

Miscellaneous Property Floater - Named Perils including Theft - Form AP331

1 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:

- (i) the value of the lost or damaged property as determined in Clause 10 BASIS OF VALUATION;
- (ii) the interest of the Insured in the property;
- (iii) the catastrophe limit, if one is shown on the Declaration Page; or
- (iv) the amount of insurance specified on the Declarations Page in respect of the property lost or damaged.

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

2 PROPERTY INSURED

This Form insures the described property owned by the Insured or the property of others for which the Insured may be liable, as per the specified schedule, up to the limit as indicated on the Declarations Page.

3 PERILS INSURED

This Form insures, except as excluded elsewhere in this Form, against direct loss or damage resulting from:

- a Fire, Lightning or Smoke;
- b Windstorm, Tornado, Cyclone or Hail;
- c Explosion;
- d Riot, riot attending a strike or civil commotion;
- e Impact by Aircraft, Spacecraft or Land Vehicle (excepting aircraft, spacecraft or land vehicles under the control of the insured or the insured's employees) or objects falling from aircraft;
- f Vandalism or Malicious Acts;
- g Collision, derailment or overturn of any vehicle being used to transport property insured by this policy;
- h Collapse of bridges, culverts or docks;
- i Leakage from fire protective equipment;
- j Theft

4 EXCLUSIONS

A. PROPERTY EXCLUDED

This Form does not insure loss or damage to:

- a property illegally imported, acquired, kept, stored or transported, or property seized or confiscated for breach of any law or by order of any public authority;
- b automobiles, motor trucks, motorcycles, midget automobiles, all terrain three or four wheel vehicles which are subject to motor vehicle registration, snowmobiles, watercraft, aircraft, "Unmanned Air Vehicles", or any other vehicles which are licensed or are subject to motor vehicle registration, including equipment or appurtenances of any of the foregoing;
- c property whilst waterborne, except that while the property insured is being transported on any regular ferry or is in or on railway cars or transfers in connection therewith, this Policy insures against direct physical loss or damage to the property insured caused by the Stranding, Sinking, Burning, or Collision of the vessel, including General Average and Salvage Charges;

- d any property undergoing any process, including a process involving the application of heat, or while being worked on, where the damage results from such process or work, but resulting damage to other property is insured.
- e furs, garments trimmed with furs, jewels, jewellery, watches, pearls, precious and semi-precious stones, gold, silver, platinum and other precious metals and alloys;
- f currency, money, notes, stamps, securities, passports, railroad or other tickets, evidence of debt or title;
- g tires, tubes or rubber tracks unless the loss or damage is caused by fire, theft or vandalism or is coincident with other loss or damage insured by this Policy;
- h any camera or equipment designed for Aerial Photography, while in or on any aircraft, unless endorsed thereon.

B. PERILS EXCLUDED

This Form does not insure loss or damage:

- a caused by or resulting from delay, loss of market or loss of use;
- b occasioned by the neglect of the Insured to use all reasonable means to save and preserve the insured property;
- c caused by wear and tear, gradual deterioration, dampness of atmosphere, extremes of temperature, insect, vermin, latent defect, inherent vice, or damage sustained due to any process or while being actually worked upon and resulting therefrom;
- d caused by short circuit or other electrical injury or disturbance, exclusive of lightning to electrical appliances, devices or other electrically operated property or wiring unless fire or explosion ensues and then for the loss or damage by fire or explosion only;
- e due to mechanical breakdown, breakage of glass or other brittle articles or parts, marring, scratching unless caused by fire, lightning, theft or attempted theft, cyclone, tornado, windstorm, earthquake, flood, explosion, malicious damage or collision, derailment or overturn of transporting vehicle, strike, riot, aircraft, vehicles other than transporting conveyance, rupture of pipes, breakage of apparatus, sprinkler leakage, vandalism;
- f caused by or 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 others to whom the property may be entrusted (carriers for hire excepted);
- g caused by unexplained or mysterious disappearance of property excluding "Burglary" as defined herein;
- h resulting from any intentional or criminal act or failure to act by:
 - (i) any person insured by this policy; or
 - (ii) any other person at the direction of any person insured by this policy;
- i in whole or in part by war, invasion 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 cause or events (whether covered or not) that contribute concurrently or in any sequence to the occasioning of the loss or damage;
- j (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. 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 & DATA PROBLEM EXCLUSION

This policy does not insure against:

- a Loss or damage caused directly by failure of any "Data";
- b 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 fire or lightning, explosion, impact by aircraft, spacecraft or land vehicle, leakage from fire protective equipment, windstorm or hail, this exclusion shall not apply to such resulting loss or damage

E. 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.

F. FUNGI AND SPORES EXCLUSION

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 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"

5 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 "Declarations Page" in any one occurrence. If one occurrence could lead to the application of more than one deductible, only the highest deductible will apply.

6 CO-INSURANCE

The Insurer shall not be, liable in the event of loss or damage, for no greater proportion thereof than the amount insured hereunder bears to 100% of the actual cash value of the property insured hereunder at the time when such loss or damage shall happen. If this Form covers two or more items, this condition shall apply to each item separately.

7 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.

8 TERRITORIAL LIMITS

This insurance covers the described property while on your premises and while temporarily away from your premises anywhere in Canada or the Continental United States.

9 LOCKED VEHICLE WARRANTY

Warranted by the Insured that any unattended vehicle in which the property insured is being 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 shall have been securely locked.

10 BASIS OF VALUATION

- a **Actual Cash Value**

The value of the insured property, for which no more specific conditions have been set out, will be the actual cash value at the time of loss or damage, but not exceeding what it would then cost to repair or replace with material of like kind and quality.

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

b Replacement Cost - Applicable only to those items shown in the Declarations as subject to "Replacement Cost" coverage.

The Insurer agrees to amend the basis of settlement from actual cash value to "Replacement Cost" subject to the following provisions:

- i. the damaged property to be repaired or replaced with due diligence and dispatch;
- ii. 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";
- iii. failing compliance by the Insured with any of the foregoing provisions, settlement shall be made as if this endorsement had not been in effect;
- iv. any other insurance effected by or on behalf of the Insured in respect of the perils insured against by this Form on the property to which this endorsement is applicable shall be on the basis of "Replacement Cost" as defined herein;
- v. this endorsement applies separately to each item(s) listed above.

This coverage is subject to the Co-insurance Clause (as stated on the Declaration Page) requiring a stated percentage of insurance to value to be maintained; the value for the purpose of applying said Co-insurance Clause shall be calculated on "replacement cost" without deduction for depreciation.

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.

Settlement on a "Replacement Cost" basis does not apply to:

- i. stock or customer's goods;
- ii. patterns, dies, 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 books of account, drawings, card index systems and other records, media, data storage devices, and program devices for electronic electro-mechanical data processing or for electronically controlled equipment;
- v. any increase in the cost of "Replacement" occasioned by a restriction or prohibition in any by-law, regulation, ordinance or law;

11 REINSTATEMENT

Loss under any item of this insurance will not reduce the applicable limit of insurance.

12 DEFINITIONS

Wherever used in this Form:

- a. **"Burglary"** means the wrongful abstraction of property insured from within buildings or the fully enclosed compartment of a vehicle by a person making wrongful entry therein or exit therefrom by actual force and violence as evidenced by visible marks at the place of such entry or exit.
- 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";

- (iii) inability to receive, transmit or use "Data";
- (iv) damage to electronic "Data Processing System(s) and Equipment" or any other related component system, process or device.
- d **"Clean Up"** means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "Pollutants", including testing which is integral to the aforementioned processes.
- e **"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.
- 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 **"Replacement" or "Replacement Cost"**
 - (i) "replacement cost" means the cost of replacing, repairing, constructing or reconstructing (whichever is the least) the insured property lost or damaged, with new property of like kind and quality without deduction for depreciation; and
 - (ii) "replacement" includes repair, construction or reconstruction with new property of like kind and quality.
- h **"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".
- i **"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 and/or fear in the public or a sector of the public.
- j **"Unmanned Air Vehicle"** means a power driven aircraft, other than a "Model Aircraft" that is operated without a flight crew member on board, and is used for non-recreational or commercial purposes.

EXCEPT AS OTHERWISE PROVIDED IN THIS FORM, ALL TERMS, CONDITIONS AND PROVISIONS OF THE POLICY TO WHICH THIS FORM IS ATTACHED SHALL HAVE FULL FORCE AND EFFECT.