

COMMERCIAL PROPERTY BROAD FORM
WORDS AND PHRASES IN BOLD HAVE SPECIAL MEANING AS DEFINED

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**.

DEFINITIONS

Wherever used in this Form:

"Actual Cash Value" means the cost, at the time of loss or damage to property, which takes into account such things as the cost of replacement, less any depreciation and market value. In determining depreciation, the Insurer will consider the condition immediately before damage, the resale value and normal life expectancy of the property and obsolescence.

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

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

"Cash card" 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 accounts.

"Contents" means **contents** usual to the **Insured's** business and includes **Equipment** or **Stock** as herein defined.

"Data" means representations of information or concepts, in any form.

"Data Problem" means:

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

"Declaration Page" means the **Declaration Page** applicable to this Form.

"Equipment" means:

- (i) generally all **contents** usual to the **Insured's** business including furniture, furnishings, fittings, fixtures, machinery, tools, utensils and appliances other than **Building** or **Stock** as herein defined;
- (ii) similar property belonging to others which the **Insured** is under obligation to keep insured or for which the **Insured** 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**.

"Fire Protective Equipment" includes tanks, water mains, 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 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.

"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.

"Insured" is as defined in the Commercial General Liability – Form ELI-0780-1210.

“Named Perils” means:

- 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 or of the following property owned, operated or controlled by the **Insured**:
 - (i) (a) The portions containing steam or water under steam pressure of all boilers generating steam, and piping or other **equipment** connected to said boilers and containing steam or water under steam pressure;
 - (b) piping and apparatus or parts thereof normally containing steam or water under steam pressure from an external source and while under such pressure;
 - (c) the combustion chambers or fire boxes of steam generating boilers of the chemical recovery type and the flues or passages which conduct the gases of combustion therefrom;
 - (d) smelt dissolving tanks;
 - (ii) other vessels and apparatus, and pipes connected therewith, while under pressure, or while in use or in operation, provided their maximum normal internal working pressure exceeds 103 kilopascals (15 pounds per square inch) above atmospheric pressure except that liability is specifically assumed for loss or damage resulting from the explosion of manually portable gas cylinders;
 - (iii) moving or rotating machinery parts of same when such loss or damage is caused by centrifugal force or mechanical breakdown;
 - (iv) any vessels and apparatus and pipes connected therewith while undergoing pressure tests, but this exclusion shall not apply to other property insured hereunder that has been damaged by such explosion;
 - (v) gas turbines;The following are not explosions within the intent or meaning of this section:
 - (a) electric arcing or any coincident rupture of electrical equipment due to such arcing;
 - (b) bursting or rupture caused by hydrostatic pressure or freezing;
 - (c) bursting or rupture of any safety disc, rupture diaphragm or fusible plug.
- C. IMPACT BY AIRCRAFT, SPACECRAFT OR LAND VEHICLE: The terms Aircraft and Spacecraft include articles dropped therefrom. There shall in no event be any liability hereunder due to cumulative damage or for loss or damage:
 - (i) caused by land vehicles belonging to or under the control of the **Insured** or any of their employees;
 - (ii) to aircraft, spacecraft or land vehicles causing the loss;
 - (iii) caused by any aircraft or spacecraft when being taxied or moved inside or outside of **buildings**.
- 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 hereunder for loss or damage:
 - (i) due to cessation of work or by interruption to process or business operations or by change(s) in temperature;
 - (ii) due to flood or release of water impounded by a dam, or due to any explosion other than an explosion in respect of which there is insurance as defined in this Form;
 - (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 hereunder for any cumulative damage.
- F. LEAKAGE FROM FIRE PROTECTIVE EQUIPMENT: The term Leakage From Fire Protective Equipment means the leakage or discharge of water or other substance from within the equipment used for fire protection purposes for the **premises** described in the **Declaration Page** or for adjoining **premises** and loss or damage caused by the fall or breakage or freezing of such equipment.
- G. WINDSTORM OR HAIL: There shall in no event be any liability hereunder for loss or damage:
 - (i) to the interior of the **buildings** insured or their **contents** unless damage occurs concurrently with and results from an aperture caused by windstorm or hail;
 - (ii) directly or indirectly caused by any of the following, whether driven by wind or due to windstorm or not; snow-load, ice-load, tidal wave, tsunamis, high water, overflow, flood, waterborne objects, waves, ice, land subsidence, landslide.

“Occurrence” means an accident or event, occurring within the policy period, to which coverage under this policy applies.

“Office Contents” means office furniture, fixtures, office **equipment**, office machines, supplies, records, and other similar property used in office operations.

“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.

“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.

“Replacement Cost” means the cost, at the time of loss, of repairs, or replacement (whichever is lower) with new property on the same site, or an adjacent site, with standard building materials of like kind and quality and currently available in North America and for like occupancy, without deduction for depreciation.

“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**.

“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 they are legally liable.

“Surface water” means water or natural precipitation temporarily diffused over the surface of the ground.

“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; however, if an act of **terrorism** results in a fire and the *Insurance Act* or similar statute applicable to the location of the **building** insured requires coverage for losses resulting from fire, then such fire damage shall be insured by this policy.

“Unoccupied” means a **building** that is not used on a regular basis. In such instances, the majority of the usual contents remain in the **building** because the **Insured** intends to continue to utilize the **building** after frequent, short intervals.

“Vacant” means that regardless of the presence of furnishings, the occupants have moved out with no intention of returning, or in the case of a newly constructed **building**, no occupant has yet taken up residence.

PROPERTY INSURED

This Form insures the following property but only those items for which an amount of insurance is specified on the **Declaration Page**:

- **BUILDING**
- **EQUIPMENT**
- **STOCK**
- **OFFICE CONTENTS**
- **CONTENTS**

The insurance in this Form applies only while at the location(s) specified on the **Declaration Page**.

INSURED PERILS

This Form insures against all risks of direct physical loss of or damage to the property insured, subject to the exclusions, limitations, terms and conditions of this Form.

EXCLUSIONS

Property Excluded

This Form does not insure loss or damage to:

- a. sewers, drains or water mains located beyond the outside bearing walls or foundations of the property insured, outside communication towers, antennae (including satellite receivers and equipment attached thereto), street clocks, exterior signs, exterior glass or vitrolite and lettering or ornamentation thereon. This exclusion does not apply to loss or damage caused directly by **Named Perils** provided such perils are not excluded in this Form;
- b. property at locations which to the knowledge of the **Insured**, are **vacant**, **unoccupied** or shut down for more than thirty (30) consecutive days;
- c. electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing, unless the **Named Perils** of fire or explosion ensue and then only for each ensuing loss or damage, provided such perils are not excluded in this Form;
- d. growing plants, trees, shrubs or flowers, all while in the open;
- e. animals, fish or birds. This exclusion does not apply to loss or damage caused directly by **Named Perils** or from theft or attempted theft, provided such perils are not excluded in this Form;
- f. money, **cash cards**, bullion, platinum and other precious metals and alloys, securities, stamps, tickets and tokens, evidence of debt or title;
- g. automobiles, watercraft, amphibious or air cushion vehicles, aircraft, spacecraft, unmanned air vehicle systems, trailers, motors or other accessories attached to or mounted on such property. This exclusion shall not apply to watercraft, amphibious or air cushion vehicles held for sale, unlicensed automobiles or unlicensed trailers used in the business of the **Insured** when on the **premises** of the **Insured**;
- h. furs, fur garments, jewels, jewellery, costume jewellery, watches, pearls, precious and semi-precious stones, tobacco and tobacco products, pre-recorded video tapes, digital video display (DVD) discs and electronic video games but this exclusion does not apply to:
 - (i) the first one thousand dollars (\$1000) of any loss insured herein;
 - (ii) any loss or damage caused directly by **Named Perils**, provided such perils are not excluded in this Form;

- i. property insured under the terms of any Marine insurance and property while waterborne, except while on a regular ferry or railway car transfer in connection with land transportation;
 - j. property on loan or on rental or sold by the **Insured** under conditional sale, installment payment or other deferred payment plan, from the time of leaving the **Insured's** custody, but this exclusion does not apply while such property is in the custody of a carrier for hire for the purpose of delivery at the risk of the **Insured**;
 - k. property in the custody of a sales representative outside the **premises** of the **Insured**;
 - l. property illegally acquired, kept, stored or transported; property seized or confiscated for breach of any law or by order of any public authority;
 - m. (i) any pressure vessel having normal internal working pressure greater than 103 kilopascals (15 pounds per square inch) above atmospheric pressure;
 - (ii) any boiler, including the piping and equipment connected thereto, which contains steam or water under steam pressure (except tanks having an internal diameter of 610 millimetres (24 inches) or less used for the storage of hot water for domestic use);
- caused directly or indirectly by explosion, rupture, bursting, cracking, burning out or bulging of such property while connected ready for use, but this exclusion does not apply to:
- (1) manually portable gas cylinders;
 - (2) explosion of natural, coal or manufactured gas;
 - (3) explosion of gas or unconsumed fuel within a furnace or within the gas passages therefrom to the atmosphere;
- n. property used in whole or in part for the illegal cultivation, harvesting, processing, manufacture, distribution or sale of cannabis or any product derived from, or containing cannabis or any substance falling within the Schedules of the Controlled Drugs and Substance Act, whether or not the **Insured** is aware of such use of the property.

Perils Excluded

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

- a) by earthquake, except for ensuing loss or damage which results directly from the **Named Perils** of fire, explosion, smoke or **leakage from fire protective equipment**, described in this Form. This exclusion does not apply to property in transit;
- b) by flood, including **surface water**, waves, tides, tidal waves, tsunamis, or the rising of, the breaking out or the overflow of, any body of water, whether natural or man-made, but this exclusion does not apply to ensuing loss or damage which results directly from the **Named Perils** of fire, explosion, smoke, **leakage from fire protective equipment**, described in this Form, or leakage from a water main. This exclusion does not apply to property in transit;
- c)
 - (i) by seepage, leakage or influx of water derived from natural sources through basement walls, doors, windows or other openings therein, foundations, basement floors, sidewalks, sidewalk lights, or by the backing up of sewers, sumps, septic tanks or drains, unless concurrently and directly caused by a peril not otherwise excluded in this Form;
 - (ii) by the entrance of rain, sleet or snow through doors, windows, skylights or other similar wall or roof openings unless through an aperture concurrently and directly caused by a peril not otherwise excluded in this Form;
- d) by centrifugal force, mechanical or electrical breakdown or derangement, in or on the **premises**, unless fire ensues and then only for the loss or damage caused directly by such ensuing fire;
- e)
 - (i) by dampness or dryness of atmosphere;
 - (ii) by changes in or extremes of temperature, heating or freezing;
 - (iii) by total or partial interruption to the supply of electricity, water, gas or steam;

This exclusion (e) does not apply to:

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

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

 - (1) **Named Perils**;
 - (2) rupture of pipes or breakage of apparatus not excluded in (m) of property excluded in this Form;
 - (3) theft or attempted theft;
 - (4) an accident to a transporting conveyance;

- g) by smoke from agricultural smudging or industrial operations;
- h) by rodents (such as squirrels and rats), insects or vermin (such as skunks and raccoons), but this exclusion does not apply to loss or damage caused directly by a peril not otherwise excluded in this Form;
- i) by delay, loss of market, or loss of use or occupancy;
- j) by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- k)
 - (i) by any nuclear incident (as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any law amendatory thereof) or nuclear explosion, except for ensuing loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas;
 - (ii) by contamination by radioactive material;
- l)
 - (a) by misappropriation, secretion, conversion, infidelity or any dishonest or criminal act on the part of the **Insured** or any other party of interest, employees or agents of the **Insured**, or any person to whom the property may be entrusted (bailees for hire excepted), but this exclusion does not apply to direct physical damage, caused directly by employees of the **Insured**, which results from a peril otherwise insured and not otherwise excluded under this Form;
 - (b) by voluntary parting of ownership or title by the **Insured** to any party whether from a legal or illegal transaction;
 - (c) by loss or shortage disclosed on taking inventory or any mysterious disappearance;
- m) by snow slide, landslide, subsidence or other earth movement except for ensuing loss or damage which results directly from the **Named Perils** of fire, explosion, smoke or **leakage from fire protective equipment**, as described in this Form;
- n) by explosion (except with respect to explosion of natural, coal, or manufactured gas), collapse, rupture, bursting, cracking, burning out or bulging of the following property owned, operated or controlled by the **Insured**, unless fire ensues and then only for the loss or damage caused directly by such ensuing fire:
 - (i) the portions containing steam or water under steam pressure of all boilers generating steam, and piping or other equipment connected to said boilers and containing steam or water under steam pressure;
 - (ii) piping and apparatus or parts thereof normally containing steam or water under steam pressure from an external source and while under such pressure;
 - (iii) other vessels and apparatus and pipes connected therewith while under pressure or while in use or in operation provided their maximum normal internal working pressure exceeds 103 kilopascals (15 pounds per square inch) above atmospheric pressure but this exclusion does not apply to loss or damage resulting from the explosion of manually portable gas cylinders or of tanks having an internal diameter of 610 millimetres (24 inches) or less used for the heating and storage of hot water for domestic use;
 - (iv) moving or rotating machinery or parts thereof;
 - (v) any vessels and apparatus and pipes connected therewith while undergoing pressure tests but this exclusion does not apply to other property insured thereunder that has been damaged by such explosion;
 - (vi) gas turbines;
- o) by settling, expansion, contraction, moving, shifting or cracking unless concurrently and directly caused 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;
- q) by loss or damage sustained to **equipment** or **stock** while actually being worked upon and directly resulting therefrom or caused by any repairing, adjusting or servicing of **equipment** or **stock** unless the **Named Perils** of fire or explosion ensue and then only for such ensuing loss or damage;
- r) by **terrorism** or by any activity or decision of a government agency or other entity to prevent, respond to or terminate **terrorism**. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss or damage.

Pollution Exclusion

This Form does not insure against:

- a) loss or damage caused directly or indirectly by any actual or alleged spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of **pollutants**, nor the cost or expense of any resulting clean up, but this exclusion does not apply:
 - (i) if the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of **pollutants** is the direct result of a peril not otherwise excluded under this Form;
 - (ii) to loss or damage caused directly by a peril not otherwise excluded under this Form;

- b) cost or expense for any testing, monitoring, evaluating or assessing of an actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of **pollutants**.

Data & Data Problem Exclusion

a) This Form does not insure **Data**.

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

However, if loss or damage caused by **Data Problem** results in the **occurrence** of further loss of or damage to property insured that is directly caused by the **Named Perils** of fire or lightning, explosion, impact by aircraft, spacecraft or land vehicle, **leakage from fire protective equipment**, windstorm or hail, all as described in this Form, this exclusion shall not apply to such resulting loss or damage.

Fungi And Spores Exclusion

This Form does not insure:

a) loss or damage consisting of or caused directly or indirectly, in whole or in part, by any **fungi** or **spores**. This exclusion does not apply:

- (i) if the **fungi** or **spores** are directly caused by a peril not otherwise excluded in this Form, or
- (ii) to loss or damage caused directly by a resultant peril not otherwise excluded in this Form;

b) the cost or expense for any testing, monitoring, evaluation or assessing of **fungi** or **spores**.

Other Excluded Losses:

This Form does not insure:

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

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

(b) the cost of making good:

- (i) faulty or improper material;
- (ii) faulty or improper workmanship;
- (iii) faulty or improper design.

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

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

BASIS OF CLAIM PAYMENT

Unless stated otherwise on the **Declaration Page** the **Insurer** will pay the **actual cash value** of the insured loss or damage up to the **Insured's** financial interest in the property but not exceeding the applicable limit(s) of insurance for any loss or damage arising out of one **occurrence**.

Replacement Cost (This basis applies only if indicated on the **Declaration Page**)

a) The Insurer agrees to amend the Basis of Settlement from **actual cash value** to **replacement cost**, and will pay the **replacement cost** of the insured loss or damage up to the **Insured's** financial interest in the property but not exceeding the applicable limit(s) of insurance for any loss or damage arising out of one **occurrence** subject to the following provisions:

- (i) replacement shall be effected by the **Insured** with due diligence and dispatch;
- (ii) replacement shall be on any **premises** insured by this policy;
- (iii) 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;
- (iv) failing compliance by the **Insured** with any of the foregoing provisions, settlement shall be made as if this extension had not been in effect.
- (v) any other insurance effected by the **Insured** or on behalf of the **Insured** in respect to the insured perils on the property to which this extension is applicable shall be on the basis of **replacement cost**.

b) **Replacement cost** does not apply to any increase in the cost of replacement due to a restriction or prohibition in any bylaw, regulation, ordinance or law;

c) In the event new property of like kind or quality is not available, 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 purpose of **replacement cost**;

d) **Replacement cost** does not apply to:

- (i) **stock**;
- (ii) patterns, dyes, moulds;

- (iii) paintings, etchings, pictures, tapestries, statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelain, rare glassware, bric-a-brac or other articles of art, rarity or antiquity;
 - (iv) manuscripts and records meaning scripts and records meaning books of account, drawings, card index systems and other records;
 - (v) **media** meaning the materials on which **data** is recorded electronically or digitally and **data** meaning the facts, concepts, instructions or computer programs used in **data** processing operations;
- e) Any reference to **Actual Cash Value** in a Co-insurance Clause in this form is deemed to be a reference to **replacement cost** of the property insured.

If the **Insured** qualifies for a tax credit, the loss payment will be reduced by that amount.

Any loss or damage will not reduce the amounts of insurance provided by this **policy**.

Deductible: In any one **occurrence**, the Insurer is responsible only for the amount by which the insured loss or damage exceeds the amount of the deductible shown on the **Declaration Page**. 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 ten percent (10%) of the applicable amount of insurance or twenty-five thousand dollars (\$25,000).

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 **replacement cost** or **actual cash value** (whichever basis of settlement is specified on the **Declaration Page**) 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.

Insurance Under More Than One Policy:

If you have other insurance on specifically described property, this policy will be considered excess insurance and the Insurer will not pay any loss or claim until the amount of such other insurance is used up.

CONDITIONS

Permission

Permission is hereby granted:

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

Breach of Condition

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.

Removal

If any of the insured property is necessarily removed from the location(s) specified on the **Declaration Page** to prevent loss, destruction or damage or further loss, destruction or damage thereto, that part of the insurance under this policy that exceeds the amount of the Insurer's liability for any loss already incurred shall, for thirty (30) days only, or for the unexpired term of the policy if less than thirty (30) days, insure the property removed and any property remaining in the

location(s) specified herein in the proportions which the value of the property in each of the respective locations bears to the value of the property in them all.

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;

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.

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 and records – as defined in paragraphs (a) and (b) of the condition Special Basis of Settlement in the Form;
- (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.

Special Basis of Settlement

a. **Tenant's Improvements:** The liability of the Insurer shall be determined as follows:

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

b. **Records:** The liability of the Insurer for loss or damage to:

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

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

Other Insurance

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

Non Waiver

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

Examination of Insured

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

Territorial Limits

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

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.