



2020

Hfx No. 501252

**SUPREME COURT OF NOVA SCOTIA  
IN BANKRUPTCY AND INSOLVENCY**

**In the Matter of the Receivership of 11016946 Canada Inc. (the "Company")**

Between:

**Business Development Bank of Canada**

**Applicant**

and

**11016946 Canada Inc.**

**Respondent**

**AFFIDAVIT OF LINDA SAVOIE**

I, Linda Savoie, of Moncton, Province of New Brunswick, make oath and give evidence as follows:

1. I am Senior Account Manager, Special Accounts at Business Development Bank of Canada ("**BDC**"), in Halifax, Nova Scotia, the Applicant in the within proceeding. BDC holds security over certain assets of 11016946 Canada Inc. (the "**Company**"),
2. I have personal knowledge of the evidence sworn in this affidavit except where otherwise stated to be based on information or belief.
3. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
4. In or about October 2022, this file was transferred from the Business Restructuring Unit (BRU) of BDC to Special Accounts and I have assumed carriage of the file. I have reviewed the contents of BDC's file.
5. I am advised by counsel and do believe that on November 28, 2022, at the request of BDC's counsel, Mr. Cousins provided an updated insurance policy for 123-125 Prince William Street and 60 Water Street in Saint John, New Brunswick (collectively, the "**Prince William Property**"). BDC is no longer listed a loss payee on the policy. A copy of email

correspondence dated November 28, 2022 and the commercial insurance policy for the Company is attached as **Exhibit "A"**.

6. I am advised by counsel and do believe that on December 12, 2022, Jim Kennedy sent a copy of an Agreement of Purchase and Sale for the Property in the amount of \$900,000. A copy of email correspondence dated December 12, 2022 and the Agreement of Purchase and Sale is attached as **Exhibit "B"**.
7. I am advised by counsel and do believe that BDC has asked the Company for the concrete plan as to how it intends to deal with the judgments registered against the Company in the Land Registration Office, the property tax arrears and the BDC shortfall. A copy of email correspondence dated December 12 to 14, 2022 is attached as **Exhibit "C"**.
8. To date, the Company has not provided any plan for how it can address the property tax arrears and the judgments registered against the Prince William Property, despite BDC's request for the plan.
9. As of November 21, 2022, the property tax arrears for the Company's six townhouse properties located at Pokiok Road in Saint John, New Brunswick were as follows:
  - (a) 20 Pokiok Road - \$6,201.52
  - (b) 22 Pokiok Road - \$4,521.46
  - (c) 24 Pokiok Road - \$3,988.46
  - (d) 26 Pokiok Road - \$4,778.70
  - (e) 28 Pokiok Road - \$4,521.02
  - (f) 30 Pokiok Road - \$5,758.90
10. As of December 13, 2022, the property tax arrears for the Prince Williams Property are \$161,586.65.

11. As of the date of swearing this affidavit, property taxes and interest continue to accrue, increasing the amount owing to BDC by the Company. As of January 2, 2023, the Company was indebted to BDC in the total amount of \$1,033,653.25, broken down as follows:

Principal arrears	\$901,037.94
Interest accrued to January 2, 2023	\$85,276.81
Fees	\$2,000.00
Protective Disbursement	\$43,926.74
Interest on Protective Disbursement	\$1,411.76
<b>TOTAL</b>	<b>\$1,033,653.25</b>
Per Diem	\$145.88

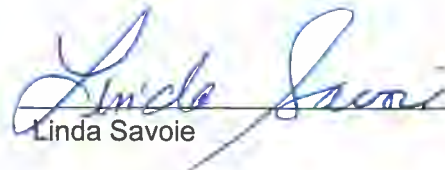
12. Given that none of the Company's attempts at refinancing have been successful, coupled with the lack of timeliness and communication from the Company and its counsel, BDC believes that a receiver is necessary to conclude a successful transaction and pay out its loans.

13. I swear this affidavit in support of the motion to appoint Deloitte as Receiver and Manager over the assets, undertakings and properties of the Company, limited to the Prince William Property, and for no other or improper purpose.

SWORN before me at Moncton, New Brunswick, this 4<sup>th</sup> day of January, 2023.



A commissioner for taking affidavits.  
Name:  
Official Capacity:

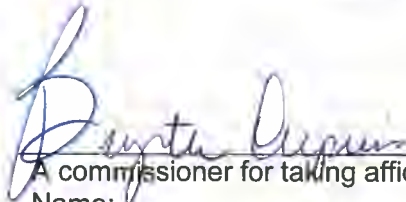
  
Linda Savoie

Brigitte Dupuis  
Commissioner of Oaths  
My commission expires: Dec 31, 2027

2020

Hfx No. 501252

This is Exhibit "A" to the affidavit of Linda Savoie, sworn to before me at Moncton, New Brunswick, on January 4<sup>th</sup>, 2023

A handwritten signature in blue ink, appearing to read "Brigitte Dupuis", written over a horizontal line.

A commissioner for taking affidavits.

Name:

Official Capacity:

Brigitte Dupuis  
Commissioner of Oaths  
My commission expires: Dec 31, 2027

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**From:** Ian Cousins <ian.cousins@blackhawkconsulting.ca>  
**Sent:** Monday, November 28, 2022 11:22 AM  
**To:** Sara L. Scott  
**Subject:** FW: 11016946 Canada Inc. November 7th, 2022 - November 7th, 2023  
**Attachments:** 11016946 Canada Inc. (Insured Copy - Renewal - AU100432).pdf; Notice of Acceptance.pdf; Co Insurance Definition.pdf; Commercial Renewal Update.pdf

**This is an external email.**

As requested.

Ian Cousins  
President  
Mortgage Agent M09002800  
[ian.cousins@blackhawkconsulting.ca](mailto:ian.cousins@blackhawkconsulting.ca)

T: 613-745-2828  
TF: 1-877-545-2828  
F: 1-866-749-1939  
A: 200-5310 Canotek Road  
Ottawa, ON K1J 9N5  
W: [www.blackhawkconsulting.ca](http://www.blackhawkconsulting.ca)



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**Allergy Alert: When visiting our offices, please be scent aware.**

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**From:** Ryan Smith <rsmith@gatewayinsurance.ca>  
**Sent:** November 28, 2022 10:11 AM  
**To:** Ian Cousins <ian.cousins@blackhawkconsulting.ca>; 'Jim Kennedy' <jim.kennedy@valourinvestments.com>  
**Cc:** Josh Armstrong <jarmstrong@gatewayinsurance.ca>  
**Subject:** FW: 11016946 Canada Inc. November 7th, 2022 - November 7th, 2023

Hi Ian,

Please find the attached renewal documents which include 125 Prince William. I can confirm the policy is in good standing and payments are up to date.

If you have any questions, please let me know.

Thank you,

Ryan

Thank-you for your business!

Your Commercial Property Insurance policy renewed on November 7<sup>th</sup>, 2022 for a period of one year.

We have negotiated a reduction in rates at location #1 20-30 Pokiok Road Saint John from 0.44 to 0.42 resulting in a savings of approx. \$250 plus as agreed to on renewal review we removed Equipment Breakdown coverage resulting in an additional savings of \$825.

Renewal premium is \$23,704 plus \$175 Agile Policy fee and \$25 UWD fee. Grand total is \$23,904.

### **IMPORTANT NOTES**

#### **Commercial Insurance Policy Renewal Checklist:**

Attached is a convenient Policy Renewal Checklist. You are under a continuing obligation to notify your Insurers of any **Material Change** in risk. Please complete the Renewal Checklist and return it to us. It's easy. Open it. Just scroll through and press submit. Please call with any questions, additional information, or to note any item we may not have discussed or included in our review of your insurance requirements.

In addition, you may from time to time be asked to complete an application form for the Insurer(s) or provide other written information which will form the basis of an insurance contract. When providing such documents it is important to understand that all answers or statements made are your responsibility and that if incorrect information is provided it could result in a claim being repudiated on the basis of non-disclosure or misrepresentation.

All information requested on an application form is a material fact, and if any changes arise in that information, we must be promptly notified.

#### **Liability**

The current liability coverage on this policy is \$2,000,000. Higher limits are available and strongly recommended. We can obtain a quote for \$5,000,000 limit upon request.

#### **Co-Insurance**

Co-insurance is a clause used by insurance companies on policies covering property such as buildings, contents, stock, or industrial equipment. This clause makes sure policyholders insure their property to an appropriate value. Generally, co-insurance is expressed as a percentage. The most common clauses require policyholders to insure to 80%, 90%, or 100% of the true value. For instance, a building valued at \$1,000,000 replacement value with a co-insurance clause of 90% must be insured for no less than \$900,000. It is very important that your property is appropriately valued. If you have any questions or concerns about this, please be in touch with us right away. A more thorough description of co-insurance is attached.

#### **Monthly Payment Schedule**

We have enclosed the Notice of Acceptance from the finance company Imperial PFS. Please note the document outlines an initial payment of **\$2,246.84** to be withdrawn on **November 15<sup>th</sup>, 2022** and a monthly payment of **\$2,124.58** on the **7<sup>th</sup>** of each month starting in December.

#### **Policy Documents**

Please review the attached policy documents carefully and advise us of any questions or concerns that may prompt changes you require.

Thank-you for allowing the team at Gateway the opportunity to work with you and to deliver the insurance coverage that meets your needs.

**Yours truly,  
Gateway Insurance Group**

**Josh Armstrong**

Senior Account Executive – Commercial Insurance

902-431-9300 OFFICE

902-830-4626 MOBILE

[jarmstrong@gatewayinsurance.ca](mailto:jarmstrong@gatewayinsurance.ca)

[www.gatewayinsurance.ca](http://www.gatewayinsurance.ca)



**Gateway Insurance Group**

371 St. Margaret's Bay Rd., Suite 101  
Halifax, NS B3N 1J8



# Commercial Insurance Policy Renewal

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Prepared especially for  
**11016946 Canada Inc.**

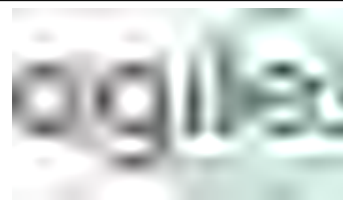
through the facilities of  
**Agile Underwriting Solutions Inc.**



### COMMERCIAL INSURANCE POLICY

SUBSCRIPTION POLICY

Effected with certain Lloyd's Underwriters and other insurers  
(hereinafter called the Insurer) through Lloyd's approved coverholder  
("the Coverholder")



Policy No. AU100432

Declarations

Effective 2022-11-07

INSURANCE IS PROVIDED ONLY FOR THOSE COVERAGES FOR WHICH A SPECIFIC LIMIT OF INSURANCE IS SHOWN - ON TERMS AND CONDITIONS CONTAINED IN THE FORMS INDICATED.  
ANY REFERENCE HEREIN TO THE "COMPANY" SHALL BE CONSTRUED AS THE INSURER.

## THIS POLICY CONTAINS A CLAUSE WHICH MAY LIMIT THE AMOUNT PAYABLE

### PURPOSE OF THIS DOCUMENT

**Renewal**-In return for the agreement of the Insured to pay the premium stated, this insurance Policy is continued in force for the period of insurance indicated. It is renewed subject to the limits of insurance and declarations shown herein. Should coverage wordings, riders or endorsements be attached hereto, they will replace the corresponding previous wordings. Otherwise all terms and conditions remain the same.

### THE COVERHOLDER

**Agile Underwriting Solutions Inc.**  
1550 Bedford Highway, Suite 815

Main: +1 (877) 343-8224

Fax: +1 (877)  
432-9822

Bedford, Nova Scotia B4A 1E6

Web Site: [agileuw.ca/](http://agileuw.ca/)

### SUB-AGENT OR SUB-BROKER

**Gateway Insurance Group - Halifax**  
371 St. Margarets Bay Road Unit 101  
Halifax, Nova Scotia B3N 1J8

### NAMED INSURED AND POSTAL ADDRESS

**11016946 Canada Inc.**  
10 Falcon Place  
Halifax, Nova Scotia B3M 3R4

### LOCATIONS OF RISK

- 1.20-30 Pokiok Road, Saint John, New Brunswick E2K 1P5
- 2.119-125 Prince William Street, Saint John, New Brunswick E2L 2B4

### PERIOD OF INSURANCE

From November 7, 2022 to November 7, 2023  
(12:01 a.m. standard time at the Postal Address of the Insured)

### DESCRIPTION OF BUSINESS OPERATIONS

Building Owner- Residential and Commercial Rental

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

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

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

IN WITNESS WHEREOF THIS POLICY HAS BEEN SIGNED, AS AUTHORIZED BY THE INSURERS BY

PER

Agreement No.

**B1921KC000390V(01)**  
**B1921KC000390V**

NEW ANNUAL PREMIUM ▶

**\$23,704**

PREMIUM PAYABLE (EXCL. APPL. TAXES) ▶

**\$23,704**

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

**SUMMARY OF INSURANCE COVERAGE AND ANNUAL PREMIUMS**

TYPE OF COVERAGE	ANNUAL PREMIUM	MINIMUM RETAINED COVERAGE PREMIUM
<b>Property</b>	<b>\$22,129</b>	Nil
<b>Liability</b>	<b>\$1,575</b>	Nil
<b>Other</b>	<b>\$0</b>	Nil
<b>Fee</b>	<b>\$0</b>	Nil
<b>Minimum Retained Policy Premium</b>		<b>\$5,926</b>

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

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

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**Agreement No.**

**NEW ANNUAL PREMIUM ▶**

**\$23,704**

**B1921KC000390V(01)**

**B1921KC000390V**

PER

**PREMIUM PAYABLE (EXCL. APPL. TAXES) ▶**

**\$23,704**

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FORM NO.	TYPE OF COVERAGE	DEDUCTIBLE	COINS. %	LIMIT OF INSURANCE
<b>Property</b>				
<b>PA1 (7/18)</b>	<b>Building, Equipment and Stock (Broad Form)</b>	10,000	90%	
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)	10,000	90%	
	Building	10,000	90%	1,169,024
	Contents	10,000	90%	22,473
PE1 (7/18)	Replacement Cost Endorsement			
	Restricted to locations			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)			
PE8 (7/18)	Sewer Backup Endorsement			
	Restricted to locations			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)			100,000
	Deductibles			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)	10,000		
PE9 (8/18)	Flood Endorsement			
	Restricted to locations			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)			1,288,697
	Deductibles			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)	25,000		
PE10 (7/18)	Earthquake Shock Endorsement			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)			1,298,697
	Annual aggregate limit			1,298,697
	Deductible percentage	5%		
	Deductible minimum amount	100,000		
PX4 (5/01)	Vandalism by Tenants Exclusion			
<b>BA15 (7/00)</b>	<b>Rent or Rental Value (Broad Form)</b>		100%	
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)			97,200
<b>UCAI5077</b>	<b>Water Damage Limitation</b>			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)	10,000		100,000
<b>UCAI5099 (02/16)</b>	<b>Preferred Extension Endorsement</b>			
	At Loc 1 (20-30 Pokiok Road, Saint John, New Brunswick)	10,000		
<b>PN1 (7/18)</b>	<b>Building, Equipment and Stock (Named Perils)</b>	10,000	80%	
	At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)	10,000	80%	
	Building	10,000	80%	2,847,938

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FORM NO.	TYPE OF COVERAGE	DEDUCTIBLE	COINS. %	LIMIT OF INSURANCE
PE8 (7/18)	Sewer Backup Endorsement Restricted to locations At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)			100,000
	Deductibles At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)	10,000		
PE9 (8/18)	Flood Endorsement Restricted to locations At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)			2,967,938
	Deductibles At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)	25,000		
PE10 (7/18)	Earthquake Shock Endorsement At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)			2,967,938
	Deductible percentage		5%	
	Deductible minimum amount	100,000		
PE30 (8/04)	Permission to Complete Renovations Extension At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)			
PX4 (5/01)	Vandalism by Tenants Exclusion			
<b>BN15 (7/00)</b>	<b>Rent or Rental Value (Named Perils)</b> At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick)		100%	120,000
<b>UCAI5031</b>	<b>Deletion of Peril Riot, Vandalism &amp; Malicious Acts</b> At Loc 2 (119-125 Prince William Street, Saint John, New Brunswick) With respect to vacant units			
<b>Liability</b>				
<b>L1a (2/21)</b>	<b>Commercial General Liability (Occurrence Form)</b> Each occurrence limit Products-completed operations excluded Personal and Advertising injury limit - Any one person or organization Medical payments limit Any one person Each occurrence General aggregate limit			2,000,000     25,000 25,000 2,000,000
LD3c (7/18)	Combined Deductible Endorsement (Bodily Injury and Property Damage) Per occurrence	2,500		
LR1a (7/18)	Limitation of Coverage to Designated Premises			
LX45a (3/06)	Total Pollution Exclusion			

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FORM NO.	TYPE OF COVERAGE	DEDUCTIBLE	COINS. %	LIMIT OF INSURANCE
	<b>USA Sales, Operations &amp; Jurisdiction Exclusion</b>			
<b>Other</b>				
<b>LMA5022</b>	<b>Law &amp; Jurisdiction</b>			
<b>LMA3100</b>	<b>Sanctions Limitation and Exclusion Clause</b>			
<b>LMA5018</b>	<b>Microorganism Exclusion (Absolute)</b>			
<b>LMA5028</b>	<b>Service of Suit Clause (Canada)</b>			
<b>LMA5180</b>	<b>Intention For AIF To Bind Clause</b>			
<b>LMA5185</b>	<b>Made in Canada</b>			
<b>LMA5185FR</b>	<b>Made In Canada - FR</b>			
<b>LMA5393</b>	<b>Communicable Disease Endorsement</b>			
<b>LMA5396</b>	<b>Communicable Disease Exclusion</b>			
<b>LMA5401</b>	<b>Property Cyber &amp; Data Exclusion</b>			
<b>LMA5468</b>	<b>Cyber &amp; Data Total Exclusion Endorsement</b>			
<b>LSW1001 (8/94)</b>	<b>Several Liability Clause</b>			
<b>LSW1550</b>	<b>Identification of Insurer &amp; Action Against Insurer Clause</b>			
<b>LSW1542F (10/20)</b>	<b>Lloyd's Policyholders' Complaint Protocol</b>			
<b>LSW1543D (5/19)</b>	<b>Privacy: Notice Concerning Personal Information</b>			
<b>LSW1543D-16</b>	<b>Privacy: Notice Concerning Personal Information - FR</b>			
<b>LSW1548c</b>	<b>Declarations English</b>			
<b>LSW1548c-16</b>	<b>Declarations French</b>			
<b>LSW1565C (10/12)</b>	<b>Lloyd's Underwriters Code of Consumer Rights &amp; Responsibilities</b>			
<b>LSW1814 (7/12)</b>	<b>Statutory Conditions (Alberta)</b>			

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FORM NO.	TYPE OF COVERAGE	DEDUCTIBLE	COINS. %	LIMIT OF INSURANCE
<b>LSW1815 (7/12)</b>	<b>Statutory Conditions (British Columbia)</b>			
<b>LSW1851 (10/14)</b>	<b>Statutory Conditions (Manitoba)</b>			
<b>NMA0464</b>	<b>War &amp; Civil War Exclusion Clause</b>			
<b>NMA1622</b>	<b>Radioactive Contamination &amp; Explosive Nuclear Assemblies Exclusion Clause</b>			
<b>NMA1978a</b>	<b>Nuclear Incident Exclusion Clause</b>			
<b>NMA2340</b>	<b>Seepage &amp; Pollution, Land, Air and Water Exclusion &amp; Debris Removal Endorsement</b>			
<b>NMA2802</b>	<b>Electronic Date Recognition Exclusion (EDRE)</b>			
<b>NMA2920</b>	<b>Terrorism Exclusion Clause</b>			
<b>NMA2962</b>	<b>Biological or Chemical Materials Exclusion</b>			
<b>O4 (2/01)</b>	<b>Exclusion of Asbestos Related Claims</b>			
<b>O10 (8/04)</b>	<b>Illegal Substance Exclusion</b>			
<b>R1 (12/09)</b>	<b>Additional Agreements and Conditions</b>			
<b>R2 (7/00)</b>	<b>Business Income General Policy Conditions</b>			
<b>R3 (8/04)</b>	<b>Commercial Crime General Conditions and Definitions</b>			
<b>R7 (3/02)</b>	<b>Short Rate Cancellation Table</b>			
<b>R10 (8/04)</b>	<b>Notice to Insureds (Ontario Privacy Act, 1987)</b>			
<b>R14 (10/05)</b>	<b>Statutory Definition of 'Fire' Policy and Exemptions</b>			
<b>R16 (3/06)</b>	<b>Cancellation Notice Amendment</b> Number of days: 15			
<b>UCAI5131(06/17)</b>	<b>Common Exclusions</b>			
	<b>Blanket Additional Insured Clause</b>			

**Fee**

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FORM NO.	TYPE OF COVERAGE	DEDUCTIBLE	LIMIT OF COINS. % INSURANCE
	<b>Underwriting fee of \$175 in addition to the annual premium</b> 175		
	<b>Annual Premium:</b>		<b>\$23,704</b>

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**LIST OF SUBSCRIBING COMPANIES**

(SUBJECT TO CONDITIONS IN LSW1554 AND LSW1550)

THE INSURERS AND COVERAGES INSURED	SUM(S) INSURED OR PERCENTAGE(S)	PREMIUM	FLAT CHARGE PREMIUM	AUTHORIZED REPRESENTATIVE
<b>Property</b>				
Echelon General Insurance Company	16.0%	\$3,541		_____
Intact Insurance Company	17.0%	\$3,762		_____
Lloyd's Underwriters under Agreement No. AG 10082SS22(05) B174010082SS22	50.0%	\$11,064		_____
Sovereign Insurance	17.0%	\$3,762		_____
<b>Total Property</b>	<b>100.0%</b>	<b>\$22,129</b>		
<b>Liability</b>				
Lloyd's Underwriters under Agreement No. B1921KC000390V(01) B1921KC000390V	100.0%	\$1,575		_____
<b>Other</b>				
Lloyd's Underwriters under Agreement No. B1921KC000390V(01) B1921KC000390V	100.0%	Incl		_____
<b>Fee</b>				
Agile Underwriting Solutions	100.0%	Incl		_____
<b>Total Policy Premium</b>		<b>\$23,704</b>		



## COMMERCIAL INSURANCE POLICY

Effectuated with certain Lloyd's Underwriters and other insurers  
(hereinafter called the Insurer) through Lloyd's approved coverholder  
("the Coverholder")



Policy No. AU100432

Declarations

Effective 2022-11-07

INSURANCE IS PROVIDED ONLY FOR THOSE COVERAGES FOR WHICH A SPECIFIC LIMIT OF INSURANCE IS SHOWN - ON TERMS AND CONDITIONS CONTAINED IN THE FORMS INDICATED.  
ANY REFERENCE HEREIN TO THE "COMPANY" SHALL BE CONSTRUED AS THE INSURER

### SUBSCRIPTION POLICY

LSW1554

IN CONSIDERATION OF THE INSURED having paid or agreed to pay each of the INSURERS named in the List of Subscribing Companies forming part hereof, or to INSURERS whose names are substituted therefor or added thereto by endorsement, hereinafter called "THE INSURERS", the Premium set against its name in the List of Subscribing Companies (attached hereto),

THE INSURERS SEVERALLY AND NOT JOINTLY agree, each for the Sum(s) Insured or Percentage(s) and for the Coverage(s) Insured set against its name in the List of Subscribing Companies, and subject always to the terms and conditions of this Policy, that if a loss occurs for which insurance is provided by this Policy at any time while it is in force, they will indemnify the INSURED against the loss so caused; the liability of each insurer individually for such loss being limited to that proportion of the loss payable according to the terms and conditions of this Policy which the Sum Insured or the amount corresponding to the Percentage set against its name in the List of Subscribing Companies, or such other sum or percentage as may be substituted therefor by endorsement, bears to the total of the sums insured or of the amounts corresponding to the percentages of the sums insured respectively set out against the coverage concerned on the Declarations page(s).

That as regards each item of property insured which is lost or damaged at any time while this Policy is in force by a peril for which insurance is provided by the terms and conditions of this Policy, the liability of each Insurer individually shall be limited to whichever is the least of:

- (a) that proportion of the actual cash value of the property at the time of the loss, destruction or damage which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual Insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this Policy in respect of that property against that peril, or
- (b) that proportion of the interest of THE INSURED in the property which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this policy in respect of that property against that peril, or
- (c) that proportion of the limit of insurance stipulated in respect of the property lost, destroyed or damaged which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this Policy in respect of that property against that peril,

Provided however, that where the insurance applies to the property of more than one person or interest THE INSURERS' total liability for loss sustained by all such persons and interests shall be limited in the aggregate to the specified limit or limits of liability.

If this Policy contains a Co-Insurance Clause or a Guaranteed Amount (Stated Amount) Clause, and subject always to the limit of liability of each Insurer corresponding to the percentage of the sum insured by this Policy as set out above, no Insurer shall be liable for a greater proportion of any loss or damage to the property insured, than the sum insured by such Insurer bears to:

- (a) that percentage, stated in the Co-Insurance Clause, of the actual cash value of the said property at the time of loss, or
- (b) the Guaranteed Amount (Stated Amount) of total insurance stated in the Guaranteed Amount (Stated Amount) Clause, as the case may be.

If the insurance under this Policy is divided into two or more items, the foregoing shall apply to each item separately.

Wherever in this Policy, or in any endorsement attached hereto, reference is made to "The Company", "The Insurer", "This Company", "we", "us", or "our", reference shall be deemed to be made to each of the Insurers severally.

This policy is made and accepted subject to the foregoing provisions, and to the other provisions, stipulations and conditions contained herein, which are hereby specially referred to and made a part of this Policy, as well as such other provisions, agreements or conditions as may be endorsed hereon or added hereto.

**COMMERCIAL INSURANCE POLICY**



Effected with certain Lloyd's Underwriters and other insurers (hereinafter called the Insurer) through Lloyd's approved coverholder ("the Coverholder")



**Policy No. AU100432**

**Declarations**

**Effective 2022-11-07**

INSURANCE IS PROVIDED ONLY FOR THOSE COVERAGES FOR WHICH A SPECIFIC LIMIT OF INSURANCE IS SHOWN - ON TERMS AND CONDITIONS CONTAINED IN THE FORMS INDICATED.  
ANY REFERENCE HEREIN TO THE "COMPANY" SHALL BE CONSTRUED AS THE INSURER

**IN WITNESS WHEREOF** THE INSURERS through their representative(s) duly authorized by them for this purpose have executed and signed this Policy.

**LSW1550**

Where LLOYD'S UNDERWRITERS are subscribing insurers to the Policy, the following applies to them:

**IDENTIFICATION OF INSURER / ACTION AGAINST INSURER**

This insurance has been entered into in accordance with the authorization granted to the Coverholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to the Agreement shown in the List of Subscribing Companies (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own part and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

**NOTICE**

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

## SUBSCRIPTION POLICY

IN CONSIDERATION OF THE INSURED having paid or agreed to pay each of the INSURERS named in the List of Subscribing Companies forming part hereof, or to INSURERS whose names are substituted therefor or added thereto by endorsement, hereinafter called "THE INSURERS", the Premium set against its name in the List of Subscribing Companies (attached hereto),

THE INSURERS SEVERALLY AND NOT JOINTLY agree, each for the Sum(s) Insured or Percentage(s) and for the Coverage(s) Insured set against its name in the List of Subscribing Companies, and subject always to the terms and conditions of this Policy, that if a loss occurs for which insurance is provided by this Policy at any time while it is in force, they will indemnify the INSURED against the loss so caused; the liability of each insurer individually for such loss being limited to that proportion of the loss payable according to the terms and conditions of this Policy which the Sum Insured or the amount corresponding to the Percentage set against its name in the List of Subscribing Companies, or such other sum or percentage as may be substituted therefor by endorsement, bears to the total of the sums insured or of the amounts corresponding to the percentages of the sums insured respectively set out against the coverage concerned on the Declarations page(s).

That as regards each item of property insured which is lost or damaged at any time while this Policy is in force by a peril for which insurance is provided by the terms and conditions of this Policy, the liability of each Insurer individually shall be limited to whichever is the least of:

- (a) that proportion of the actual cash value of the property at the time of the loss, destruction or damage which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual Insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this Policy in respect of that property against that peril, or
- (b) that proportion of the interest of THE INSURED in the property which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this policy in respect of that property against that peril, or
- (c) that proportion of the limit of insurance stipulated in respect of the property lost, destroyed or damaged which the amount of the sum insured under this Policy in respect of that property against that peril corresponding to the individual insurer's proportion of the total sum insured for the coverage concerned as appears from the entry set against its name in the List of Subscribing Companies bears to the total sum insured under this Policy in respect of that property against that peril,

Provided however, that where the insurance applies to the property of more than one person or interest THE INSURERS' total liability for loss sustained by all such persons and interests shall be limited in the aggregate to the specified limit or limits of liability.

If this Policy contains a Co-Insurance Clause or a Guaranteed Amount (Stated Amount) Clause, and subject always to the limit of liability of each Insurer corresponding to the percentage of the sum insured by this Policy as set out above, no Insurer shall be liable for a greater proportion of any loss or damage to the property insured, than the sum insured by such Insurer bears to:

- (a) that percentage, stated in the Co-Insurance Clause, of the actual cash value of the said property at the time of loss, or

(b) the Guaranteed Amount (Stated Amount) of total insurance stated in the Guaranteed Amount (Stated Amount) Clause, as the case may be.

If the insurance under this Policy is divided into two or more items, the foregoing shall apply to each item separately.

Wherever in this Policy, or in any endorsement attached hereto, reference is made to "The Company", "The Insurer", "This Company", "we", "us", or "our", reference shall be deemed to be made to each of the Insurers severally.

This policy is made and accepted subject to the foregoing provisions, and to the other provisions, stipulations and conditions contained herein, which are hereby specially referred to and made a part of this Policy, as well as such other provisions, agreements or conditions as may be endorsed hereon or added hereto.

**IN WITNESS WHEREOF** THE INSURERS through their representative(s) duly authorized by them for this purpose have executed and signed this Policy.

Property/Liability/Other

07/05

LSW1554

## **Canada Subscription Policy**

**Lloyd's endorsement (only to be used in conjunction with LSW 1554 or an alternative subscription policy document containing the attributes of LSW 1554)**

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### **PLEASE NOTE - This notice contains important information - PLEASE READ CAREFULLY**

Whereas the Subscription Policy ("the Policy") has been entered into by the Coverholder in accordance with the authorization granted to the Coverholder by the underwriting members ("the members") of the Lloyd's syndicates as shown in the List of Subscribing Companies (and where the List of Subscribing Companies also notes the identity of the Coverholder);

Whereas the liability of each insurer under the Policy is several and not joint with other insurers party to the Policy;

The following additional provisions shall apply in respect of the participation of the members to the Policy. The following provisions are in addition to and not in substitution for the provisions, terms and condition as set out in the Policy (including any amendment or endorsement thereto).

#### **Several liability**

1. The proportion of liability under the Policy underwritten by the members of a Lloyd's syndicate (being the total of the proportions underwritten by all the members of the syndicate taken together) is as provided for in the binding authority agreement number shown in the List of Subscribing Companies, or which may be obtained on application to the Coverholder whose name is also noted in the List of Subscribing Companies.
2. In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total being the total of the proportions of the total shown for the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members or other insurers. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite the Policy. The business address of each member is Lloyd's, One Lime Street, EC3M 7HA, United Kingdom. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained in writing to Market Services, Lloyd's at the above address.
3. Although reference is made at various points in this endorsement to "the Policy" in the singular, where the circumstances so require this should be read as a reference to Policies in the plural.

#### **Action Against Insurer**

4. In any action to enforce the obligations of the members they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the members as if they had been individually named as defendant. Service of such proceedings may be validly made upon the attorney-in-fact in Canada for Lloyd's Underwriters, whose address for service is Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

#### **Notice**

5. Any notice to the members may be validly given to the Coverholder whose signature and name appear in the List of Subscribing Companies.

**COMMERCIAL INSURANCE POLICY**



Effected with certain Lloyd's Underwriters and other insurers (hereinafter called the Insurer) through Lloyd's approved coverholder ("the Coverholder")



**Policy No. AU100432**

**Declarations**

**Effective 2022-11-07**

INSURANCE IS PROVIDED ONLY FOR THOSE COVERAGES FOR WHICH A SPECIFIC LIMIT OF INSURANCE IS SHOWN - ON TERMS AND CONDITIONS CONTAINED IN THE FORMS INDICATED.  
ANY REFERENCE HEREIN TO THE "COMPANY" SHALL BE CONSTRUED AS THE INSURER

**CANCELLATION REQUEST**

We, the undersigned, do hereby request cancellation of the Policy bearing number AU100432 (together with any renewal certificates relating thereto) as of \_\_\_\_\_ and acknowledge that the Insurers are hereby relieved from all liability as from the cancellation date.

Signature of First Named Insured \_\_\_\_\_ Signature of a Witness \_\_\_\_\_

Signature of Second Named Insured \_\_\_\_\_ Signature of a Witness \_\_\_\_\_

Signature of Third Named Insured \_\_\_\_\_ Signature of a Witness \_\_\_\_\_

Signature of Mortgagee \_\_\_\_\_ Signature of a Witness \_\_\_\_\_

## WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 18

### 1. INDEMNITY AGREEMENT

In the event that any of the insured property is lost or damaged during the policy period by an insured peril, the Insurer will indemnify the Insured against the direct loss or damage so caused to an amount not exceeding whichever is the least of:

- a) the value of the lost or damaged property as determined in Clause 15;
- b) the interest of the Insured in the property;
- c) the amount of insurance specified on the "Declarations Page" for the lost or damaged property.

The inclusion of more than one person or interest shall not increase the Insurer's liability.

### 2. INSURED PROPERTY

- A. This form insures those of the following items for which an amount of insurance is specified on the "Declarations Page" and only while at the "premises":

"Building"  
"Equipment"  
"Stock"  
"Contents"

If **Blanket coverage applies** is indicated on the "Declarations Page", "building" and/or "contents" and/or "equipment" and/or "stock" are insured for the amount of insurance so specified on the "Declarations Page".

- B. This form also insures those of the following items for which an amount of insurance is specified on the "Declarations Page":

**Temporary Locations:** "Contents" other than at a specified location, except while in transit or outside Canada. There shall be no liability under this item at any location owned, rented, or controlled in whole or in part by the Insured.

**Building at Newly Acquired Location:** "Building" at any newly acquired location within Canada. This coverage 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, or until the expiry date of this policy, whichever occurs first. There is no coverage under this item for any "building" that is in the course of construction.

**Contents at Newly Acquired Location:** "Contents" at any newly acquired location within Canada that is owned, rented or controlled by the Insured in whole or in part. This coverage 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, or until the expiry date of this policy, whichever occurs first.

**Property in Transit:** "Contents" in the course of transit within Canada or the continental United States of America until delivered.

**Sales Representative:** "Contents", whether in transit or otherwise, within Canada or the continental United States of America while in the custody of a sales representative of the Insured.

### 3. DEDUCTIBLE

The Insurer is liable for the amount by which the loss or damage caused by an insured peril exceeds the amount of the deductible specified on the "Declarations Page" in any one occurrence.

Should any occurrence give rise to the application of more than one deductible amount for any one "premises", only the highest deductible will be applied.

### 4. CO-INSURANCE

This clause applies separately to each item for which a co-insurance percentage is specified on the "Declarations Page" and only where the amount of loss or damage exceeds the lesser of 2% of the applicable amount of insurance or \$5,000.

The Insured shall maintain insurance concurrent with this form on the insured property to the extent of at least the amount produced by multiplying the value of the property as determined in Clause 15 by the co-insurance percentage specified on the "Declarations Page". If the Insured fails to do so, the Insured shall be entitled to recover only 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.

### 5. INSURED PERILS

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

## 6. EXCLUSIONS

### A. EXCLUDED PROPERTY

This form does not insure loss of or damage to:

- a) sewers, drains or watermains located beyond the outside bearing walls or foundations of the "building", outside communication towers, antennae (including satellite receivers) and attached equipment, streetclocks, or exterior signs. This exclusion does not apply to loss or damage caused directly by "Named Perils";
- b) property at locations which, to the knowledge of the Insured, are vacant, unoccupied or shut down for more than 30 consecutive days;
- c) electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing. This exclusion does not apply to loss or damage caused directly by resultant fire or explosion as described in Clause 18 k);
- d) growing plants, trees, shrubs or flowers, all while outside the "building", except as provided in Clause 7 e);
- e) animals, fish or birds. This exclusion does not apply to loss or damage caused directly by "Named Perils" or by theft or attempted theft;
- f) money, "cash cards", bullion, platinum and other precious metals and alloys, securities, stamps, tickets (except lottery tickets) and tokens, or 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. This exclusion does not apply to watercraft or amphibious or air cushion vehicles held for sale, or to unlicensed automobiles or unlicensed trailers used in the business of the Insured when on the "premises";
- h) furs, fur garments, jewels, jewellery, costume jewellery, watches, pearls, or precious and semi-precious stones. This exclusion does not apply to:
  - i) the first \$1,000 of any loss otherwise insured; or
  - ii) loss or damage caused directly by "Named Perils";
- 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 from the time of leaving the Insured's custody if it is:
  - i) loaned or rented or leased to others; or
  - ii) sold by the Insured under conditional sale or instalment payment or other deferred payment plan.

This exclusion j) 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", unless an amount of insurance is shown on the "Declarations Page" for 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 its connected piping and equipment, which contains steam or water under steam pressure (except tanks having an internal diameter of 610 millimeters (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.

This exclusion m) 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 from the furnace to the atmosphere;



- n) roadways, walkways, parking lots or other exterior paved surfaces. This exclusion does not apply to the first \$10,000 of any loss otherwise insured;
- o) "equipment" or "stock" while actually being worked upon and directly resulting from such work or caused by any repairing, adjusting or servicing of "equipment" or "stock". This exclusion does not apply to loss or damage caused directly by resultant fire or explosion as described in Clause 18 k);
- p) exterior glass or vitrolite and its lettering or ornamentation, except as provided in Clause 7 d). This exclusion does not apply to loss or damage caused directly by "Named Perils".

## B. EXCLUDED PERILS

This form does not insure against loss or damage caused directly or indirectly:

- a) in whole or in part by earthquake. This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage, except for loss or damage caused directly by resultant fire, explosion, smoke or leakage from "fire protective equipment", all as described in Clause 18 k). This exclusion does not apply to property in transit;
- b) in whole or in part by flood, including "surface water", waves, tides, tidal waves, tsunamis, or the breaking out or overflow of any natural or artificial body of water. This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage, except for loss or damage caused directly by resultant fire, explosion, smoke, leakage from "fire protective equipment", all as described in Clause 18 k). This exclusion does not apply to property in transit or loss or damage caused directly by leakage from a watermain;
- c)
  - i) by seepage, leakage or influx of water derived from natural sources through basement walls, doors, windows or other openings, foundations, basement floors, sidewalks or sidewalk lights, unless concurrently and directly caused by a peril not otherwise excluded in this form;
  - ii) by the backing up or overflow of water from sewers, sumps, septic tanks or drains, wherever located, unless concurrently and directly caused by a peril not otherwise excluded in this form;
  - iii) 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 this form;
  - iv) by the entrance of water or natural precipitation diffused over the surface of the roof, unless through an aperture concurrently and directly caused by a peril not otherwise excluded in this form;
- d) by centrifugal force, mechanical or electrical breakdown or derangement, in or on the "premises". This exclusion does not apply to loss or damage caused directly by resultant 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 6.A.;
  - 2) damage to pipes caused directly by freezing, unless such pipes are excluded in paragraph m) of Clause 6.A.;
  - 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, or 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 6.A.;
  - 3) theft or attempted theft;
  - 4) an accident to a transporting conveyance;
- g) by smoke from agricultural smudging or industrial operations;
- h) by rodents, insects, bats, raccoons, skunks or vermin. This exclusion does not apply to loss or damage caused directly by a peril not otherwise excluded in this form;
- i) by delay, loss of market, or loss of use or occupancy;
- j) in whole or in part by war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military power. This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage;
- k)
- i) by any nuclear incident (as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any amending law) or nuclear explosion, except for ensuing loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas, all as described in Clause 18 k);
  - ii) by contamination by radioactive material;
- l)
- i) by any dishonest or criminal act committed by the Insured or any agent of the Insured, acting alone or in collusion with others;
  - ii) by theft or attempted theft committed by any employee of the Insured, acting alone or in collusion with others;
  - iii) by any dishonest or criminal act committed by anyone, except as stated in l) ii), when the Insured or any agent of the Insured knew or ought to have known prior to the loss or damage, of the dishonest or criminal act.
- This exclusion l) iii) does not apply if, upon becoming aware of the dishonest or criminal act, the Insured or any agent of the Insured immediately notifies the police and the Insurer.
- m) by snowslide, landslide, subsidence or other earth movement. This exclusion does not apply to property in transit, or to loss or damage caused directly by resultant fire, explosion, smoke or leakage from "fire protective equipment", all as described in Clause 18 k);
- n) by explosion (except 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:
- 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 their parts normally containing steam or water under steam pressure from an external source and while under such pressure;
  - iii) other vessels and apparatus and their connected pipes 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 directly from the explosion of manually portable gas cylinders or of tanks having an internal diameter of 610 millimeters (24 inches) or less used for the heating and storage of hot water for domestic use;
  - iv) moving or rotating machinery or its parts;
  - v) any vessels and apparatus and their connected pipes while undergoing pressure tests, but this exclusion does not apply to other insured property that has been damaged by such explosion;
  - vi) gas turbines.

This exclusion (n) does not apply to loss or damage caused by resultant fire;

- o) by settling, expansion, contraction, moving, shifting or cracking. This exclusion does not apply to loss or damage caused directly and concurrently by a peril not otherwise excluded in 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;

## C. 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". This exclusion does not apply:
  - i) if the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants" is 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) 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".

## D. DATA EXCLUSION

- 1) This form does not insure "data".
- 2) This form does not insure loss or damage caused directly or indirectly by a "data problem". This exclusion 2) does not apply to loss or damage caused directly by resultant fire, explosion, smoke or leakage from "fire protective equipment", all as described in Clause 18 k);

## E. TERRORISM EXCLUSION

This form does not insure loss or damage caused directly or indirectly, in whole or in part, by "terrorism" or by any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism". This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage. If any portion of this exclusion is found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

## 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, evaluating or assessing of "fungi", or "spores".

## G. 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 damage or 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.

## 7. EXTENSIONS OF COVERAGE

The following extensions of coverage shall not increase the amounts of insurance applying under this form and are subject to all the conditions of this form.

- a) **Removal:** If any of the insured property is necessarily removed from the "premises" to prevent loss of or damage to or further loss of or damage to such property, that part of the insurance under this form that exceeds the amount of the Insurer's liability for any loss already incurred shall, for 7 days only, or for the unexpired term of the policy if less than 7 days, insure the property removed and any property remaining at the "premises" in the proportions which the value of the property in each of the 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 insured property, occasioned by loss of or damage to such property, for which loss or damage insurance is afforded under this form.

The amount payable under this extension shall not exceed 25% of the sum of:

- 1) the total amount payable for the direct loss of or damage to insured property; and
- 2) 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 form but which has been blown by windstorm upon the "premises".

Extensions of coverage b i) and b ii) do not apply to costs or expenses:

- 1) to "clean up" "pollutants" from land or water; or
- 2) for testing, monitoring, evaluating or assessing of an actual, alleged, potential, or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".

Debris removal expense shall not be considered in the calculation of the value as determined in Clause 15 for the purpose of applying co-insurance.

- 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 the "premises".

- 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 attempted theft and from vandalism or malicious acts committed on the same occasion, provided the Insured is not the owner of such "building" and is legally liable for such damage and the "building" is not otherwise insured under this form. This extension of cover shall be limited to a maximum recovery of \$2,500 for any one occurrence.

- e) **Growing Plants, Trees, Shrubs or Flowers outside the "Building":** This form is extended to insure loss of or damage to growing plants, trees, shrubs or flowers outside the "building" caused directly by "Named Perils" (with the exception of windstorm or hail as described in clause 18 k) or from theft or attempted theft. This extension of coverage shall be limited to a maximum recovery, including debris removal expense, of:

- i) \$500 for each growing plant, tree, shrub or flower; and
- ii) \$5,000 for any one occurrence.

## 8. PERMISSION

Permission is granted:

- a) for other insurance concurrent with this form;
- b) to make additions, alterations or repairs;

- c) to do such work and to keep and use such articles, materials and supplies in such quantities as are usual or necessary to the Insured's business.

## 9. BREACH OF CONDITION

If the Insured does not comply with a condition of this insurance, any claim for subsequent loss or damage is not recoverable.

The Insurer will not deny a claim for this reason if the Insured proves that the non-compliance neither caused nor worsened the loss or damage. Coverage will not be affected if the Insured fails to comply with a condition in part of the "premises" over which the Insured has no control.

## 10. REINSTATEMENT

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

## 11. SUBROGATION

The Insurer, upon making any payment or assuming liability for payment under this form, shall be subrogated to all rights of recovery of the Insured against others and may bring action to enforce such rights. All rights of subrogation are waived against any corporation, firm, individual or other interest with respect to which insurance is provided by this policy.

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.

## 12. PROPERTY PROTECTION SYSTEMS

It is a condition of this insurance, for the purpose of Clause 9, that the Insured shall immediately notify 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 immediately notify 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.

## 13. PREMIUM ADJUSTMENT

This clause is applicable if a specific amount of insurance is shown on the "Declarations Page" for "stock".

If, within six months after the expiry or anniversary date of each policy period, the Insured shall file with the Insurer a Premium Adjustment Application Form showing, for the policy period, the value of the "stock" on the last day of each month at each "premises" as commented upon by the Insured's Accountant, the actual premium for the policy period shall then be calculated at the rate applying to each "premises" 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.

## 14. VERIFICATION OF VALUES

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

## 15. BASIS OF VALUATION

The value of the insured property shall be determined as follows:

- a) unsold "stock": the actual cash value of the property at the time and place of loss or damage, but in no event to exceed what it would cost to repair or replace with material of like kind and quality;
- b) sold "stock": the selling price after allowance for discounts;
- c) the property of others in the custody or control of the Insured for the purpose of performing work upon it: the amount for which the Insured is liable, but not exceeding the actual cash value at the time and place of loss or damage plus allowance for labour and materials expended to such time;

- d) tenant's improvements:
  - i) if repaired or replaced with due diligence and dispatch, the amount actually and necessarily expended, but not exceeding the actual cash value of the tenant's improvements at the time and place of loss or damage;
  - ii) if not repaired or replaced with due diligence and dispatch, that portion of the original cost of the lost or damaged tenant's improvements which the unexpired term of the lease at the time of loss or damage bears to the period(s) from the date(s) such tenant's improvements were made to the expiration date of the lease;
- e) business records, including those which exist on electronic or magnetic media (other than pre-packaged software programs):
  - i) the cost of blank materials for reproducing the records; and
  - ii) the costs of labour to transcribe or copy the records when there is a duplicate.
- f) all other insured property under this form and for which no more specific conditions have been set out: the actual cash value at the time and place of loss or damage, but not exceeding 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.

## 16. PROPERTY OF OTHERS

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.

## 17. LOCKED VEHICLE WARRANTY

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 insured property is carried is equipped with a fully enclosed 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 of which are securely locked and the windows closed.

## 18. DEFINITIONS

Wherever used in this form:

- a) **"Building"** means:
  - the building(s) described on the "Declarations 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".
- b) **"Cash cards"** means cards designed to store a cash value by electronic means as a mode of payment, without a personal identification number and without direct access to a bank or other account.
- c) **"Clean up"** means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to any of these processes.
- d) **"Contents"** means "equipment" and "stock".
- e) **"Data"** means representations of information or concepts, in any form.
- f) **"Data problem"** means:
  - i) erasure, destruction, corruption, misappropriation, misinterpretation of "data";
  - ii) error in creating, amending, entering, deleting or using "data"; or
  - iii) inability to receive, transmit or use "data".

- g) **"Declarations Page"** means the Declarations Page applicable to this form.
- h) **"Equipment"** means:
- 1) generally all contents usual to the Insured's business, including furniture, furnishings, fittings, fixtures, machinery, tools, utensils and appliances, other than "building" or "stock";
  - 2) similar property belonging to others which the Insured is under obligation to keep insured or for which he is legally liable;
  - 3) 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.
- i) **"Fire protective equipment"** includes tanks, watermains, hydrants, valves and any other apparatus 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 watermains or appurtenances located outside of the "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.
- j) **"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.
- k) **"Named Perils"** means:
- (A) **FIRE OR LIGHTNING**
- (B) **EXPLOSION:** Except with respect to the explosion of natural, coal or manufactured gas, there shall in no event be any liability for loss or damage caused by explosion, rupture or bursting in 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 their parts 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 from them;
    - d) smelt dissolving tanks;
  - ii) other vessels and apparatus and connected pipes, 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 or parts of same when such loss or damage is caused by centrifugal force or mechanical breakdown;
  - iv) any vessels and apparatus and connected pipes while undergoing pressure tests, but this exclusion shall not apply to other insured property 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.

- (C) **IMPACT BY AIRCRAFT, SPACECRAFT OR LAND VEHICLE:** The terms Aircraft and Spacecraft include articles dropped from them.

There shall in no event be any liability for 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 a "building".

- (D) **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 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 18(I)(B);
- iii) due to theft or attempted theft.

- (E) **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 for any cumulative damage.

- (F) **LEAKAGE FROM "FIRE PROTECTIVE EQUIPMENT":** The term Leakage From "Fire Protective Equipment" means:

- i) the leakage or discharge of water or other substances from;
- ii) the collapse of;
- iii) the rupture due to freezing of; "fire protective equipment" for the "premises" or for adjoining structures.

- (G) **WINDSTORM OR HAIL:** There shall in no event be any liability for loss or damage:

- i) to the interior of the "building" or to "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, high water, overflow, flood, waterborne objects, waves, ice, land subsidence, landslide.

- l) **"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.
- m) **"Premises"** means the entire area within the property lines and areas under adjoining sidewalks and driveways at:
- i) each location described on the "Declarations Page";
  - ii) Temporary Locations and any Newly Acquired Location, if covered by this form;
- and in or on vehicles within 100 metres (328 feet) of such locations.
- n) **"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".
- 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) **"Surface water"** means water or natural precipitation temporarily diffused over the surface of the ground.
- q) **"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 and/or instilling fear in the public or a section of the public.



**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW  
OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

**This endorsement modifies insurance provided by forms PA1, PAP1, PAC1, PA2, PA3, PA6, PA11, PA12, PA21, PA22, PA23, PA24, PA26, PA29, PN1, PNP1, PNC1, PN6, PN11, PN12, PN21, PN23, PN24 and PN29, but only if indicated on the "Declarations Page" for the form.**

1. The Insurer agrees to amend the Basis of Valuation from actual cash value to "replacement cost" subject to the following provisions:
  - (a) "replacement" shall be effected by the Insured with due diligence and dispatch;
  - (b) "replacement" shall be on the same site or on an adjacent site;
  - (c) settlement on a "replacement cost" basis shall be made only when "replacement" has been effected by the Insured and in no event shall it exceed the amount actually and necessarily expended for such "replacement";
  - (d) any other insurance effected by or on behalf of the Insured in respect of the insured perils under this Policy on the property to which this endorsement is applicable shall be on the basis of "replacement cost";
  - (e) failing compliance by the Insured with any of the above provisions, settlement shall be made as if this endorsement had not been in effect.
2. In the event that new property of like kind and quality is not obtainable, new property which is as similar as possible to that lost or damaged 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.

### **3. Exclusions**

This endorsement does not apply to:

- (a) "stock";
- (b) patterns, dies, moulds;
- (c) 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;
- (d) business records, including those which exist on electronic or magnetic media (other than pre-packaged software programs);
- (e) any increase in the cost of "replacement" occasioned by a restriction or prohibition in any by-law, regulation, ordinance or law.

### **4. Definitions**

- (a) "replacement" includes repair, construction or re-construction with new property of like kind and quality; and
- (b) "replacement cost" means whichever is the least of the cost of replacing, repairing, constructing or re-constructing the property on the same site with new property of like kind and quality and for like occupancy without deduction for depreciation.

If **Restricted to locations** is indicated on the "Declarations Page" applicable to this endorsement, Replacement Cost coverage is restricted to the locations so indicated.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW  
OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

This endorsement modifies insurance provided by forms PA1, PAP1, PAC1, PA2, PA6, PA8, PA13, PA21, PA22, PA23, PN1, PNP1, PNC1, PN6, PN11, PN12, PN13, PN18, PN19, PN21, PN23, PN24 and PN29, but only if indicated on the "Declarations Page" for the form.

## **1. Insured Peril**

This insurance is extended to include "sewer back up".

## **2. Deductible**

The Insurer is liable for the amount by which the loss or damage caused by "sewer back up" exceeds the amount of the deductible specified on the "Declarations Page" for this endorsement in any one occurrence. This Deductible Clause applies separately to each "premises" to which this endorsement applies.

## **3. Limit of Insurance**

If an amount of insurance is specified on the "Declarations Page" for this endorsement the Insurer shall not be liable for more than that amount.

## **4. Definition**

"Sewer back up" means the backing up or overflow, within the area bounded by the bearing walls and foundations of the building described on the "Declarations Page", of water from within sewers, sumps, septic tanks or drains other than roof drains. For the purpose of this definition, the building does not include roadways, parking lots, other exterior paved surfaces, retaining walls or permanently installed landscape structures.

If **Restricted to locations** is indicated on the "Declarations Page" applicable to this endorsement, sewer back-up coverage is restricted to the locations so indicated.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

This endorsement modifies insurance provided by forms PA1, PAP1, PAC1, PA2, PA3, PA6, PA8, PA23, PA24, PN1, PNP1, PNC1, PN6, PN19, PN21, PN23 and PN29, but only if indicated on the "Declarations Page" for the form.

## 1. Insured Peril

This insurance is extended to include "flood".

## 2. Deductible

The Insurer is liable for the amount by which the loss or damage caused by "flood" exceeds the amount of the deductible specified on the "Declarations Page" for this endorsement in any one "flood occurrence".

This Deductible Clause applies separately to each "premises" to which this endorsement applies.

## 3. Exclusions

This endorsement does not cover loss or damage caused directly or indirectly by any of the following perils whether or not caused by or attributable to "flood":

- (a) the backing up or overflow, within the area bounded by the bearing walls and foundations of the building described on the "Declarations Page", of water from within sewers, sumps, septic tanks or drains;
- (b) water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows or other openings in such sidewalks, driveways, foundations, walls or floors;
- (c) (i) fire, explosion, smoke, leakage from "fire protective equipment", theft, riot, vandalism or malicious acts.  
(ii) leakage from a watermain.

## 4. Extension of Coverage

The Insurer shall be liable for loss or damage to the insured property caused by wind, hail, rain or snow entering a building through an opening in the roof or walls directly resulting from "flood".

## 5. Definitions

- (a) "Flood" means the breaking out or overflow of any natural or artificial body of water and includes "surface water", waves, tides, tidal waves and tsunamis.
- (b) "Flood occurrence" means all flooding which occurs within any 168 consecutive hours commencing during the policy period on or after the effective date of this endorsement. The expiration of this policy will not reduce the 168 hour period.
- (c) "Surface water" means water or natural precipitation temporarily diffused over the surface of the ground.

If **Restricted to locations** is indicated on the "Declarations Page" applicable to this endorsement, flood coverage is restricted to the locations so indicated.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

**This endorsement modifies insurance provided by forms PA1, PAP1, PAC1, PA2, PA3, PA6, PA8, PA23, PA24, PA25, PN1, PNP1, PNC1, PN6, PN14, PN15, PN19, PN23 and PN29, but only if indicated on the Declarations Page for the form.**

This endorsement applies separately to each location for which Earthquake Shock is specified on the "Declarations Page".

## **1. Insured Peril**

This insurance is extended to include "earthquake".

## **2. Deductible**

The Insurer is liable for the amount by which the loss or damage caused by "earthquake" exceeds the amount of the deductible specified on the "Declarations Page" for this endorsement in any "earthquake occurrence".

If a percentage deductible is specified, the amount of the deductible shall be that percentage of the amount of insurance for each item separately as specified on the "Declarations Page".

If both an amount and a percentage are specified on the "Declarations Page", whichever deductible is greater shall apply.

This deductible clause supersedes the provisions of any other deductible clause stated elsewhere in the policy.

## **3. Exclusions**

This endorsement does not cover loss or damage caused directly or indirectly by any of the following perils whether or not caused by or attributable to "earthquake":

- (a) fire, explosion, or smoke;
- (b) leakage from "fire protective equipment";
- (c) theft, or vandalism and malicious acts;
- (d) flood, including "surface water", waves, tides, tidal waves, tsunamis, or the breaking out or overflow of any natural or artificial body of water, waterborne objects or ice.

## **4. Extension of Coverage**

The Insurer shall be liable for loss or damage to the insured property caused by wind, hail, rain or snow entering a "building" through an opening in the roof or walls directly resulting from an "earthquake".

## **5. Definitions**

- (a) "Earthquake" includes snowslide, landslide, or other earth movements occurring concurrently with and directly resulting from an earthquake shock.
- (b) "Earthquake occurrence" means all earthquake shocks which occur within 168 consecutive hours, commencing during the policy period on or after the effective date of this endorsement. The expiration of this policy will not reduce the 168 hour period.

**All other terms and conditions of the policy to which this endorsement applies remain unchanged.**

# Vandalism by Tenants Exclusion

**PX4**

**This exclusion modifies coverage provided by forms PA1, PAP1, PA6, PN1, PNP1 and PN6, but only if indicated on the Declarations Page for the form.**

It is hereby understood and agreed that this policy shall specifically exclude loss or damage resulting from Vandalism or Malicious Acts caused by Tenants or their guests residing within the insured premises.

If **Restricted to locations** is indicated on the Declarations Page applicable to this exclusion, the exclusion applies only to those locations listed.

**All other terms and conditions of this policy remain unchanged.**

WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 6

## 1. INDEMNITY AGREEMENT

This Form insures up to the amount stated on the "Declarations Page", against loss of rent and rental value caused by direct physical destruction or damage by perils insured against to the building(s) and its additions and extensions communicating and in contact therewith as described on the "Declarations Page".

## 2. MEASURE OF RECOVERY

The measure of recovery in the event of loss hereunder shall be the reduction in "Gross Rent and Rental Value" directly resulting from being untenable solely and directly due to destruction or damage by the perils insured against to the building(s), less charges and expenses which do not necessarily continue during the period the building(s) is so untenable, for not exceeding such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the building(s) as has been destroyed or damaged, commencing with the date of such destruction or damage and limited to a period of twelve (12) consecutive calendar months from the date of such destruction or damage, but not exceeding the ACTUAL LOSS SUSTAINED by the Insured resulting from the building(s) being untenable.

## 3. CO-INSURANCE

The Insured shall maintain insurance concurrent in form, range and wording with this insurance to the extent of at least the percentage amount, stated on the "Declarations Page" of the annual "Gross Rent and Rental Value" herein defined of the building(s) described on the "Declarations Page", and that failing to do so, the Insured 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.

## 4. INTERRUPTION BY CIVIL AUTHORITY

This Form is extended to include the actual loss as insured hereunder during the period of time, not exceeding two (2) consecutive weeks, while access to the described premises is prohibited by order of civil authority, but only when such order is given as a direct result of damage to neighbouring premises by a peril insured against.

## 5. SPECIAL EXCLUSIONS

The Insurer shall not be liable for:

- (a) any increase of loss directly or indirectly, proximately or remotely, resulting from, or contributed to by, the operation of any by law, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, unless the liability is otherwise specifically assumed by endorsement hereon;
- (b) any increase of loss caused by delays or loss of time due to the presence of strikers or other persons or to labour disturbances on or about the premises interfering with the rebuilding, repairing or replacing the property damaged or destroyed or the resumption or continuation of business or free access to or control of the premises or due to the action of sympathetic strikers elsewhere;
- (c) loss due to the suspension, lapse or cancellation of any lease or license, contract or order, which may affect the Insured's rent or rental value after the period following any loss during which indemnity is payable.

## 6. DEFINITIONS

Wherever used in this Form:

- (a) "**Declarations Page**" means the Declarations Page applicable to this Form.
- (b) "**Gross Rent and Rental Value**" means the sum of:
  - (i) the actual total annual gross rent or rental value of the occupied portion(s) of the building(s);
  - (ii) the estimated annual rental of the unoccupied portion(s) of the building(s); and
  - (iii) a fair rental value of the portion, if any, of the building(s) occupied by the Insured.

**All other terms and conditions of this Policy remain unchanged.**

## **WATER DAMAGE LIMITATION**

This endorsement modifies the insurance provided under the property form (s) to which it is attached and is subject to the terms, limitations, exclusions, provisions and other conditions of the policy.

Each claim for water damage that is insured by this policy, except claims for "Flood" or "Sewer Back-Up", shall be limited to a maximum payment amount shown on your declarations page.

All other terms and conditions remain unchanged.

### **Definitions**

**"Flood"** means the breaking out or overflow of any natural or artificial body of water and includes "surface water", waves, tides, tidal waves, and tsunamis.

**"Sewer back-up"** means the backing up or overflow of water from within sewers, sumps, septic tanks or drains located inside buildings.

**"Surface water"** means water or natural precipitation temporarily diffused over the surface of the ground.

**PREFERRED EXTENSION ENDORSEMENT****APPLICABLE TO THE COMMERCIAL BUILDING, EQUIPMENT AND STOCK BROAD FORM:**

This Policy is extended to include extensions of coverage as stated below.

The following extensions of coverage shall:

- (i) not be considered for the purpose of determining the application of any Coinsurance clause.
- (ii) not apply if they are more specifically insured elsewhere in this policy and/or if specific amount(s) or limit(s) are indicated on the "Declarations Page" for any of them.
- (iii) increase the amount of insurance for this Policy by the amounts or limits stated in this endorsement.

- 1. Consequential Loss Assumption Clause:** Consequential loss, destruction or damage to "Stock" caused by change in temperature or humidity resulting from damage by the perils insured against hereunder to equipment used for refrigerating, cooling, humidifying, dehumidifying, air conditioning, heating, generating or converting power (including their connections and supply or transmission lines and pipes) situate on the "Premises" described on the "Declarations Page", and/or to public utility plants, substations, transformer or switching stations or transformers and transmission lines furnishing electrical heat, light or power to the premises described in the "Declaration Page(s).

The foregoing extension is subject otherwise to all the terms and conditions of this Policy (as now existing or hereafter changed) and without increasing the amount insured.

Liability under this clause shall not exceed that proportion of any loss which the amount insured hereunder bears to the total amount of fire insurance covering the property described on the "Declarations Page", whether collectible or not, and whether or not such other fire insurance covers against consequential loss.

Coverage under this Consequential Loss Assumption Clause excludes destruction or damage caused by, resulting from, or contributed to by Riot, Vandalism or Malicious Acts. The term Riot includes open assemblies of strikers inside or outside the "Premises" who have quit work and of locked out employees.

**The limit of insurance with respect to this extension is \$25,000 for any one loss.**

- 2. Building By-laws:** This Policy shall, and only as a result of a peril insured against, extend to indemnify the Insured for:
- (i) loss occasioned by the demolition of any undamaged portion of the building or structures; or
  - (ii) the cost of demolishing and clearing the site of any undamaged portion of the building or structures; or
  - (iii) any necessary increase in the cost of repairing, replacing, constructing or reconstructing the building, or structures, on the same site or on an adjacent site, of like height, floor area and style, and for like occupancy; arising from the enforcement of the minimum requirements of any by-law, regulation, ordinance or law which:
    - (a) regulates zoning or the demolition, repair or construction of damaged buildings or structures; and
    - (b) is in force at the time of such loss or damage.

This extension, however, does not insure against:

- (i) the enforcement of any by-law, regulation, ordinance or law which prohibits the Insured from rebuilding, or repairing on the same site or adjacent site or prohibits continuance of like occupancy;
- (ii) direct or indirect loss, damage, cost or expense, arising out of the clean-up, removal, containment, treatment, detoxification, decontamination, stabilization, neutralization, or remediation resulting from any actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release, or escape of "pollutants".
- (iii) direct or indirect loss, damage, cost or expense, for any testing, monitoring, evaluation or assessing of an actual, alleged, potential, or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".

**Definition**

"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.

**The limit of insurance applicable to this extension of coverage is \$50,000 for any one loss.**

**3. Inflation Protection**

- (a) The amount of insurance applicable to "Building" shall be increased during the policy period by the proportion by which the latest published Statistics Canada Non-Residential Building Construction Price Indexes has increased since the last premium due date.
- (b) At the premium due date, the amount of insurance shall be increased automatically in accordance with the latest published Statistics Canada Non-Residential Building Construction Price Indexes and the appropriate premium charged.
- (c) If the amount of insurance applicable to "Building" is changed at the request of the Insured during the policy period, the effective date of this endorsement is deemed to coincide with the effective date of the change.
- (d) If the Policy insures two or more items, the foregoing shall apply separately to each item to which this endorsement applies.
- (e) In this extension,
  - (i) "premium due date" means the inception date of this policy or any renewal or anniversary date.

**4. Exterior Signs Including Street Clocks, Communication Towers, Antennae and Satellite Receivers:**

This Policy is extended to cover the aforementioned property on the "Premises" for loss or damage from a peril insured against excluding loss or damage caused by wear and tear, latent defect, corrosion or rust, mechanical breakdown or during installation, repairing or dismantling.

The limit of insurance with respect to this extension of coverage is \$10,000 for any one loss.



- 5. Peak Season Increase:** The limit of liability on "Stock" as stated on the "Declarations Page" is automatically increased by 25%, up to a maximum limit of **\$100,000**, to provide for seasonal variations. This increase shall not apply unless the limit of liability on "Stock" shall be equal to at least 100% of the average monthly values for the 12 months preceding the date of loss or, in the event the Insured has been in business for less than 12 months, for such shorter period of time.
- 6. Fire Department Service Charges:** This Policy is extended to cover the Insured's liability assumed by contract or agreement, prior to the loss, for Fire Department Service Charges when the Fire Department is called to save or protect the insured property from a peril insured against. The maximum recovery under this extension is \$25,000 for any one loss.
- 7. Fire Equipment Recharge:** This Policy is extended to cover expenses actually incurred as a result of a peril insured against to recharge a fire protection or fire fighting system. The maximum recovery under this extension is \$25,000 for any one loss.
- 8. Glass:** This Policy is extended to provide coverage for accidental breakage of all exterior glass and/or vitrolite including lettering, ornamentation or burglary alarm tape thereon provided the Insured is owner of the "Building" or is legally liable for such damage. This extension shall also include the expenses incurred for boarding up damaged openings or installing temporary plates. A deductible of \$500 applies to each and every loss.
- 9. Valuable Papers and Records:** This Policy is extended to cover the actual loss sustained by the Insured through direct physical loss or damage to Valuable Papers and Records. The term "Valuable Papers and Records" means written, printed or otherwise inscribed documents and records, including books, maps, films, drawings, abstracts, deeds, mortgages and manuscripts, but excluding money and securities, electronic data control tapes or discs.

The insurance provided by this extension applies:

- (i) while the insured Valuable Papers and Records are contained in the "Premises" specified on the "Declarations Page". It is a condition precedent to any right of recovery hereunder, that the Valuable Papers and Records shall be kept in receptacles (minimum of metal filing cabinets) at all times when the premises are not open for business, except while such valuable papers and records are in actual use or as stated in (ii) or (iii) below;
- (ii) while the insured Valuable Papers and Records are being removed to, and while at a place of safety because of imminent danger of loss or damage and while being returned from such place, provided the Insured notifies the Insurer in writing within thirty (30) days of such removal;
- (iii) while the Valuable Papers and Records are being conveyed outside the Insured's premises or temporarily in other premises (except for storage).

In addition to those exclusions found in the Commercial Building Equipment and Stock Broad Form, the following also apply:

This extension does not insure:

- (i) loss directly resulting from errors or omissions in processing or copying unless fire or explosion ensues and then only for the direct loss caused by such ensuing fire or explosion;
- (ii) loss of property held as samples or for sale or for delivery after sale;
- (iii) property which cannot be replaced with other of like kind and quality.

#### Basis of Settlement

The limit of the Insurer's liability for loss shall not exceed the actual cash value of the property at the time of loss, nor what it would cost to repair or replace the property with other of like kind and quality, subject to a maximum recovery of \$25,000 for any one loss.

The Insurer may pay for the loss in money or may repair or replace the property and may settle any claim for loss of the property either with the Insured or the owner thereof. Any property so paid for or replaced shall become the property of the Insurer. The Insured or Insurer, upon recovery of any such property, shall give notice thereof as soon as practicable to the other and the Insured shall be entitled to the property upon reimbursing the Insurer for the amount so paid or the cost of replacement.

- 10. Accounts Receivable:** This Policy is extended to cover against all risks of direct physical loss or damage to the Insured's records of accounts receivable occurring during the policy period.

This extension insures:

- (i) all sums due to the Insured from customers, provided the Insured is unable to effect collection thereof as the direct result of loss or damage to records of accounts receivable;
- (ii) interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such loss or damage;
- (iii) collection expense in excess of normal collection cost and made necessary because of loss or damage;
- (iv) other expenses, when reasonably incurred by the Insured in re-establishing records of accounts receivable following such loss or damage.

This insurance shall apply only while records of accounts receivable are contained in the "Premises" described on the "Declarations Page". It is a condition precedent to any right of recovery hereunder that, except while in actual use, such records be kept in receptacles (minimum of metal filing cabinets), when the premises are not open for business.

This insurance also applies while records of accounts receivable are being removed to and while at a place of safety because of imminent danger of loss or damage and while being returned therefrom, provided the Insured notifies the Insurer in writing within thirty (30) days of such removal.

In addition to those exclusions found in the Commercial Building Equipment and Stock Broad Form, the following also apply:

This extension does not apply:

- (i) to loss due to bookkeeping, accounting or billing errors or omissions;
- (ii) to loss, the proof of which as to factual existence, is dependent upon an audit of records or an inventory computation; but this shall not preclude the use of such procedures in support of claim for loss which the Insured can prove, through evidence wholly apart therefrom, is due solely to a risk of loss to records of accounts receivable not otherwise excluded hereunder;
- (iii) to loss due to alteration, falsification, manipulation, concealment, destruction or disposal of records of accounts receivable committed to conceal the wrongful giving, taking, obtaining or withholding of money, securities or other property but only to the extent of the wrongful giving, taking, obtaining or withholding.

#### Basis of Settlement

When there is a proof of loss covered by these extensions but the Insured cannot accurately establish the total amount of accounts receivable outstanding on the date of loss, such amount shall be based on the Insured's monthly statements and shall be computed as follows;

- (i) determine the amount of all outstanding accounts receivable at the end of the same fiscal month in the year immediately preceding the year in which the loss occurs;
- (ii) calculate the percentage of increase or decrease in the average monthly total of accounts receivable for the twelve months immediately preceding the month in which the loss occurs, or such part thereof for which the Insured has furnished monthly statements to the Insurer, as compared with such average for the same months of the preceding year;
- (iii) the amount determined under (i) above, increased or decreased by the percentage calculated under (ii) above, shall be the agreed total amount of accounts receivable on the last day of the fiscal month in which said loss occurs;
- (iv) the amount determined under (iii) above shall be increased or decreased in conformity with the normal fluctuations in the amount of accounts receivable during the fiscal month involved, due consideration being given to the experience of the business since the last day of the last fiscal month for which statement has been rendered.

There shall be deducted from the total amount of accounts receivable, however established, the amount of such accounts evidenced by records not lost or damaged, or otherwise established or collected by the Insured, and an amount to allow for probable bad debts which would normally have been uncollectible by the Insured. On deferred payment accounts receivable, unearned interest and service charges shall be deducted.

#### Inspection and Audit

The Insurer shall be permitted to inspect the premises and the receptacles in which the records of accounts receivable are kept by the Insured, and to examine and audit the Insured's books and records at any time during the policy period and any extension thereof and within three years after the final termination of this Policy, as far as they relate to the subject matter of any outstanding record of accounts receivable submitted by the Insured and the amount of recoveries of accounts receivable on which the Insurer has made any settlement.

#### Recoveries

After payment of loss, all amounts recovered by the Insured on accounts receivable for which the Insured has been indemnified shall belong and be paid to the Insurer by the Insured up to the total amount of loss paid by the Insurer, but all recoveries in excess of such amounts shall belong to the Insured.

The limit of insurance for this extension of coverage is \$25,000 for any one loss.

- 11. Fine Arts:** This Policy is extended to cover for direct physical loss or damage to Fine Arts. The term "Fine Arts" includes paintings, etchings, pictures, tapestries and other bona fide works of art (such as valuable rugs, statuary, marbles, bronzes, antique furniture, rare books, antique silver, manuscripts, porcelains, rare glass and bric-a-brac) of rarity, historical value or artistic merit.

#### Territorial Limits

Coverage on insured property applies within the territorial limits of Canada and the United States of America, excluding the premises of fair grounds or of any national or international exposition.

In addition to those exclusions found in the Commercial Building Equipment and Stock Broad Form, the following also apply:

This extension does not insure:

- (i) Breakage of glassware, statuary, marbles, bric-a-brac, porcelains and other fragile articles unless caused by:
  - (a) fire, explosion, falling object striking the exterior of the building, impact by aircraft or land vehicle, lightning, smoke, vandalism or malicious acts, windstorm or hail or by accident to land, water or air conveyances, or by theft or attempt thereof;
  - (b) earthquake or flood, if otherwise insured under this Policy.
- (ii) Loss or damage to any property while undergoing any process or while being actually worked upon where any loss or damage is due thereto.

#### Packing Condition

It is agreed by the Insured that the property insured hereunder is packed and unpacked by competent packers.

The limit of insurance for this extension of coverage is \$25,000 for any one loss.

- 12. Extra Expense:** This Policy is extended to insure the necessary Extra Expense incurred by the Insured in order to continue as nearly as practicable the normal conduct of the Insured's business following damage to or destruction by the perils insured against to the building(s) or contents thereof at the "Premises" described on the "Declarations Page". The Insurer shall be liable for Extra Expense so incurred, for not exceeding such length of time, herein referred to as the Period of Restoration, commencing with the date of loss and not limited by the date of expiration of this Policy, as shall be required with the exercise of due diligence and dispatch to repair, rebuild, or replace such part of the described building(s) or contents thereof as may be destroyed or damaged.

#### Definitions

"Extra Expense" means the excess (if any) of the total cost during the Period of Restoration for the purpose of continuing the Insured's business over and above the total cost that would normally have been incurred to conduct the business during the same period had no loss occurred; the cost in each case to include expense of using other property or facilities of other concerns or other similar necessary emergency expenses. In no event, however, shall the Insurer be liable under this Policy for loss of income nor for "Extra Expense" in excess of that necessary to continue as nearly as practicable the normal conduct of the Insured's business, nor the cost of repairing or replacing any of the described property that has been damaged or destroyed by the perils insured against, except cost in excess of the normal cost of such repairs or replacements necessarily incurred for the purpose of reducing the total amount of "Extra Expense".

"Normal" means the condition which would have existed had no loss occurred.

As soon as practicable after any loss, the Insured shall resume complete or partial business operations of the property described and, in so far as practicable, reduce or dispense with such extra expense as are being incurred.

This extension is extended to include the actual loss as insured hereunder during the period of time, not exceeding

two weeks, while access to the described premises is prohibited by order of civil authority, but only when such order is given as a direct result of damage to a neighbouring premises by a peril insured against.

In addition to those exclusions found in the Commercial Building Equipment and Stock Broad Form, the following also apply:

The Insurer shall not be liable for:

- (i) loss due to fines or damages for breach of contract for late or non-completion of orders, or for any penalties of whatever nature;
- (ii) loss due to suspension, lapse or cancellation of any lease or license, contract or order;
- (iii) the cost of compiling books of account, abstracts, drawings, card index systems or other records including film, tape, disc, drum, cell or other magnetic recording or storage media for electronic data processing;
- (iv) any increase of loss due to interference at the described premises by strikers or other persons, with rebuilding, repairing or replacing property, or with the resumption or continuation of business;

The limit of insurance for this extension of coverage is \$25,000 for any one loss.

- 13. Professional Fees:** In the event of loss or damage from a peril insured against, the Insurer will pay reasonable fees to auditors, accountants, architects, engineers or other professionals other than public adjusters and the Insured's own employees for producing and certifying particulars or details of the Insured's business required by the Insurer in order to arrive at the amount of loss payable under this Policy.

This extension applies only to fees incurred in establishing the quantum of a loss, liability for which is otherwise accepted by the Insurer. This extension may also apply to any Business Interruption loss covered under this Policy.

The limit of insurance for this extension of coverage is \$10,000 for any one loss.

- 14. Debris Removal:** This Policy is extended to provide an additional amount of insurance of \$50,000 for debris removal expense coverage as outlined in the Insuring Agreements.
- 15. Money and Securities:** This Policy is extended, subject to a limit of insurance of \$2,500, to cover loss of money and securities by actual destruction, disappearance or wrongful abstraction thereof, while such property is:
- (i) within the premises;
  - (ii) within any bank or similar recognized place of safe deposit;
  - (iii) being conveyed outside the premises by the Insured, a partner of the Insured or an employee of the Insured directly to and from the premises, any bank or similar recognized place of safe deposit;
  - (iv) within the living quarters in the home of the Insured, a partner of the Insured or an employee of the Insured;

Additional Exclusions:

This extension does not insure loss:

- a) due to the giving up or surrendering of money or securities in any exchange or purchase;
- b) due to accounting or arithmetical errors or omissions;
- c) of money contained in a coin operated amusement device or vending machine, unless the amount of money deposited within the device or machine is recorded by a continuous instrument therein;
- d) of potential income, including but not limited to interest and dividends, not realized by the Insured because of a loss covered under this extension;

- e) of money or securities which have been transferred to a person or a place outside the premises on the basis of unauthorized instructions;
- f) of money or securities while in the custody of any armoured motor vehicle company.

Definitions:

Where used in this form:

- (i) money means currency, coins, bank notes, and bullion;
- (ii) Securities means all negotiable and non-negotiable instruments representing money or other property, including but not limited to cheques, drafts, tokens, tickets, bills of lading, warehouse receipts, revenue and other stamps in current use.

- 16. Brands and Labels:** If the Insurer exercises the option to take over all or any part of merchandise involved in a loss, the Insured reserves the right to first remove therefrom their trade marks, guarantees, name or other evidence of their interest therein or connected therewith and where the removal of such marks is impossible or impractical, the contents may be transferred to bulk containers. The cost of such removal or transfer is covered by this Policy.

- 17. Master Key:** This Policy is extended to cover loss, subject to a limit of insurance of \$5,000, caused by the necessary replacement of locks and keys if the master keys are stolen. This extension of coverage only covers the cost of the replaced locks and keys including any labour cost for installation and is subject to a deductible of \$500.

- 18. Exhibitions:** This Policy is extended to cover direct physical loss or damage to "Equipment" and "Stock" while temporarily on exhibition at locations not owned or usually occupied by the Insured. The limit of insurance for this extension of coverage is \$25,000 at any one exhibition.

- 19. Personal Property of Officers and Employees:** The limit of insurance referred to in Clause 6(a)(ii) of the Commercial Building, Equipment and Stock Broad Form is amended to read \$1,000 in respect of any one officer or employee subject to an aggregate limit of \$25,000 in any one occurrence.

**The limit(s) or amount(s) referred to herein shall not apply if specific limit(s) or amount(s) are indicated on the "Declarations page" for any of the following extensions of coverage which apply only while the described property is within Canada or the Continental United States of America (excluding Alaska):**

- 20. Temporary Locations:** "Equipment" and "Stock" other than at a specified location except while in transit, but there shall be no liability under this extension at any location owned, rented or controlled in whole or in part by the Insured.

The limit of insurance for this extension of coverage is \$25,000 for any one loss.

- 21. Newly Acquired Locations:** "Building", "Equipment" and "Stock" at any acquired location that is owned, rented or controlled by the Insured in whole or in part or in or on vehicles within 100 metres (328 feet) of such location. The following limits of insurance attach at the time of the acquisition and extend for a period of 30 days or to the date of endorsement of this Policy adding such location whichever first occurs.

The limit of insurance for this extension of coverage is \$1,000,000 for "Building" and \$250,000 for "Equipment" and "Stock" for any one loss.

- 22. Parcel Post:** "Equipment" and "Stock" in any one package in course of transit by parcel post.

The limit of insurance for this extension of coverage is \$5,000 for any one loss.

- 23. Other Transit:** "Equipment" and "Stock", in transit other than by parcel post.

The limit of insurance for this extension of coverage is \$10,000 for any one loss.

- 24 Sales Representative:** "Equipment" and "Stock", whether in transit or otherwise, in the custody of a sales representative of the Insured.

The limit of insurance for this extension of coverage is \$5,000 for any one loss.

**Except as otherwise provided in this endorsement all terms, provisions and conditions of the Policy shall have full force and effect.**

## WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 17

### 1. INDEMNITY AGREEMENT

In the event that any of the insured property is lost or damaged during the policy period by an insured peril, the Insurer will indemnify the Insured against the direct loss or damage so caused to an amount not exceeding whichever is the least of:

- a) the value of the lost or damaged property as determined in Clause 15;
- b) the interest of the Insured in the property;
- c) the amount of insurance specified on the "Declarations Page" for the lost or damaged property. The inclusion of more than one person or interest shall not increase the Insurer's liability.

### 2. INSURED PROPERTY

This form insures those of the following items for which an amount of insurance is specified on the "Declarations Page" and only while at the "premises":

"Building"  
"Equipment"  
"Stock"  
"Contents"

If **Blanket coverage applies** is indicated on the "Declarations Page", "building" and/or "contents" and/or "equipment" and/or "stock" are insured for the amount of insurance so specified on the "Declarations Page".

### 3. DEDUCTIBLE

The Insurer is liable for the amount by which the loss or damage caused by an insured peril exceeds the amount of the deductible specified on the "Declarations Page" in any one occurrence.

Should any occurrence give rise to the application of more than one deductible amount for any one "premises", only the highest deductible will be applied.

### 4. CO-INSURANCE

This clause applies separately to each item for which a co-insurance percentage is specified on the "Declarations Page" and only where the amount of loss or damage exceeds the lesser of 2% of the applicable amount of insurance or \$5,000.

The Insured shall maintain insurance concurrent with this form on the insured property to the extent of at least the amount produced by multiplying the value of the property as determined in Clause 15 by the co-insurance percentage specified on the "Declarations Page". If the Insured fails to do so, the Insured shall be entitled to recover only 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.

### 5. INSURED PERILS

This form insures against direct physical loss of or damage to the insured property caused by the following perils:

#### (A) FIRE OR LIGHTNING

(B) **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 in 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 their parts 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 from them;
  - d) smelt dissolving tanks;
- ii) other vessels and apparatus, and connected pipes, 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 or parts of same when such loss or damage is caused by centrifugal force or mechanical breakdown;
- iv) any vessels and apparatus and connected pipes while undergoing pressure tests, but this exclusion shall not apply to other insured property 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.

- (C) **IMPACT BY AIRCRAFT, SPACECRAFT OR LAND VEHICLE:** The terms Aircraft and Spacecraft include articles dropped from them.

There shall in no event be any liability for 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 taxed or moved inside or outside of a "building".

- (D) **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 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 5(B);
- iii) due to theft or attempted theft.

- (E) **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 for any cumulative damage.

- (F) **LEAKAGE FROM "FIRE PROTECTIVE EQUIPMENT":** The term Leakage from "Fire Protective Equipment" means:

- i) the leakage or discharge of water or other substances from;
- ii) the collapse of;
- iii) the rupture due to freezing of;

"fire protective equipment" for the "premises" or for adjoining structures.

- (G) **WINDSTORM OR HAIL:** There shall in no event be any liability for loss or damage:

- i) to the interior of the "building" or to "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, high water, overflow, flood, waterborne objects, waves, ice, land subsidence, landslide.

## 6. EXCLUSIONS

### A. EXCLUDED PROPERTY

This form does not insure loss of or damage to:

- a) property at locations which, to the knowledge of the Insured, are vacant, unoccupied or shut down for more than 30 consecutive days;
- b) electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing. This exclusion

does not apply to loss or damage caused directly by resultant fire or explosion;

- c) growing plants, trees, shrubs or flowers, all while outside the "building", except as provided in Clause 7(d);
- d) money, "cash cards", bullion, platinum and other precious metals and alloys, securities, stamps, tickets (except lottery tickets) and tokens, or evidence of debt or title;
- e) automobiles, watercraft, amphibious or air cushion vehicles, aircraft, spacecraft, trailers, motors or other accessories attached to or mounted on such property. This exclusion does not apply to watercraft or amphibious or air cushion vehicles held for sale, or to unlicensed automobiles or unlicensed trailers used in the business of the Insured when on the "premises";
- f) property illegally acquired, kept, stored or transported; property seized or confiscated for breach of any law or by order of any public authority;
- g) roadways, walkways, parking lots or other exterior paved surfaces. This exclusion does not apply to the first \$10,000 of any loss otherwise insured;
- h) "equipment" or "stock" occasioned by or happening through their undergoing any process involving the application of heat.

## **B. EXCLUDED PERILS**

This form does not insure against loss or damage caused directly or indirectly:

- a) in whole or in part by war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military power. This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage;
- b)
  - (i) by any nuclear incident (as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any amending law) 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;
- c) 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;

## **C. 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". This exclusion does not apply:
  - (i) if the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants" is directly caused by an insured peril, or
  - (ii) to loss or damage caused directly by a resultant insured peril;
- 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".

## **D. DATA EXCLUSION**

- 1) This form does not insure "data".
- 2) This form does not insure loss or damage caused directly or indirectly by a "data problem".

This exclusion 2) does not apply to loss or damage caused directly by resultant fire, explosion, smoke or leakage from "fire protective equipment"

## **E. TERRORISM EXCLUSION**

This form does not insure loss or damage caused directly or indirectly, in whole or in part, by "terrorism" or by any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism". This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage. If any portion of this exclusion is found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

## 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 an insured peril, or
  - (ii) to loss or damage caused directly by a resultant insured peril;
- b) the cost or expense for any testing, monitoring, evaluating or assessing of "fungi", or "spores".

## G. OTHER EXCLUDED LOSSES:

This form does not insure loss of or damage to "building", "equipment" or "stock" caused directly or indirectly:

- (i) by any dishonest or criminal act committed by the Insured or any agent of the Insured, acting alone or in collusion with others;
- (ii) by theft or attempted theft committed by any employee of the Insured, acting alone or in collusion with others;
- (iii) by any dishonest or criminal act committed by anyone, except as stated in (ii), when the Insured or any agent of the Insured knew or ought to have known prior to the loss or damage, of the dishonest or criminal act. This exclusion (iii) does not apply if, upon becoming aware of the dishonest or criminal act, the Insured or any agent of the Insured immediately notifies the police and the Insurer.

## 7. EXTENSIONS OF COVERAGE

The following extensions of coverage shall not increase the amounts of insurance applying under this form and are subject to all the conditions of this form.

- a) **Removal:** If any of the insured property is necessarily removed from the "premises" to prevent loss of or damage to or further loss of or damage to such property, that part of the insurance under this form that exceeds the amount of the Insurer's liability for any loss already incurred shall, for 7 days only, or for the unexpired term of the policy if less than 7 days, insure the property removed and any property remaining at the "premises" in the proportions which the value of the property in each of the 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 insured property, occasioned by loss of or damage to such property, for which loss or damage insurance is afforded under this form.

The amount payable under this extension shall not exceed 25% of the sum of:

- 1) the total amount payable for the direct loss of or damage to insured property; and
- 2) 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 form but which has been blown by windstorm upon the "premises".

Extensions of coverage b) i) and b) 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 of "pollutants".

Debris removal expense shall not be considered in the calculation of the value as determined in Clause 15 for the purpose of applying co-insurance.

- 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 the "premises".

- d) **Growing Plants, Trees, Shrubs or Flowers outside the "Building"**: This form is extended to insure loss of or damage to growing plants, trees, shrubs or flowers outside the "building" caused directly by the insured perils other than loss of or damage by the perils of windstorm or hail as stated in Clause 5. (G).

This extension of coverage shall be limited to a maximum recovery, including debris removal expense, of:

- i) \$500 for each growing plant, tree, shrub or flower; and
- ii) \$5,000 for any one occurrence.

## 8. PERMISSION

Permission is granted:

- a) for other insurance concurrent with this form;
- b) to make additions, alterations or repairs;
- c) to do such work and to keep and use such articles, materials and supplies in such quantities as are usual or necessary to the Insured's business.

## 9. BREACH OF CONDITION

If the Insured does not comply with a condition of this insurance, any claim for subsequent loss or damage is not recoverable. The Insurer will not deny a claim for this reason if the Insured proves that the non-compliance neither caused nor worsened the loss or damage. Coverage will not be affected if the Insured fails to comply with a condition in part of the "premises" over which the Insured has no control.

## 10. REINSTATEMENT

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

## 11. SUBROGATION

The Insurer, upon making any payment or assuming liability for payment under this form, shall be subrogated to all rights of recovery of the Insured against others and may bring action to enforce such rights. All rights of subrogation are waived against any corporation, firm, individual or other interest with respect to which insurance is provided by this policy.

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.

## 12. PROPERTY PROTECTION SYSTEMS

It is a condition of this insurance, for the purpose of Clause 9, that the Insured shall immediately notify 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 immediately notify 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.

## 13. PREMIUM ADJUSTMENT

This clause is applicable if a specific amount of insurance is shown on the "Declarations Page" for "stock".

If, within six months after the expiry or anniversary date of each policy period, the Insured shall file with the Insurer a Premium Adjustment Application Form showing, for the policy period, the value of the "stock" on the last day of each month at each "premises" as commented upon by the Insured's Accountant, the actual premium for the policy period shall then be calculated at the rate applying to each "premises" 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.

## 14. VERIFICATION OF VALUES

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

## 15. BASIS OF VALUATION

The value of the insured property shall be determined as follows:

- a) unsold "stock": the actual cash value of the property at the time and place of loss or damage, but in no event to exceed what it would cost to repair or replace with material of like kind and quality;
- b) sold "stock": the selling price after allowance for discounts;
- c) the property of others in the custody or control of the Insured for the purpose of performing work upon it: the amount for which the Insured is liable, but not exceeding the actual cash value at the time and place of loss or damage plus allowance for labour and materials expended to such time;
- d) tenant's improvements:
  - i) if repaired or replaced with due diligence and dispatch, the amount actually and necessarily expended, but not exceeding the actual cash value of the tenant's improvements at the time and place of loss or damage;
  - ii) if not repaired or replaced with due diligence and dispatch, that portion of the original cost of the lost or damaged tenant's improvements which the unexpired term of the lease at the time of loss or damage bears to the period(s) from the date(s) such tenant's improvements were made to the expiration date of the lease;
- e) business records, including those which exist on electronic or magnetic media (other than pre-packaged software programs):
  - i) the cost of blank materials for reproducing the records; and
  - ii) the costs of labour to transcribe or copy the records when there is a duplicate.
- f) all other insured property under this form and for which no more specific conditions have been set out: the actual cash value at the time and place of loss or damage, but not exceeding 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.

## 16. PROPERTY OF OTHERS

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.

## 17. DEFINITIONS

Wherever used in this form:

- a) **"Building"** means:

the building(s) described on the "Declarations 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".
- b) **"Cash cards"** means cards designed to store a cash value by electronic means as a mode of payment, without a personal identification number and without direct access to a bank or other account.

- c) **"Clean up"** means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to any of these processes.
- d) **"Contents"** means "equipment" and "stock".
- e) **"Data"** means representations of information or concepts, in any form.
- f) **"Data problem"** means:
  - i) erasure, destruction, corruption, misappropriation, misinterpretation of "data";
  - ii) error in creating, amending, entering, deleting or using "data"; or
  - iii) inability to receive, transmit or use "data".
- g) **"Declarations Page"** means the Declarations Page applicable to this form.
- h) **"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";
  - 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.
- i) **"Fire protective equipment"** includes tanks, watermains, hydrants, valves and any other apparatus 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 watermains or appurtenances located outside of the "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.
- j) **"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.
- k) **"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.
- l) **"Premises"** means the entire area within the property lines and areas under adjoining sidewalks and driveways at each location described on the "Declarations Page" and in or on vehicles within 100 metres (328 feet) of such locations.
- m) **"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".
- n) **"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.
- o) **"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 and/or instilling fear in the public or a section of the public.

# Permission to Complete Renovations Extension

**PE30**

**This extension modifies coverage provided by forms PA1, PAP1, PAC1, PA6, PA8, PA23, PA29, PN1, PNP1, PNC1, PN6, PN23 and PN29, but only if indicated on the Declarations Page for the form.**

It is hereby understood and agreed that permission is given to complete renovations.

**All other terms and conditions of this policy remain unchanged.**

WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 6

## 1. INDEMNITY AGREEMENT

This Form insures up to the amount stated on the "Declarations Page", against loss of rent and rental value caused by direct physical destruction or damage by perils insured against to the building(s) and its additions and extensions communicating and in contact therewith as described on the "Declarations Page".

## 2. MEASURE OF RECOVERY

The measure of recovery in the event of loss hereunder shall be the reduction in "Gross Rent and Rental Value" directly resulting from being untenable solely and directly due to destruction or damage by the perils insured against to the building(s), less charges and expenses which do not necessarily continue during the period the building(s) is so untenable, for not exceeding such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the building(s) as has been destroyed or damaged, commencing with the date of such destruction or damage and limited to a period of twelve (12) consecutive calendar months from the date of such destruction or damage, but not exceeding the ACTUAL LOSS SUSTAINED by the Insured resulting from the building(s) being untenable.

## 3. CO-INSURANCE

The Insured shall maintain insurance concurrent in form, range and wording with this insurance to the extent of at least the percentage amount, stated on the "Declarations Page" of the annual "Gross Rent and Rental Value" herein defined of the building(s) described on the "Declarations Page", and that failing to do so, the Insured 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.

## 4. INTERRUPTION BY CIVIL AUTHORITY

This Form is extended to include the actual loss as insured hereunder during the period of time, not exceeding two (2) consecutive weeks, while access to the described premises is prohibited by order of civil authority, but only when such order is given as a direct result of damage to neighbouring premises by a peril insured against.

## 5. SPECIAL EXCLUSIONS

The Insurer shall not be liable for:

- (a) any increase of loss directly or indirectly, proximately or remotely, resulting from, or contributed to by, the operation of any by law, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, unless the liability is otherwise specifically assumed by endorsement hereon;
- (b) any increase of loss caused by delays or loss of time due to the presence of strikers or other persons or to labour disturbances on or about the premises interfering with the rebuilding, repairing or replacing the property damaged or destroyed or the resumption or continuation of business or free access to or control of the premises or due to the action of sympathetic strikers elsewhere;
- (c) loss due to the suspension, lapse or cancellation of any lease or license, contract or order, which may affect the Insured's rent or rental value after the period following any loss during which indemnity is payable.

## 6. DEFINITIONS

Wherever used in this Form:

- (a) **"Declarations Page"** means the Declarations Page applicable to this Form.
- (b) **"Gross Rent and Rental Value"** means the sum of:
  - (i) the actual total annual gross rent or rental value of the occupied portion(s) of the building(s);
  - (ii) the estimated annual rental of the unoccupied portion(s) of the building(s); and
  - (iii) a fair rental value of the portion, if any, of the building(s) occupied by the Insured.

**All other terms and conditions of this Policy remain unchanged.**

## **DELETION OF PERIL – RIOT, VANDALISM OR MALICIOUS ACTS**

APPLICABLE TO THE COMMERCIAL BUILDING, EQUIPMENT AND STOCK NAMED PERILS FORM:

### **Form # UCAI5031 (03/14)**

It is hereby understood and agreed that Peril D. RIOT, VANDALISM OR MALICIOUS ACTS has been deleted in its entirety.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under Paragraph 3. of Section II – Who is an Insured. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is an Insured.

## **WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW IN SECTION V - DEFINITIONS**

**Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.**

### **SECTION I – COVERAGES**

#### **COVERAGE A. BODILY INJURY and PROPERTY DAMAGE LIABILITY**

##### **1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as "compensatory damages" because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we will have no duty to defend the insured against any "action" seeking "compensatory damages" for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:

- (1) The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A, B** or **D** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A, B** and **D**.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is an Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is an Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is an Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for "compensatory damages" because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. "Compensatory damages" because of "bodily injury" include "compensatory damages" claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

## 2. Exclusions

This insurance does not apply to:

### a. **Expected or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

### b. **Contractual Liability**

"Bodily injury" or "property damage" for which the insured is obligated to pay "compensatory damages" by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages":

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable legal fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be "compensatory damages" because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such legal fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which "compensatory damages" to which this insurance applies are alleged.

### c. **Workers' Compensation and Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment or employment compensation law or any similar law.

### d. **Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph 2. d. (1) above.

This exclusion applies:

- (i) Whether the insured may be liable as an employer or in any other capacity; and
- (ii) To any obligation to share "compensatory damages" with or repay someone else who must pay "compensatory damages" because of the injury.

This exclusion does not apply to:

- (a) Liability assumed by the insured under an "insured contract"; or
- (b) A claim made or an "action" brought by a Canadian resident "employee" on whose behalf contributions are made by or required to be made by you under the provisions of any Canadian provincial or territorial workers' compensation law, if cover or benefits have been denied by any Canadian Workers' Compensation Authority.

### e. **Aircraft or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others by or on behalf of any insured of:

- (1) Any aircraft, air cushion vehicle or watercraft that is owned, operated by rented or loaned to any insured; or
- (2) Any premises for the purpose of an airport or aircraft landing area and all operations necessary or incidental thereto.

Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft or watercraft that is



owned, operated by, rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 8 metres long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) "Bodily injury" to an "employee" of the insured on whose behalf contributions are made by or required to be made by the insured under the provisions of any Canadian provincial or territorial workers' compensation law, if the "bodily injury" results from an "occurrence" involving watercraft.

**f. Automobile**

"Bodily injury" or "property damage" arising directly or indirectly, in whole or in part, out of the ownership, maintenance, use or entrustment to others of any "automobile" that is owned, operated by, on behalf of, rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion also applies to any motorized snow vehicle or its trailers and any vehicle while being used in any speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity.

This exclusion also applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any "automobile" that is owned, operated by, on behalf of, rented or loaned to any insured.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury" or "property damage".

This exclusion does not apply to:

- (1) "Bodily injury" to an "employee" of the insured on whose behalf contributions are made by or required to be made by the insured under the provisions of any Canadian provincial or territorial workers' compensation law.
- (2) "Bodily injury" or "property damage" arising out of a defective condition in, or improper maintenance of, any "automobile" that is owned by the Insured while leased to others for a period of 30 days or more provided the lessee is obligated under contract to ensure that the "automobile" is insured.
- (3) "Bodily injury" or "property damage" arising out of the ownership, use or operation of machinery, apparatus or equipment mounted on or attached to any vehicle while at the site of the use or operation of such equipment. This exception however does not apply when such equipment is mounted on or attached to any "automobile" and such equipment is used for the purpose of "loading or unloading".
- (4) "Bodily injury" or "property damage" arising out of "loading or unloading" if such operations are precluded from coverage under the motor vehicle section of any provincial or territorial act or regulation.

**g. Damage to Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in your care, custody or control;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied,

rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

h. **Damage to Your Product**

"Property damage" to "your product" arising out of it or any part of it.

i. **Damage to Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

j. **Damage to Impaired Property or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

k. **Recall of Products, Work or Impaired Property**

"Compensatory damages" claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

l. **Electronic Data and Access or Disclosure of Confidential or Personal Information**

"Compensatory damages" arising out of:

1. the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data"; or
2. any access to or disclosure of any person's or organization's confidential or personal information, **including but not limited to** patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

m. **Personal and Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

n. **Professional Services**

"Bodily injury" (other than "incidental medical malpractice injury"), or "property damage" due to the rendering of or failure to render by you or on your behalf of any "professional services" for others, or any error or omission, malpractice or mistake in providing those services.

o. **Abuse**

- a. Claims or "actions" arising directly or indirectly from "abuse" committed or alleged to have been committed by an insured, including the transmission of disease arising out of any act of "abuse".
- b. Claims or "actions" based on your practices of "employee" hiring, acceptance of "volunteer workers" or supervision or retention of any person alleged to have committed "abuse".

- c. Claims or "actions" alleging knowledge by an insured of, or failure to report, the alleged "abuse" to the appropriate authority(ies).
- p. **Asbestos** – see Common Exclusions
- q. **Fungi or Spores** – see Common Exclusions
- r. **Nuclear**– see Common Exclusions
- s. **Pollution** – see Common Exclusions
- t. **Terrorism** – see Common Exclusions
- u. **War Risks** – see Common Exclusions

## COVERAGE B. PERSONAL and ADVERTISING INJURY LIABILITY

### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as "compensatory damages" because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we will have no duty to defend the insured against any "action" seeking "compensatory damages" for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "action" that may result. But:
  - (1) The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
  - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A, B** or **D** or medical expenses under Coverage **C**.No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A, B** and **D**.
- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

### 2. Exclusions

This insurance does not apply to:

- a. **Knowing Violation of Rights of Another**  
"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".
- b. **Material Published With Knowledge of Falsity**  
"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.
- c. **Material Published Prior to Policy Period**  
"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.
- d. **Criminal Acts**  
"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.
- e. **Contractual Liability**  
"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages" that the insured would have in the absence of the contract or agreement.
- f. **Breach of Contract**  
"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".
- g. **Quality or Performance of Goods – Failure To Conform To Statements**  
"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. **Wrong Description of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. **Infringement of Copyright, Patent, Trademark or Trade Secret**

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. **Insureds in Media and Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **22. a., b. and c.** of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. **Interactive Websites, Electronic Chatrooms, Interactive Forums or Bulletin Boards**

"Personal and advertising injury" arising out of an, electronic interactive website, chatroom, interactive forum or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. **Unauthorized Use Of Another's Name or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. **Data-Related Liability and Access or Disclosure of Confidential or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, **including but not limited to** patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

n. **Asbestos** – see Common Exclusions

o. **Fungi or Spores** – see Common Exclusions

p. **Nuclear**– see Common Exclusions

q. **Pollution** – see Common Exclusions

r. **Terrorism** – see Common Exclusions

s. **War Risks** – see Common Exclusions

## COVERAGE C. MEDICAL PAYMENTS

### 1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and

- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance as described in Section III – Limits of Insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 2. Exclusions

We will not pay expenses for "bodily injury":

### a. Any Insured

To any insured, except "volunteer workers".

### b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

### c. Injury on Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

### d. Workers Compensation and Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

### e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

### f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

### g. Coverage A Exclusions

Excluded under Coverage A.

## COVERAGE D. TENANTS' LEGAL LIABILITY

### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as "compensatory damages" because of "property damage" to which this insurance applies. This insurance applies only to "property damage" to premises of others rented to you or occupied by you. We will have the right and duty to defend the insured against any "action" seeking those "compensatory damages". However, we will have no duty to defend the insured against any "action" seeking "compensatory damages" for "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "action" that may result. But:

- (1) The amount we will pay for "compensatory damages" is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A, B or D or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A, B and D.

- b. This insurance applies to "property damage" only if:

- (1) The "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is an Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "property

damage" occurred, then any continuation, change or resumption of such "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is an Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "property damage" after the end of the policy period.
- d. "Property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is an Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
  - (1) Reports all, or any part, of the "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for "compensatory damages" because of the "property damage"; or
  - (3) Becomes aware by any other means that "property damage" has occurred or has begun to occur.

## 2. Exclusions

This insurance does not apply to:

### a. **Expected or Intended Injury**

"Property damage" expected or intended from the standpoint of the insured.

### b. **Contractual Liability**

"Property damage" for which the insured is obligated to pay "compensatory damages" by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for "compensatory damages" that the insured would have in the absence of the contract or agreement.

- c. **Asbestos** – see Common Exclusions
- d. **Fungi or Spores** – see Common Exclusions
- e. **Nuclear**– see Common Exclusions
- f. **Pollution** – see Common Exclusions
- g. **Terrorism** – see Common Exclusions
- h. **War Risks** – see Common Exclusions

## COMMON EXCLUSIONS – COVERAGES A, B, C and D

This insurance does not apply to:

### 1. **Asbestos**

"Bodily injury", "property damage" or "personal and advertising injury" related to or arising from any actual or alleged liability for any legal remedy of any kind whatsoever (including but not limited to damages, interest, mandatory or other injunctive relief, statutory orders or penalties, legal or other costs, or expenses of any kind) in respect of actual or threatened loss, damage, cost or expense directly or indirectly caused by, resulting from, in consequence of or in any way involving, asbestos or any materials containing asbestos in whatever form or quantity.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal and advertising injury".

### 2. **Fungi or Spores**

- a. "Bodily injury", "property damage" or "personal and advertising injury" or any other cost, loss or expense incurred by others, arising directly or indirectly from the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, presence of, spread of, reproduction, discharge or other growth of any "fungi" or "spores" however caused, including any costs or expenses incurred to prevent, respond to, test for, monitor, abate, mitigate, remove, cleanup, contain, remediate, treat, detoxify, neutralize, assess or otherwise deal with or dispose of "fungi" or "spores";
- b. Any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. above; or

- c. Any obligation to pay damages, share damages with or repay someone else who must pay damages because of such injury or damage referred to in **a.** or **b.** above.

This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal and advertising injury".

For the purpose of the following exception:

- (i) "Property damage" means physical injury to animals.
- (ii) "Products-completed operations hazard" means all "bodily injury" and "property damage" that arises out of "your product" provided the "bodily injury" or "property damage" occurs after you have relinquished physical possession of "your product".

This exclusion does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" arising directly or indirectly from "fungi" or "spores" that are found in or on, or are, "your product", and you intend "your product" to be:

- (1) applied topically to; or
  - (2) ingested by;
- humans or animals.

### 3. Nuclear Energy Liability

- a. Liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof;
- b. "Bodily injury", "property damage" or "personal and advertising injury" 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;
- c. "Bodily injury", "property damage" or "personal and advertising injury" resulting directly or indirectly from the "nuclear energy hazard" arising from:
  - 1) The ownership, maintenance, operation or use of a "nuclear facility" by or on behalf of an insured;
  - 2) 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";
  - 3) 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 useable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an insured.

This exclusion applies regardless of any other contributing or aggravating cause or event that contribute concurrently or in any sequence to the "bodily injury", "property damage" or "personal and advertising injury".

### 4. Pollution

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapour or soot from equipment used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
  - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - (i) Any insured; or
    - (ii) Any person or organization for whom you may be legally responsible; or
  - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
    - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of mobile equipment or its parts, if such fuels, lubricants or other operating fluids escape from a permanent and integral mobile equipment part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapours from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
  - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or "action" by or on behalf of a governmental authority for "compensatory damages" because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this Section (2) does not apply to liability for "compensatory damages" because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "action" by or on behalf of a governmental authority.

## 5. Terrorism

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly, in whole or in part, out of "terrorism" or out of any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism". This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal and advertising injury".

## 6. War Risks

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly, in whole or in part, out of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the "bodily injury", "property damage" or "personal and advertising injury".

## SUPPLEMENTARY PAYMENTS – COVERAGES A, B and D

1. We will pay, with respect to any claim we investigate or settle, or any "action" against an insured we defend:
  - a. All expenses we incur.
  - b. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.



- c. All reasonable expenses you incur at our request to assist us in the investigation or defense of the claim or "action", including actual loss of earnings up to \$250 a day because of time off from work.
- d. All costs assessed or awarded against you in the "action".
- e. Any interest accruing after entry of judgment upon that part of the judgment which is within the applicable limit of insurance and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against an "action" and an indemnitee of the insured is also named as a party to the "action", we will defend that indemnitee if all of the following conditions are met:
- a. The "action" against the indemnitee seeks "compensatory damages" for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "action" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
  - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "action" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:
    - (1) Agrees in writing to:
      - (a) Cooperate with us in the investigation, settlement or defense of the "action";
      - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "action";
      - (c) Notify any other insurer whose coverage is available to the indemnitee; and
      - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee;and
    - (2) Provides us with written authorization to:
      - (a) Obtain records and other information related to the "action"; and
      - (b) Conduct and control the defense of the indemnitee in such "action".

So long as the above conditions are met, legal fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b. (2)** of Section **I – Coverage A – Bodily Injury and Property Damage Liability**, such payments will not be deemed to be "compensatory damages" for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for legal fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership, limited liability partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, limited liability partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your shareholders are also insureds, but only with respect to their liability as shareholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, limited liability partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership, limited liability partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1) (a)** above;
      - (c) For which there is any obligation to share "compensatory damages" with or repay someone else who must pay "compensatory damages" because of the injury described in Paragraphs **(1)(a)** or **(b)** above;
      - (d) Arising out of his or her providing or failing to provide professional health care services; or
      - (e) To any person who at the time of injury is entitled to benefits under any workers' compensation or disability benefits law or a similar law.
    - (2) "Property damage" to property that is:
      - (a) Owned, occupied or used by,
      - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership, limited liability partnership or joint venture), or any member (if you are a limited liability company).
  - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
  - e. Your unit or strata lot owners and any tenants, but only with respect to the conduct of the corporation for liability arising out of the common property, excluding liability arising out of the owner's or tenant's possession, occupation or use of property designated for exclusive use.

3. Any organization you newly acquire or form, other than a partnership, limited liability partnership or joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
  - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** and **D** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, limited liability partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

## SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "actions" brought; or
  - c. Persons or organizations making claims or bringing "actions".
2. The General **Aggregate Limit** is the most we will pay for the sum of:
  - a. "Compensatory damages" under Coverage **A**, except "compensatory damages" because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
  - b. "Compensatory damages" under Coverage **B**; and
  - c. Medical expenses under Coverage **C**.
3. The **Products-Completed Operations Aggregate Limit** is the most we will pay under Coverage **A** for "compensatory damages" because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. or 3. above, whichever applies, the **Each Occurrence Limit** is the most we will pay for the sum of:
  - a. "Compensatory damages" under Coverage **A**; and
  - b. Medical expenses under Coverage **C**
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
5. Subject to 2. above, the **Personal and Advertising Injury Limit** is the most we will pay under Coverage **B** for the sum of all "compensatory damages" because of all "personal and advertising injury" sustained by any one person or organization.
6. The Tenants' **Legal Liability Limit** is the most we will pay under Coverage **D** for "compensatory damages" because of "property damage" to any one premises.
7. Subject to 4. above, the **Medical Expense Limit** is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## 8. Deductible

- a. Our obligation under Property Damage Liability and Tenants' Legal Liability to pay "compensatory damages" on your behalf applies only to the amount of "compensatory damages" in excess of any deductible amounts stated in the Declarations as applicable to such coverages, and the limits of insurance applicable to each "occurrence" for Property Damage Liability and any one premises for Tenants' Legal Liability will be reduced by the amount of such deductible.

- b. The deductible amount applies as follows:
    - 1) Under Coverage **A**: To all "compensatory damages" because of "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
    - 2) Under Coverage **D**, Tenants' Legal Liability, to all "compensatory damages" because of "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
  - c. The terms of this insurance, including those in respect to:
    - 1) our right and duty to defend any "action" seeking those "compensatory damages"; and
    - 2) your duties in the event of an "occurrence", claim or "action" apply irrespective of the application of the deductible amount.
  - d. We may pay any part or all of the deductible amount to effect settlement of any claim or "action" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.
9. If **Products-Completed Operations excluded** is indicated in the Declarations, this insurance does not apply to "bodily injury" or property damage" included in the "products-completed operations hazard".

## SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

If any portion of these conditions are found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

### 2. Canadian Currency Clause

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

### 3. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent.

This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### 4. Duties in the Event of Occurrence, Offense, Claim or Action

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

- b. If a claim is made or "action" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "action" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "action" as soon as practicable.

- c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "action";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "action"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

## 5. Examination of Your Books and Records.

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 years afterward.

## 6. Inspections and Surveys

a. We have the right to:

- 1) Make inspections and surveys at any time;
- 2) Give you reports on the conditions we find; and
- 3) Recommend changes.

b. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- 1) Are safe or healthful; or
- 2) Comply with laws, regulations, codes or standards.

c. Paragraphs a. and b. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

d. Paragraph b. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under provincial or municipal statutes, ordinances, bylaws or regulations, of boilers, pressure vessels or elevators.

## 7. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into an "action" asking for "compensatory damages" from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for "compensatory damages" that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

Every action or proceeding against an 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.

## 8. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A**, **B** or **D** of this policy, our obligations are limited as follows:

### a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

### b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

- (c) If the loss arises out of the maintenance or use of watercraft or "automobile" to the extent not subject to either Exclusion e. or f. of Section I – Coverage A – Bodily Injury and Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for "compensatory damages" arising out of the premises or operations or products-completed operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A, B or D to defend the insured against any "action" if any other insurer has a duty to defend the insured against that "action". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

### c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

## 9. Premium Audit

- a. We will compute all premiums for this policy in accordance with our rules and rates.
- b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured subject to the retention of the minimum retained premium shown in the Declarations of this policy.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

## 10. Premiums

The first Named Insured shown in the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

## 11. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

## 12. Separation of Insureds, Cross Liability

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "action" is brought.

## 13. Termination

- a. The first Named Insured shown in the Declarations may terminate this policy by mailing or delivering to us advance written notice of termination.

- b. We may terminate this policy by mailing or delivering to the first Named Insured written notice of termination at least:
  - 1) 5 days before the effective date of termination if personally delivered;
  - 2) 15 days before the effective date of termination if we terminate for nonpayment of premium; or
  - 3) 30 days before the effective date of termination if we terminate for any other reason.

Except in Quebec, if notice is mailed, termination takes effect 15 or 30 days after receipt of the letter by the post office to which it is addressed, depending upon the reason for termination. Proof of mailing will be sufficient proof of notice.

In Quebec, paragraph 1) of this condition does not apply and termination takes effect either 15 or 30 days after receipt of the notice at the last known address of the first Named Insured, depending upon the reason for termination.

- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. The policy period will end on the date termination takes effect.
- e. If this policy is terminated, we will send the first Named Insured any premium refund due. If we terminate, the refund will be pro rata. If the first Named Insured terminates, the refund may be less than pro rata. The termination will be effective even if we have not made or offered a refund.

#### 14. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "action" or transfer those rights to us and help us enforce them.

#### 15. Transfer of Your Rights and Duties Under This Policy

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

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

## SECTION V – DEFINITIONS

- 1. **"Abuse"** means any act or threat involving molestation, harassment, corporal punishment or any other form of physical, sexual or mental abuse.
- 2. **"Action"** means a civil proceeding in which "compensatory damages" because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Action" includes:
  - a. An arbitration proceeding in which such "compensatory damages" are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such "compensatory damages" are claimed and to which the insured submits with our consent.
- 3. **"Advertisement"** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
- 4. **"Automobile"** means a land motor vehicle, trailer or semitrailer that is required by law to be insured under a contract evidenced by a motor vehicle liability policy, or any vehicle insured under such a contract, including any attached machinery or equipment.
- 5. **"Bodily injury"** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
- 6. **"Compensatory damages"** means damages due or awarded in payment for actual injury or economic loss.

"Compensatory damages" does not include punitive or exemplary damages or the multiple portion of any multiplied damage award.

7. **"Coverage territory"** means:

- a. Canada and the United States of America (including its territories and possessions).
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above; or
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in **a.** above;
  - (2) The activities of an insured person whose home is in the territory described in **a.** above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay "compensatory damages" is determined in an "action" on the merits, in the territory described in **a.** above or in a settlement we agree to.

8. **"Electronic data"** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including but not limited to systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
9. **"Employee"** includes a "leased worker" and a "temporary worker".
10. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
11. **"Fissionable substance"** means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
12. **"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.
13. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.
14. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;  
if such property can be restored to use by:
    - (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
    - (2) Your fulfilling the terms of the contract or agreement.
15. **"Incidental medical malpractice injury"** means "bodily injury" arising out of the rendering of or failure to render, during the Policy Period, the following services:
  - (i) medical, surgical, dental, x-ray or nursing services or treatment or the furnishing of food or beverages in connection therewith; or
  - (ii) the furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;by any insured or any indemnitee causing the "incidental medical malpractice injury" who is not engaged in the business or occupation of providing any of the services described in i) and ii) above.
16. **"Insured contract"** means:
  - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossings at grade;



- d. Any other easement agreement;
- e. An obligation, as required by ordinance or bylaw, to indemnify a municipality, except in connection with work for a municipality;
- f. An elevator maintenance agreement;
- g. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "compensatory damages" because of "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph g. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render "professional services", including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**17. "Leased worker"** means a person leased to you by a labour leasing firm under an agreement between you and the labour leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**18. "Loading or unloading"** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "automobile";
- b. While it is in or on an aircraft, watercraft or "automobile"; or
- c. While it is being moved from an aircraft, watercraft or "automobile" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "automobile".

**19. "Nuclear energy hazard"** means the radioactive, toxic, explosive, or other hazardous properties of radioactive material;

**20. "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 packaging waste;
- c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material; and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

**21. "Occurrence"** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

**22. "Personal and advertising injury"** means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your "advertisement"; or
  - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
- 23. "Pollutants"** mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 24. "Products-completed operations hazard":**
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
  - b. Does not include "bodily injury" or "property damage" arising out of:
    - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle that is not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
    - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
- 25. "Professional services"** shall include but not be limited to:
- a. Medical, surgical, dental, x-ray or nursing service or treatment, or the furnishing of food or beverages in connection therewith;
  - b. Any professional service or treatment conducive to health;
  - c. Professional services of a pharmacist;
  - d. The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances;
  - e. The handling or treatment of deceased human bodies including autopsies, organ donations or other procedures;
  - f. Any cosmetic, body piercing, tonsorial, massage, physiotherapy, chiropody, hearing aid, optical or optometrical services or treatments;
  - g. The preparation or approval of maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications;
  - h. Supervisory, inspection, architectural, design or engineering services;
  - i. Accountant's, advertiser's, notary's (Quebec), public notary's, paralegal's, lawyer's, real estate broker's or agent's, insurance broker's or agent's, travel agent's, financial institution's, or consultant's professional advices or activities;
  - j. Any computer programming or re-programming, consulting, advisory or related services; or
  - k. Claim, investigation, adjustment, appraisal, survey or audit services.
- 26. "Property damage"** means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

- 27. **"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;
- 28. **"Spores"** includes, but is not limited to, any reproductive particle or microscopic fragment produced by, emitted from or arising out of any "fungi".
- 29. **"Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 30. **"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 and/or instilling fear in the public or a section of the public.
- 31. **"Volunteer worker"** means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 32. **"Your product":**
  - a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
- 33. **"Your work":**
  - a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
  - b. Includes
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
    - (2) The providing of or failure to provide warnings or instructions.

# Combined Deductible Endorsement (Bodily Injury and Property Damage)

LD3c

**This Endorsement Changes The Policy. Please Read It Carefully.**

**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

**This endorsement modifies insurance provided by form L1a, but only if indicated on the "Declarations Page" for the form.**

**AMOUNT AND BASIS OF DEDUCTIBLE** - The amount and basis of deductible is as indicated in the "Declarations Page" for this deductible as per occurrence or per claim

## **APPLICATION OF ENDORSEMENT**

1. Our obligation under Bodily Injury and Property Damage Liability to pay "compensatory damages" on your behalf applies only to the amount of "compensatory damages" in excess of any deductible amounts stated in the "Declarations Page", as applicable to such coverages, and the limits of insurance applicable to each "occurrence" for Bodily Injury and Property Damage Liability will be reduced by the amount of such deductible. The **General Aggregate Limit** and **Products-Completed Operations Aggregate Limit** for such coverages shall not be reduced by the application of such deductible amount.
2. The deductible amounts stated in the "Declarations Page" apply as follows:
  - A. **PER OCCURRENCE BASIS** - if the deductible is on a **per occurrence** basis, the deductible amount applies under Coverage A - Bodily Injury and Property Damage Liability to all "compensatory damages" because of "bodily injury" and "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain "compensatory damages" because of that "occurrence".
  - B. **PER CLAIM BASIS** - if the deductible is on a **per claim** basis, the deductible amount applies Under Coverage A - Bodily Injury Liability and Property Damage Liability to all "compensatory damages" because of "bodily injury" and "property damage" sustained by one person.
3. The terms of this insurance, including those in respect to:
  - a) our right and duty to defend any "action" seeking those "compensatory damages"; and
  - b) your duties in the event of an "occurrence", claim or "action"apply irrespective of the application of the deductible amount.
4. We may pay any part or all of the deductible amount to effect settlement of any claim or "action" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

# Limitation of Coverage to Designated Premises

LR1a

**This Endorsement Changes The Policy. Please Read It Carefully.**

**WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED BELOW OR IN THE FORM TO WHICH THIS ENDORSEMENT IS ATTACHED**

**This endorsement modifies insurance provided by forms L1, L1a, and L2, but only if indicated on the "Declarations Page" for the form.**

**Premises:**

This insurance applies only to "bodily injury", "property damage", "personal and advertising injury", and medical expenses arising out of the ownership, maintenance or use of the premises shown on the "Declarations Page" and operations necessary or incidental to those premises.

If **Restricted to locations** is indicated on the "Declarations Page" applicable to this endorsement, Limitation of Coverage to Designated Premises is restricted to the locations so indicated.

**All other terms and conditions of the Policy to which this endorsement applies remain unchanged.**

# Total Pollution Exclusion

**LX45A**

**This exclusion modifies coverage provided by form L1a, but only if indicated on the Declarations Page for the form.**

**The pollution liability exclusion (SECTION 1 - COMMON EXCLUSIONS - COVERAGES A, B, C AND D, 4. Pollution) is deleted and replaced by the following:**

This insurance does not apply to:

4. Pollution Liability

- (a) "Bodily injury" or "property damage" arising out of the actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of pollutants however caused and whenever happening;
- (b) Any loss, cost or expense incurred by any governmental body, or arising out of any governmental direction, request, demand or order that the Insured or any entity test for, trace, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate, neutralize, or in any way respond to, or assess the effects of, pollutants.
- (c) Fines, penalties, punitive or exemplary damages arising directly or indirectly out of the discharge, dispersal, release or escape of any pollutants.

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

**All other terms and conditions of this policy remain unchanged.**

## **USA SALES, OPERATIONS & JURISDICTION EXCLUSION**

**This exclusion modifies coverage provided by forms L1, L1a, L2 and L3, but only if indicated on the Declarations Page for the form.**

This insurance does not apply to “bodily injury” or “property damage” arising out of operations in or sales of “your product” to the United States of America, its territories or possessions.

In addition, this insurance does not apply to any claim judgement award or settlement made within any country or territory which operates under the laws of the United States of America or to any order made anywhere in the world to enforce such judgement award or settlement either in whole or in part.

**All other terms and conditions of this policy remain unchanged.**

## LAW & JURISDICTION

This Insurance shall be governed by the laws of Canada and subject to the exclusive jurisdiction of the Courts of Canada.

LMA5022

14/09/2005



### Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

LMA3100

15 September 2010

### **MICROORGANISM EXCLUSION (Absolute)**

This Policy does not insure any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:

mold, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This Exclusion applies regardless whether there is (i) any physical loss or damage to insured property; (ii) any insured peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

This Exclusion replaces and supersedes any provision in the Policy that provides insurance, in whole or in part, for these matters.

LMA5018

14/09/2005

**SERVICE OF SUIT CLAUSE (CANADA)**  
**(Action against Insurer)**

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is 1155, rue Metcalfe, Suite 2240, Montreal, Quebec, H3B 2V6.

LMA5028

10/08/2006

## INTENTION FOR AIF TO BIND CLAUSE

Whereas Lloyd's Underwriters have been granted an order to insure in Canada risks under the Insurance companies Act (Canada) and are registered in all provinces and territories in Canada to carry on insurance business under the laws of these jurisdictions or to transact insurance in these jurisdictions.

And whereas applicants for insurance coverage in respect of risks located in Canada and Canadian Cedants wish that Lloyd's insurance and reinsurance coverage be provided in a manner that requires Lloyd's Underwriters to vest assets in trust in respect of their risks pursuant to the Insurance Companies Act (Canada);

- a) This contract shall be in force and shall be the governing contract pending the decision by Lloyd's Underwriters' attorney and chief agent in Canada (the "AIF") to confirm coverage in accordance with both the terms and conditions set out in this contract and applicable Canadian law;
- b) The AIF shall confirm Lloyd's Underwriters' coverage by signing in Canada a policy that will contain the terms and conditions set out in this contract (the "Canadian Policy"), and by communicating from Canada the issuance of that policy to the policyholder or his broker;
- c) This contract shall cease to have effect upon the communication by the AIF from Canada of the Canadian Policy to the policyholder or his broker, and the Canadian Policy will replace and supersede this contract.

LMA5180  
01 November 2011

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

The business insured/reinsured herein meets the necessary conditions to qualify as, and is being transacted as, "insuring in Canada a risk" in accordance with Part XIII of the *Insurance Companies Act* (Canada).

LMA5185

01 November 2011

Pour les fins de la *Loi sur les sociétés d'assurance* (Canada), cette police canadienne a été émise dans le contexte des activités d'assurance des souscripteurs du Lloyd's au Canada.

L'assurance/réassurance souscrite satisfait aux conditions nécessaires afin de qualifier comme, et est transigée en tant que, assurance « *au Canada des risques* » en vertu de la Partie XIII de la *Loi sur les sociétés d'assurance* (Canada).

LMA5185

01 novembre 2011

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Signé et date par le Fondé de pouvoir au Canada pour les souscripteurs du Lloyd's.

## COMMUNICABLE DISEASE ENDORSEMENT

(For use on property policies)

1. This policy, subject to all applicable terms, conditions and exclusions, covers losses attributable to direct physical loss or physical damage occurring during the period of insurance. Consequently and notwithstanding any other provision of this policy to the contrary, this policy does not insure any loss, damage, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this endorsement, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
  - 2.1. for a Communicable Disease, or
  - 2.2. any property insured hereunder that is affected by such Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 3.3. the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.
4. This endorsement applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

**All other terms, conditions and exclusions of the policy remain the same.**

LMA5393

25 March 2020

## COMMUNICABLE DISEASE EXCLUSION

(For use on liability policies)

1. Notwithstanding any provision to the contrary within this policy, this policy does not cover all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this endorsement, loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for a Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 3.3. the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage.

LMA5396

17 April 2020



## PROPERTY CYBER AND DATA EXCLUSION

- 1 Notwithstanding any provision to the contrary within this Policy or any endorsement thereto this Policy excludes any:
  - 1.1 Cyber Loss;
  - 1.2 loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data;  
regardless of any other cause or event contributing concurrently or in any other sequence thereto.
- 2 In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
- 3 This endorsement supersedes and, if in conflict with any other wording in the Policy or any endorsement thereto having a bearing on Cyber Loss or Data, replaces that wording.

### Definitions

- 4 Cyber Loss means any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any 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.
- 5 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.
- 6 Cyber Incident means:
  - 6.1 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
  - 6.2 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.
- 7 Computer System means:
  - 7.1 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.
- 8 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.

LMA5401

11 November 2019

## CYBER and DATA TOTAL EXCLUSION ENDORSEMENT

(for attachment to International Liability forms)

- 1 Notwithstanding any provision to the contrary within this Policy or any endorsement thereto this Policy does not apply to 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:
  - 1.1 **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**; or
  - 1.2 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**;regardless of any other cause or event contributing concurrently or in any other sequence thereto.
- 2 In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
- 3 This endorsement supersedes any other wording in the Policy or any endorsement thereto having a bearing on a **Cyber Act**, **Cyber Incident** or **Data**, and, if in conflict with such wording, replaces it.
- 4 If the Underwriters allege that by reason of this endorsement that loss sustained by the Insured is not covered by this Policy, the burden of proving the contrary shall be upon the Insured.

### Definitions

- 5 **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.
- 6 **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**.
- 7 **Cyber Incident** means:
  - 7.1 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
  - 7.2 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**.
8. **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**.

# Several Liability Clause

**LSW1001**

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

**LLOYD'S**

IDENTIFICATION OF INSURER / ACTION AGAINST INSURER  
Lloyd's Approved Coverholder ("the Coverholder"):  
**[Insert name and complete address of Canadian Coverholder]**

Where LLOYD'S UNDERWRITERS are subscribing insurers to the Policy, the following applies to them:

**IDENTIFICATION OF INSURER / ACTION AGAINST INSURER**

This insurance has been entered into in accordance with the authorization granted to the Coverholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to the Agreement shown in the List of Subscribing Companies (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own part and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd's Underwriters, whose address for such service is Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

**NOTICE**

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

10/20  
LSW1550

## LLOYD'S UNDERWRITERS' POLICYHOLDERS' COMPLAINT PROTOCOL

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

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

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

Please forward your complaint to:

**Lloyd's Underwriters**

Attention: Complaints Officer:

Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2

Tel: 1-877-455-6937

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

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

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

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

Toll free number: 1-877-225-0446

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

**For Quebec clients:**

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

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

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

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the FCAC.

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

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

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

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

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

# Privacy: Notice Concerning Personal Information LSW1543D

## Who we are

We are the Lloyd's underwriter(s) identified in the insurance contract and/or the certificate of insurance. Your privacy is important to us. This Privacy notice explains what personal information we collect, use and disclose about policyholders, beneficiaries, claimants and witnesses and for what purposes, in compliance with applicable Canadian privacy laws.

## What personal information we collect

Personal information is any information about an identified and or identifiable individual. The personal information that is collected for a clear and legitimate use and disclosure generally includes the following:

- Identification and contact information (name, address including postal code, country, telephone number, email address, month and date of birth, drivers licence, employer, job title, employment history, family details)
- Policy information (policy number, policy amounts, policy terms)
- Claim information (claim number, information relating to a potential or existing claim)
- Payment information (credit card details, bank account details, credit score)
- Other information related to your insurance cover or a claim only for legitimate business purposes

We also collect personal information about you when you visit [www.lloyds.com](http://www.lloyds.com). Further details can be found on our online Cookies policy at <http://www.lloyds.com/common/privacy-and-cookies-statement>

We will not use your personal information for marketing purposes and we will not sell your personal information to other parties.

## How we use your information

By purchasing insurance from certain Lloyd's Underwriters ("Lloyd's"), a customer provides Lloyd's with his or her explicit consent to the collection, use and disclosure of personal information. Meaningful consent is subject to the customer's understanding of the nature, purpose and consequences of the collection, use or disclosure of their personal information.

Information is generally collected, used, disclosed and stored in order to provide you with the insurance products that you have requested, including to:

- Identify you and provide you with insurance cover
- Communicate with Lloyd's policyholders
- Calculate, collect or refund premiums
- Underwrite policies and facilitate policy administration
- Evaluate and process claims
- Detect and prevent fraud, carry out anti-money laundering and sanctions checks
- Investigate and prosecute fraud
- Meet our regulatory and other legal obligations
- Enforce terms or exercise rights under the insurance contract
- Analyze insurance risk and business results
- Improve our services and offerings
- Provide general client care
- Defend or prosecute legal claims
- Renew your insurance policy
- Transfer of books of business, company sales and reorganisations

Or as may be otherwise required or authorized by law.

## Your information may be shared and disclosed;

In order to fulfil the purposes described in this Privacy notice, we may share your personal information with other third parties that we have engaged to provide services on our behalf, or who otherwise assist us in providing you with services, such as affiliated organizations, sub-contractors, agents/coverholders, legal counsel, insurers, brokers, reinsurers, loss adjusters and other service providers.

We will limit this disclosure to only the Personal Information that is reasonably necessary for the purpose or service for which the third party or affiliate will provide. We will use contractual and other means to provide a comparable level of protection while the information is being processed by these service providers, including limiting such providers to using your Personal Information solely to provide Lloyd's with the specific service for which they were engaged, and for no other purpose. You can obtain more information about our policies and practices with respect to the use of Personal Information by Third Party Service Providers by contacting us as described below, under the section "How to Contact Us" at the end of this document.

Some of these entities may be located outside Canada, therefore your information may be processed in a foreign jurisdiction, where it will be subject to the laws of that jurisdiction, which may be different than the laws in your province. Personal information that is stored or processed outside Canada may also be accessible to the law enforcement and national security authorities of that jurisdiction.

We may also share or transfer your Personal Information where reasonably required in the context of a sale, merger or amalgamation of all or part of our business or the insurance or securitization of our assets. In any such case, the recipient parties will be contractually required to keep the information confidential and use it only for the purposes of the transaction, or proposed transaction, in question. In the event a business transaction is affected, assignees or successors of Lloyd's or our business or assets, or those of our affiliated entities, may use and disclose Personal Information only for the purposes as set out in this Privacy notice, unless further consent is obtained.

We may also share your Personal Information with law enforcement, national security agencies or other governmental officials, as required or permitted by law, such as in response to a court order or a verified request relating to a criminal investigation or alleged illegal activity, where we are legally obligated to contribute information to compulsory insurance databases, or where required to detect, prevent or prosecute fraud.

## **Authority to collect, use and disclose personal information**

When you share information with us for particular purposes, such as providing you with insurance, you give us explicit consent to collect, use and disclose your information for those purposes. Canadian law also authorizes us to collect, use and disclose personal information without consent in certain circumstances prescribed by law, which may include the following:

- Detecting or suppressing fraud
- Investigating or preventing financial abuse
- For communication with the next of kin or authorized representative of an injured, ill or deceased individual
- Investigating a breach of an agreement or a contravention of the laws of Canada or a foreign jurisdiction where obtaining consent would compromise the availability or accuracy of the information
- Witness statement necessary to assess, process or settle insurance claims
- Information that is produced in the course of an individual's employment, business or profession

There may be situations where we need your additional consent to collect, use, and disclose information about you. In those situations, we will ask you for consent separately. You do not have to give your consent and, subject to legal and contractual restrictions, you can withdraw your consent to us collecting, using and disclosing your information at any time. However, withdrawing your consent may affect our ability to provide you with insurance cover or other services.

## **Retention and security**

We retain personal information for as long as necessary to provide you with insurance cover and meet the other purposes for collection, use and disclosure described in this Privacy notice, or as otherwise required or permitted by law. When your Personal Information is no longer required, we will make all reasonable efforts to ensure all electronic and hard copies of such information are securely destroyed and irreversibly deleted from our systems.

We use various physical, technical and administrative security measures, appropriate to the sensitivity of the personal information, that are designed to protect against loss, theft, unauthorized access, disclosure, copying, use or modification by. Although we will take reasonable measures to protect personal information, the transmission of information through the internet or other electronic means is not guaranteed to be secure and may create risks for the privacy and security of your information.

## **How to access your personal information**

Subject to certain exceptions provided by applicable law, you have the right to access your personal information, request corrections about your personal information if you identify any inaccuracies, and request that we delete your information. If you would like to exercise any of these rights, please contact the Ombudsperson at [info@lloyds.ca](mailto:info@lloyds.ca).

The Ombudsperson can also provide additional information about Lloyd's policies and practices, answer questions about the collection, use, disclosure or storage of personal information by Lloyd's and its service providers located outside Canada, as well as discuss any complaints you may have regarding the collection, use and disclosure of your personal information.

## **Changes**

We may amend this Privacy notice from time to time as our business evolves, in response to legal developments, as new technologies become available, or as we introduce new features, products or services.

When we make changes to wording of this Privacy notice we will revise the “last updated” date at the bottom of this Privacy notice. You should check back here periodically to find out if any changes have been made to this Privacy notice. If we make substantial changes we will, as appropriate prominently post these changes to our Site or notify registered Users directly.

## **How to contact us**

Further information about Lloyd’s personal information protection policy may be obtained by visiting, [https://www.lloyds.com/lloyds-around-the-world/americas/canada/market-conduct\\_from](https://www.lloyds.com/lloyds-around-the-world/americas/canada/market-conduct_from) your broker, or by contacting Lloyd’s by phone: 514 861 8361, 1 877 455 6937 or email: [info@lloyds.ca](mailto:info@lloyds.ca).



## **VIE PRIVÉE: AVIS CONCERNANT LES RENSEIGNEMENTS PERSONNELS**

### **Qui sommes-nous**

Nous sommes le(s) souscripteur(s) du Lloyd's identifié(s) dans le contrat d'assurance et/ou le certificat d'assurance. Votre vie privée est importante pour nous. Le présent avis de confidentialité explique quels renseignements personnels nous recueillons, utilisons et divulguons au sujet des titulaires de police, des bénéficiaires, des demandeurs et des témoins, et à quelles fins, conformément aux lois canadiennes applicables en matière de protection des renseignements personnels.

### **Quels renseignements personnels nous recueillons**

Par renseignements personnels, on entend tout renseignement concernant une personne identifiée ou identifiable. Les renseignements personnels qui sont recueillis pour une utilisation et une communication claires et légitimes comprennent généralement les éléments suivants :

- Identification et coordonnées (nom, adresse, y compris le code postal, pays, numéro de téléphone, adresse électronique, mois et date de naissance, permis de conduire, employeur, titre du poste, antécédents professionnels, détails familiaux)
- Renseignements sur la police (numéro de police, montants et conditions de la police)
- Renseignements sur la demande (numéro de demande, renseignements relatifs à une demande éventuelle ou existante)
- Informations de paiement (détails de la carte de crédit, détails du compte bancaire, score de crédit)
- Autres informations relatives à votre couverture d'assurance ou à un sinistre uniquement à des fins professionnelles légitimes

Nous recueillons également des renseignements personnels à votre sujet lorsque vous visitez [www.lloyds.com](http://www.lloyds.com). Vous trouverez de plus amples informations sur notre politique en matière de cookies en ligne à l'adresse <http://www.lloyds.com/common/privacy-and-cookies-statement>

Nous n'utiliserons pas vos renseignements personnels à des fins de marketing et nous ne vendrons pas vos renseignements personnels à d'autres parties.

### **Comment utilisons-nous vos informations**

En souscrivant une assurance auprès de certains assureurs du Lloyd's (" Lloyd's "), un client donne son consentement explicite à la Lloyd's pour la collecte, l'utilisation et la divulgation de renseignements personnels. Un consentement valable est subordonné à la compréhension par le client de la nature, du but et des conséquences de la collecte, de l'utilisation ou de la communication de ses renseignements personnels. Les renseignements sont généralement recueillis, utilisés, divulgués et stockés afin de vous fournir les produits d'assurance que vous avez demandés, notamment pour :

- Vous identifier et vous fournir une couverture d'assurance
- Communiquer avec les assurés du Lloyd's
- Calculer, encaisser ou rembourser les primes
- Souscrire des polices et faciliter l'administration des polices
- Évaluer et traiter les réclamations
- Détecter et prévenir les fraudes, effectuer des contrôles anti-blanchiment et des contrôles de sanctions
- Enquêter et poursuivre les fraudeurs
- Respecter nos obligations réglementaires et autres obligations légales
- Exercer les conditions ou exercer les droits en vertu du contrat d'assurance
- Analyser le risque d'assurance et les résultats de l'entreprise
- Améliorer nos services et nos offres
- Fournir des soins généraux aux clients
- Défendre ou poursuivre des actions en justice
- Renouveler votre police d'assurance
- Transfert de livres d'affaires, ventes et réorganisations d'entreprises

Ou selon ce qui peut être autrement requis ou autorisé par la loi.

**Vos informations peuvent être partagées et divulguées ;**

Afin d'atteindre les objectifs décrits dans le présent avis de confidentialité, nous pouvons partager vos renseignements personnels avec d'autres tiers que nous avons engagés pour fournir des services en notre nom ou qui nous aident autrement à vous fournir des services, tels que des organismes affiliés, des sous-traitants, des agents ou des détenteurs de couverture, des conseillers juridiques, des assureurs, des courtiers, des réassureurs, des experts en sinistres et autres fournisseurs de services.

Nous limiterons cette divulgation aux seuls renseignements personnels qui sont raisonnablement nécessaires aux fins ou aux services que le tiers ou la société affiliée fournira. Nous utiliserons des moyens contractuels et autres pour fournir un niveau comparable de protection pendant que l'information est traitée par ces fournisseurs de services, y compris en limitant ces fournisseurs à utiliser vos renseignements personnels uniquement pour fournir au Lloyd's le service spécifique pour lequel ils ont été engagés, et pour aucune autre raison. Vous pouvez obtenir de plus amples renseignements sur nos politiques et pratiques concernant l'utilisation des renseignements personnels par des tiers fournisseurs de services en communiquant avec nous de la façon décrite ci-dessous, à la section "Comment nous joindre" à la fin du présent document.

Certaines de ces entités peuvent être situées à l'extérieur du Canada, par conséquent vos renseignements peuvent être traités dans une juridiction étrangère, où ils seront assujettis aux lois de cette juridiction, qui peuvent être différentes des lois de votre province. Les renseignements personnels qui sont stockés ou traités à l'extérieur du Canada peuvent également être accessibles aux autorités chargées de l'application de la loi et de la sécurité nationale de ce territoire.

Nous pouvons également partager ou transférer vos informations personnelles lorsque cela est raisonnablement nécessaire dans le cadre d'une vente, d'une fusion ou d'une fusion de tout ou partie de nos activités ou de l'assurance ou de la titrisation de nos actifs. Dans un tel cas, les parties destinataires seront contractuellement tenues de garder les informations confidentielles et de les utiliser uniquement aux fins de la transaction, ou de la transaction proposée, en question. Dans le cas où une transaction commerciale est affectée, les cessionnaires ou les successeurs de Lloyd's, de notre entreprise ou de nos actifs, ou ceux de nos entités affiliées peuvent utiliser et divulguer des renseignements personnels uniquement aux fins énoncées dans le présent avis de confidentialité, à moins d'un consentement supplémentaire.

Nous pouvons également partager vos informations personnelles avec les forces de l'ordre, les agences de sécurité nationale ou d'autres responsables gouvernementaux, dans la mesure où la loi le requiert ou le permet, par exemple en réponse à une décision de justice ou à une demande vérifiée relative à une enquête criminelle ou à une activité illégale sont légalement tenus de fournir des informations aux bases de données sur les assurances obligatoires ou, le cas échéant, de détecter, de prévenir ou de poursuivre les fraudes.

**Pouvoir de recueillir, d'utiliser et de communiquer des renseignements personnels**

Lorsque vous partagez des renseignements avec nous à des fins particulières, comme vous fournir une assurance, vous nous donnez votre consentement explicite pour recueillir, utiliser et divulguer vos renseignements à ces fins. La loi canadienne nous autorise également à recueillir, à utiliser et à

communiquer des renseignements personnels sans consentement dans certaines circonstances prescrites par la loi, notamment les suivantes :

- Détecter ou supprimer la fraude
- Enquêter sur les abus financiers ou les prévenir
- Pour communiquer avec le proche parent ou le représentant autorisé d'une personne blessée, malade ou décédée
- Enquêter sur une violation d'une entente ou une contravention aux lois du Canada ou d'un territoire étranger lorsque l'obtention du consentement compromettrait la disponibilité ou l'exactitude des renseignements.
- Déclaration du témoin nécessaire pour évaluer, traiter ou régler les réclamations d'assurance
- Renseignements produits dans le cadre de l'emploi, de l'entreprise ou de la profession d'un particulier

Il peut y avoir des situations où nous avons besoin de votre consentement additionnel pour recueillir, utiliser et divulguer des renseignements à votre sujet. Dans ces situations, nous vous demanderons votre consentement séparément. Vous n'êtes pas tenu de donner votre consentement et, sous réserve des restrictions légales et contractuelles, vous pouvez retirer votre consentement à la collecte, à l'utilisation et à la communication de vos renseignements personnels en tout temps. Toutefois, le retrait de votre consentement peut affecter notre capacité à vous fournir une couverture d'assurance ou d'autres services.

### **Conservation et sécurité**

Nous conservons les renseignements personnels aussi longtemps que nécessaire pour vous fournir une couverture d'assurance et répondre aux autres fins de collecte, d'utilisation et de divulgation décrites dans le présent avis de confidentialité, ou selon les autres exigences ou permis par la loi. Lorsque vos renseignements personnels ne sont plus requis, nous ferons tous les efforts raisonnables pour nous assurer que toutes les copies électroniques et papiers de ces renseignements sont détruits de façon sécuritaire et irréversiblement supprimée de nos systèmes.

Nous utilisons diverses mesures de sécurité physiques, techniques et administratives, appropriées à la sensibilité des renseignements personnels, qui sont conçus pour protéger contre la perte, le vol, l'accès non autorisé, la divulgation, la copie, l'utilisation ou la modification par. Bien que nous prenions des mesures raisonnables pour protéger les renseignements personnels, la transmission de renseignements par Internet ou par d'autres moyens électroniques n'est pas garantie comme étant sécuritaire et peut créer des risques pour la confidentialité et la sécurité de vos renseignements.

### **Comment accéder à vos renseignements personnels**

Sous réserve de certaines exceptions prévues par les lois applicables, vous avez le droit d'accéder à vos renseignements personnels, de demander des corrections au sujet de vos renseignements personnels si vous identifiez des inexactitudes et de nous demander de supprimer vos renseignements. Si vous souhaitez exercer l'un de ces droits, veuillez contacter le Médiateur à [info@lloyds.ca](mailto:info@lloyds.ca).

L'ombudsman peut également fournir des renseignements supplémentaires sur les politiques et pratiques du Lloyd's, répondre à des questions sur la collecte, l'utilisation, la divulgation ou le stockage de renseignements personnels par le Lloyd's et ses fournisseurs de services situés à l'extérieur du Canada, ainsi que discuter de toute plainte que vous pourriez avoir concernant la collecte, l'utilisation et la divulgation de vos renseignements personnels.

### **Changements**

Nous pouvons modifier le présent avis de confidentialité de temps à autre au fur et à mesure que nos activités évoluent, en réponse aux développements juridiques, à mesure que de nouvelles technologies deviennent disponibles ou que nous introduisons de nouvelles fonctionnalités, produits ou services.

Lorsque nous apportons des modifications au libellé de la présente déclaration de confidentialité, nous révisons la date de "dernière mise à jour" figurant au bas de la présente déclaration de confidentialité. Nous vous conseillons de consulter régulièrement cette page pour savoir si des modifications ont été apportées à la présente déclaration de confidentialité. Si nous apportons des modifications substantielles, nous les afficherons bien en évidence sur notre Site ou en aviserons directement les Utilisateurs enregistrés, le cas échéant.

### **Comment nous contacter**

Vous pouvez obtenir de plus amples renseignements sur la politique de protection des renseignements personnels de la Lloyd's en visitant le site <https://www.lloyds.com/lloyds-around-the-world/americas/canada/market-conduct> auprès de votre courtier ou en communiquant avec la Lloyd's par téléphone : 514 861 8361, 1 877 455 6937 ou courriel : [info@lloyds.ca](mailto:info@lloyds.ca).

**LLOYD'S**

**[Insert class] INSURANCE**  
Effected with certain Lloyd's Underwriters **[Insert term used in coverage wordings attached, eg: "the company", "the insurer", etc.]** through Lloyd's Approved Coverholder ("the Coverholder"):  
**[Insert name and complete address of Canadian Coverholder]**

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

**DECLARATIONS**

**POLICY NO:**

**INSURED NAME:**

**INSURED ADDRESS:**

**PERIOD OF INSURANCE:**

**from:**

**to:**

(both days at 12:01 a.m. Standard Time at the Address of the Insured).

**PREMIUM:**

**LIMIT OF LIABILITY OR AMOUNT OF INSURANCE:**

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

**IDENTIFICATION OF INSURER / ACTION AGAINST INSURER**

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

In any action to enforce the obligations of the Underwriters they can be designated or named as “Lloyd’s Underwriters” and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney In Fact in Canada for Lloyd’s Underwriters, whose address for such service is Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

**NOTICE**

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

**In witness whereof** this policy has been signed as authorized by the Underwriters, by **[Insert name of Canadian Coverholder]**.

**Per** .....

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

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

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



ASSURANCE [Insérer la catégorie]

Souscrite auprès de certains Souscripteurs du Lloyd's [Insérer le terme utilisé dans les documents d'assurance ci-joints, par exemple, « la compagnie », « l'assureur », etc. ] par l'intermédiaire du

Courtier mandataire agréé du Lloyd's (« Courtier mandataire »)

[Insérer le nom et l'adresse complète du Courtier mandataire canadien]

## CETTE POLICE CONTIENT UNE CLAUSE POUVANT LIMITER LE MONTANT DE L'INDEMNITÉ

### CONDITIONS PARTICULIÈRES

N° DE POLICE

NOM DE L'ASSURÉ:

ADRESSE DE L'ASSURÉ:

PÉRIODE D'ASSURANCE:

du:

au:

(les deux jours à 0 h 01, heure normale à l'adresse de l'assuré)

PRIME: \_\_\_\_\_

MONTANT DE GARANTIE : \_\_\_\_\_

Ce contrat d'assurance est composé de cette page de Conditions particulières ainsi que des formulaires, intercalaires et avenants ci-joints.

## **IDENTIFICATION DE L'ASSUREUR / ACTION CONTRE L'ASSUREUR**

La présente assurance a été souscrite conformément à l'autorisation accordée au Courtier mandataire par les Souscripteurs des Syndicats du Lloyd's dont les numéros et pourcentages figurent au tableau annexé à l'Accord contractuel n° [insérer le numéro] (ci-après appelés « les Souscripteurs »). Les Souscripteurs garantissent chacun pour sa part et sans solidarité entre eux, proportionnellement aux divers montants souscrits à l'Accord contractuel par chacun d'eux.

Dans toute action en exécution des obligations des Souscripteurs, la désignation « Les Souscripteurs du Lloyd's » sera une désignation qui liera les Souscripteurs comme si chacun d'eux avait été nommé individuellement comme défendeur. La signification de telles procédures peut être valablement faite au fondé de pouvoir au Canada pour Les Souscripteurs du Lloyd's, dont l'adresse pour une telle signification est le Royal Bank Plaza South Tower, 200 Bay Street, Suite 2930, P.O. Box 51 Toronto, Ontario M5J 2J2.

### **AVIS**

Les avis destinés aux Souscripteurs peuvent être valablement donnés au Courtier mandataire.

**En foi de quoi** ce document a été signé avec l'autorisation des Souscripteurs, par [Insérer le nom du Courtier mandataire canadien]

**Par** .....

L'assuré est prié de lire cette police et, en cas d'erreur, de la retourner immédiatement pour correction.

Tout événement susceptible de mettre en jeu la présente assurance doit être immédiatement déclaré au Courtier mandataire dont le nom et l'adresse sont indiqués ci-dessus. Toutes les demandes de renseignements et tous les différends doivent également être communiqués à ce Courtier mandataire.

Pour les fins de la *Loi sur les sociétés d'assurance* (Canada), cette police canadienne a été émise dans le contexte des activités d'assurance des souscripteurs du Lloyd's au Canada.

LSW1548C-16  
01 October 2020

# Lloyd's Underwriters Code of Consumer Rights & LSW1565C Responsibilities

Insurers (including Lloyd's Underwriters), along with the brokers and agents who sell home, auto and business insurance are committed to safeguarding your rights both when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your insurer and the insurance laws of your province. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to your insurer. Your policy outlines other important responsibilities. Insurers and their distribution networks, and governments also have important roles to play in ensuring that your rights are protected.

## **Right to Be Informed**

You can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how insurers calculate price based on relevant facts. Under normal circumstances, insurers will advise an insurance customer or the customer's intermediary of changes to, or the cancellation of a policy within a reasonable prescribed period prior to the expiration of the policy, if the customer provides information required for determining renewal terms of the policy within the time prescribed, which could vary by province, but is usually 45 days prior to expiry of the policy.

You have the right to ask who is providing compensation to your broker or agent for the sale of your insurance. Your broker or agent will provide information detailing for you how he or she is paid, by whom, and in what ways.

You have a right to be told about insurers' compensation arrangements with their distribution networks. You have a right to ask the broker or agent with whom you deal for details of how and by whom it is being paid. Brokers and agents are committed to providing information relating to ownership, financing, and other relevant facts.

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

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through one-on-one meetings with your broker or agent. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your broker or agent of any change in your circumstances.

## **Right to Complaint Resolution**

Insurers, their brokers and agents are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access Lloyd's Underwriters' complaint resolution process for Canada. Your agent or broker can provide you with information about how you can ensure that your complaint is heard and promptly handled. Consumers may also contact their respective provincial insurance regulator for information. Lloyd's is a member of an independent complaint resolution office, the General Insurance OmbudService.

## **Responsibility to Resolve Disputes**

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

## **Right to Professional Service**

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

## **Right to Privacy**

Because it is important for you to disclose any and all information required by an insurer to provide the insurance coverage that best suits you, you have the right to know that your information will be used for the purpose set out in the privacy statement made available to you by your broker, agent or insurance representative. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada's privacy laws - with respect to their business in Canada.



## Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

## Property of others

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

## Change of interest

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

## Material change in risk

4.
  - (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - (a) material to the risk, and
    - (b) within the control and knowledge of the insured.
  - (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - (a) terminate the contract in accordance with Statutory Condition 5,  
or
    - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

## Termination of insurance

5.
  - (1) The contract may be terminated
    - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - (b) by the insured at any time on request.
  - (2) If the contract is terminated by the insurer,
    - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum

retained premium specified in the contract, and

- (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Requirements after loss**

- 6. (1) On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
  - (a) immediately give notice in writing to the insurer,
  - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
    - (i) giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,
    - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
    - (iv) stating the amount of other insurances and the names of other insurers,
    - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
    - (vii) stating the place where the insured property was at the time of loss,
  - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - (d) if required by the insurer and if practicable,
    - (i) produce books of account and inventory lists,
    - (ii) furnish invoices and other vouchers verified by statutory declaration, and
    - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

**Fraud**

7. Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

**Who may give notice and proof**

8. Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made
- (a) by the agent of the insured, if
    - (i) the insured is absent or unable to give the notice or make the proof, and
    - (ii) the absence or inability is satisfactorily accounted for, or
  - (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

**Salvage**

9. (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**Entry, control, abandonment**

10. After loss or damage to insured property, the insurer has
- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
  - (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
    - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
    - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

**In case of disagreement**

11. (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
- (a) a specific demand is made for it in writing, and
  - (b) the proof of loss has been delivered to the insurer.

**When loss payable**

12. Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**Repair or replacement**

13. (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

**Notice**

14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.

## Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

## Property of others

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

## Change of interest

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

## Material change in risk

4.
  - (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - (a) material to the risk, and
    - (b) within the control and knowledge of the insured.
  - (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - (a) terminate the contract in accordance with Statutory Condition 5,  
or
    - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

## Termination of insurance

5.
  - (1) The contract may be terminated
    - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - (b) by the insured at any time on request.
  - (2) If the contract is terminated by the insurer,
    - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum

retained premium specified in the contract, and

- (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Requirements after loss**

- 6. (1) On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
  - (a) immediately give notice in writing to the insurer,
  - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
    - (i) giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,
    - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
    - (iv) stating the amount of other insurances and the names of other insurers,
    - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
    - (vii) stating the place where the insured property was at the time of loss,
  - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - (d) if required by the insurer and if practicable,
    - (i) produce books of account and inventory lists,
    - (ii) furnish invoices and other vouchers verified by statutory declaration, and
    - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

**Fraud**

7. Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

**Who may give notice and proof**

8. Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made
- (a) by the agent of the insured, if
    - (i) the insured is absent or unable to give the notice or make the proof, and
    - (ii) the absence or inability is satisfactorily accounted for, or
  - (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

**Salvage**

9. (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**Entry, control, abandonment**

10. After loss or damage to insured property, the insurer has
- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
  - (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
    - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
    - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

**In case of disagreement**

11. (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
- (a) a specific demand is made for it in writing, and
  - (b) the proof of loss has been delivered to the insurer.

**When loss payable**

12. Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**Repair or replacement**

13. (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

**Notice**

14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the insured.



## Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

## Property of others

2. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - (a) otherwise specifically stated in the contract, or
  - (b) the interest of the insured in that property is stated in the contract.

## Change of interest

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

## Material change in risk

4.
  - (1) The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - (a) material to the risk, and
    - (b) within the control and knowledge of the insured.
  - (2) If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - (3) If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - (a) terminate the contract in accordance with Statutory Condition 5,or
    - (b) notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - (4) If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

## Termination of contract

5.
  - (1) The contract may be terminated
    - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - (b) by the insured at any time on request.
  - (2) If the contract is terminated by the insurer,
    - (a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum

retained premium specified in the contract, and

- (b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- (3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- (4) The 15-day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**Requirements after loss**

- 6. (1) On the happening of any loss or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
  - (a) immediately give notice in writing to the insurer,
  - (b) deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration
    - (i) giving a complete inventory of that property and showing in detail quantities and costs of that property and particulars of the amount of loss claimed,
    - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
    - (iv) stating the amount of other insurances and the names of other insurers,
    - (v) stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - (vi) stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
    - (vii) stating the place where the insured property was at the time of loss,
  - (c) if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - (d) if required by the insurer and if practicable,
    - (i) produce books of account and inventory lists,
    - (ii) furnish invoices and other vouchers verified by statutory declaration, and
    - (iii) furnish a copy of the written portion of any other relevant contract.
- (2) The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

**Fraud**

7. Any fraud or wilfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

**Who may give notice and proof**

8. Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under of Statutory Condition 6 (1) (b) may be made
- (a) by the agent of the insured if
    - (i) the insured is absent or unable to give the notice or make the proof, and
    - (ii) the absence or inability is satisfactorily accounted for, or
  - (b) by a person to whom any part of the insurance money is payable, if the insured refuses to do so, or in the circumstances described in clause (a) of this condition.

**Salvage**

9. (1) In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- (2) The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**Entry, control, abandonment**

10. After loss or damage to insured property, the insurer has
- (a) an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
  - (b) after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
    - (i) without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
    - (ii) without the insurer's consent, there can be no abandonment to it of the insured property.

**In case of disagreement**

11. (1) In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act* whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
- (2) There is no right to a dispute resolution process under this condition until
- (a) a specific demand is made for it in writing, and
  - (b) the proof of loss has been delivered to the insurer.

**When loss payable**

12. Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**Replacement**

13. (1) Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- (2) If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss and must proceed with all due diligence to complete the work within a reasonable time.

**Notice**

14. (1) Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- (2) Written notice to the insured may be personally delivered at, or sent by registered mail addressed to the insured's last known address as provided to the insurer by the insured.

## WAR AND CIVIL WAR EXCLUSION CLAUSE

Notwithstanding anything to the contrary contained herein this Policy does not cover Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

NMA0464

01/01/1938

## **RADIOACTIVE CONTAMINATION AND EXPLOSIVE NUCLEAR ASSEMBLIES EXCLUSION CLAUSE**

This Policy does not cover

- (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss
- (b) any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from

- (i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- (ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

NMA1622

04/04/1968

# Nuclear Incident Exclusion Clause Liability-Direct (Broad) – Canada

NMA1978A

*(For use with all Public Liability Policies except Personal, Farmers' and Storekeepers')*

It is agreed that this Policy does not apply:

- (a) to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- (b) to bodily injury or property damage with respect to which an Insured under this policy is also insured under a contract of nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the Insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; nor
- (c) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
  - (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured;
  - (ii) the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and
  - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

As used in this policy:

1. The term "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material;
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
3. The term "nuclear facility" means:
  - (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
  - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilising spent fuel, or (iii) handling, processing or packaging waste;
  - (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.
4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
5. With respect to property, loss of use of such property shall be deemed to be property damage.

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

## SEEPAGE & POLLUTION, LAND, AIR WATER EXCLUSION & DEBRIS REMOVAL ENDORSEMENT

### LAND, WATER AND AIR EXCLUSION

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure land (including but not limited to land on which the insured property is located), water or air, howsoever and wherever occurring, or any interest or right therein.

### SEEPAGE AND/OR POLLUTION AND/OR CONTAMINATION EXCLUSION

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure:

- (a) any loss, damage, cost or expense, or
- (b) any increase in insured loss, damage, cost or expense, or
- (c) any loss, damage, cost, expense, fine or penalty, which is incurred, sustained or imposed by order, direction, instruction or request of, or by any agreement with, any court, government agency or any public, civil or military authority, or threat thereof, (and whether or not as a result of public or private litigation),

which arises from any kind of seepage or any kind of pollution and/or contamination, or threat thereof, whether or not caused by or resulting from a peril insured, or from steps or measures taken in connection with the avoidance, prevention, abatement, mitigation, remediation, clean-up or removal of such seepage or pollution and/or contamination or threat thereof.

The term "any kind of seepage or any kind of pollution and/or contamination" as used in this Endorsement includes (but is not limited to):

- (a) seepage of, or pollution and/or contamination by, anything, including but not limited to, any material designated as a "hazardous substance" by the United States Environmental Protection Agency or as a "hazardous material" by the United States Department of Transportation, or defined as a "toxic substance" by the Canadian Environmental Protection Act for the purposes of Part II of that Act, or any substance designated or defined as toxic, dangerous, hazardous or deleterious to persons or the environment under any other Federal, State, Provincial, Municipal or other law, ordinance or regulation; and
- (b) the presence, existence, or release of anything which endangers or threatens to endanger the health, safety or welfare of persons or the environment.

### DEBRIS REMOVAL ENDORSEMENT

THIS ENDORSEMENT CONTAINS PROVISIONS WHICH MAY LIMIT OR PREVENT RECOVERY UNDER THIS POLICY FOR LOSS WHERE COSTS OR EXPENSES FOR DEBRIS REMOVAL ARE INCURRED.

Nothing contained in this Endorsement shall override any Seepage and/or Pollution and/or Contamination Exclusion or any Radioactive Contamination Exclusion or any other Exclusion applicable to this Policy.

Any provision within this Policy (or within any other Endorsement which forms part of this Policy) which insures debris removal is cancelled and replaced by the following:

1. In the event of direct physical damage to or destruction of property, for which Underwriters hereon agree to pay, or which but for the application of a deductible or underlying amount they would agree to pay (hereinafter referred to as "Damage or Destruction"), this Policy also insures, within the Sum Insured, subject to the limitations and method of calculation below, and to all the other terms and conditions of the Policy, costs or expenses;



- (a) which are reasonably and necessarily incurred by the Assured in the removal, from the premises of the Assured at which the Damage or Destruction occurred, of debris which results from the Damage or Destruction; and
  - (b) of which the Assured becomes aware and advises the amount thereof to Underwriters hereon within one year of the commencement of such Damage or Destruction.
2. In calculating the amount, if any, payable under this Policy for loss where costs or expenses for removal of debris are incurred by the Assured (subject to the limitations in paragraph 1 above):
- (a) the maximum amount of such costs or expenses that can be included in the method of calculation set out in (b) below shall be the greater of US\$25,000 (twenty-five thousand dollars) or 10% (ten percent) of the amount of the Damage or Destruction from which such costs or expenses result; and
  - (b) the amount of such costs or expenses as limited in (a) above shall be added to:
    - (i) the amount of the Damage or Destruction; and
    - (ii) all other amounts of loss, which arise as a result of the same occurrence, and for which Underwriters hereon also agree to pay, or which but for the application of a deductible or underlying amount they would agree to pay; and

the resulting sum shall be the amount to which any deductible or underlying amount to which this Policy is subject and the limit (or applicable sub-limit) of this Policy, shall be applied.

NMA2340

24/11/1988

## ELECTRONIC DATE RECOGNITION EXCLUSION (EDRE)

This policy does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a) the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap year calculations, by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not; or
- b) any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

EDRE

NMA2802

17/12/1997

## TERRORISM EXCLUSION ENDORSEMENT

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

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

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

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

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

NMA2920

08/10/2001

### **Biological or Chemical Materials Exclusion**

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

NMA2962

06/02/2003

# Exclusion of Asbestos Related Claims

O4

This policy does not apply to any loss, demand, claim or suit arising out of or related in any way to materials containing asbestos.

The Insurer shall have no duty of any kind with respect to any such loss, demand, claim or suit.

This exclusion applies to all coverages under this policy.

**Nothing herein shall vary, alter or extend any provision or condition of the policy other than as above stated.**

## **APPLICABLE TO ALL PROPERTY COVERAGES OF THIS POLICY**

This policy does not insure:

Any loss or damage directly or indirectly caused by, or in any way arising from, any activity connected with the growth, manufacturing, storage, production or distribution of any drug(s), narcotic(s) or illegal substance(s) activity including alteration of the insured premises to facilitate such activity, whether or not the Insured has or had prior knowledge of such activity.

## **APPLICABLE TO ALL BUSINESS INTERRUPTION COVERAGES OF THIS POLICY**

The insurer shall not be liable for loss of "Business Income", "Gross Profit", "Rental Income", "Gross Rent", "Rental Value", "Gross Earnings", "Earnings" or any "Extra Expense" resulting from:

Any loss or damage directly or indirectly caused by, or in any way arising from, any activity connected with the growth, manufacturing, storage, production or distribution of any drug(s), narcotic(s) or illegal substance(s) activity including alteration of the insured premises to facilitate such activity, whether or not the Insured has or had prior knowledge of such activity.

## **APPLICABLE TO ALL LIABILITY COVERAGES OF THIS POLICY**

This insurance does not apply to "bodily injury", "property damage", or "personal injury" arising out of any activity connected with the growth, manufacturing, storage, production or distribution of any drug(s), narcotic(s) or illegal substance(s) activity including alteration of the insured premises to facilitate such activity, whether or not the Insured has or had prior knowledge of such activity.

## **APPLICABLE TO ALL UMBRELLA LIABILITY COVERAGES OF THIS POLICY**

This insurance does not apply to "bodily injury", "property damage", or "personal injury" arising out of any activity connected with the growth, manufacturing, storage, production or distribution of any drug(s), narcotic(s) or illegal substance(s) activity including alteration of the insured premises to facilitate such activity, whether or not the Insured has or had prior knowledge of such activity.

## **DEFINITIONS**

**Illegal Substance** means any substance that is not legal for the Insured or any other party of interest, the Insured's employees or agents, tenants or any person to whom the Insured has entrusted the property insured, to possess, obtain, produce, provide, sell, traffic or use, and includes any controlled substance enumerated in the Schedule of the Controlled Drugs and Substances Act currently in force.

**Illegal Substance Activity** means any activity relating to the growing, cultivating, propagating or harvesting, manufacturing, distributing, storing or selling of any Illegal Substance.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY SHALL HAVE FULL FORCE AND EFFECT**

**A. STANDARD MORTGAGE CLAUSE (approved by the Insurance Bureau of Canada) - IT IS HEREBY PROVIDED AND AGREED THAT**

1. **BREACH OF CONDITIONS BY MORTGAGOR, OWNER OR OCCUPANT** - This insurance and every documented renewal thereof--AS TO THE INTEREST OF THE MORTGAGEE ONLY THEREIN--is and shall be in force notwithstanding any act, neglect, omission or misrepresentation attributable to the mortgagor, owner or occupant of the property insured, including transfer of interest, any vacancy or non-occupancy, or the occupation of the property for purposes more hazardous than specified in the description of the risk;  
PROVIDED ALWAYS that the Mortgagee shall notify forthwith the Insurer (if known) of any vacancy or non-occupancy extending beyond thirty (30) consecutive days, or of any transfer of interest or increased hazard THAT SHALL COME TO HIS KNOWLEDGE; and that every increase of hazard (not permitted by the Policy) shall be paid for by the Mortgagee--on reasonable demand--from the date such hazard existed, according to the established scale of rates for the acceptance of such increased hazard, during the continuance of this insurance.
2. **RIGHT OF SUBROGATION** - Whenever the Insurer pays the Mortgagee any loss award under this Policy and claims that --as to the Mortgagor or Owner--no liability therefor existed, it shall be legally subrogated to all rights of the Mortgagee against the Insured; but any subrogation shall be limited to the amount of such loss payment and shall be subordinate and subject to the basic right of the Mortgagee to recover the full amount of its mortgage equity in priority to the Insurer; or the Insurer may at its option pay the Mortgagee all amounts due or to become due under the mortgage or on the security thereof, and shall thereupon receive a full assignment and transfer of the mortgage together with all securities held as collateral to the mortgage debt.
3. **OTHER INSURANCE** - If there be other valid and collectible insurance upon the property with loss payable to the Mortgagee--at law or in equity--then any amount payable thereunder shall be taken into account in determining the amount payable to the Mortgagee.
4. **WHO MAY GIVE PROOF OF LOSS** - In the absence of the Insured, or the inability, refusal or neglect of the Insured to give notice of loss or deliver the required Proof of Loss under the Policy, then the Mortgagee may give the notice upon becoming aware of the loss and deliver as soon as practicable the Proof of Loss.
5. **TERMINATION** - The term of this mortgage clause coincides with the term of the Policy;  
PROVIDED ALWAYS that the Insurer reserves the right to cancel the Policy as provided by Statutory provision but agrees that the Insurer will neither terminate nor alter the Policy to the prejudice of the Mortgagee without the notice stipulated in such Statutory provision.
6. **FORECLOSURE** - Should title or ownership to said property become vested in the Mortgagee and/or assigns as owner or purchaser under foreclosure or otherwise, this insurance shall continue until expiry or cancellation for the benefit of the said Mortgagee and/or assigns.

SUBJECT TO THE TERMS OF THIS MORTGAGE CLAUSE (and these shall supersede any policy provisions in conflict therewith BUT ONLY AS TO THE INTEREST OF THE MORTGAGEE), loss under this policy is made payable to the Mortgagee.

**B. APPLICATION OF DEDUCTIBLE**

Should one occurrence give rise to the application of more than one deductible, only the largest individual deductible amount shall apply.

**C. COMMERCIAL PROPERTY POLICY CONDITIONS (Applicable in all jurisdictions except the Province of Québec)**

1. **MISREPRESENTATION** - If a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the Insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.
2. **PROPERTY OF OTHERS** - Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured therein is stated in the contract.
3. **CHANGE OF INTEREST** - The Insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act or change of title by succession, by operation of law, or by death.
4. **MATERIAL CHANGE** - Any change material to the risk and within the control and knowledge of the Insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the Insurer or its local agent, and the Insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the Insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the Insurer an additional premium, and in default of such payment the contract is no longer in force and the Insurer shall return the unearned portion, if any, of the premium paid.
5. **TERMINATION**
  - i) This contract may be terminated
    - (a) by the Insurer giving to the Insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered
    - (b) by the Insured at any time on request.
  - ii) Where this contract is terminated by the Insurer,

- (a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but, in no event, shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified, and
  - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- iii) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
  - iv) The refund may be made by money, postal or express company money order or cheque payable at par.
  - v) The fifteen days mentioned in clause (a) of subcondition i) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

**6. REQUIREMENTS AFTER LOSS**

- i) Upon the occurrence of any loss of or damage to the insured property, the Insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11
    - (a) forthwith give notice thereof in writing to the Insurer
    - (b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
      - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed
      - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes
      - (iii) stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the Insured
      - (iv) showing the amount of other insurances and the names of other Insurers
      - (v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property
      - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract
      - (vii) showing the place where the property insured was at the time of loss
    - (c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value
    - (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
  - ii) The evidence furnished under clauses (c) and (d) of sub-paragraph i) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.
- 7. FRAUD** - Any fraud or willfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.
- 8. WHO MAY GIVE NOTICE AND PROOF** - Notice of loss may be given and proof of loss may be made by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.
- 9. SALVAGE**
- i) The Insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
  - ii) The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the Insured and required under sub-paragraph i) of this condition according to the respective interests of the parties.
- 10. ENTRY, CONTROL, ABANDONMENT** - After loss or damage to insured property, the Insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the Insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer is not entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.
- 11. APPRAISAL** - In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under The Insurance Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.
- 12. WHEN LOSS PAYABLE** - The loss is payable within sixty (60) days after completion of the proof of loss, unless the contract provides for a shorter period.
- 13. REPLACEMENT**



- i) The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty (30) days after receipt of the proofs of loss.
- ii) In that event the Insurer shall commence to so repair, rebuild, or replace the property within forty-five (45) days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

14. ACTION - Every action or proceeding against the Insurer for the recovery of any claim under or by virtue of this contract is absolutely barred unless commenced within one year\* next after the loss or damage occurs.

\* two years in Province of Manitoba and Yukon Territory.

Saskatchewan Statutory Condition 14 is repealed. See The Limitations Act, S.S. 2004, c.L-16.1

15. NOTICE - Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the Province. Written notice may be given to the Insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.

16. CONTRIBUTION - If on the happening of any loss or damage to property in consequence of which a claim is or may be made under this policy there is in force more than one contract covering the same interest, the liability of the Insurer hereunder shall be limited to its rateable proportion of such claim.

## D. ADDITIONAL CONDITIONS (Applicable in all jurisdictions except the Province of Québec)

1. NOTICE TO AUTHORITIES - Where the loss is due to malicious acts, burglary, robbery, theft, or attempt thereof, or is suspected to be so due, the Insured shall give immediate notice thereof to the police or other authorities having jurisdiction.
2. NO BENEFIT TO BAILEE - It is warranted by the Insured that this insurance shall in no wise enure directly or indirectly to the benefit of any carrier or other bailee.
3. PAIR AND SET - In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are a part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.
4. PARTS - In the case of loss of or damage to any part of the insured property whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.
5. SUE AND LABOUR - It is the duty of the Insured in the event that any property insured hereunder is lost to take all reasonable steps in and about the recovery of such property. The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with the foregoing according to the respective interests of the parties.
6. BASIS OF SETTLEMENT - Unless otherwise provided, the Insurer is not liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.
7. SUBROGATION - The Insurer, upon making any payment or assuming liability therefor under this Policy, shall be subrogated to all rights of recovery of the Insured against any person, and may bring action in the name of the Insured to enforce such rights. 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 proportions in which the loss or damage has been borne by them respectively.

## E. GENERAL CONDITIONS (Applicable in the Province of Québec)

This policy is subject to the Civil Code of the Province of Québec

Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.

For all coverages except where inapplicable.

### 1. STATEMENTS

#### 1.1 Representation of risk (article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

#### 1.2 Material change in risk (articles 2466 and 2467)

The Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty days of the proposal, the policy ceases to be in force.

#### 1.3 Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the client or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

1.4 Warranties (Article 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Insured.

2. GENERAL PROVISIONS

2.1 Insurable interest (Articles 2481 and 2484)

(Applicable only to property insurance)

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

2.2 Changes (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

2.3 Assignment (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

2.4 Books and records

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

2.5 Inspection

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

2.6 Currency

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

3. LOSSES

3.1 Notice of loss (Article 2470)

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

3.2 Information to be provided (Article 2471)

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

3.3 False representation (Article 2472)

Any deceitful representation entails the loss of the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

3.4 Intentional Fault (Article 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect of those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

3.5 Notice to police (applicable to property insurance only)

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

3.6 Safeguarding and examination of property (Article 2495)  
(applicable to property insurance only)

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

3.7 Admission of liability and cooperation

The Insured shall cooperate with the Insurer in the processing of all claims

(The following two paragraphs are applicable to liability insurance only: article 2504)

No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk.

3.8 Right of action (Article 2502)

(applicable to liability insurance only)

The Insurer may set up against the injured third person any grounds he could have invoked against the Insured at the time of the loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right of action against the Insured in respect of facts that occurred after the loss.

## 4. COMPENSATION AND SETTLEMENT

4.1 Basis of settlement (Articles 2490, 2491, 2493)

(applicable to property insurance only)

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity in the event of partial loss.

4.2 Pair and set (applicable to property insurance only)

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

4.3 Parts (applicable to property insurance only)

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

4.4 Replacement (Article 2494)

(applicable to property insurance only)

Subject to the rights of preferred and hypothecary creditors, the Insurer reserves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

4.5 Time of payment (Articles 1591, 2469 and 2473)

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

4.6 Property of others (applicable to property insurance only)

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

4.7 Waiver

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

4.8 Limitation of actions (Article 2925)

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

4.9 Subrogation (Article 2474)

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

**5. OTHER INSURANCE**

**5.1 Property insurance (Article 2496)**

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

**5.2 Liability insurance**

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

– Contribution by equal share:

If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

– Contribution by limits:

If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

**6. CANCELLATION (Articles 2477 and 2479)**

This policy may be cancelled at any time:

(a) By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.

(b) By the Insurer giving written notice to each Named Insureds. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

**7. NOTICE**

Any notice to the Insurer may be sent by any recognized means of communication to the Insurer or its authorized representative. Notice may be given to the named Insured by letter personally delivered to him or by mail addressed to him at his last known address.

It is incumbent upon the sender to prove that such notice was received.

# Business Income General Policy Conditions (All Provinces excluding Quebec)

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This Policy is made and accepted subject to the provisions, stipulations and conditions printed herein which are hereby specially referred to and made a part of this Policy together with such other provisions, agreements, or conditions as may be endorsed herein or added hereto. No term or condition of a contract 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 a contract 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 contract. By the acceptance of this Policy the Insured acknowledges the cancellation, from the effective date of this Policy, of any previous Policy, or the renewal thereof, which is stated as being replaced.

## Policy Conditions

### MISREPRESENTATION

1. If a person applying for insurance falsely describes, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the Insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to any claim in relation to which the misrepresentation or omission is material.

### CHANGE OF INTEREST

2. This policy shall be avoided if at any time after the commencement of this insurance
  - i) the business as specified on the Declaration Page is wound up or carried on by a liquidator or receiver or permanently discontinued; or
  - ii) the Insured's interest ceases otherwise than by death; unless its continuance be admitted by endorsement signed by or on behalf of the Insurer.

### MATERIAL CHANGE

3. Any change material to the risk and within the control and knowledge of the Insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the Insurer or its local agent; and the Insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the Insured in writing that, if the Insured desires the contract to continue in force, the Insured must, within fifteen days of the receipt of the notice, pay to the Insurer an additional premium, and in default of such payment the contract shall no longer be in force and the Insurer shall return the unearned portion, if any, of the premium paid.

### TERMINATION OF INSURANCE

4.
  - 1) This contract may be terminated:
    - a) by the Insurer giving to the Insured 15 days' notice of termination by registered mail, or 5 days' written notice of termination personally delivered.
    - b) by the Insured at any time on request.
  - 2) Where this contract is terminated by the Insurer
    - a) the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but in no event shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified; and
    - b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
  - 3) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of premium actually paid by the Insured over the short rate premium for the expired time, but in no event, shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
  - 4) The refund may be made by money, postal or express company money order, or by cheque payable at par.
  - 5) The 15 days mentioned in Clause (a) of Subcondition (1) of this Condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

### REQUIREMENTS AFTER LOSS

5. Upon the occurrence of any loss of or damage to the property in consequence of which a claim is or may be made under this policy, the Insured shall
  - a) forthwith give notice thereof in writing to the Insurer;
  - b) at the Insured's own expense deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration setting forth particulars of the Insured's claim, together with details of any other insurances covering business income, business interruption or other consequential loss of any kind resulting from the lost or damaged property and stating the loss of or damage to the property did not occur through any wilful act or neglect or the procurement, means or connivance of the Insured;

# Business Income General Policy Conditions (All Provinces excluding Quebec)

R2

- c) at the Insured's own expense produce and furnish to the Insurer such books of accounts and other business books, vouchers, invoices, balance sheets and other documents, proofs, information, explanation and other evidence as may reasonably be required by the Insurer for the purpose of investigating or verifying the claim.

## CLAIMS

6. No claim under this policy shall be payable unless the terms of Condition 5 above have been complied with and in the event of non-compliance therewith in any respect, any payment on account of the claim already made shall be repaid to the Insurer forthwith.

## FRAUD

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars. vitiates the claim of the person making the declaration.

## WHO MAY GIVE NOTICE AND PROOF

8. Notice of loss may be given and proof of loss may be made by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.

## APPRAISAL

9. In the event of disagreement as to the amount to be paid under this policy (liability being otherwise admitted), such disagreement shall be referred to and resolved by appraisal as provided under The Insurance Act. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

## WHEN LOSS PAYABLE

10. The loss shall be payable within sixty days after completion of the proof of loss.

## ACTION

11. Every action or proceeding against the Insurer for the recovery of any claim under or by virtue of this contract shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

## NOTICE

12. Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the province. Written notice may be given to the Insured named in the contract by letter personally delivered to the Insured or by registered mail addressed to the Insured at the Insured's latest post office address as notified to the Insurer. In this condition the expression "registered" means registered in or outside Canada.

## CONTRIBUTION

13. If on the happening of any loss or damage to property in consequence of which a claim is or may be made under this policy there is in force more than one contract covering the same interest, the liability of the Insurer hereunder shall be limited to its rateable proportion of such claim.

# Commercial Crime

## General Conditions and Definitions

R3

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is or is not insured.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Words and phrases in quotation marks are defined in the General Definitions section of the policy.

Unless stated otherwise in the Declarations, any rider or endorsement, the following General Conditions and General Definitions apply to all riders and/or endorsements forming part of this policy.

### GENERAL CONDITIONS

#### Condition 1. CANADIAN CURRENCY CLAUSE:

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

#### Condition 2. CANCELLATION:

- (a) You may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- (b) We may cancel this policy by mailing or delivering to you written notice of cancellation at least:
  - 1) 15 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - 2) 30 days before the effective date of cancellation if we cancel for any other reason.Except in Quebec, if notice is mailed, cancellation takes effect 15 or 30 days after receipt of the letter by the post office to which it is addressed, depending upon the reason for cancellation as shown in (b) 1) or 2) above. Proof of mailing will be sufficient proof of notice.  
In Quebec, cancellation takes effect either 15 or 30 days after receipt of the notice at your last known address depending upon the reason for cancellation.  
Delivery by us shall be equivalent to mailing.
- (c) We will mail or deliver our notice to your last mailing address known to us.
- (d) The policy period will end on the date cancellation takes effect.
- (e) If this policy is cancelled, we will send you any premium refund due. If we cancel, the refund will be pro rata. If you cancel, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

#### Condition 3. CHANGE OF INTEREST:

We will not be liable to anyone other than you unless we have been advised of a change of interest and consented to it. However, if you die, or are declared insolvent or bankrupt, this policy will insure your legal representative.

#### Condition 4. CHANGES:

This policy contains all the agreements between you and us concerning the insurance provided by this policy. You may request changes to this policy; however, such changes will be effective only upon our consent as evidenced by our issuing an endorsement which will form part of this policy.

#### Condition 5. DISCOVERY PERIOD FOR LOSS:

We will pay only for an insured loss discovered no later than one year from the end of the policy period.

#### Condition 6. DUTIES IN THE EVENT OF LOSS:

After you discover a loss or a situation that may result in loss of or damage to insured property you must:

- (a) notify us as soon as possible;
- (b) submit to examination under oath at our request and give us a signed statement of your answers;
- (c) give us a detailed, sworn proof of loss within 120 days;
- (d) cooperate with us in the investigation and settlement of any claim;
- (e) give immediate notice to the public police, or other peace authorities having jurisdiction, of any loss due to violation of law;
- (f) if "securities" are insured under this policy, take all reasonable measures to prevent their negotiation, sale or conversion.

#### Condition 7. INSPECTION:

# Commercial Crime General Conditions and Definitions

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We will be permitted to inspect your "premises" at any reasonable time.

## Condition 8. JOINT INSURED:

- (a) If more than one Named Insured is stated in the Declarations, the first Named Insured will act for itself and for every other Named Insured for all purposes for this insurance. If the first Named Insured ceases to be covered, then the next Named Insured becomes the first Named Insured.
- (b) If any Named Insured or partner or officer of that Named Insured has knowledge of any information relative to this insurance, that knowledge is considered knowledge of every Named Insured.
- (c) An employee of any Named Insured is considered to be an employee of every Named Insured.

## Condition 9. LEGAL ACTION AGAINST US:

You may not bring any legal action against us:

- (a) unless you have complied with all the terms of this insurance; and
- (b) until 90 days after you have filed proof of loss with us; and
- (c) except if the loss occurs in Quebec, unless brought within 2 years from the date you discover the loss.

## Condition 10. LOSS SUSTAINED DURING PRIOR INSURANCE:

If you had similar insurance, consisting of one or more policies providing continuous insurance, which terminated with the beginning of this policy period, loss, to the extent that it is not insured by such prior insurance solely because of late discovery, shall be deemed to have occurred on the first day of this policy period.

## Condition 11. OTHER INSURANCE:

If there is any other valid and collectible insurance which applies to any loss insured by this policy, the insurance under this policy shall apply only as excess insurance over such other insurance, except in the province of Quebec where each of the insurers under its policy is liable to you for its rateable proportion of the loss.

## Condition 12. OWNERSHIP OF PROPERTY; INTEREST COVERED:

The insured property may be owned by you or held by you in any capacity. However, the insurance applies only to your interest in such property, or your legal liability for such property and does not apply to the interest of any other person or organization in any of said property unless included in your proof of loss.

## Condition 13. POLICY PERIOD, TERRITORY:

This policy applies only to loss which occurs during the policy period shown in the Declarations and within Canada or the United States of America.

## Condition 14. RECORDS:

You must keep records of all insured property so we can verify the amount of any loss.

## Condition 15. RECOVERIES:

- (a) Any recoveries, less the cost of obtaining them, made after settlement of loss insured by this policy will be distributed as follows:
  - 1) to you, until you are reimbursed for any loss that you sustained that exceeds the Limit of Insurance and the deductible amount, if any;
  - 2) then to us, until we are reimbursed for the settlement made;
  - 3) then to you, until you are reimbursed for that part of the loss equal to the deductible amount, if any.
- (b) Recoveries do not include any recovery:
  - 1) from insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
  - 2) of original "securities" after duplicates of them have been issued.
- (c) You are entitled to the recovered property upon reimbursing us for the amount of indemnity paid to you for such property. Whoever recovers such property will immediately notify the other party in writing.



# Commercial Crime

## General Conditions and Definitions

R3

### Condition 16. REPRESENTATIONS:

By accepting this policy, you agree:

- (a) that the statements in the Declarations are accurate and complete;
- (b) those statements are based upon representations you made to us; and
- (c) we have issued this policy in reliance upon your representations.

### Condition 17. TRANSFER OF YOUR RIGHTS OF RECOVERY AGAINST OTHERS TO US:

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

### Condition 18. VALUATION:

With respect to "securities", we will not be liable for more than their actual cash value at the close of business on the business day immediately preceding discovery of the loss. We may, at our election pay such actual cash or secure the replacement of the "securities" by arranging for the issuance of a lost "securities" bond.

With respect to other property, we will not be liable for more than the actual cash value thereof at the time of loss. However, the actual cash value of such other property you hold as a pledge, or as collateral for an advance or a loan, will be deemed not to exceed the value of the property as determined and recorded by you when making the advance or loan, nor, in the absence of such record, the unpaid portion of the advance or loan plus accrued interest thereon at legal rates.

With your consent, we may settle any claim for loss of property with the owner thereof. Any property for which we have made indemnification will become our property.

In case of damage to the "premises", we will not be liable for more than the actual cost of repairing such "premises", or of replacing same with property or material of like quality and value.

We may, at our election, pay the actual cash value, or pay for such repair or replacement. If you cannot agree with us upon the cash value or the cost of repair or replacement, the cash value or the cost will be determined by arbitration.

### GENERAL DEFINITIONS

"BANKING PREMISES" means the interior of that portion of any building occupied by a banking institution or similar safe depository.

"BURGLARY" (except as used in a Stock Burglary Rider) means the unlawful taking of insured property from within the "premises" by a person unlawfully entering or leaving the "premises" as evidenced by marks of forcible entry or exit.

In the event that insurance is provided by a Stock Burglary Rider, "burglary" shall mean the unlawful taking of insured property from within the "premises", showcases or show windows, by a person unlawfully entering or leaving the "premises", showcases or show windows as evidenced by marks of forcible entry to or exit from the "premises", showcases or show windows.

"CUSTODIAN" means you or your partner or any employee authorized by you to have the care and custody of insured property, excluding any person while acting as a "guard", janitor, porter, or "watchman".

"EQUIPMENT" means:

- (1) all contents usual to your business including furniture, furnishings, fittings, fixtures, machinery, tools, utensils and appliances, other than building or "stock";
- (2) similar property belonging to others which you are under obligation to keep insured or for which you are legally liable.

"GUARD" means any able-bodied person who accompanies a "custodian" at your direction, but who is not a driver of a public conveyance.

"JEWELLERY" means jewellery, watches, gems, pearls, precious or semi-precious stones and articles containing one or more gems, pearls, or precious or semi-precious stones.

"KIDNAPPING" means the compelling of a "custodian" outside the "premises", by violence or threat of violence, to admit a person or to furnish such person with the means of entry into the "premises" while closed for business, resulting in unlawful taking by such person of insured property from within the "premises", provided such loss shall occur before the "premises" are next open for business.

"MONEY" means currency and coins in current use and having a face value.

"OCCURRENCE" means any act or series of related acts involving one or more persons which results in a loss insured by this policy.

# Commercial Crime

## General Conditions and Definitions

R3

"PREMISES" means the interior of that portion of any building you occupy in conducting your business at the address designated in the Declarations but shall not include (1) showcases or show windows not opening directly into the interior of the premises, or (2) public entrances, halls or stairways.

If insurance is provided by an Inside/Outside Robbery Rider, or a Money and Securities Rider, the definition of "premises" is extended to include the space immediately surrounding such building occupied solely by you in conducting your business but shall not include (1) showcases or show windows not opening directly into the interior of the premises, or (2) public entrances, halls or stairways.

If insurance is provided by a Church Theft Rider, the definition of "premises" is extended to include: the rectory, parish-house, parsonage, manse, or residence occupied by a duly constituted financial or administrative officer of yours; that portion of any other building which is owned by or leased to you and used for the religious, educational, recreational or social activities of your congregation; and the grounds and out-buildings incidental to the above.

If insurance is provided by a Damage to Building by Burglary or Robbery Rider the definition of "premises" is extended to include the building and permanent fittings and fixtures attached thereto and forming part thereof.

"PROPERTY" means any property usual to your business other than "money" and "securities", that has intrinsic value but does not include motor vehicles, trailers or semi-trailers or equipment and accessories attached to them or any property that is excluded under any rider.

"ROBBERY" means the taking of insured property from a "custodian" by a person or persons who have:

- (1) caused or threatened to cause the "custodian" bodily harm; or
- (2) committed an overt unlawful act witnessed by the "custodian"; or
- (3) taken such property from a "custodian" who has been killed or rendered unconscious.

"ROBBERY OF A WATCHMAN" means the unlawful taking of insured property by violence or threat of violence inflicted upon a "watchman" and while such a "watchman" is on duty within the "premises".

"SAFE BURGLARY" means:

- (1) the unlawful taking of insured property from a vault or safe, which has a combination lock and is located within the "premises", by a person making unlawful entry into the vault or the safe and a vault which contains the safe, provided that:
  - (a) all doors of the vault, safe or vault and safe are closed and locked by a combination lock; and
  - (b) the unlawful entry was forcible and is evidenced by visible marks on the exterior of the vault or safe and any vault containing the safe; or
- (2) the unlawful taking of the safe from within the "premises".

In the event that insurance is provided by a Safe Burglary Rider, the definition of "safe burglary" is restricted to any safe or vault described on the Declarations Page for form C11 as **Description of safe or vault**.

"SECURITIES" means all negotiable and non-negotiable instruments or contracts representing "money" or other property, and includes revenue and other stamps in current use, tokens, and tickets but does not include "money".

"STOCK" means:

- (1) merchandise of every description usual to your business but does not include motor vehicles, trailers or semi-trailers or equipment and accessories attached to them;
- (2) packing, wrapping and advertising materials; and
- (3) similar property belonging to others which you are under obligation to keep insured or for which you are legally liable;

but does not include "securities".

"WATCHMAN" means any person employed exclusively by you to have care and custody of insured property inside the "premises", while the "premises" are closed for business, and who has no other duties.

# Short Rate Cancellation Table

R7

Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time as indicated in the table below. In no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

Days in force	% of premium returned	Days in force	% of premium returned	Days in force	% of premium returned	Days in force	% of premium returned	Days in force	% of premium returned	Days in force	% of premium returned
1	0.95	64	0.72	127	0.55	190	0.38	253	0.24	316	0.10
2	0.94	65	0.72	128	0.54	191	0.38	254	0.24	317	0.10
3	0.93	66	0.71	129	0.54	192	0.37	255	0.24	318	0.10
4	0.93	67	0.71	130	0.54	193	0.37	256	0.23	319	0.10
5	0.92	68	0.71	131	0.54	194	0.37	257	0.23	320	0.09
6	0.92	69	0.71	132	0.53	195	0.37	258	0.23	321	0.09
7	0.91	70	0.70	133	0.53	196	0.37	259	0.23	322	0.09
8	0.91	71	0.70	134	0.53	197	0.36	260	0.23	323	0.09
9	0.90	72	0.70	135	0.53	198	0.36	261	0.22	324	0.08
10	0.90	73	0.70	136	0.52	199	0.36	262	0.22	325	0.08
11	0.89	74	0.69	137	0.52	200	0.36	263	0.22	326	0.08
12	0.89	75	0.69	138	0.52	201	0.35	264	0.22	327	0.08
13	0.88	76	0.69	139	0.51	202	0.35	265	0.21	328	0.08
14	0.88	77	0.68	140	0.51	203	0.35	266	0.21	329	0.07
15	0.87	78	0.68	141	0.51	204	0.35	267	0.21	330	0.07
16	0.87	79	0.68	142	0.51	205	0.35	268	0.21	331	0.07
17	0.86	80	0.68	143	0.50	206	0.34	269	0.21	332	0.07
18	0.86	81	0.67	144	0.50	207	0.34	270	0.20	333	0.06
19	0.85	82	0.67	145	0.50	208	0.34	271	0.20	334	0.06
20	0.85	83	0.67	146	0.50	209	0.34	272	0.20	335	0.06
21	0.84	84	0.66	147	0.49	210	0.33	273	0.20	336	0.06
22	0.84	85	0.66	148	0.49	211	0.33	274	0.19	337	0.06
23	0.83	86	0.66	149	0.49	212	0.33	275	0.19	338	0.05
24	0.83	87	0.66	150	0.48	213	0.33	276	0.19	339	0.05
25	0.83	88	0.65	151	0.48	214	0.33	277	0.19	340	0.05
26	0.82	89	0.65	152	0.48	215	0.32	278	0.19	341	0.05
27	0.82	90	0.65	153	0.48	216	0.32	279	0.18	342	0.05
28	0.82	91	0.65	154	0.47	217	0.32	280	0.18	343	0.04
29	0.82	92	0.64	155	0.47	218	0.32	281	0.18	344	0.04
30	0.81	93	0.64	156	0.47	219	0.31	282	0.18	345	0.04
31	0.81	94	0.64	157	0.46	220	0.31	283	0.17	346	0.04
32	0.81	95	0.63	158	0.46	221	0.31	284	0.17	347	0.03
33	0.80	96	0.63	159	0.46	222	0.31	285	0.17	348	0.03
34	0.80	97	0.63	160	0.46	223	0.31	286	0.17	349	0.03
35	0.80	98	0.63	161	0.45	224	0.30	287	0.17	350	0.03
36	0.80	99	0.62	162	0.45	225	0.30	288	0.16	351	0.03
37	0.79	100	0.62	163	0.45	226	0.30	289	0.16	352	0.02
38	0.79	101	0.62	164	0.45	227	0.30	290	0.16	353	0.02
39	0.79	102	0.62	165	0.44	228	0.30	291	0.16	354	0.02
40	0.79	103	0.61	166	0.44	229	0.29	292	0.15	355	0.02
41	0.78	104	0.61	167	0.44	230	0.29	293	0.15	356	0.01
42	0.78	105	0.61	168	0.43	231	0.29	294	0.15	357	0.01
43	0.78	106	0.60	169	0.43	232	0.29	295	0.15	358	0.01
44	0.77	107	0.60	170	0.43	233	0.28	296	0.15	359	0.01
45	0.77	108	0.60	171	0.43	234	0.28	297	0.14	360	0.01
46	0.77	109	0.60	172	0.42	235	0.28	298	0.14	361	0.00
47	0.77	110	0.59	173	0.42	236	0.28	299	0.14	362	0.00
48	0.76	111	0.59	174	0.42	237	0.28	300	0.14	363	0.00
49	0.76	112	0.59	175	0.42	238	0.27	301	0.14	364	0.00
50	0.76	113	0.59	176	0.41	239	0.27	302	0.13	365	0.00
51	0.76	114	0.58	177	0.41	240	0.27	303	0.13		
52	0.75	115	0.58	178	0.41	241	0.27	304	0.13		
53	0.75	116	0.58	179	0.40	242	0.26	305	0.13		
54	0.75	117	0.57	180	0.40	243	0.26	306	0.12		
55	0.74	118	0.57	181	0.40	244	0.26	307	0.12		
56	0.74	119	0.57	182	0.40	245	0.26	308	0.12		
57	0.74	120	0.57	183	0.39	246	0.26	309	0.12		
58	0.74	121	0.56	184	0.39	247	0.25	310	0.12		
59	0.73	122	0.56	185	0.39	248	0.25	311	0.11		
60	0.73	123	0.56	186	0.39	249	0.25	312	0.11		
61	0.73	124	0.56	187	0.39	250	0.25	313	0.11		
62	0.73	125	0.55	188	0.38	251	0.24	314	0.11		
63	0.72	126	0.55	189	0.38	252	0.24	315	0.10		

## IMPORTANT

The notice below applies to insurance contracts containing non automobile legal liability coverages in provinces where statistical data relating to such contracts must be reported to the Superintendent of Insurance.

### LEGAL AUTHORITY FOR COLLECTION

Insurance Act, R.S.O. 1990, c.I.8, section 101(1).

### PRINCIPAL PURPOSE FOR WHICH PERSONAL INFORMATION IS INTENDED TO BE USED

Information collected by insurers from insureds or supplied to insurers pertaining to the attached document will be used:

- to compile aggregate statistical data to be used in monitoring trends in the insurance industry;
- to develop statistical exhibits to be used in monitoring the insurance industry;
- to respond to requests for customized statistical information on the insurance industry;
- to respond to inquiries on statistical information made to Office of the Superintendent of Insurance;
- and
- to use and disclose such information for purposes which are consistent with the previous clauses.

### THE PUBLIC OFFICIAL WHO CAN ANSWER QUESTIONS ABOUT THE COLLECTION IS:

Manager, Statistical Services  
Financial Services Commission of Ontario  
5160 Yonge Street, 17th Floor  
Box 85  
North York, Ontario M2N 6L9

Telephone: (416) 250-7250  
Fax: (416) 590-7070

**Definition:**

Fire insurance can be defined as insurance against loss or damage to property through fire, lightning or explosion due to ignition.

**Exceptions:**

The provisions governing Fire insurance do not apply to the following:

- (a) insurance falling within the classes of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance;
- (b) where the subject matter of the insurance is rents, charges or loss of profits;
- (c) where the peril of fire is an incidental peril to the coverage provided; or
- (d) where the subject matter of the insurance is property that is insured by an insurer or group of insurers primarily as a nuclear risk under an insurance covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils.

Unless the Contract of Insurance specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion.

**All other terms and conditions remain unchanged.**

**This amendment modifies coverage provided by form R1, R2 and R3, but only if indicated on the Declarations Page for the form.**

It is agreed that any Cancellation Clause forming part of the CONDITIONS of the policy shall be deleted and replaced by the following Cancellation Clause:

- (a) The Insured shown in the Declarations Page may cancel this policy by mailing or delivering to the Insurer advance written notice of cancellation.
- (b) The Insurer may cancel this policy by mailing or delivering to the Insured written notice of cancellation at least:
  - (1) Fifteen (15) days before the effective date of cancellation if the Insurer cancels for non-payment of premium by registered letter, or five (5) days written notice of termination personally delivered; or
  - (2) The **Number of days** as stated in the Declarations Page before the effective date of cancellation if the Insurer cancels for reason other than non-payment of premium.
- (c) Except in Quebec, if notice is mailed, cancellation takes effect either fifteen (15) or the **Number of days** as stated in the Declarations Page after receipt of the letter by the post office to which it is addressed, depending upon the reason for cancellation. In Quebec, the Insurer's notice of cancellation takes effect either fifteen (15) or the **Number of days** as stated in the Declarations Page after receipt of the notice at the last known address of the first Named Insured, depending upon the reason for cancellation.
- (d) The Insurer will mail or deliver the Insurer's notice to the Insured's last mailing address known to the Insurer.
- (e) Where this contract is terminated by the Insurer:
  - (1) the Insurer shall refund the excess of premium actually paid by the Insured over the proportional premium for the expired time, but in no event shall the proportional premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - (2) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (f) Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be considered to be less than any minimum retained premium specified.
- (g) The refund may be made by money, postal or express company money order, or cheque payable at par. The cancellation will be effective even if the Insurer has not made or offered a refund.
- (h) If notice is mailed, proof of mailing will be sufficient proof of notice.

**All other terms and conditions of this policy remain unchanged.**

## COMMON EXCLUSIONS

Words and phrases in quotation marks have special meaning as defined below

The following exclusions apply to all Property, Business Interruption and Crime forms and endorsements forming part of this policy, and if applicable, will replace any existing exclusion that may be contained in such form or endorsement.

### 1. FUNGI AND SPORES

This policy 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 policy; or
  - (ii) to loss or damage caused directly by a resultant peril not otherwise excluded in this policy;
- (b) the cost or expense for any testing, monitoring, evaluating or assessing of "fungi", or "spores".

### 2. NUCLEAR

This policy does not insure against loss or damage caused directly or indirectly:

- (a) by any nuclear incident (as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any amending law) or nuclear explosion, except for ensuing loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas, all as described in the form to which this endorsement attaches;
- (b) by contamination by radioactive material.

### 3. POLLUTION

This policy 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". This exclusion does not apply:
  - (i) if the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants" is directly caused by a peril not otherwise excluded in this policy; or
  - (ii) to loss or damage caused directly by a resultant peril not otherwise excluded in this policy;
- (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".

### 4. TERRORISM

This policy does not insure loss or damage caused directly or indirectly, in whole or in part, by "terrorism" or by any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism". This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage. If any portion of this exclusion is found to be invalid, unenforceable or contrary to statute, the remainder shall remain in full force and effect.

### 5. WAR OR MILITARY ACTION

This policy does not insure against loss or damage caused directly or indirectly in whole or in part by war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military power. This exclusion applies whether or not there are one or more other causes or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage.

## DEFINITIONS

Wherever used in this endorsement:

- (a) "**Clean up**" means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to any of these processes.
- (b) "**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.
- (c) "**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.
- (d) "**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".
- (e) "**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 and/or instilling fear in the public or a section of the public.

All other terms and conditions of the policy remain unchanged

### **BLANKET ADDITIONAL INSURED CLAUSE**

It is hereby understood and agreed that the interest of any person, firm or organization acting as a customer for the Original Insured for legal liabilities arising out of a contract with the Insured are automatically included hereon. Coverage under the provision is afforded as per the present policy terms and conditions and only with respect to premises, properties or "work" performed by the Named Insured.

Provided always that all such persons or parties shall observe fulfill and be subject to the terms, conditions and exclusions of this policy as though they were the Insured.

Certificates may be produced for Additional Insured's by original Insured's broker provided always that such certificates are for information purposes only and do not change the terms of this policy.

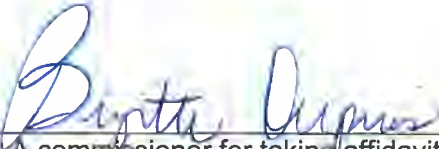
**All other terms and conditions of this policy remain unchanged.**



2020

Hfx No. 501252

This is Exhibit "B" to the affidavit of Linda Savoie, sworn to before me at Moncton, New Brunswick, on January <sup>4<sup>th</sup></sup> 2023

A handwritten signature in blue ink, reading "Brigitte Dupuis", written over a horizontal line.

A commissioner for taking affidavits

Name:

Official Capacity:

**Brigitte Dupuis**  
**Commissioner of Oaths**  
My commission expires: Dec 31, 2027

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**From:** Jim Kennedy <jim.kennedy@valourinvestments.com>  
**Sent:** Monday, December 12, 2022 10:45 PM  
**To:** MatthewJ.GOLDING@bdc.ca  
**Cc:** Sara L. Scott  
**Subject:** 125 Prince William  
**Attachments:** Agreement of Purchase and Sale.pdf

**This is an external email.**

Hi Matt,

Connecting with you directly because time is of the essence on this matter, CC'ing Sara to make sure she's kept in the loop. I've been contacted by a serious buyer for 125 Prince William but am not in a position to negotiate until knowing that we are on the same page. I'm happy to include you on each step but am hoping we can have a call tomorrow to discuss. I've attached the offer for your review.

I believe it made most sense to contact you directly rather than going through lawyers only because the offer is only open until Wednesday and I wanted to expedite communication. If you can please let me know if/when you're free for a call I'd appreciate it.

Thanks



**Jim Kennedy** - Managing Partner

M [902.877.6595](tel:902.877.6595)

E [Jim.Kennedy@ValourInvestments.com](mailto:Jim.Kennedy@ValourInvestments.com)

W [www.ValourInvestments.com](http://www.ValourInvestments.com)



# AGREEMENT OF PURCHASE AND SALE

Approved by The New Brunswick Real Estate Association for use by members under  
An Act to Incorporate The New Brunswick Real Estate Association



The attached schedule, if applicable, forms part of this contract:

- Vacant Land       Mini/Mobile Home       Condominium       Multi-Use Residential Income Properties

The Buyer Jacques Bouchacourt

offers to buy from the Seller 11016946 Canada Inc through

Brunswick Brokers Limited

Seller's Agent (Company)

and

eXp REALTY

Buyer's Agent (Company)

the Property designated as civic address: 125 Prince William Street, Saint John, NB

having PID(s): 55176598 PAN #: 04486923 (the "Property")

at a purchase price of Nine Hundred Thousand Dollars

(\$ 900,000.00) on the following terms and conditions:

### 1. HST

The Seller is responsible to determine if the transaction is subject to HST. The parties agree that **IF** this transaction is subject to HST, any such HST applicable to the transaction

IS included in the purchase price.

IS NOT included in the purchase price.

JB  
Buyer's Initials

    
Seller's Initials

### 2. CLOSING DATE

This Agreement shall be completed on or before the 30 day of March, 2023 (hereinafter called the "Closing Date"). Vacant possession of the Property shall be given to the Buyer, unless otherwise specified. The Seller shall ensure that the Property is available and accessible for the pre-closing inspection by 2:00 p.m. on or before the 29 day of March, 2023.

### 3. SALE OF BUYER'S PROPERTY

(a) This offer  IS or  IS NOT subject to the sale of the Buyer's Property located at \_\_\_\_\_ on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(b) It is agreed and understood that the Seller may continue to offer the Seller's property for sale. If another offer, acceptable to the Seller, is obtained, the Seller or Seller's Agent shall notify the Buyer or Buyer's Agent. This notice shall be communicated without delay and followed up by written notice to the Buyer or Buyer's Agent. The Buyer will be allowed \_\_\_\_\_ hours, Sundays and holidays included, from the time of the written notice to remove all conditions related to the sale of the Buyer's property, failing which this agreement becomes null and void. Neither the Seller nor the Seller's Agent will be liable for any cost or damages incurred by the Buyer.

(c) The Buyer  IS or  IS NOT required to meet or exceed (in the opinion of the Seller), the terms and conditions of any new offer acceptable to the Seller.

(d) It is agreed and understood that at any time before the Seller or Seller's Agent gives notice to the Buyer or Buyer's Agent regarding another acceptable offer, the Buyer may waive this condition however, this condition must be waived \_\_\_\_\_ days before the Closing Date, failing which this Agreement becomes null and void.

Acknowledgement of completion of Page 1 - Buyer's Initials JB / \_\_\_\_\_ Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

Property designated as civic address: 125 Prince William Street, Saint John, NB

**4. DEPOSIT**

(a) Deposit(s) will be payable to the Listing Agent, to be held in trust, pending completion or other termination of this Agreement. The deposit(s) shall be credited towards the purchase price on completion, and the Buyer shall pay the balance of the purchase price on closing or as otherwise stated in this Agreement.

(b) The Buyer submits with this offer \_\_\_\_\_ Dollars (\$ 0.00 )  CASH /  CHEQUE /  OTHER: \_\_\_\_\_.

(c) The Buyer agrees to increase deposit to \$ 10,000.00 (or \_\_\_\_\_% of purchase price)  CASH /  CHEQUE /  OTHER: Wire or direct deposit on or before 20 day of January, 2023 or within \_\_\_\_\_ days of receipt of waiver of clause #3.

~~**5. FINANCING**~~

~~This Agreement is subject to the Buyer or the Buyer's agent delivering written proof of financing to the Seller or the Seller's Agent in the amount of approximately \$ JB (or \_\_\_\_\_% of purchase price) on or before the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, failing which this agreement becomes null and void. If Financing is subject to Sale of Buyer's Property, a final approval of financing will be provided to the Seller or Seller's Agent within \_\_\_\_\_ days of receipt of waiver of clause #3.~~

**6. INSPECTION**

The Buyer  DOES or  DOES NOT require an inspection of the Property. The Buyer is urged to carefully inspect the Property and may, if desired, have the Property inspected at the Buyer's expense. If the results of the inspection are not satisfactory to the Buyer, the Buyer may terminate this Agreement by delivering written notice to the Seller or the Seller's Agent by the 20 day of January, 2023 or within \_\_\_\_\_ days of receipt of waiver of clause #3, upon which this Agreement becomes null and void.

**7. INSURANCE**

This offer  IS or  IS NOT conditional on the Buyer obtaining insurance for the Property satisfactory to the Buyer, effective on the closing date. The Buyer must deliver written notice, to the Seller or Seller's Agent by the 20 day of January, 2023 or within \_\_\_\_\_ days of receipt of waiver of clause #3, failing which this agreement becomes null and void. The Seller agrees to co-operate in providing access to the Property as required for the fulfillment of this condition.

**8. WATER TEST**

The Buyer, at the Buyer's expense,  DOES or  DOES NOT require the water supply to be tested for:

potability (E.coli / Coliform)  any additional criteria (chemical / mineral): \_\_\_\_\_

If the results of such testing fail to meet the *Guidelines for Canadian Drinking Water Quality* or any additional criteria as specified, the Buyer may terminate this Agreement by delivering written notice to the Seller or Seller's Agent by the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ or within \_\_\_\_\_ days of receipt of waiver of clause #3, upon which this Agreement becomes null and void.

**9. ENVIRONMENT**

The Buyer  DOES or  DOES NOT require a Phase I environmental assessment at the Buyer's expense. If the results of the assessment are not satisfactory to the Buyer, the Buyer may terminate this Agreement by delivering written notice to the Seller or Seller's Agent by the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ or within \_\_\_\_\_ days of receipt of waiver of clause #3, upon which this Agreement becomes null and void.

**10. RESIDENTIAL PROPERTY DISCLOSURE STATEMENT**

The Seller  WILL or  WILL NOT provide a current Residential Property Disclosure Statement to the Buyer on or before the 20 day of December, 2022. If the information contained in the Residential Property Disclosure Statement is not satisfactory to the Buyer, the Buyer may terminate this Agreement by delivering written notice to the Seller or Seller's Agent by the 10 day of January, 2023 upon which this Agreement becomes null and void.

Acknowledgement of completion of Page 2 - Buyer's Initials JB / \_\_\_\_\_ Seller's Initials \_\_\_\_\_ / \_\_\_\_\_


Property designated as civic address: 125 Prince William Street, Saint John, NB

**11. ADDITIONAL TERMS AND CONDITIONS**

This Agreement is further subject to the following terms and conditions:

**Vendor is to disclose to the purchaser all latent defects associated with the property and will do so on or before the 19th of December, 2022.**

**Vendor is not aware of any work orders involving this property by the City of Saint John or the Fire Marshall.**

 <b>JB</b> Buyer's Initials			Seller's Initials
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**12. ADJUSTMENTS**

Property taxes, rentals, leases, municipal charges, fuel/heating items on the premises and assessments are to be adjusted to the Closing Date. The cost of municipal improvements, betterment charges, and capital charges for utility or municipal services completed as of the date of this Agreement, whether billed or not, are to be paid by the Seller on or before the Closing Date unless otherwise stated.

**13. RISK**

The Property being purchased shall be and remain at the risk of the Seller, pending completion of the sale. The Seller shall hold all insurance policies and the proceeds thereof, in trust for the parties as their interests may appear. In the event of damage, the Buyer may, at the Buyer's option, agree to complete the purchase with the proceeds of the Seller's unit policy. Alternatively, the Buyer may, at the Buyer's option, declare this Agreement null and void.

**14. FIXTURES / CHATTELS / LEASED EQUIPMENT**

(a) All existing **fixtures** on the property, which may include but are not limited to: flooring and floor coverings, drapery tracks, ceiling fans and light fixtures, built-in appliances, bathroom mirror(s), heating-ventilating-air conditioning equipment, garage door opener(s), central vacuum, and all applicable accessories/remote(s) and all other items secured by means of nails, screws, plumbing, wiring, ducting and related accessories are to be included in the purchase price except items which are leased or rented including those specifically listed herein in this Agreement, with the following exceptions:  
**No exceptions.**

(b) The following **chattels** owned by the Seller and presently located at the Property shall remain with the Property, to be included in the purchase price, and shall be conveyed to the Buyer in good working order, free and clear of encumbrances, on the date of closing:  
**Keys for each unit in the building.**

(c) The Seller agrees to inform the Buyer of any **leased equipment**. In the case of leased equipment, the Buyer may be required to purchase the product from the lessor or assume the existing lease. Current leased equipment is (include lessor name below):

- Hot Water Tank: \_\_\_\_\_  Furnace / Heating System: \_\_\_\_\_
- Propane Tank: \_\_\_\_\_  Security System: \_\_\_\_\_
- Other: \_\_\_\_\_

**15. SURVEY**

The cost of a New Brunswick Land Surveyor's Real Property Report shall be the responsibility of the Buyer. Notwithstanding the foregoing, the Seller is to supply to the Buyer or Buyer's Agent any New Brunswick Land Surveyor's Real Property Report / Subdivision Plan / Survey Plan that may be in the Seller's possession, without warranty.

Acknowledgement of completion of Page 3 - Buyer's Initials  JB / \_\_\_\_\_ Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

Property designated as civic address: 125 Prince William Street, Saint John, NB

**16. TITLE SEARCH**

The Buyer may examine the title of the Property at the Buyer's expense and any valid objection to title which the Buyer wishes to make shall be made in writing to the Seller on or before the day of closing. In the event a valid objection to title is made that the Seller is unable or unwilling to remove prior to closing, and which the Buyer does not waive, this Agreement becomes null and void.

**17. CONVEYANCE**

The conveyance of the Property shall be by Transfer, Deed, or Bill of Sale drawn at the expense of the Seller, to be delivered on payment of the purchase price on the Closing Date. The Property is to be conveyed free from encumbrances, except utility easements that do not materially affect the enjoyment of the Property, registered restrictions, or covenants that affect the Property.

**18. ADDITIONAL DOCUMENTS**

The attached additional documents, if applicable, form part of this contract:

- Covenants
- Builder's Specifications
- Municipal Drainage Plans
- Floor Plans
- House Plans
- Schedule: \_\_\_\_\_
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

**19. GENERAL**

- (a) Any tender of documents to be delivered or money payable may be made by the Seller, Seller's Agent or Lawyer or the Buyer, Buyer's Agent or Lawyer or any other party acting on their behalf. Money paid, subsequent to the deposit, shall be by Solicitor's trust cheque, certified cheque, or the equivalent, drawn on a chartered Canadian Bank, Trust Company or Credit Union.
- (b) The Buyer shall have the right, upon providing the Seller with reasonable notice, to conduct a pre-closing inspection of the Property to ensure that the Property is in the same state of repair and condition as viewed on the date of this Agreement. If the Property is not in the same state of repair and condition and the Seller is unable or unwilling to make the necessary repairs, then this Agreement may become null and void at the Buyer's discretion.
- (c) All warranties and representations contained in this Agreement shall survive the closing unless otherwise stated in this Agreement.
- (d) In all aspects of this Agreement, time shall be of the essence. In the event of a written agreement of extension, time shall continue to be of the essence. This Agreement shall be to the benefit of and be binding upon the parties, their respective heirs, executors, administrators, successors and assigns.
- (e) This Agreement is to be read with all changes of gender or number as the context requires. This Agreement shall constitute the entire Agreement between the parties and shall be governed by the laws of the Province of New Brunswick.
- (f) The Seller and the Buyer agree to be bound by offers and counter offers and related documentation and/or communication that may be transmitted electronically and that reproductions of the signatures therein will be treated as originals.
- (g) The Buyer and Seller have the right to seek legal counsel with respect to this Agreement.
- (h) If the Buyer defaults in the completion of the sale under the terms of this Agreement, any money paid hereunder shall be forfeited to the Seller without interest or penalty by way of liquidated damages, or the Seller may, at the Seller's option, compel the Buyer to complete the sale.
- (i) If this Agreement becomes null and void under the terms of this Agreement, all deposits paid shall be returned to the Buyer in full. By signing this Agreement, the Buyer and Seller consent and irrevocably instruct the Seller's Agent to release all deposits to the Buyer without interest or penalty.
- (j) In the event that 19(i) is applicable, the Buyer and Seller both agree to release and forever discharge each other, the Seller's Agent and the Buyer's Agent from any claims that either party has or may have arising from the deposit.
- (k) Once received and accepted, all Schedules and additional documents attached shall form part of this Agreement of Purchase and Sale and shall be deemed acceptable to the Buyer and Seller.
- (l) The Seller warrants that the Property  IS or  IS NOT registered under the Farm Land Identification Program (FLIP).

**20. AGENCY RELATIONSHIP**

The Seller and the Buyer acknowledge having received, read and understood the "WORKING WITH A REALTOR®" form, as published by The New Brunswick Real Estate Association and acknowledge and confirm as follows:

(a) The Seller  DOES or  DOES NOT have an Agency relationship with:

Brunswick Brokers Limited as represented by Stephanie Turner  
NAME OF AGENT (company) NAME OF REALTOR® (please print)

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NAME OF AGENT (company) as represented by NAME OF REALTOR® (please print)

Acknowledgement of completion of Page 4 - Buyer's Initials JB / Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

Property designated as civic address: 125 Prince William Street, Saint John, NB

(b) The Buyer  DOES or  DOES NOT have an Agency relationship with:

eXp Realty as represented by Shawn Tucker  
NAME OF AGENT (company) NAME OF REALTOR® (please print)

(c) The Buyer and the Seller acknowledge that by signing this Agreement they have consented to a Dual Agency relationship with:

\_\_\_\_\_  
NAME OF AGENT (company) as represented by \_\_\_\_\_  
NAME OF REALTOR® (please print)  
\_\_\_\_\_  
NAME OF REALTOR® (please print)

**21. TIME FOR ACCEPTANCE**

This offer shall be open for acceptance until 1:00 p.m. on the 12 day of December, 2022.  
Notification of the acceptance of this offer shall be communicated by the Seller's Agent to the Buyer's Agent prior to the designated time and date or this Agreement becomes null and void.

Dated at Montreal, this \_\_\_\_\_ day of 12/09/22, 20\_\_\_\_.

Signed and delivered in the presence of:

\_\_\_\_\_  
WITNESS

  
*Jacques Bouchacourt*  
BUYER Jacques Bouchacourt

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
BUYER

**22. ACCEPTANCE**

The Seller hereby confirms this offer was presented and accepted at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and delivered in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

**23. REJECTION**

The Seller hereby confirms this offer was presented and rejected at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and delivered in the presence of

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

Property designated as civic address: 125 Prince William Street, Saint John, NB

**24. COUNTER OFFER**

(a) The Seller hereby confirms having read and understood this Agreement and has  **MODIFIED THE PRICE TO** or  **ACCEPTED THE PRICE**

**OF:** \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

along with the following amendments:

This counter offer shall be open for acceptance until \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notification of the acceptance of this counter offer shall be communicated by the Buyer's Agent to the Seller's Agent prior to the designated time and date or this Agreement becomes null and void.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and delivered in the presence of

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

(b)  The Buyer hereby agrees to the above price of \$ \_\_\_\_\_ and all other amendments contained in this counter offer.

- OR -

(c)  The Buyer hereby confirms this counter offer was presented and rejected at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and delivered in the presence of

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
BUYER **Jacques Bouchacourt**

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
BUYER

Seller's Solicitor: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Buyer's Solicitor: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

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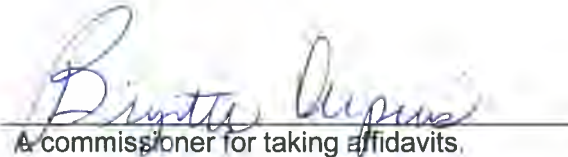
Acknowledgement of completion of Page 6 - Buyer's Initials **JB** / \_\_\_\_\_ Seller's Initials \_\_\_\_\_ / \_\_\_\_\_



2020

Hfx No. 501252

This is Exhibit "C" to the affidavit of Linda Savoie, sworn to before me at Moncton, New Brunswick, on January 4th, 2023



Brigitte Dupuis

A commissioner for taking affidavits.

Name:

Official Capacity:

**Brigitte Dupuis**  
**Commissioner of Oaths**  
**My commission expires: Dec 31, 2027**

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**From:** Sara L. Scott  
**Sent:** Wednesday, December 14, 2022 11:45 AM  
**To:** Jim Kennedy  
**Cc:** Ian Cousins; Mark Charles; Laura M. Smith  
**Subject:** RE: 125 Prince William

Good morning,

BDC will consider any plan advanced by 1101, but it needs to be presented with a clear plan that addresses all the issues that have been raised. BDC cannot provide any definitive answer, without understanding how 1101 will address the property taxes, the judgments and BDC's debt. If there is a plan for BDC to consider, please set it out in writing. There is concern that 1101 is relying on the sale of the Pokiok townhouses to address any shortfall, but we note that they are still on the market, at a lower price, and have registered judgments and unpaid property taxes, in addition to other encumbrances.

BDC also notes that the proposed shortfall is more in the range of \$300k, versus \$200k, when the commission, real property taxes and the time to close any deal are considered, during which the interest on the loan will continue to accrue. This shortfall does not include the judgments, which will seemingly need to be addressed before the property is sold.

If 1101 has a plan to present to BDC, please do so immediately. As in the past, any proposal must also be considered and ultimately approved by the BDC credit department and such consideration will take time.

Sara

**Sara L. Scott\***

Partner  
*She/Her*  
Stewart McKelvey  
D: 902.420.3363  
C: 902.448.6366  
\*Law Corporation

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**From:** Jim Kennedy <jim.kennedy@valourinvestments.com>  
**Sent:** Tuesday, December 13, 2022 1:02 PM  
**To:** Sara L. Scott <:sscott@stewartmckelvey.com>  
**Cc:** Ian Cousins <ian.cousins@blackhawkconsulting.ca>; Mark Charles <mark@heritagelaw.ca>; Laura M. Smith <lmsmith@stewartmckelvey.com>  
**Subject:** Re: 125 Prince William

**This is an external email.**

We are in the process of accumulating the tax arrears and exact amounts owing. I've attached a copy of the broker's commission agreement which was negotiated down from her regular rate.

We have made every possible attempt to sell this asset to clear the BDC debt and allow Ian to move on with very little luck until now. I believe I can get the seller to increase their purchase price by \$100,000. We need to know if BDC is willing to work through the sale of this asset with us with the anticipation of a shortfall of roughly \$200,000 which would continue to be guaranteed by Ian Cousins and secured by the townhouses on Pokiok Rd.

The reality is that the amounts owing on the asset are higher than any achievable sale price. For this reason we are proposing the majority of the debt be paid through this transaction with the balance paid through the future sale of Pokiok.

I can request a further extension of their offer but would require their cooperation in that regard.



**Jim Kennedy** - Managing Partner

M [902.877.6595](tel:902.877.6595)

E [Jim.Kennedy@ValourInvestments.com](mailto:Jim.Kennedy@ValourInvestments.com)

W [www.ValourInvestments.com](http://www.ValourInvestments.com)

On Dec 13, 2022, at 12:24 PM, Sara L. Scott <[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)> wrote:

From BDC's perspective, these are the questions to be answered by the Company:

- What amount, if any, is owing to CRA?
- What are the anticipated deductions from the sales proceeds and the amounts of these deductions (ie realtor's commission, etc);
- What is the plan to address the significant amount of property tax arrears?

In addition to these questions, what is the plan to the expected shortfall, whether through Mr. Cousins' guarantee or some other means?

Without answers to these questions, BDC is not in a place to confirm what its position may be. Please provide this information so BDC may review.

In addition, BDC does not want there to be an expectation that it will be able to provide a definitive answer by tomorrow's deadline. Is the Company requesting an extension to respond?

Sara

**Sara L. Scott\***

Partner

*She/Her*

Stewart McKelvey

D: 902.420.3363

C: 902.448.6366

\*Law Corporation

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**From:** Jim Kennedy <[jim.kennedy@valourinvestments.com](mailto:jim.kennedy@valourinvestments.com)>

**Sent:** Tuesday, December 13, 2022 10:58 AM

**To:** Sara L. Scott <[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)>

Cc: Ian Cousins <[ian.cousins@blackhawkconsulting.ca](mailto:ian.cousins@blackhawkconsulting.ca)>; Mark Charles <[mark@heritagelaw.ca](mailto:mark@heritagelaw.ca)>; Laura M. Smith <[lmsmith@stewartmckelvey.com](mailto:lmsmith@stewartmckelvey.com)>

Subject: Re: 125 Prince William

**This is an external email.**

Thank you.

Can we arrange a call to discuss possibilities with a representative from BDC?



**Jim Kennedy** - Managing Partner

M [902.877.6595](tel:902.877.6595)

E [Jim.Kennedy@ValourInvestments.com](mailto:Jim.Kennedy@ValourInvestments.com)

W [www.ValourInvestments.com](http://www.ValourInvestments.com)

On Dec 13, 2022, at 10:42 AM, Sara L. Scott <[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)> wrote:

Thank you.

The current amount owing on the BDC loan is \$1,045,200.85. As you would be aware, interest continues to accrue on the loan amount.

Sara

**Sara L. Scott\***

Partner

*She/Her*

Stewart McKelvey

D: 902.420.3363

C: 902.448.6366

\*Law Corporation

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**From:** Jim Kennedy <[jim.kennedy@valourinvestments.com](mailto:jim.kennedy@valourinvestments.com)>

**Sent:** Tuesday, December 13, 2022 8:53 AM

**To:** Sara L. Scott <[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)>

**Cc:** Ian Cousins <[ian.cousins@blackhawkconsulting.ca](mailto:ian.cousins@blackhawkconsulting.ca)>; Mark Charles <[mark@heritagelaw.ca](mailto:mark@heritagelaw.ca)>; Laura M. Smith <[lmsmith@stewartmckelvey.com](mailto:lmsmith@stewartmckelvey.com)>

**Subject:** Re: 125 Prince William

**This is an external email.**

Thanks for your help in getting this to the most appropriate person.

We will need to get a more precise idea of amounts owing for BDC, property tax and any other debts on the building so we can appropriately counter offer. This is why I'd like to have a call with someone from BDC.



**Jim Kennedy** - Managing Partner

M [902.877.6595](tel:902.877.6595)

E [Jim.Kennedy@ValourInvestments.com](mailto:Jim.Kennedy@ValourInvestments.com)

W [www.ValourInvestments.com](http://www.ValourInvestments.com)

On Dec 13, 2022, at 8:38 AM, Sara L. Scott  
<[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)> wrote:

Thank you Mr. Kennedy for the email. I am copying Mr. Cousins on this response.

I have forwarded on to BDC.

I do not have instructions, but note that one obvious question in considering this offer is how will the property tax and loan arrears would be addressed.

Sara

**Sara L. Scott\***

Partner

*She/Her*

Stewart McKelvey

D: 902.420.3363

C: 902.448.6366

\*Law Corporation

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**From:** Jim Kennedy <[jim.kennedy@valourinvestments.com](mailto:jim.kennedy@valourinvestments.com)>

**Sent:** Monday, December 12, 2022 10:45 PM

**To:** [MatthewJ.GOLDING@bdc.ca](mailto:MatthewJ.GOLDING@bdc.ca)

**Cc:** Sara L. Scott <[sscott@stewartmckelvey.com](mailto:sscott@stewartmckelvey.com)>

**Subject:** 125 Prince William

**This is an external email.**

Hi Matt,

Connecting with you directly because time is of the essence on this matter, CC'ing Sara to make sure she's kept in the loop. I've been contacted by a serious buyer for 125 Prince William but am not in a position to negotiate until knowing that we are on the same page. I'm happy to include you on each step but am hoping we can have a call tomorrow to discuss. I've attached the offer for your review.

I believe it made most sense to contact you directly rather than going through lawyers only because the offer is only open until Wednesday and I wanted to expedite communication. If you can please let me know if/when you're free for a call I'd appreciate it.

Thanks



**Jim Kennedy** - Managing Partner

M [902.877.6595](tel:902.877.6595)

E [Jim.Kennedy@ValourInvestments.com](mailto:Jim.Kennedy@ValourInvestments.com)

W [www.ValourInvestments.com](http://www.ValourInvestments.com)

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