

WORDS AND PHRASES IN QUOTATION MARKS HAVE SPECIAL MEANING AS DEFINED IN CLAUSE 11

**1. INDEMNITY AGREEMENT**

In the event that the "Business" shall be interrupted as a direct result of "Damage", the Insurer shall pay to the Insured the loss of "Business Income" suffered during the "Indemnity Period" in consequence thereof, in accordance with the terms and conditions of this Form.

**2. LIMITS OF INSURANCE**

The Insurer, regardless of the number of persons and interests insured under this Form, shall not be liable for more than the applicable amount of insurance specified on the "Declarations Page".

**3. COINSURANCE**

The Insurer shall not be liable for a greater proportion of any loss than the amount of insurance specified on the "Declarations Page" bears to 80% of the amount produced by multiplying the "Annual Revenue" by the "Business Income Percentage".

**4. PERILS INSURED**

The perils insured against are all risks except as otherwise excluded in this Form.

**5. A. EXCLUSIONS**

The Insurer shall not be liable for loss of "Business Income" resulting from loss of or damage to:

- (a) sewers, drains or water mains located beyond the outside bearing walls or foundations of the property insured, outside communication towers, antennae (including satellite receivers) and equipment attached thereto, street clocks, exterior signs, exterior glass or vitrolite and lettering or ornamentation thereon, but this exclusion does not apply to loss or damage caused directly by "Named Perils";
- (b) property at locations which to the knowledge of the insured, are vacant unoccupied or shut down for more than thirty (30) consecutive days;
- (c) electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing, unless fire or explosion as described in Clause 17 (f) ensues and then only for such ensuing loss or damage;
- (d) growing plants, trees, shrubs or flowers, all while in the open;
- (e) animals, fish or birds, but this exclusion does not apply to loss or damage caused directly by "Named Perils" or from theft or attempt thereof;
- (f) money, bullion, platinum and other precious metals and alloys, securities, stamps, tickets and tokens, evidence of debt or title;
- (g) automobiles, watercraft, amphibious or air cushion vehicles, aircraft, spacecraft, trailers, motors and other accessories attached to or mounted on such property, but this exclusion shall not apply to watercraft, amphibious or air cushion vehicles held for sale, unlicensed automobiles or unlicensed trailers used in the business of the Insured when on the "Premises" of the Insured;
- (h) furs, fur garments, jewels, jewellery, costume jewellery, watches, pearls, precious and semi-precious stones, and pre-recorded video tapes but this exclusion does not apply to any loss or damage caused directly by "Named Perils";
- (i) property insured under the terms of any Marine Insurance, and property while waterborne;
- (j) property illegally acquired, kept, stored or transported; property seized or confiscated for breach of any law or by order of any public authority;
- (k)
  - 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. Additionally the Insurer shall not be liable for:
- (l) 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;

- (m) 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;
- (n) loss due to fines or damages for breach of contract for late or non-completion of orders or for any penalties of whatever nature;
- (o) loss due to the suspension, lapse or cancellation of any lease or license, contract or order, which may affect the Insured's income after the period following any loss during which indemnity is payable.

#### 5. B. PERILS EXCLUDED

The Insurer shall not be liable for loss of "Business Income" resulting from loss or damage caused directly or indirectly:

- (a) by earthquake, except for ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment, all as described in Clause 17 (f);
- (b) by flood, including waves, tides, tidal waves, tsunamis, or the rising of, the breaking out or the overflow of, any body of water, whether natural or man-made, but this exclusion does not apply to ensuing loss or damage which results directly from fire, explosion, smoke, leakage from fire protective equipment, all as described in Clause 17 (f) or leakage from a water main;
- (c)
  - (i) by seepage, leakage or influx of water derived from natural sources through basement walls, doors, windows or other openings therein, foundations, basement floors, sidewalks, sidewalk lights, or by the backing up of sewers, sumps, septic tanks or drains, unless concurrently and directly caused by a peril not otherwise excluded in Clause 5.B. hereof;
  - (ii) by the entrance of rain, sleet or snow through doors, windows, skylights or other similar wall or roof openings unless through an aperture concurrently and directly caused by a peril not otherwise excluded in Clause 5.B. hereof;
- (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) by dampness or dryness of atmosphere, changes of temperature, freezing, heating, shrinkage, evaporation, loss of weight, leakage of contents, exposure to light, contamination, pollution, change in colour or texture or finish, rust or corrosion, marring, scratching or crushing, but this exclusion: does not apply to loss or damage caused directly by "Named Perils", rupture: of pipes or breakage of apparatus not excluded under paragraph (k) of Clause 5.A. hereof or theft or attempt thereof Damage to' pipes caused by freezing is insured provided such pipes are not excluded in paragraph (k) of Clause 5.A. hereof,
- (f) by smoke from agricultural smudging or industrial operations;
- (g) by rodents, insects or vermin, but this exclusion does not apply to loss or damage caused directly by a peril not otherwise excluded in Clause 5.B. hereof;
- (h) by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- (i) caused 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;
- (j) caused by contamination by radioactive material;
- (k) by any dishonest or criminal act on the part of the Insured or any other party of interest, employees or agents of the Insured, or any person to whom the property may be entrusted (bailees for hire excepted), but this exclusion does not apply to physical damage, caused directly by employees of the Insured, which results from a peril otherwise insured and not otherwise excluded under this Form;
- (l) by snowslide, landslide, subsidence or other earth movement, except for ensuing loss or damage which results directly from fire, explosion, smoke or leakage from fire protective equipment, all as described in Clause 17(0);
- (m) 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 hereunder that has been damaged by such explosion;
  - (vi) gas turbines;
- (n) by settling, expansion, contraction, moving, shifting or cracking unless concurrently and directly caused by a peril not otherwise excluded in Clause 5.B. hereof;
- Nor shall the Insurer be liable for loss of "Business Income" resulting directly or indirectly from:
- (o) wear and tear, gradual deterioration, latent defect, inherent vice, or the cost of making good faulty or improper material, faulty or improper workmanship, faulty or improper design, provided, however, to the extent otherwise insured and not otherwise excluded under this Form, loss of "Business Income" resulting from resultant damage to the property is insured;
  - (p) mysterious disappearance or shortage disclosed on taking inventory;
  - (q) loss or damage sustained to contents while actually being worked upon and directly resulting therefrom or caused by any repairing, adjusting or servicing of contents, unless fire or explosion as described in Clause 17 (f) ensues and then only for loss of "Business Income" resulting from such ensuing loss or damage;
  - (r) disturbance or erasure of electronic recordings by electric or magnetic injury except lightning.

#### 6. DETERMINATION OF PAYMENT

This insurance, subject to the limit of the amount of insurance stated on the "Declarations Page", is limited to loss of "Business Income" due to (a) Reduction of "Revenue" and (b) Increase in Cost of Operations and the amount payable will be:

- (a) IN RESPECT OF REDUCTION OF "REVENUE": The amount obtained by multiplying the "Revenue Shortfall" by the "Business Income Percentage";
- (b) IN RESPECT OF INCREASE IN COST OF OPERATIONS: The additional expenditure necessarily incurred for the sole purpose of avoiding or diminishing the reduction in revenue which but for that expenditure would have taken place during the "Indemnity Period" in consequence of the "Damage", but not exceeding, the sum obtained by multiplying the amount of the reduction thereby avoided by the "Business Income Percentage"; less any sum saved during the "Indemnity Period" in respect of such of the charges and expenses of the "Business" payable out of "Business Income" as may cease or be reduced in consequence of the "Damage".

#### 7. PAYROLL

This clause applies only when an amounts shown on the "Declarations Page" for "Ordinary Payroll".

"Ordinary Payroll" is insured for a period of time not exceeding 90 consecutive days (or such other period specified on the 'Declarations Page" for ordinary payroll) immediately following the date of "Damage", which may continue during a total or partial suspension of business, insuring only to the extent "necessary " to resume the "Normal" business of the Insured with the same quality of service which existed immediately preceding the "Damage", and which would have been earned had no "Damage" occurred.

The Insurer shall not be liable, in the event of loss, for a greater proportion of the loss under this clause than the amount hereby insured under this clause bears to 80% of "Ordinary Payroll" that would have been earned (had no "Damage" occurred) during the 90 consecutive days (or such other period specified on the "Declarations Page" for ordinary payroll) immediately following the date of "Damage".

#### 8. INTERRUPTION BY CIVIL AUTHORITY

This Form, subject to its terms and conditions, is extended to insure the loss of "Business Income" suffered by the Insured during the period of time, not exceeding two weeks, while access to the "Premises" is prohibited by order of civil authority, but only when such order is given as a direct result of damage to neighboring premises by a peril insured against under this Form.

#### 9. ACCOUNTANTS' FEES

The Insurer will pay to the Insured the reasonable charges payable by the Insured to their professional accountants for producing such particulars or details or other proofs, information or evidence as may be required by the Insurer for the purpose of investigating or verifying any claim hereunder and reporting that such particulars or details are in accordance with the Insured's books of account or other business books or documents.

The amount payable under this clause shall in no case exceed \$2,000.00 (or such other amount specified on the "Declarations Page" for accountants' fees).

#### 10. 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 and use such articles, materials, and supplies in such quantities as are usual or necessary to the Insured's business.

#### 11. BREACH OF CONDITIONS

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.

#### 12. REINSTATEMENT

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

#### 13. SUBROGATION

The Insurer, upon making any payment or assuming liability therefor 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 damage shall not affect the right of the Insured to recover.

#### 14. 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.

#### 15. ALTERNATIVE TRADING

If during the "Indemnity Period" goods shall be sold or services shall be rendered elsewhere than at the "Premises" for the benefit of the business, either by the Insured or by others on his behalf, the money paid or payable in respect of such sales or service shall be brought into account in arriving at the "Revenue" during the "Indemnity Period".

#### 16. PREMIUM ADJUSTMENT

If within 12 months after the expiry or anniversary date of this policy the Insured shall file with the Insurer a premium adjustment application form showing that 80% of "Business Income" as defined herein, certified by the Insured's auditors as earned during the Insured's financial year most nearly concurrent with the annual term of the policy, was less than the total amount of insurance, on "Business Income". under this Form, then the Insurer will allow in respect of the difference a return premium not exceeding 50% of the premium paid by the Insured under this Form in respect of such "Business Income".

The Insurer reserves the right to inspect the Insured's books and records which relate to this insurance for verification of any statement filed for the purpose of adjusting the premium of this insurance.

#### 17. DEFINITIONS

- (a) "Business" means the business of the Insured as specified on the "Declarations Page".
- (b) "Business Income" means the amount by which
  - (i) the sum of the "Revenue" and the amounts of closing stock and work in progress shall exceed
  - (ii) the sum of the amounts of opening stock and work in progress and the amount of the "Variable Operating Expenses".

Note: The amounts of the opening and closing stocks and work in progress shall be arrived at in accordance with the Insured's normal accountancy methods, due provision being made for depreciation.

- (c) "Damage" means the direct physical loss of or damage to property at the "Premises" from a Peril Insured.
- (d) "Declarations Page" means the Declarations Page applicable to this Form.

(e) "Indemnity Period" means the period beginning with the occurrence of the "Damage" and ending not later than such length of time, not exceeding 12 consecutive calendar months, as would be required with exercise of due diligence and dispatch to rebuild, repair or replace the lost or damaged properly. However, if media for, or programming records pertaining to, electronic data processing or electronically controlled equipment including data thereon be lost or damaged by a peril insured against then the "Indemnity Period" in respect thereof shall not extend beyond:

- (i) 30 consecutive days after the occurrence of such "Damage"; or
- (ii) the date upon which liability ceases under this Form for loss arising from other property lost or damaged by the same occurrence;

whichever shall be the later.

(f) "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 of "Business Income" resulting from 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 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, other than manually portable gas cylinders, while under pressure, or while in use or in operations, provided their maximum normal internal working pressure exceeds 103 kilopascals (15 pounds per square inch) above atmospheric pressure;
- (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 pipes connected therewith while undergoing pressure tests, but this exclusion shall not apply to other 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 therefrom.

There shall in no event be any liability hereunder for loss of "Business Income" due to cumulative damage or for loss of "Business Income" resulting from loss or damage:

- (i) caused by land vehicles belonging to or under the control of the Insured or any of his employees;
- (ii) to aircraft, spacecraft or land vehicles causing the loss;
- (iii) caused by any aircraft or spacecraft when being taxied or moved inside or outside of buildings.

(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 of "Business Income" resulting from 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 any explosion in respect of which there is insurance under Clause 17 (0) (B);
- (iii) due to theft or attempt thereat.

(E) 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 loss of "Business Income" due to cumulative damage.

(F) 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 on the "Declarations Page" or for adjoining premises and loss or damage caused by the fall or breakage or freezing of such equipment

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.

(G) WINDSTORM OR HAIL: There shall in no event be any liability hereunder for loss of "Business Income" resulting from 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, eves, ice, land subsidence, Landslip.

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

(h) "Ordinary Payroll" means the entire payroll expense for all employees of the Insured other than salaries to permanent staff and wages to foremen and important employees whose services would not be dispensed with should the business be interfered with or interrupted.

(i) "Premises" means the entire area within the property lines and areas under adjoining sidewalks and driveways at the location(s) described on the "Declarations Page" and in or on vehicles within 100 metres (328 feet) of such location(s).

(j) "Revenue" means the money paid or payable to the Insured for goods sold and delivered and for services rendered in course of the "Business" at the "Premises" after allowing for returns and discounts.

(k) "Revenue Shortfall" means the amount by which the "Revenue" during the "Indemnity Period" in consequence of the "Damage" falls short of the "Expected Revenue".

(l) "Variable Operating Expenses" means

- (i) all purchases (less discounts received);
- (ii) packing materials;
- (iii) delivery and freight (other than by own vehicles);
- (iv) "Ordinary Payroll".

Note: The words and expressions used in this definition shall have the meaning usually attached to them in the books and accounts of the Insured.

(m) "Business Income Percentage" means the percentage obtained by dividing the "Business Income" by the "Revenue" during the financial year immediately before the date of the "Damage".

(n) "Annual Revenue" means the "Revenue" during the twelve months immediately before the date of the "Damage".

(o) "Expected Revenue" means the "Revenue" during the period corresponding with the "Indemnity Period" in the twelve months immediately before the date of the "Damage".

To which such adjustment shall be made as may be necessary to provide for the terms of the "Business" and for variations in or other circumstances affecting the "Business" either before or after the "Damage" not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the "Damage" would have been obtained during the relative period after the "Damage"