

**Physical Loss or Physical Damage  
Riots, Strikes, Civil Commotion, Malicious Damage,  
Terrorism and Sabotage  
Insurance**

Some of the words Underwriters use have a special meaning in this Insurance. If a word is in **bold** type, please read the Definitions section.

## INSURING CLAUSE

Subject to the exclusions, limits and conditions hereinafter contained, this Insurance covers property as stated in the Risk Details against direct physical loss or physical damage to tangible property caused by a **Listed Peril** occurring during the period of this Insurance:

## DEFINITIONS

**Occurrence** means each and every loss or series of losses arising out of and directly caused by one event. However, the duration and extent of any one event shall be limited to direct physical loss or physical damage which occurs within a period of 72 consecutive hours. No such period of 72 hours may extend beyond the expiry of this Insurance unless the Insured shall first sustain direct physical loss or physical damage before the expiry of this Insurance and within the aforesaid period of 72 consecutive hours, nor shall any period of 72 consecutive hours commence before the start of this Insurance.

**Listed Peril** means any of the perils listed and defined below, or any combination thereof:

**Civil Commotion** means a substantial violent uprising by a large number of persons assembled together and acting with common purpose or intent.

**Malicious Damage** means the loss, damage or destruction of property caused by the actions of anyone intending to cause harm or mischief during the disturbance of the public peace.

**Riot** means a violent disturbance by a group of persons assembled together for a common purpose which threatens the public peace.

**Sabotage** means a subversive act or series of 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.

**Strike** means a work stoppage to enforce demands made on an employer or to protest against an act or condition.

**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.

## LOSSES EXCLUDED

This Insurance does not cover:-

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, or usurpation of power.
3. Loss by seizure or legal or illegal occupation unless physical loss or damage is caused directly by a **Listed Peril**.
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 Insurance) 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 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.
11. Loss or damage caused by measures taken to prevent, suppress or control an actual or potential **Listed Peril** unless agreed by the Underwriters in writing prior to such measures being taken.
12. 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.
13. 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.

14. Loss or increased cost as a result of threat or hoax.
15. Loss or damage caused by or arising out of burglary, house - breaking, looting, theft or larceny.
16. Loss or damage caused by mysterious disappearance or unexplained loss.

## **PROPERTY EXCLUDED**

This Insurance does not cover direct or indirect 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.

## **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 stated in the Risk Details. 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 Insurance shall be excess of any other insurance available to the Insured covering a loss or damage covered hereunder except such other insurance which is written specifically as excess insurance over this Insurance. When this Insurance is written specifically in excess of other insurance covering a **Listed Peril**, this Insurance shall not apply until such time as the amount of the underlying insurance, (whether collectible or not), has been exhausted by loss and/or damage covered by this Insurance in excess of the Deductible (if any) with respect to each and every covered loss and/or damage.

### **3. SITUATION**

This Insurance covers tangible property located at the addresses stated in the Risk Details.

#### **4. SUM INSURED (TOTAL DECLARED VALUE OF PROPERTY INSURED)**

The Underwriters hereon shall not be liable for more than the Sum Insured stated in the Risk Details in respect of each **Occurrence** and in the aggregate during the Period of Insurance.

#### **5. DEDUCTIBLE**

Each **Occurrence** shall be adjusted separately and from each such adjusted amount the sum stated in the Risk Details shall be deducted.

#### **6. DEBRIS REMOVAL**

This Insurance also covers, within the Sum Insured stated in the Risk Details, expenses incurred in the removal from the insured location of debris of property stated in the Risk Details damaged by a **Listed Peril**.

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

#### **7. 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 property insured, to avoid or diminish any loss or damage herein insured and to secure compensation for any such loss or damage including action against other parties to enforce any rights and remedies or to obtain relief or indemnity.

#### **8. PROTECTION MAINTENANCE**

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

#### **9. VALUATION**

It is understood that, in the event of loss or 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 Insurance in respect of loss or damage shall be limited to the actual cash value at the time of loss or damage.
- 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 Insurance.

The Underwriters' liability for loss or damage under this Insurance shall not exceed the smallest of the following amounts: -

- The total declared value 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 or damage.

- 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 property insured, 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 stated in the Risk Details.

#### **10. INCORRECT DECLARATION PENALTY**

If the values declared as stated in the Risk Details 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.

#### **11. NOTIFICATION OF CLAIMS**

The Insured, upon knowledge of any event likely to give rise to a claim hereunder, shall give written advice as soon as reasonably practicable to the Underwriters via the Insured's Broker, who is to advise the Underwriters within seven (7) days of such knowledge of any event and it is a condition precedent to the liability of the Underwriters that such notification is given by the Insured as provided for by this Insurance.

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.

#### **12. PROOF OF LOSS OR DAMAGE**

The Insured shall render a signed and sworn proof of loss or damage within sixty (60) days after the occurrence of a loss (unless such period be extended by the written agreement of the Underwriters) stating the time, place and cause of loss or damage, 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 or damage within two years of the expiry date of this Insurance, they shall be discharged from all liability hereunder.

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

#### **13. SUBROGATION**

Any release from liability entered into in writing by the Insured prior to loss or damage herein insured shall not affect this Insurance 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 Insurance, 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 the 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 loss or damage of the type covered by this Insurance and in excess of the coverage under this Insurance shall be reimbursed up to the amount of such loss or damage (excluding the amount of the Deductible);
- (ii) out of the balance remaining, the Underwriters shall be reimbursed to the extent of payment under this Insurance
- (iii) the remaining balance, if any, shall inure to the benefit of the Insured, or any insurer providing insurance primary to this Insurance, with respect to the amount of such primary insurance, Deductible, self insured retention, and/or loss or damage of a type not covered by this Insurance.

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 the Underwriters, the expense thereof shall be borne by the Underwriters.

#### **14. SALVAGE AND RECOVERIES**

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

#### **15. FRAUDULENT CONDUCT AND MISREPRESENTATION**

This Insurance and any loss, damage or claim hereunder will be void if, whether before or after loss or damage, an Insured has:

- (i) intentionally concealed or intentionally misrepresented any material fact or circumstance;
- (ii) engaged in fraudulent conduct; or
- (iii) made false statements;

relating to this Insurance or any loss, damage or claim hereunder.

In the event that any provision of this clause is found by a court of competent jurisdiction to be invalid or unenforceable, the other provisions of this clause and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.

#### **16. ABANDONMENT**

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

#### **17. 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 termination of this Insurance, as far as they relate to the subject matter of this Insurance.

## **18. ASSIGNMENT**

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

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

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

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

This clause shall not affect the rights of the Insured.

## **20. CANCELLATION**

This Insurance shall be non-cancellable by the Underwriters or the Insured except in the event of non-payment of premium where the Underwriters may cancel this Insurance at their discretion in the manner set out below.

In the event of non-payment of premium this Insurance may be cancelled by or on behalf of the Underwriters by delivery to the Insured or by mailing to the Insured or via the Insured's Broker by registered, certified, or other first class mail, at the Insured's address as shown in the Risk Details, 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 Insurance 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.

## **21. ARBITRATION**

If the Insured and the Underwriters fail to agree in whole or in part regarding any aspect of this Insurance, 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 the Underwriters shall so fail to agree and shall make an award thereon and if the Arbitrators 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.

## **22. LEGAL ACTION AGAINST THE UNDERWRITERS**

No one may bring a legal action against the Underwriters unless:

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

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

## **23. MATERIAL CHANGES**

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

**24. EXPERTS FEES**

This Insurance includes, within the Sum Insured stated in the Risk Details, the necessary and reasonable fees of architects, surveyors, consulting engineers and other professional experts which are incurred in reinstating or repairing the property insured following loss or damage covered under this Insurance.

**25. LAW**

As stated in the Risk Details.

**26. JURISDICTION**

As stated in the Risk Details.

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