

**TERRORISM INSURANCE**

**PHYSICAL LOSS OR PHYSICAL DAMAGE WORDING**

## **Section 1**

### **INSURING CLAUSE**

Subject to the exclusions, limits and conditions hereinafter contained, this Insurance insures property as stated in the Schedule attaching to and forming part of this Policy (hereinafter referred to as the "Schedule") against physical loss or physical damage occurring during the period of this Policy caused by an Act of Terrorism or Sabotage, as herein defined.

For the purpose of this Insurance, an Act of Terrorism means an act or series of acts, including the use of force or violence, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s), committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

For the purpose of this Insurance, an act of sabotage means a subversive act or series of such acts committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

## **Section 2**

### **LOSSES EXCLUDED**

This Policy does not insure against:

1. Loss or damage arising directly or indirectly from nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination, however such nuclear detonation, nuclear reaction, nuclear radiation or radioactive contamination may have been caused.
2. Loss or damage occasioned directly or indirectly by war, invasion or warlike operations (whether war be declared or not), hostile acts of sovereign or local government entities, civil war, rebellion, revolution, insurrection, martial law, usurpation of power, or civil commotion assuming the proportions of or amounting to an uprising.
3. Loss by seizure or legal or illegal occupation unless physical loss or damage is caused directly by an Act of Terrorism or an Act of Sabotage.
4. Loss or damage caused by confiscation, nationalisation, requisition, detention, embargo, quarantine, or any result of any order of public or government authority which deprives the Insured of the use or value of its property, nor for loss or damage arising from acts of contraband or illegal transportation or illegal trade.
5. Loss or damage directly or indirectly arising from or in consequence of the seepage and or discharge of pollutants or contaminants, which pollutants and contaminants shall include but not be limited to any solid, liquid, gaseous or thermal irritant, contaminant or toxic or hazardous substance or any substance the presence, existence or release of which endangers or threatens to endanger the health, safety or welfare of persons or the environment.
6. Loss or damage arising directly or indirectly from or in consequence of chemical or biological emission, release, discharge, dispersal or escape or chemical or biological exposure of any kind.

7. Loss or damage arising directly or indirectly from or in consequence of asbestos emission, release, discharge, dispersal or escape or asbestos exposure of any kind.
8. Any fine or penalty or other assessment which is incurred by the Insured or which is imposed by any court, government agency, public or civil authority or any other person.
9. Loss or damage by electronic means including but not limited to computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any electromagnetic weapon.

This exclusion shall not operate to exclude losses (which would otherwise be covered under this Policy) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile.

10. Loss or damage caused by vandals or other persons acting maliciously or by way of protest or strikes, labour unrest, riots or civil commotion.
11. Loss or increased cost occasioned by any public or government or local or civil authority's enforcement of any ordinance or law regulating the reconstruction, repair or demolition of any property insured hereunder.
12. Loss or damage caused by measures taken to prevent, suppress or control actual or potential terrorism or sabotage unless agreed by Underwriters in writing prior to such measures being taken.
13. Any consequential loss or damage, loss of use, delay or loss of markets, loss of income, depreciation, reduction in functionality, or increased cost of working.
14. Loss or damage caused by factors including but not limited to cessation, fluctuation or variation in, or insufficiency of, water, gas or electricity supplies and telecommunications or any type of service.
15. Loss or increased cost as a result of threat or hoax.
16. Loss or damage caused by or arising out of burglary, house - breaking, looting, theft or larceny.
17. Loss or damage caused by mysterious disappearance or unexplained loss.
18. Loss or damage directly or indirectly caused by mould, mildew, fungus, spores or other microorganism of any type, nature or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

### **Section 3**

#### **PROPERTY EXCLUDED**

This Policy does not cover physical loss or physical damage to:

1. Land or land values.
2. Power transmission, feeder lines or pipelines not on the Insured's premises.
3. Any building or structure, or property contained therein, while such building or structure is vacant or unoccupied or inoperative for more than thirty days, unless the property is intended to be unoccupied in its normal operations.
4. Aircraft or any other aerial device, or watercraft.

5. Any land conveyance, including vehicles, locomotives or rolling stock, unless such land conveyance is declared hereon and solely whilst located at the property insured herein at the time of its damage.
6. Animals, plants and living things of all types.
7. Property in transit not on the Insured's premises.

## **Section 4**

### **CONDITIONS**

#### **1. JOINT INSUREDS**

The Underwriters' total liability for any loss or losses sustained by any one or more of the Insureds under this Insurance will not exceed the sum insured shown in the Schedule. The Underwriters shall have no liability in excess of the sum insured whether such amounts consist of insured losses sustained by all of the Insureds or any one or more of the Insureds.

#### **2. OTHER INSURANCE**

This Policy shall be excess of any other insurance available to the Insured covering a loss covered hereunder except such other insurance which is written specifically as excess insurance over this Policy. When this Policy is written specifically in excess of other insurance covering the peril insured hereunder, this Policy shall not apply until such time as the amount of the underlying insurance, (whether collectible or not), has been exhausted by loss and damage covered by this Policy in excess of the deductible with respect to each and every covered loss.

#### **3. SITUATION**

This Policy insures property located at the addresses stated in the Schedule.

#### **4. SUM INSURED**

The Underwriters hereon shall not be liable for more than the sum insured stated in the Schedule in respect of each occurrence and in the Policy aggregate.

#### **5. DEDUCTIBLE**

Each occurrence shall be adjusted separately and from each such amount the sum stated in the Schedule shall be deducted.

#### **6. OCCURRENCE**

The term "Occurrence" shall mean any one loss and/or series of losses arising out of and directly occasioned by one Act or series of Acts of Terrorism or Sabotage for the same purpose or cause. The duration and extent of any one "Occurrence" shall be limited to all losses sustained by the Insured at the property insured herein during any period of 72 consecutive hours arising out of the same purpose or cause. However no such period of 72 consecutive hours may extend beyond the expiration of this Policy unless the Insured shall first sustain direct physical damage by an Act of Terrorism or an Act of Sabotage

prior to expiration and within said period of 72 consecutive hours nor shall any period of 72 consecutive hours commence prior to the attachment of this Policy.

## **7. DEBRIS REMOVAL**

This Policy also covers, within the sum insured, expenses incurred in the removal from the insured location of debris of property stated in the Schedule damaged by an Act of Terrorism or an Act of Sabotage.

The cost of removal of debris shall not be considered in determination of the valuation of the property covered.

## **8. DUE DILIGENCE**

The Insured (or any of the Insured's agents, sub or co-contractors) must use due diligence and do (and concur in doing and permit to be done) everything reasonably practicable, including but not limited to taking precautions to protect or remove the insured property, to avoid or diminish any loss herein insured and to secure compensation for any such loss including action against other parties to enforce any rights and remedies or to obtain relief or indemnity.

## **9. PROTECTION MAINTENANCE**

It is agreed that any protection provided for the safety of the property insured shall be maintained in good order throughout the currency of this Policy and shall be in use at all relevant times, and that such protection shall not be withdrawn or varied to the detriment of the interests of the Underwriters without their consent.

## **10. VALUATION**

It is understood that, in the event of damage, settlement shall be based upon the cost of repairing, replacing or reinstating (whichever is the least) property on the same site, or nearest available site (whichever incurs the least cost) with material of like kind and quality without deduction for depreciation, subject to the following provisions:

The repairs, replacement or reinstatement (all hereinafter referred to as "replacement") must be executed with due diligence and dispatch;

Until replacement has been effected the amount of liability under this Policy in respect of loss shall be limited to the actual cash value at the time of loss;

If replacement with material of like kind and quality is restricted or prohibited by any by-laws, ordinance or law, any increased cost of replacement due thereto shall not be covered by this Policy.

The Underwriters' liability for loss under this Policy shall not exceed the smallest of the following amounts:

The Policy limit applicable to the destroyed or damaged property,

The replacement cost of the property or any part thereof which was intended for the same occupancy and use, as calculated at the time of the loss,

The amount actually and necessarily expended in replacing said property or any part thereof.

The Underwriters will normally expect the Insured to carry out repair or replacement of the insured property, but if the Insured and the Underwriters agree that it is not practicable or reasonable to do this, the Underwriters will pay the Insured an amount based on the repair or replacement costs, less an allowance for fees and associated costs which are not otherwise incurred. The Underwriters will only pay the Insured up to the Sum Insured shown in the Schedule.

#### **11. INCORRECT DECLARATION PENALTY**

If the values declared as stated in the Schedule are less than the correct insured values as determined above, then any recovery otherwise due hereunder shall be reduced in the same proportion that the values declared bear to the values that should have been declared, and the Insured shall co-insure for the balance.

#### **12. NOTIFICATION OF CLAIMS**

The Insured, upon knowledge of any occurrence likely to give rise to a claim hereunder, shall give written advice as soon as reasonably practicable to the Underwriters and or the Broker, named for that purpose in the Schedule, who is to advise the Underwriters within seven (7) days of such knowledge of any occurrence and it is a condition precedent to the liability of Underwriters that such notification is given by the Insured as provided for by this Policy.

If the Insured makes a claim under this Insurance he must give the Underwriters such relevant information and evidence as may reasonably be required and co-operate fully in the investigation or adjustment of any claim. If required by the Underwriters, the Insured must submit to examination under oath by any person designated by the Underwriters.

#### **13. PROOF OF LOSS**

The Insured shall render a signed and sworn proof of loss within sixty (60) days after the occurrence of a loss (unless such period be extended by the written agreement of Underwriters) stating the time, place and cause of loss, the interest of the Insured and all others in the property, the sound value thereof and the amount of loss or damage thereto.

If the Underwriters have not received such proof of loss within two years of the expiry date of this Policy, they shall be discharged from all liability hereunder.

In any claim and/or action, suit or proceeding to enforce a claim for loss under this Policy, the burden of proving that the loss is recoverable under this Policy and that no limitation or exclusion of this Policy applies and the quantum of loss shall fall upon the Insured.

## **14. SUBROGATION**

Any release from liability entered into in writing by the Insured prior to loss hereunder shall not affect this Policy or the right of the Insured to recover hereunder. The right of subrogation against any of the Insured's subsidiary or affiliated companies or any other companies associated with the Insured through ownership or management is waived;

In the event of any payment under this Policy, the Underwriters shall be subrogated to the extent of such payment to all the Insured's right of recovery therefor. The Insured shall execute all papers required, shall cooperate with Underwriters and, upon the Underwriters' request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, attaining the attendance of witnesses and in the conduct of suits and shall do anything that may be necessary to secure such right. The Underwriters will act in concert with all other interests concerned (including the Insured) in the exercise of such rights of recovery. If any amount is recovered as a result of such proceedings, such amount shall be distributed in the following priorities:

- (i) Any interest, (including the Insured's), exclusive of any deductible or self insured retention, suffering a loss of the type covered by this Policy and in excess of the coverage under this Policy shall be reimbursed up to the amount of such loss (excluding the amount of the deductible);
- (ii) Out of the balance remaining, the Underwriters shall be reimbursed to the extent of payment under this Policy;
- (iii) The remaining balance, if any, shall inure to the benefit of the Insured, or any insurer providing insurance primary to this Policy, with respect to the amount of such primary insurance, deductible, self insured retention, and/or loss of a type not covered by this Policy.

The expense of all proceedings necessary to the recovery of any such amount shall be apportioned between the interests concerned, including that of the Insured, in the ratio of their respective recoveries as finally settled. If there should be no recovery and proceedings are instituted solely on the initiative of Underwriters, the expense thereof shall be borne by the Underwriters.

## **15. SALVAGE AND RECOVERIES**

All salvages, recoveries and payments recovered or received subsequent to a loss settlement under this Policy shall be applied as if recovered or received prior to the said settlement and all necessary adjustments shall be made by the parties hereto.

## **16. FALSE OR FRAUDULENT CLAIMS**

If the Insured shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Policy shall become void and all claims and benefit hereunder shall be forfeited.

## **17. MISREPRESENTATION**

If the Insured has concealed or misrepresented any material fact or circumstance relating to this Insurance, this Insurance shall become void. If the Insured is unsure what constitutes material fact(s) or circumstance(s), they should consult their broker or agent.

## **18. ABANDONMENT**

There shall be no abandonment to the Underwriters of any property.

## **19. INSPECTION AND AUDIT**

The Underwriters or their agents shall be permitted but not obligated to inspect the Insured's property at any time.

Neither the Underwriters' right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the Insured or others, to determine or warrant that such property is safe.

The Underwriters may examine and audit the Insured's books and records at any time up to two years after the final termination of this Policy, as far as they relate to the subject matter of this Insurance.

## **20. ASSIGNMENT**

Assignment or transfer of this Policy shall not be valid except with the prior written consent of the Underwriters.

## **21. RIGHTS OF THIRD PARTIES EXCLUSION**

This Policy is effected solely between the Insured and the Underwriters.

This Policy shall not confer any benefits on any third parties, including shareholders, and no such third party may enforce any term of this Policy.

This clause shall not affect the rights of the Insured.

## **22. CANCELLATION**

This Policy shall be non-cancellable by the Underwriters or the Insured except in the event of non-payment of premium where the Underwriters may cancel the Policy at their discretion.

In the event of non-payment of premium this Policy may be cancelled by or on behalf of the Underwriters by delivery to the Insured or by mailing to the Insured or the Broker by registered, certified, or other first class mail, at the Insured's address as shown in this Policy, written notice stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice and this Policy shall terminate at the date and hour specified in such notice.



If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

### **23. ARBITRATION**

If the Insured and Underwriters fail to agree in whole or in part regarding any aspect of this Policy, each party shall, within ten (10) days after the demand in writing by either party, appoint a competent and disinterested arbitrator and the two (2) chosen shall before commencing the arbitration select a competent and disinterested umpire.

The arbitrators together shall determine such matters in which the Insured and Underwriters shall so fail to agree and shall make an award thereon and the award in writing of any two (2), duly verified, shall determine the same, and if they fail to agree, they will submit their differences to the umpire.

The parties to such arbitration shall pay the arbitrators respectively appointed by them and bear equally the expenses of the arbitration and the charges of the umpire.

### **24. SEVERAL LIABILITY**

The Underwriters' obligations under this Policy are several and not joint and are limited solely to their individual subscriptions. The Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

### **25. LEGAL ACTION AGAINST UNDERWRITERS**

No one may bring a legal action against Underwriters unless:

There has been full compliance by the Insured with all of the terms of this Policy; and

The action is brought within two (2) years after the expiry or cancellation of this Policy.

### **26. MATERIAL CHANGES**

The Insured shall notify the Underwriters of any change of circumstances which would materially affect this Insurance.

### **27. EXPERTS FEES**

This Insurance includes, within the sum insured, the necessary and reasonable fees of architects, surveyors, consulting engineers and other professional experts which are incurred in reinstating or repairing the insured property following damage insured under this Policy.

### **28. LAW**

As specified in the Schedule.

## **29. JURISDICTION**

As specified in the Schedule.

## **30. SERVICE OF SUIT**

This Service of Suit Clause is only applicable to Insureds domiciled in the USA.

This Service of Suit Clause will not be read to conflict with or override the obligations of the parties to arbitrate their disputes as provided for in the Arbitration provision within this Policy. This Clause is intended as an aid to compelling arbitration or enforcing such arbitration or arbitral award, not as an alternative to such Arbitration provision for resolving disputes arising out of this contract of insurance.

It is agreed that in the event of the failure of the Underwriters hereon to pay any amount claimed to be due hereunder, the Underwriters hereon, at the request of the Insured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

It is further agreed that service of process in such suit may be made upon underwriters representatives stated in the Schedule and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorised and directed to accept service of process on behalf of Underwriters in any such suit and/or upon the request of the Insured to give a written undertaking to the Insured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above-named as the person to whom the said officer is authorised to mail such process or a true copy thereof.

## **31. NON USA LEGAL SERVICE**

Any summons, notice or process to be served upon the Underwriters for the purpose of instituting any legal proceedings against them in connection with this insurance may be served upon {Missing} of {Missing} who have authority to accept service on their behalf.