

## COMMERCIAL PROPERTY BROAD FORM

WORDS AND PHRASES IN QUOTATIONS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 16

### Indemnity Agreement

1. In the event that any of the property insured be lost or damaged by the perils insured against, the Insurer will indemnify the Insured against the direct loss so caused to an amount not exceeding whichever is the least of :
  - a. the actual cash value of the property at the time of loss or damage;
  - b. the interest of the Insured in the property;
  - c. the amount of insurance specified on the "Declaration Page" in respect of the property lost or damaged.Provided, however, that where the insurance applies to the property of more than one person or interest, the insurer's total liability for loss sustained by all such persons and interests shall be limited in the aggregate to the amount or amounts of insurance specified on the "Declaration Page".

### Property Insured

- 2.A. This form insures the following property but only those items for which an amount of insurance is specified on the "Declaration Page":

- "BUILDING"
- "EQUIPMENT"
- "STOCK"
- "OFFICE CONTENTS"
- "CONTENTS" or "CONTENTS OF EVERY DESCRIPTION"
- "PROPERTY OF EVERY DESCRIPTION"

The insurance in this Clause 2.A. applies only while at the location(s) specified on the "Declaration Page".

- 2.B. This Form also insures the following property but only if an amount of insurance is specified on the "Declaration Page":

- "CONTENTS" at NON-OWNED LOCATIONS: "Equipment" and "Stock" at a location that is not owned, rented or controlled in whole or in part by the Insured. This extension does not apply to property while in transit.
- NEWLY ACQUIRED LOCATION: "Building", "Equipment" and "Stock" at any newly acquired location that is owned, rented or controlled by the Insured in whole or in part or in or on vehicles within 100 metres of such location. The limit of insurance attaches at the time of the acquisition and extends for a period of 30 days or to the date of endorsement of this Form adding such location whichever first occurs.
- PARCEL POST: "Equipment" and "stock" in any one package in course of transit by parcel post.
- OTHER TRANSIT: "Equipment" and "stock" in transit other than by parcel post.
- SALES REPRESENTATIVE: "Equipment" and "stock", whether in transit or otherwise, in the custody of a sales representative of the Insured subject to clause 6.A (k).

The insurance in this Clause 2.B applies only while the described property is within Canada and the continental United States of America.

Items covered under Clause 2.B are not subject to the terms of the Coinsurance Clause 4 in this Form.

### Deductible

3. The insurer is liable for the amount by which the loss or damage caused by any of the perils insured against exceeds the amount of the deductible specified on the "Declaration Page" in any one occurrence. If one occurrence could lead to the application of more than one deductible only the largest deductible will apply.

### Co-Insurance

4. This clause applies separately to each item for which a co-insurance percentage is specified on the "Declarations Page" and only where the total loss exceeds the lesser of 5% of the applicable amount of insurance or \$10,000. The Insured shall maintain insurance concurrent with this Form on the property insured to the extent of at least the amount produced by multiplying the actual cash value of the property by the co-insurance percentage specified on the "Declaration Page", and failing so to do, shall only be entitled to recover that portion of any loss that the amount of insurance in force at the time of loss bears to the amount of insurance required to be maintained by this clause.

### Insured Perils

5. This Form, except as herein provided, insures against all risks of direct physical loss of or damage to the property insured.

## Exclusions

### 6.A. PROPERTY EXCLUDED

This Form does not insure loss or damage to:

- a. sewers, drains or water mains located beyond the outside bearing walls or foundations of the property insured, outside communication towers, antennae (including satellite receivers and equipment attached thereto), street clocks, exterior signs, exterior glass or vitrolite and lettering or ornamentation thereon, but this exclusion does not apply to loss or damage caused directly by "Named Perils" provided such perils are not excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- b. property at locations which to the knowledge of the Insured, are vacant, unoccupied or shut down for more than thirty (30) consecutive days;
- c. electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing, unless fire or explosion as described in Clause 16(j) ensues and then only for each ensuing loss or damage, provided such perils are not excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- d. growing plants, trees, shrubs or flowers, all while in the open except as provided in the Extensions of Coverage Clause 7(e);
- e. animals, fish or birds, but this exclusion does not apply to loss or damage caused directly by "Named Perils" or from theft or attempt thereat, provided such perils are not excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- f. money, bullion, platinum and other precious metals and alloys, securities, stamps, tickets and tokens, evidence of debt or title;
- g. automobiles, watercraft, amphibious or air cushion vehicles, aircraft, spacecraft, trailers, motors or other accessories attached to or mounted on such property, but this exclusion shall not apply to watercraft, amphibious or air cushion vehicles held for sale, unlicensed automobiles or unlicensed trailers used in the business of the Insured when on the "premises" of the Insured;
- h. furs, fur garments, jewels, jewellery, costume jewellery, watches, pearls, precious and semi-precious stones, tobacco and tobacco products, pre-recorded video tapes, digital video display (dvd) discs and electronic video games but this exclusion does not apply to:
  - (i) the first one thousand dollars (\$1,000.) of any loss insured herein;
  - (ii) any loss or damage caused directly by "Named Perils", provided such perils are not excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- i. property insured under the terms of any Marine insurance and property while waterborne, except while on a regular ferry or railway car transfer in connection with land transportation;
- j. property on loan or on rental or sold by the Insured under conditional sale, installment payment or other deferred payment plan, from the time of leaving the Insured's custody, but this exclusion does not apply while such property is in the custody of a carrier for hire for the purpose of delivery at the risk of the Insured;
- k. property in the custody of a sales representative outside the "premises" of the Insured, unless an amount of insurance is shown on the "Declaration Page" pertaining to "Sales Representative"
- l. property illegally acquired, kept, stored or transported; property seized or confiscated for breach of any law or by order of any public authority.
- m.
  - (i) any pressure vessel having normal internal working pressure greater than 103 kilopascals (15 pounds per square inch) above atmospheric pressure;
  - (ii) any boiler, including the piping and equipment connected thereto, which contains steam or water under steam pressure (except tanks having an internal diameter of 610 millimetres (24 inches) or less used for the storage of hot water for domestic use);caused directly or indirectly by explosion, rupture, bursting, cracking, burning out or bulging of such property while connected ready for use, but this exclusion does not apply to:
  - (1) manually portable gas cylinders;
  - (2) explosion of natural, coal or manufactured gas;
  - (3) explosion of gas or unconsumed fuel within a furnace or within the gas passages therefrom to the atmosphere.
- n. property used in whole or in part for the cultivation, harvesting, processing, manufacture, distribution or sale of marijuana or any product derived from, or containing, marijuana or any other substance falling within the Schedules of the Controlled Drugs and Substance Act, whether or not the insured is aware of such use of the property.

### 6.B PERILS EXCLUDED

This Form does not insure against loss or damage resulting from, contributed to or caused directly or indirectly:

- a. by earthquake, except for ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment, all as described in Clause 16(j);
- b. by flood, including waves, tides, tidal waves, tsunamis, or the rising of, the breaking out or the overflow of, any body of water, whether natural or man-made, but this exclusion does not apply to ensuing loss or damage which

results directly from fire, explosion, smoke, leakage from fire protective equipment, all as described in Clause 16(h) or leakage from a water main;

exclusions (a) and (b) do not apply to property in transit;

- c. (i) by seepage, leakage or influx of water derived from natural sources through basement walls, doors, windows or other openings therein, foundations, basement floors, sidewalks, sidewalk lights, or by the backing up of sewers, sumps, septic tanks or drains, unless concurrently and directly caused by a peril not otherwise excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- (ii) by the entrance of rain, sleet or snow through doors, windows, skylights or other similar wall or roof openings unless through an aperture concurrently and directly caused by a peril not otherwise excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
- d. by centrifugal force, mechanical or electrical breakdown or derangement in or on the "premises" unless fire ensues and then only for the loss or damage caused directly by such ensuing fire;
- e. (i) by dampness or dryness of atmosphere;
- (ii) by changes in or extremes of temperature, heating or freezing;
- (iii) by total or partial interruption to the supply of electricity, water, gas or steam;

This exclusion (e) does not apply to:

- (1) loss or damage caused directly by rupture of pipes or breakage of apparatus not excluded in paragraph (m) of Clause 6A;
- (2) damage to pipes caused directly by freezing, unless such pipes are excluded in paragraph (m) of Clause 6A;
- (3) loss of or damage to "building" or "equipment" caused directly by "Named Perils", theft or attempted theft;
- (4) loss or damage caused directly by an accident to a transporting conveyance;
- f. (i) by shrinkage, evaporation, loss of weight, leakage of contents, exposure to light, change in colour or texture or finish,
- (ii) by contamination;
- (iii) by marring, scratching or crushing;

This exclusion (f) does not apply to loss or damage caused directly by:

- (1) "Named Perils";
- (2) rupture of pipes or breakage of apparatus not excluded in paragraph (m) of Clause 6A;
- (3) theft or attempted theft;
- (4) an accident to a transporting conveyance;
- g. by smoke from agricultural smudging or industrial operations;
- h. by rodents (such as squirrels and rats), insects or vermin (such as skunks and raccoons), but this exclusion does not apply to loss or damage caused directly by a peril not otherwise excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;.
- i. by delay loss of market, or loss of use or occupancy;
- j. by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- k. (i) by any nuclear incident (as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any law amendatory thereof) or nuclear explosion, except for ensuing loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas;
- (ii) by contamination by radioactive material;
- l. (i) by misappropriation, sequestration, conversion, infidelity or any dishonest or criminal act on the part of the Insured or any other party of interest, employees or agents of the Insured, or any person to whom the property may be entrusted (bailees for hire excepted), but this exclusion does not apply to physical damage, caused directly by employees of the Insured, which results from a peril otherwise insured and not otherwise excluded under this Form;
- (ii) by voluntary parting of ownership or title by the insured to any party whether from a legal or illegal transaction;
- (iii) by loss or shortage disclosed on taking inventory or any mysterious disappearance;
- m. snowslide, landslide, subsidence or other earth movement except for ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment, all as described in Clause 16 (h) ;
- n. by explosion (except with respect to explosion of natural, coal, or manufactured gas), collapse, rupture, bursting, cracking, burning out or bulging of the following property owned, operated or controlled by the Insured, unless fire ensues and then only for the loss or damage caused directly by such ensuing fire:
  - (i) the portions containing steam or water under steam pressure of all boilers generating steam, and piping or other equipment connected to said boilers and containing steam or water under steam pressure;
  - (ii) piping and apparatus or parts thereof normally containing steam or water under steam pressure from an external source and while under such pressure;
  - (iii) other vessels and apparatus and pipes connected therewith while under pressure or while in use or in operation provided their maximum normal internal working pressure exceeds 103 kilopascals (15 pounds per square inch) above atmospheric pressure but this exclusion does not apply to loss or damage resulting from

the explosion of manually portable gas cylinders or of tanks having an internal diameter of 610 millimetres (24 inches) or less used for the heating and storage of hot water for domestic use;

- (iv) moving or rotating machinery or parts thereof;
  - (v) any vessels and apparatus and pipes connected therewith while undergoing pressure tests but this exclusion does not apply to other property insured thereunder that has been damaged by such explosion;
  - (vi) gas turbines.
- o. settling, expansion, contraction, moving, shifting or cracking unless concurrently and directly caused by a peril not otherwise excluded in Clause 6.B or 6.C or 6.D or 6.E or 6.F of this Form;
  - p. proximately or remotely, arising in consequence of or contributed to by the enforcement of any by-law, regulation, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, which by-law, regulation, ordinance or law makes it impossible to repair or reinstate the property as it was immediately prior to the loss.
  - q. by loss or damage sustained to "equipment" or "stock" while actually being worked upon and directly resulting therefrom or caused by any repairing, adjusting or servicing of "equipment" or "stock" unless fire or explosion as described in Clause 16(j) ensues and then only for such ensuing loss or damage;

#### 6.C OTHER EXCLUDED LOSSES:

This form does not insure:

- (a) (i) wear and tear;
- (ii) rust or corrosion;
- (iii) gradual deterioration, hidden or latent defect or any quality in property that causes it to destroy itself.

This exclusion (a) does not apply to loss or damage caused directly by a resultant peril not otherwise excluded in this form;

- (b) the cost of making good;
- (i) faulty or improper material;
- (ii) faulty or improper workmanship;
- (iii) faulty or improper design.

This exclusion (b) does not apply to loss or damage caused directly by a resultant peril not otherwise excluded in this form;

- (c) mysterious disappearance, or shortage of "equipment" or "stock" disclosed on taking inventory.

#### 6.D POLLUTION EXCLUSION

This Form does not insure against:

- (a) loss or damage caused directly or indirectly by any actual or alleged spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants", nor the cost or expense of any resulting "clean up", but this exclusion does not apply:
  - (i) If the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants" is the direct result of a peril not otherwise excluded under this Form;
  - (ii) to loss or damage caused directly by a peril not otherwise excluded under this Form;
- (b) cost or expense for any testing, monitoring, evaluating or assessing of an actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".

#### 6.E DATA & DATA PROBLEM EXCLUSION

- a. This Form does not insure "Data"
- b. This Form does not insure loss or damage caused directly or indirectly by "Data Problem".  
However, if loss or damage caused by "Data Problem" results in the occurrence of further loss or damage to property insured that is directly caused by fire or lightning, explosion, impact by aircraft, spacecraft or land vehicle, leakage from fire protective equipment, windstorm or hail, all as described in clause 16 (i) "Named Perils" this exclusion (b) shall not apply to such resulting loss or damage.

#### 6.F FUNGI AND SPORES EXCLUSION

This form does not insure:

- (a) loss or damage consisting of or caused directly or indirectly, in whole or in part, by any "fungi" or "spores". This exclusion does not apply:
  - (i) if the "fungi" or "spores" are directly caused by a peril not otherwise excluded in this form, or
  - (ii) to loss or damage caused directly by a resultant peril not otherwise excluded in this form;
- (b) the cost or expense for any testing, monitoring, evaluation or assessing of "fungi" or "spores".

## Extensions of Coverage

7. The following extensions of coverage shall not increase the amounts of insurance applying under this Form and are subject to all conditions of this Form.
- (a) **Removal:** If any of the insured property is necessarily removed from the location(s) specified herein to prevent loss, destruction or damage or further loss, destruction or damage thereto, that part of the insurance under this policy that exceeds the amount of the Insurer's liability for any loss already incurred shall, for seven days only, or for the unexpired term of the policy if less than seven days, insure the property removed and any property remaining in the location(s) specified herein in the proportions which the value of the property in each of the respective locations bears to the value of the property in them all.
- (b) (i) **Debris Removal:** The Insurer will indemnify the Insured for expenses incurred in the removal from the "premises" of debris of the property insured, occasioned by loss or damage to such property, for which loss or damage insurance is afforded under this policy.  
The amount payable under this extension shall not exceed 25% of the total amount payable for the direct physical loss to property insured plus the amount of the applicable deductible.
- (ii) **Removal of Windstorm Debris:** The Insurer will indemnify the Insured for expenses incurred in the removal of debris or other property which is not insured by this policy but which has been blown by windstorm upon a location specified on the "Declaration Page".  
Extensions of coverage (i) and (ii) do not apply to costs or expenses:  
(a) to "clean up" "pollutants" from land or water; or  
(b) for testing, monitoring, evaluating or assessing of an actual, alleged, potential, or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape or "pollutants".  
Debris removal expenses shall not be considered in the determination of actual cash value for the purpose of applying the Co-insurance Clause.
- (c) **Personal Property of Officers and Employees:** At the option of the Insured, "equipment" also includes personal property of officers and employees of the Insured. The insurance on such property:  
(i) shall not attach if it is insured by the owner unless the Insured is obliged to insure it or is liable for its loss or damage;  
(ii) is, in any event, limited to a maximum recovery of \$250 in respect of any one officer or employee;  
(iii) shall apply only to loss or damage occurring at a location specifically described on the "Declaration Page" or included in "Newly Acquired Location".
- (d) **"Building" Damage by Theft:** This Form is extended to insure damage (except by fire) to that part of a "building" occupied by the Insured directly resulting from theft or any attempt thereat and from vandalism or malicious acts committed on the same occasion, provided the Insured is the owner of such "building" or is liable for such damage and the "building" is not otherwise insured hereunder. This extension of coverage shall be limited to a maximum recovery of twenty-five hundred dollars (\$2,500) in respect of any one loss. Glass and lettering or ornamentation thereon is excluded from this extension.
- (e) **Growing Plants, Trees, Shrubs or Flowers in the Open:** This Form is extended to insure loss or damage to growing plants, trees, shrubs or flowers in the open caused directly by "Named Perils" (with the exception of windstorm or hail as described in clause 16(i) or from theft or attempt thereat. This extension of coverage shall be limited to a maximum recovery of five hundred dollars (\$500) for each growing plant, tree, shrub or flower in the open including debris removal expense.
- (f) **Exterior Paved Surfaces:** This form is extended to insure loss or damage to roadways, walkways, parking lots or other exterior paved surfaces owned by the Insured directly resulting from a cause of loss for which loss or damage insurance is afforded under this policy. This extension of coverage shall be limited to a maximum recovery of ten thousand dollars (\$10,000) in all including debris removal expense.

## CONDITIONS

### Permission

1. Permission is hereby granted:
- (a) for other insurance concurrent with this Form;
- (b) to make additions, alterations or repairs;
- (c) to do such work and to keep such articles, materials, and supplies in such quantities as are usual or necessary to the Insured's business.

### Breach of Condition

2. Where a loss occurs and there has been a breach of condition relating to a matter before the happening of the loss, which breach would otherwise disentitle the Insured from recovery under this Form, the breach shall not disentitle the Insured from recovery if the Insured establishes that the loss was not caused or contributed to by the breach of condition or if the breach of condition occurred in any portion of the premises over which the Insured has no control.

### Reinstatement

3. Loss under any item of this Form shall not reduce the applicable amount of insurance.

## Subrogation

4. The insurer, upon making any payment or assuming liability therefore under this Form, shall be subrogated to all rights of recovery of the Insured against others and may bring action to enforce such rights. Notwithstanding the foregoing, all rights of subrogation are hereby waived against any corporation, firm, individual or other interest with respect to which insurance is provided by this Form.

Where the net amount recovered, after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the insurer and the Insured in the proportion in which the loss or damage has been borne by them respectively.

Any release from liability entered into by the Insured prior to loss shall not affect the right of the Insured to recover.

## Property Protection Systems

5. It is agreed that the Insured shall notify forthwith the Insurer of any interruption to, or flaw or defect, coming to the knowledge of the Insured, in any:
- (a) sprinkler or other fire extinguishing system; or
  - (b) fire detection system; or
  - (c) intrusion detection system;
- and shall also notify forthwith the Insurer of the cancellation or non-renewal of any contract which provides monitoring or maintenance services to any of these systems or of the notification of the suspension of police service in response to any of these systems.

## Premium Adjustment

6. This clause is applicable if a specific amount of insurance is shown on the "Declaration Page" for "Stock".
- If within six months after the expiry or anniversary date of each period of insurance, the Insured shall file with the Insurer a Premium Adjustment Application Form showing, for the said period, the actual cash value of the "stock" insured on the last day of each month at each location as commented upon by the Insured's Accountant, the actual premium for the said period shall then be calculated at the rate applying to each location for the average amount of the total values declared. If the premium paid by the Insured for such "stock" exceeds the actual premium thus calculated, the Insurer shall refund to the Insured any excess paid, subject to a maximum refund of 50% of the premium paid. In the event of any monthly-declared values being in excess of the amount of insurance, the amount of the excess shall not be included in the premium adjustment calculations.

## Verification of Values

7. The Insurer or its duly appointed representative shall be permitted at all reasonable times during the term of this policy, or within a year after termination or expiration, to inspect the property insured and to examine the Insured's books, records and such policies as relate to any property insured hereunder. Such inspection or examination shall not waive nor in any manner affect any of the terms or conditions of this Form.

## Valuations

8. For the purpose of calculating the total value of the property for the application of Co-insurance, value reporting and for loss adjustment, the following valuation basis applies:
- (a) on unsold "stock" – the actual cash value of the property at the time any loss occurs, but in no event to exceed what it would cost to repair or replace with material of like kind and quality;
  - (b) on sold "stock" – the selling price after allowance for discounts;
  - (c) on property of others in the custody or control of the Insured for the purpose of performing work thereon – the amount for which the Insured is liable but in no event to exceed the actual cash value at the time and place of loss plus allowance for labour and materials expended to such time;
  - (d) on tenant's improvements and records – as defined in paragraphs (a) and (b) of Clause 9;
  - (e) on all other property insured under this Form and for which no more specific conditions have been set out – the actual cash value at the time the loss or damage occurs but in no event to exceed what it would then cost to repair or replace with material of like kind and quality.

**Actual Cash Value:** Various factors shall be considered in the determination of actual cash value. The factors to be considered shall include, but not be limited to replacement cost less any depreciation and market value. In determining depreciation, consideration shall be given to the condition of the property immediately before the damage, the resale value, the normal life expectancy of the property and obsolescence.

## Special Basis of Settlement

9. (a) **Tenant's Improvements:** The liability of the Insurer shall be determined as follows:
- (i) if repaired or replaced with due diligence and dispatch, the amount actually and necessarily expended but in no event exceeding the actual cash value of the tenant's improvements immediately prior to the time of destruction or damage;
  - (ii) if not repaired or replaced with due diligence and dispatch after such loss, that portion of the original cost of the damaged or destroyed tenant's improvements which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such tenant's improvements were made to the expiration date of the lease.

- (b) **Records:** The liability of the Insurer for loss or damage to:
- (i) books of accounts, drawings, card index systems and other records, other than as described in (b) below, shall not exceed the cost of blank books, blank pages or other materials, plus the cost of labour for actually transcribing or copying said records;
  - (ii) media, data storage devices, and program devices for electronic and electro-mechanical data processing or for electronically controlled equipment, notwithstanding that "Data" is not insured, shall not exceed the cost of reproducing such media, data storage devices, and program devices from duplicates or from originals of the previous generation of the media, but no liability is assumed hereunder for the cost of gathering or assembling information or "Data" for such reproduction.

Whichever of the above is applicable shall be the basis to be adopted for the purpose of applying co-insurance.

- (c) **Replacement Cost:** Where the "Declaration Page" sets out the basis of settlement as "Replacement Cost" it is understood and agreed that settlement shall be based on the cost of repairing, replacing, constructing or reconstructing (whichever is the least) the property on the same site or on an adjacent site, with standard building materials of like kind and quality and currently available in North America and for like occupancy without deduction for depreciation. The foregoing shall be subject otherwise to all the terms, conditions and limitations of the Policy including endorsements thereon and to the following:
- a. the repair, replacement, construction or reconstruction, as the case may be, must be effected by the Insured with due diligence and dispatch;
  - b. until repair, replacement, construction or reconstruction has been effected by the Insured, liability shall be that which would have existed had this coverage not been in effect. Liability shall in no event exceed the amount actually and necessarily expended to repair, replace, construct or reconstruct;
  - c. any other insurance effected by or on behalf of the Insured in respect of the perils insured against by the Policy on the property to which this coverage is applicable shall be upon the replacement cost basis as set out herein;
  - d. failing compliance by the Insured with any of the foregoing provisions, this coverage shall be null and void;
  - e. any reference to actual cash value in a co-insurance clause or amended co-insurance clause contained in this Policy is deemed to be a reference to replacement cost of the property insured.
  - f. in the event that new property of like kind and quality is not obtainable, new property which is as similar as possible to that damaged or destroyed and which is capable of performing the same function shall be deemed to be new property of like kind and quality for the purposes of this endorsement.
  - g. This provision does not apply to
    - i. stock;
    - ii. patterns, dyes, moulds
    - iii. paintings, etchings, pictures, tapestries, statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelain, rare glassware, bric-a-brac or other articles of art, rarity or antiquity;
    - iv. manuscripts and records meaning scripts and records meaning books of account, drawings, card index systems and other records;
    - v. "media" meaning the materials on which data is recorded electronically or digitally and data meaning the facts, concepts, instructions or computer programs used in data processing operations;
    - vi. any increase in the cost of replacement occasioned by a restriction or prohibition in any by-law, regulation, ordinance or law.

#### **Other Insurance**

10. The Insurer shall not be liable hereunder for more than the proportion of any loss or damage which the amount of this policy bears to the total of Fire Insurance under all contracts attaching, irrespective of whether such other contracts provide Extended Coverage. If this policy covers two or more items this clause shall apply separately to each item; (ii) If the Insured has at the date of this policy any other insurance on property covered hereby which is not disclosed to the Insurer or hereafter effects any other insurance thereon without the written consent of the Insurer, this policy shall be void.

#### **Non Waiver**

11. No term or condition of this policy shall be deemed to be waived by the Insurer in whole or in part unless the waiver is clearly expressed in writing, signed by a person authorized for that purpose by the Insurer. Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or to the investigation or adjustment of any claim under the Policy.

#### **Examination of Insured**

12. In the event of a claim under this policy, the Insured must submit to examination under oath, at our request, and produce for examination at such reasonable place and time as designated by us or our representative, all documents in the insured's possession or control that relate to the matters in question, and the Insured must permit extracts and copies of such documents to be made.

#### **Territorial Limits**

13. This Policy insures only within the territorial limits of Canada and the Continental United States of America.

## Property of Others

14. At the option of the Insurer, any loss may be paid to the Insured or adjusted with and paid to the customer or the owner of the property.

## Locked Vehicle Warranty

15. This clause does not apply to property which is under the control of a common carrier.

Warranted by the Insured that any vehicle in which the property insured is carried is equipped with a fully enclosed metal body or compartment and the Insurer shall be liable in case of loss by theft from an unattended vehicle only as a direct result of forcible entry (of which there shall be visible evidence) into such body or compartment the doors and windows of which shall have been securely locked.

## Definitions

16. Wherever used in this Form:

(a) **"Declaration Page"** means the Declaration Page applicable to this Form.

(b) **"Building"** means:

the building(s) described on the "Declaration Page" and includes:

- (i) fixed structures pertaining to the building(s) and located on the "premises";
- (ii) additions and extensions communicating and in contact with the building(s);
- (iii) permanent fittings and fixtures attached to and forming part of the building(s);
- (iv) materials, equipment and supplies on the "premises" for maintenance of and normal repairs and minor alterations to the "building" or for building services;
- (v) growing plants, trees, shrubs or flowers inside the "building" used for decorative purposes when the Insured is the owner of the building.

(c) **"Clean Up"** means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to the aforementioned processes.

(d) **"Contents"** or **"Contents of Every Description"** means contents usual to the Insured's business as defined as "Equipment" or "Stock" herein.

(e) **"Data"** means representations of information or concepts, in any form.

(f) **"Data Problem"** means:

- (i) erasure, destruction, corruption, misappropriation of "Data";
- (ii) error in creating, amending, entering, deleting or using "Data"; or
- (iii) inability to receive, transmit or use "Data";
- (iv) damage to electronic data processing equipment or any other related component system, process or device.

(g) **"Equipment"** means:

- (i) generally all contents usual to the Insured's business including furniture, furnishings, fittings, fixtures, machinery, tools, utensils and appliances other than "Building" or "Stock" as herein defined;
- (ii) similar property belonging to others which the Insured is under obligation to keep insured or for which he is legally liable;
- (iii) tenant's improvements which are defined as building improvements, alterations and betterments made at the expense of the Insured to a "building" occupied by the Insured and which are not otherwise insured, provided the Insured is not the owner of such "building". If the Insured purchased the use interest in tenant's improvements made by a predecessor tenant, this Form applies as though such tenant's improvements had been made at the expense of the Insured.

(h) **Fire Protective Equipment"** includes tanks, water mains, hydrants, valves and any other equipment whether used solely for fire protection or jointly for fire protection and for other purposes, but does not include;

- (i) branch piping from a joint system where such branches are used entirely for purposes other than fire protection;
- (ii) any water mains or appurtenances located outside of the described "premises" and forming a part of the public water distribution system;
- (iii) any pond or reservoir in which the water is impounded by a dam.

(i) **"Fungi"** includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any "fungi" or "spores" or resultant mycotoxins, allergens or pathogens

(j) **"Named Perils"** means:

1. FIRE OR LIGHTNING

2. EXPLOSION: Except with respect to explosion of natural, coal or manufactured gas, there shall in no event be any liability hereunder for loss or damage caused by explosion, rupture or bursting or of the following property owned, operated or controlled by the Insured;

- (i) (a) The portions containing steam or water under steam pressure of all boilers generating steam, and piping or other equipment connected to said boilers and containing steam or water under steam pressure;
- (b) piping and apparatus or parts thereof normally containing steam or water under steam pressure from an external source and while under such pressure;



(c) the combustion chambers or fire boxes of steam generating boilers of the chemical recovery type and the flues or passages which conduct the gases of combustion therefrom:

(d) smelt dissolving tanks;

(ii) other vessels and apparatus, and pipes connected therewith, while under pressure, or while in use or in operation, provided their maximum normal internal working pressure exceeds 103 kilopascals (15 pounds) per square inch) above atmospheric pressure except that liability is specifically assumed for loss or damage resulting from the explosion of manually portable gas cylinders;

(iii) moving or rotating machinery parts of same when such loss or damage is caused by centrifugal force or mechanical breakdown;

(iv) any vessels and apparatus and pipes connected therewith while undergoing pressure tests, but this exclusion shall not apply to other property insured hereunder that has been damaged by such explosion;

(v) gas turbines;

The following are not explosions within the intent or meaning of this section:

(a) electric arcing or any coincident rupture of electrical equipment due to such arcing;

(b) bursting or rupture caused by hydrostatic pressure or freezing;

(c) bursting or rupture of any safety disc, rupture diaphragm or fusible plug.

3. **IMPACT BY AIRCRAFT, SPACECRAFT OR LAND VEHICLE:** The terms "Aircraft" and "Spacecraft" include articles dropped therefrom. There shall in no event be any liability hereunder due to cumulative damage or for loss or damage:

(i) caused by land vehicles belonging to or under the control of the Insured or any of his employees;

(ii) to aircraft, spacecraft or land vehicles causing the loss;

(iii) caused by any aircraft or spacecraft when being taxied or moved inside or outside of "buildings".

4. **RIOT, VANDALISM OR MALICIOUS ACTS:** The term Riot includes open assemblies of strikers inside or outside the "premises" who have quitted work and of locked-out employees. There shall in no event be any liability hereunder for loss or damage:

(i) due to cessation of work or by interruption to process or business operations or by change(s) in temperature;

(ii) due to flood or release of water impounded by a dam, or due to any explosion other than an explosion in respect of which there is insurance under Clause 16(i)(2);

(iii) due to theft or attempt thereat.

5. **SMOKE:** The term "Smoke" means smoke due to a sudden, unusual and faulty operation of any stationary furnace. There shall in no event be any liability hereunder for any cumulative damage.

6. **LEAKAGE FROM FIRE PROTECTIVE EQUIPMENT:** The term Leakage From Fire Protective Equipment means the Leakage or discharge of water or other substance from within the equipment used for fire protection purposes for the "premises" described in the "Declaration Page" or for adjoining premises and loss or damage caused by the fall or breakage or freezing of such equipment.

7. **WINDSTORM OR HAIL:** There shall in no event be any liability hereunder or loss or damage:

(i) to the interior of the "buildings" insured or their contents unless damage occurs concurrently with and results from an aperture caused by windstorm or hail;

(ii) directly or indirectly caused by any of the following, whether driven by wind or due to windstorm or not; snow-load, ice-load, tidal wave, tsunamis, high water, overflow, flood, waterborne objects, waves, ice, land subsidence, landslip.

(k) **"Office Contents"** means office furniture, fixtures, office equipment, office machines, supplies, records, and other similar property used in office operations.

(l) **"Premises"** means the entire area within the property lines and areas under adjoining sidewalks and driveways at the locations described on the "Declaration Page" and in or on vehicles within 100 metres (328 feet) of such locations.

(m) **"Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including odour, vapour, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

(n) **"Property of Every Description"** means "Building", "Equipment" and "Stock" as defined above.

(o) **"Stock"** means:

(i) merchandise of every description usual to the Insured's business

(ii) packing, wrapping and advertising materials; and

(iii) similar property belonging to others which the Insured is under obligation to keep insured or for which he is legally liable.

(p) **"Spores"** includes, but is not limited to, one or more reproductive particles or microscopic fragments produced by, emitted from or arising out of any "fungi".