

Excluded Services Endorsement - Delivery of Construction Services

Notwithstanding any other wording in the POLICY, "delivery of construction services" are not considered usual and customary services of an architect and therefore are expressly excluded from coverage in YOUR Professional Liability Insurance Policy.

The INSURER will not cover YOU or an entity affiliated with YOU for CLAIMS arising from the performance or failure to perform "construction phase architectural services" by YOU or an entity affiliated with YOU with respect to a project, where YOU or an entity affiliated with YOU also provide "delivery of construction services." For clarity, where YOU or an entity affiliated with YOU provide both "delivery of construction services" and "construction phase architectural services", the INSURER will not cover YOU, or any "entity affiliated with YOU", or pay DAMAGES, provide YOU with a defence, nor will the INSURER make supplementary payments on YOUR behalf.

For the purposes of this endorsement:

- a) "*construction phase architectural services*" means the usual and customary construction phase services of an architect that fall under the regulatory authority of the Ontario Association of Architects (OAA). Examples of "construction phase architectural services" include: General Review and construction contract administration, payment certification, reports on the progress and quality of the work to the client, contractor, chief building official, surety or other authority having jurisdiction over the work, including coordination of the services of consultants related to the foregoing.
- b) "*delivery of construction services*" means the assumption of any part of the responsibility for delivery of the actual construction work, whether as a consultant advising the owner or as a contractor assuming responsibility for the "delivery of construction services." Examples of "delivery of construction services" activities include construction management, oversight, coordination of jobsite activities including means and methods of construction, scheduling, arranging for the supply and installation of any products, materials and services, supervising construction activities, arranging for the necessary inspections required by by-laws and regulations, and reporting to the client or other entity regarding delays, costs, and cost overruns.
- c) "*entity affiliated with YOU*" means a business enterprise, charity, club, trust, estate, association or any organization:
 - a. in which YOU either directly or indirectly have or at the time of the performance of the professional services had an interest; or
 - b. that directly or indirectly has or at the time of the performance of the professional services had an interest in YOU;
 - c. "entity affiliated with YOU" does not include a business enterprise where the interest held by the business enterprise in YOU or the interest held by YOU in the business enterprise, whether held as equity, ownership or voting rights, is less than or equal to ten percent (10%).

If THE INSURER alleges that by reason of this exclusion any actual or alleged losses, liabilities, damages, injuries and supplementary payments are not covered, the burden of proving the contrary shall be upon the NAMED INSURED.

ALL OTHER DEFINITIONS, OBLIGATIONS, PROVISOS, EXCLUSIONS AND GENERAL CONDITIONS OF THE POLICY REMAIN UNCHANGED.