legal counsel in the investigation, defense and resolution of the CLAIM; and
 - e. assist us, upon our request, in the enforcement of any right against any individual or entity that may be liable to you because of the CLAIM.

3. Expenses incurred by you for cooperation and assistance are not recoverable under this policy.
4. You will not, except at your own cost, voluntarily make payment, assume any obligation, or incur any expenses without our written consent.
5. If you become aware of a CIRCUMSTANCE for which this policy may apply, and if during the policy period, you give written notice containing details of:
 - a. the alleged error, omission, negligent act or PERSONAL INJURY, that may result in a demand against you; and
 - b. the specific nature and extent of the injury or damage which has been sustained, and
 - c. how you first became aware of such CIRCUMSTANCE.

B. Settlement

We will not settle any CLAIM without your written consent. If, however, you withhold your consent to any settlement recommended by us and elect to contest that CLAIM or continue the litigation, then our liability for that CLAIM will not exceed the amount for which that CLAIM would have been settled plus CLAIM EXPENSES up to the date you withheld consent.

In the event that you cannot be located at the last address appearing in this policy, we may settle the CLAIM without your written consent.

VII. OTHER CONDITIONS

A. Transfer of Rights of Recovery Against Others to Us

You and the Company may have rights to recover all or part of any payment you or the Company make under this policy. If so, those rights are transferred to us. You must do nothing to impair them. At our request, you will do whatever is necessary to secure such rights and help us enforce them.

B. Transfer of Your Rights and Duties

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Insured.

C. Dispute Resolution

If there is a dispute between you and the Company in the interpretation or application of this policy, the dispute will be referred to mediation prior to the initiation of any legal proceeding. The parties agree to meet with a qualified mediator in a good faith effort to negotiate a resolution of the dispute. The mediation will continue until the dispute is resolved; or the mediator notifies the parties that it is unlikely that the dispute will be resolved through mediation; or any party elects, after a minimum of thirty (30) days after the first mediation session, to end the mediation.

D. Legal Action Against Us

No individual or entity has a right under this policy to join us as a party or otherwise bring us into a suit seeking damages from an Insured, or to sue us unless all of the terms of this policy have been met.

E. Other Insurance

This insurance is excess over any other insurance, whether primary, excess, contingent, or on any other basis, and specific exclusions in this policy always apply. When this insurance is excess, we will not defend any CLAIM that any other insurer has a duty to defend. If no other insurer defends, we have the right but not a duty to do so. If we defend, we will be entitled to your rights against all other insurers.

F. Premiums

Each PARTICIPATING ASSOCIATION is responsible for the payment of its proportionate share of all premiums and Deductible, if any, and will be the payee for any return premium we pay.

G. Examination and Audit

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three (3) years afterward.

H. Bankruptcy

Bankruptcy or insolvency of an Insured or of an Insured's estate will not relieve us of our obligation under this policy. However, this insurance will not apply to liability directly or indirectly due to bankruptcy, insolvency, receivership or subsequent liquidation.

I. Cancellation for Non-payment

We may cancel this policy by mailing or delivering to each applicable PARTICIPATING ASSOCIATION written notice of cancellation for that PARTICIPATING ASSOCIATION, at least fifteen (15) days before the effective date of cancellation, if we cancel for nonpayment of premium. Notice of cancellation will state the effective date of cancellation. The policy period for that PARTICIPATING ASSOCIATION will end on that date.

We will mail or deliver our notice to the applicable PARTICIPATING ASSOCIATIONS last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.

J. Changes

This policy contains all agreements between you and the Company concerning the insurance provided. All PARTICIPATING ASSOCIATIONS shown in the Declarations acting as a group, are the only representatives of Insureds authorized to request changes in the terms of this policy. Policy terms can be amended or waived only by Endorsement issued by us and made a part of this policy.

K. Currency

All monetary references in this policy are in Canadian currency.

L. Governing Law

This contract is governed by the laws of the province of Ontario.

M. Terms of Policy Conformed to Statute

Any terms of this policy that are in conflict with the statutes of the province in which this policy is issued are hereby amended to conform to such statutes.

The Company has caused this policy to be signed by its authorized officers, but it is not valid unless countersigned on the Declarations page by a duly authorized representative of the Company.

IN WITNESS WHEREOF the Company has caused this Policy to be signed by the Canadian Chief Agent and countersigned on the Declarations by a duly authorized agent of the Company.

A handwritten signature in black ink, appearing to be the initials 'CA' followed by a stylized flourish.

Canadian Chief Agent