

## MISCELLANEOUS PROPERTY ENDORSEMENT – BROAD FORM

WORDS AND PHRASES IN QUOTATIONS HAVE SPECIAL MEANING AS DEFINED IN DEFINITIONS

### Indemnity Agreement

In the event that any of the property Insured be lost or damaged by the perils insured against, the insurer will indemnify the Insured against the direct loss so caused to an amount not exceeding whichever is the least of:

- a. the actual cash value of the property at the time of loss or damage;
- b. the interest of the Insured in the property;
- c. the amount of insurance specified on the "Declaration Page" in respect of the property lost or damaged.

Provided, however, that where the insurance applies to the property of more than one person or interest, the insurer's total liability for loss sustained by all such persons and interests shall be limited in the aggregate to the amount or amounts of insurance specified on the "Declaration Page".

Where the "Declaration Page" states that Replacement Cost applies this endorsement amends the Basis of Settlement Clause with respect to those items.

1. The Insurer agrees to amend the basis of settlement 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) 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;
  - c) failing compliance by the Insured with any of the foregoing provisions, settlement shall be made as if this endorsement had not been in effect;
  - d) any other insurance effected by or on behalf of the Insured in respect of the perils insured against by this Policy on the property to which this endorsement is applicable shall be on the basis of replacement cost as defined herein;
  - e) this endorsement applies separately to each item to which it applies
2. Any reference to actual cash value in a coinsurance clause in this Policy is deemed to be a reference to replacement cost of the property insured.
3. In this endorsement
  - a) replacement cost means the cost of replacing, repairing, with new property of like kind and quality without deduction for depreciation; and
  - b) replacement includes repair or reconstruction with new property of like kind and quality.
4. In the event that new property of like kind and quality is not obtainable, new property which is as similar as possible to that damaged or destroyed and which is capable of performing the same function shall be deemed to be new property of like kind and quality for the purposes of this endorsement.
5. EXCLUSIONS  
This endorsement does not apply to:
  - a) stock;
  - b) livestock;
  - c) produce;

- d) pattern, dies, moulds; 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;
- e) any increase in the cost of replacement occasioned by a restriction or prohibition in any by-law, regulation, ordinance or law.

### **Property Insured**

This form insures only those items for which an amount of insurance is specified on the "Declaration Page".

### **Deductible**

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

### **Co-Insurance**

This clause applies separately to each item for which a co-insurance percentage is specified on the "Declaration Page" and only where the total loss exceeds the lesser of 5% of the applicable amount of insurance or \$10,000.

The Insured shall maintain insurance concurrent with this Form on the property insured to the extent of at least the amount produced by multiplying the actual cash value of the property by the co-insurance percentage specified on the "Declaration Page", and failing so to do, shall only be entitled to recover that portion of any loss that the amount of insurance in force at the time of loss bears to the amount of insurance required to be maintained by this clause.

### **Perils Excluded**

This Policy does not insure against:

- a) Loss or damage caused by wear and tear, gradual deterioration, inherent vice, latent defect or mechanical breakdown or derangement;
- b) Loss or damage caused by or resulting from corrosion, rust, rodents, insects, vermin, dampness of atmosphere, staining or freezing unless such damage is the result of other loss covered by this Policy;
- c) Loss caused by unexplained or mysterious disappearance of property (except property in the custody of carriers for hire);
- d) Loss or damage caused by or resulting from artificially generated electrical currents to electrical appliances or devices, (including wiring), unless fire ensues and then only for loss or damage by such ensuing fire;
- e) Loss or damage (unless fire or explosion ensues and then only for the loss or damage caused by such ensuing fire or explosion) sustained while the property insured is actually being worked upon and directly resulting from or caused by any repairing, adjusting or servicing of the property insured;
- f) Loss or damage resulting from misappropriation, secretion, conversion, infidelity or any dishonest act on the part of the Insured or other party of interest, his or their employees or agents or any person or persons to whom the property may be entrusted (bailees or carriers for hire excepted);
- g) Loss or damage occasioned by neglect of the Insured to use all reasonable means to save and preserve the property at and after any disaster insured against or when the insured has notice of an impending disaster.
- h) Breakage of glass or similar fragile materials, marring or scratching unless such loss or damage to the insured property is caused directly by fire or the combating of, lightning, flood, earthquake,

windstorm, hail, explosion, strike, riot or civil commotion, aircraft, vehicles other than transporting conveyances, rupture of pipes or breakage of apparatus, sprinkler leakage, vandalism, malicious acts, theft or attempted theft or accident to transporting conveyance;

- i) Loss or damage caused by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- j) Loss or damage caused by contamination by radioactive material.

### **Pollution Excluded**

This Form does not insure against:

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

### **Data & Data Problem Excluded**

- a) This Form does not insure "Data"
- b) This Form does not insure loss or damage caused directly or indirectly by "Data Problem".

### **Extensions of Coverage**

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

- a) **Removal:** If any of the insured property is necessarily removed from the location(s) specified herein to prevent loss or damage or further loss or damage thereto, 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 in the location(s) specified herein in the proportions which that value of the property in each of the respective location(s) bears to the value of the property in all of them.

- b) **Debris Removal:**
  - a. The insurer will indemnify the Insured for expenses incurred in the removal from the "premises" of debris of the property insured, occasioned by loss or damage to such property, for which loss or damage insurance is afforded under this Form.

The amount payable under this extension shall not exceed 25% of the total amount payable for the direct physical loss to property insured plus the amount of the applicable deductible.

- b. **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 a location specified on the "Declaration Page".

Extensions of coverage b(a) and b(b) do not apply to costs or expenses:

- (a) to "clean up" "pollutants" from land or water; or
- (b) for testing, monitoring, evaluation 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 determination of actual cash value for the purpose of applying the co-insurance clause.

### **Breach of Condition**

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

### **Reinstatement**

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

### **Subrogation**

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

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

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

### **Property Protection Systems**

It is agreed that the Insured shall notify forthwith the Insurer of any interruption to, or flaw or defect, coming to the knowledge of the Insured, in any:

- a) sprinkler or other fire extinguishing system; or
- b) fire detection system; or
- c) intrusion detection system;
- d) and shall also notify forthwith the Insurer of the cancellation or non-renewal of any contract which provides monitoring or maintenance services to any of these systems or of the notification of the suspension of police service in response to any of these systems.

### **Premium Adjustment**

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

If within six months after the expiry or anniversary date of each period of insurance, the Insured shall file with the Insurer a Premium Adjustment Application Form showing, for the said period, the actual cash value of the "stock" insured on the last day of each month at each location as commented upon by the Insured's Accountant, the actual premium for the said period shall then be calculated at the rate applying to each location for the average amount of the total values declared. If the premium paid by the Insured for such "stock" exceeds the actual premium thus calculated, the Insurer shall refund to the Insured any excess paid, subject to a maximum refund of 50% of the premium paid. In the event of any monthly-declared values being in excess of the

amount of insurance, the amount of the excess shall not be included in the premium adjustment calculations.

### **Verification of Values**

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

### **Valuations**

For the purpose of calculating the total value of the property for the application of Co-insurance, value reporting and for loss adjustment, the following valuation basis applies:

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

### **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.

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

### **Territorial Limits**

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

### **Definitions**

Wherever used in this Form:

- a. **"Declaration Page"** means the Declaration Page applicable to this Form.
- b. **"Data"** means representations of information or concepts, in any form.
- c. **"Data Problem"** means:
  - i. erasure, destruction, corruption, misappropriation of "Data";
  - ii. error in creating, amending, entering, deleting or using "Data"; or
  - iii. inability to receive, transmit or use "Data";
  - iv. damage to electronic data processing equipment or any other related component system, process or device.
- d. **"Premises"** means the entire area within the property lines and areas under adjoining sidewalks and driveways at the locations described on the "Declaration Page" and in or on vehicles within 100 metres (328 feet) of such locations.
- e. **"Fire Protective Equipment"** includes tanks, water mains, hydrants, valves and any other equipment whether used solely for fire protection or jointly for fire protection and for other purposes, but does not include:
  - i. branch piping from a joint system where such branches are used entirely for purposes other than fire protection;
  - ii. any water mains or appurtenances located outside of the described "premises" and forming a part of the public water distribution system;
  - iii. any pond or reservoir in which the water is impounded by a dam.
- f. **"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.
- g. **"Clean Up"** means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to the aforementioned processes.

ALL THE STATUTORY AND ADDITIONAL CONDITIONS OF THIS POLICY ALSO  
APPLY TO THIS COVERAGE