

## BUILDERS' RISK COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words "you" and "your" refer to the Named Insured shown in the Common Policy Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section H. - Definitions.

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**A. COVERAGE**

We will pay for direct physical loss of or damage to Covered Property caused by or resulting from a Covered Cause of Loss.

**1. Covered Property**

Covered Property, as used in this Coverage Form, means the following types of property you own or for which you are legally liable, while such property is at the job site described in the Builders' Risk Declarations.

**a. Permanent Works**

Materials, equipment, machinery, supplies and property of a similar nature used or to be used in completion of the project described in the Builders' Risk Declarations and destined to become a permanent part of the covered project.

**b. Temporary Works**

Cofferdams, construction forms, cribbing, falsework, hoarding, scaffolds, fencing, signs and similar temporary property incidental to completion of the project described in the Builders' Risk Declarations and not destined to become a permanent part of the covered project.

**Property In Transit Or Temporary Storage**

We will also cover property described in Paragraph **a.** and **b.** above while:

- a.** In transit to the job site or to a temporary storage location, including loading and unloading from a transporting conveyance; or
  - b.** In temporary storage awaiting delivery to the job site;
- but only if a Limit of Insurance is shown in the Builders' Risk Declarations for Property In Transit or for Temporary Storage.

**2. Property And Costs Not Covered**

Covered Property does not include:

- a.** Buildings or structures that existed prior to the inception of this Coverage Form;
- b.** Construction equipment, including tools, machinery, plant and any related accessories and spare parts for such property;
- c.** Contraband, or property in the course of illegal transportation or trade;
- d.** Costs incurred solely to eliminate or reduce penalties or liquidated damages you are responsible for under contract, except as provided under the Construction Contract Penalty Additional Coverage;
- e.** Land and land values and the value of cut, fill and backfill materials that existed at the job site prior to the date construction commenced;

But this restriction does not apply to:

- (1)** The value of cut, fill and backfill materials purchased for use in the completion of the covered project to the extent the value of such property is included in the Limit of Insurance applicable to the job site; or

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(2) Labour, material and equipment charges incurred to move, remove, place or otherwise handle cut, fill and backfill materials to the extent such costs are included in the Limit of Insurance applicable to the job site.

- f. Lawns, plants, trees and shrubs, except as provided under the Landscaping Coverage Extension;
- g. Office trailers, and temporary buildings or structures, including their "contents";
- h. Penalties or liquidated damages for delay or non-completion of contract or non-compliance with contract conditions, except as provided under the Construction Contract Penalty Additional Coverage;
- i. Property at any job site that has been left unattended for more than 30 consecutive days or when construction activity has ceased for more than 30 consecutive days;
- j. Property while in transit by aircraft, except as provided under the Property In Transit By Aircraft Coverage Extension;
- k. Property while waterborne, except while in transit by inland water carriers or by coastwise vessels operating within "territorial waters" in the "coverage territory";
- l. Vehicles, trailers or semi-trailers that are licensed for use on public roads, including accessories mounted on such property; or
- m. Water, whether in its natural state or otherwise and whether above or below ground, or the cost of reclaiming or restoring water.

### 3. Covered Causes Of Loss

Covered Causes of Loss means RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

- a. Excluded in Section B. – Exclusions; or
- b. Limited in Section C. – Limitations.

### 4. Coverage Extensions

Unless *Not Covered* is indicated in the Builders' Risk Supplemental Declarations for the applicable Coverage Extension, each of the following Coverage Extensions applies in any one occurrence and is included in and does not increase the applicable Limit of Insurance:

#### a. Extra Expense And Expediting Expense

In the event of direct physical loss of or damage to Covered Property caused by or resulting from a Covered Cause of Loss, we will pay for the reasonable and necessary:

- (1) Extra expenses you incur to return the work on the part of Covered Property sustaining such loss or damage to the completion schedule actually in place immediately prior to the covered loss or damage.
- (2) Expediting charges, including overtime, night work, work on public holidays, express and air freight, and the extra cost of rental construction equipment, you incur solely to expedite repair or replacement of the Covered Property sustaining such loss or damage.

#### b. Fire Protective Systems

If your fire protective equipment discharges accidentally or to control a Covered Cause of Loss, we will pay for your expense to:

- (1) Recharge or refill your fire protective systems; and
- (2) Replace or repair faulty valves or controls that caused the discharge.

#### c. Immediate Repairs

We will pay for the reasonable and necessary expenses you incur to make immediate repairs to Covered Property for loss or damage caused by a Covered Cause of Loss.

#### d. Landscaping

- (1) We will pay for direct physical loss or damage by a Covered Cause of Loss, other than a cause of loss listed in Paragraph (2) below, to lawns, plants, trees and shrubs at a job site described in the Builders' Risk Declarations.

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- (2) We will not pay for loss of or damage to lawns, plants, trees and shrubs:
  - (a) That existed at the job site prior to the inception of the covered project; or
  - (b) Caused by or resulting from lack of moisture, disease, weight of ice or snow or windstorm or hail.

**e. Property In Transit By Aircraft**

You may extend the coverage provided for Property In Transit, if a Limit of Insurance is shown in the Builders' Risk Declarations for such property, to include Covered Property lost or damaged by a Covered Cause of Loss while in transit by aircraft.

**f. Protection Of Property**

If Covered Property is in imminent danger of sustaining direct physical loss or damage from a Covered Cause of Loss at:

- (1) A job site described in the Builders' Risk Declarations; or
- (2) A temporary storage location, if a Limit of Insurance is shown in the Builders' Risk Declarations for Temporary Storage;

we will pay the reasonable and necessary expenses actually incurred by you to protect such property from such loss or damage.

You must keep a record of the expenses you incur.

**g. Testing**

If a number of days is shown in the Builders' Risk Supplemental Declarations for a Testing Period, we will pay for direct physical loss of or damage to Covered Property caused by or resulting from the "testing" of such property during that Testing Period.

**5. Additional Coverages**

Unless *Not Covered* is indicated in the Builders' Risk Supplemental Declarations, each of the following Additional Coverages applies subject to the Limit of Insurance shown in the Builders' Risk Supplemental Declarations for such Additional Coverage. Unless otherwise specified, the Limit of Insurance shown in the Builders' Risk Supplemental Declarations for each Additional Coverage applies in any one occurrence and in addition to the applicable Limit of Insurance:

**a. Accounts Receivable**

- (1) You may extend the insurance that applies to Covered Property to apply to loss and expenses described below that you incur resulting from direct physical loss or damage by a Covered Cause of Loss to your accounts receivable records. Credit card company charge media will be considered accounts receivable until delivered to the credit card company. We will pay:
  - (a) Amounts due from your customers that you are unable to collect;
  - (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
  - (c) Collection expenses in excess of your normal collection expenses that are made necessary by the loss; and
  - (d) Other reasonable expenses that you incur to re-establish your records of accounts receivable.
- (2) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss, we will:
  - (a) Determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss occurs;
  - (b) Adjust the total for any normal fluctuations in the amount of accounts receivable for the month in which the loss occurred or for any demonstrated variance from the average for that month; and

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- (c) Deduct the following from the total amount of accounts receivable, however that amount is established:
  - (i) The amount of the accounts for which there is no loss;
  - (ii) The amount of the accounts that you are able to re-establish or collect;
  - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
  - (iv) All unearned interest and service charges.
- (3) We will not pay for loss:
  - (a) Caused by or resulting from bookkeeping, accounting or billing errors or omissions;
  - (b) That requires an audit of records or an inventory computation to prove its factual existence; or
  - (c) Caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal wrongful giving, taking or withholding of "money", "securities" or other property. But this exclusion only applies to the wrongful giving, taking or withholding.
- (4) The Limit of Insurance shown for Accounts Receivable in the Builders' Risk Supplemental Declarations applies at each job site or while in transit.

**b. Construction Contract Penalty**

We will pay the contract penalties you incur as a result of your failure to meet completion times within the time required under the terms of a written contract. But this Additional Coverage only applies if the failure is solely due to direct physical loss of or damage to Covered Property caused by or resulting from a Covered Cause of Loss.

**c. Debris Removal**

- (1) We will pay for your expense to remove:
  - (a) Debris of Covered Property; and
  - (b) Other debris that is at a job site described in the Builders' Risk Declarations or at a temporary storage location, if a Limit of Insurance is shown in the Builders' Risk Declarations for Temporary Storage;

caused by or resulting from a Covered Cause of Loss that occurs during the "project period". However, coverage under paragraph (b) above does not apply to costs to remove any property that is included under Section A.2. Property And Costs Not Covered.

The amount we will pay includes the increased costs you incur to divert debris of Covered Property to recycling facilities rather than landfills. Any income or remuneration derived from this recycling will reduce the amount of debris removal expense we would have otherwise paid.

The expenses will be paid only if they are reported to us in writing within 180 days of the date of the loss.

- (2) The most we will pay under this Additional Coverage is 25% of:
  - (a) The amount we pay for direct physical loss of or damage to Covered Property; plus
  - (b) The deductible in this Coverage Form applicable to that loss or damage.

Except as provided in (3) below, payment under this Additional Coverage is included within and will not increase the applicable Limit of Insurance shown in the Builders' Risk Declarations.
- (3) If:
  - (a) Your expense to remove debris of Covered Property exceeds the above 25% limitation; or
  - (b) The sum of the amount we pay for loss of or damage to Covered Property and the expense for removal of its debris exceeds the applicable Limit of Insurance;

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we will pay an additional amount for your expense to remove the debris of Covered Property, up to the applicable Limit of Insurance shown for Debris Removal in the Builders' Risk Supplemental Declarations.

- (4) We will not pay under this Additional Coverage for your expense to extract "pollutants" from land or water, or to remove, restore, or replace polluted land or water.

**d. Fire Fighting Expenses**

We will pay overtime to your own employees involved in fighting a fire at a job site described in the Builders' Risk Declarations, that becomes uncontrollable or breaks out from where it was intended to be. We will not pay for regular earnings paid to your employees.

**e. Fire Or Police Department Service Charges**

When the fire, police or other public emergency department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay for your liability for such charges:

- (1) Assumed by contract or agreement prior to loss; or  
(2) Required by local ordinance.

No deductible applies to this Additional Coverage.

**f. Green Building Additional Expense**

In the event of loss of or damage to Covered Property by a Covered Cause of Loss, we will pay the following additional expenses you incur to comply with the certification standards of a "green authority":

- (1) "Building commissioning expense" for the Covered Property;  
(2) Expense to meet or restore indoor air quality standards in your indoor air quality management plan for the Covered Property; or  
(3) Expense to certify or re-certify the Covered Property to its designed level of "green" certification in accordance with the "green authority" standards that exist at the time of repair or replacement, even if the standards have changed since the original certification was budgeted or achieved.

**g. Ordinance Or Law**

- (1) In the event of covered direct physical loss of or damage to a building or structure that is Covered Property, the following coverages apply, but only with respect to that lost or damaged building or structure:

**(a) Coverage A – Loss To The Undamaged Portion Of The Building or Structure**

We will pay under Coverage **A** for the loss in value of the undamaged portion of the building or structure as a consequence of enforcement of an ordinance or law that requires demolition of undamaged parts of the same building or structure.

Any payment under Coverage **A** is included within and does not increase the Limit of Insurance applicable to the covered building or structure.

**(b) Coverage B – Demolition Cost**

We will pay under Coverage **B** the cost to demolish the building or structure and clear the site of undamaged parts of the same building or structure, as a consequence of enforcement of an ordinance or law that requires demolition of such building or structure.

**(c) Coverage C – Increased Cost Of Construction**

We will pay under Coverage **C** the increased cost to:

- (i) Repair or reconstruct damaged portions of that building or structure; or  
(ii) Reconstruct or remodel undamaged portions of that building or structure, whether or not demolition is required;

when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

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This Coverage **C** applies only if the repaired, reconstructed or remodelled building or structure is intended for similar occupancy or use as the current building or structure, unless such occupancy or use is not permitted by zoning or land use ordinance. This Coverage **C** does not apply if the building or structure is not repaired, reconstructed or remodelled.

- (2) The coverages described in (1) above apply only if the provisions in Paragraphs (a) and (b) below are satisfied and are then subject to the qualifications set forth in Paragraph (c) below:

(a) The ordinance or law:

- (i) Regulates the demolition, construction or repair of buildings or structures, or establishes zoning or land use requirements at the job site described in the Builders' Risk Declarations; and
- (ii) Is in force at the time of the loss.

But this Additional Coverage applies only in response to the minimum requirements of the ordinance or law. Loss and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered.

(b) The building or structure either:

- (i) Sustains direct physical loss or damage that is covered under this Coverage Form and such damage results in enforcement of the ordinance or law; or
- (ii) Sustains both direct physical loss or damage that is covered under this Coverage Form and direct physical loss or damage that is not covered under this Coverage Form and the building or structure damage in its entirety results in enforcement of the ordinance or law.

If the building or structure sustains direct physical loss or damage that is not covered under this Coverage Form, and such damage is the subject of the ordinance or law, then there is no coverage under this Additional Coverage even if the building or structure has also sustained covered direct physical loss or damage.

- (c) In the situation described in Paragraph (2)(b)(ii) above, we will not pay the full amount of loss otherwise payable under the terms of Coverage **A**, **B** or **C** of this Additional Coverage. Instead, we will pay a proportion of such loss. The proportion of such loss that we will pay is the proportion that the covered direct physical loss or damage bears to the total direct physical loss or damage.

However, if covered direct physical loss or damage, alone, would have resulted in enforcement of the ordinance or law, then we will pay the full amount of loss otherwise payable under the terms of Coverage **A**, **B** or **C** of this Additional Coverage.

- (3) We will not pay under this Additional Coverage for:

- (a) The enforcement of any ordinance or law which requires demolition, repair, replacement, reconstruction, remodelling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", virus or bacteria;
- (b) The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", virus or bacteria; or
- (c) Loss due to any ordinance or law that:
  - (i) You were required to comply with before the loss, even if Covered Property was undamaged; and
  - (ii) You failed to comply with.

#### h. Pollutant Clean Up And Removal

We will pay your expense to extract "pollutants" from land or water at the job site, if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs:

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- (1) At a job site described in the Builders' Risk Declarations;
- (2) To Covered Property; and
- (3) During the "project period".

The expenses will be paid only if they are reported to us in writing within 180 days of the date of the loss or damage.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The Limit of Insurance shown for Pollutant Clean Up And Removal in the Builders' Risk Supplemental Declarations is the most we will pay under this Additional Coverage for each job site described in the Builders' Risk Supplemental Declarations for the sum of all covered expenses arising out of all Covered Causes of Loss occurring in any "project period".

**i. Preservation of Property**

- (1) If it is necessary to move Covered Property from:

- (a) A job site described in the Builders' Risk Declarations; or
- (b) A temporary storage location, if a Limit of Insurance is shown in the Builders' Risk Declarations for Temporary Storage;

to preserve it from loss or damage by a Covered Cause of Loss, we will pay for:

**Preservation Of Property - Expenses**

- (i) The reasonable and necessary expenses actually incurred by you to remove the Covered Property from a location described in Paragraph (a) or (b) above, temporarily store the Covered Property at another location and move the Covered Property back to the location described in Paragraph (a) or (b) above within a reasonable time after the property is first moved; and

**Preservation Of Property – Direct Damage**

- (ii) Any direct physical loss of or damage to the Covered Property while it is being moved from a location described in Paragraph (a) or (b) above, while temporarily stored at another location or while being moved back to the location described in Paragraph (a) or (b) above.

- (2) The Limit shown for Preservation of Property – Expenses in the Builders' Risk Supplemental Declarations is the most we will pay for the sum of all expenses under Paragraph (i) above in any one occurrence. Loss or damage covered under Paragraph (ii) above is included in and does not increase the applicable Job Site Limit of Insurance.

- (3) We will only pay under Paragraph (ii) above for loss or damage that occurs within 180 days after the Covered Property is first moved. Coverage under this Additional Coverage will end when any of the following first occurs:

- (a) This policy is amended to provide insurance at the new location;
- (b) The Covered Property is returned to the original location; or
- (c) The "project period" ends.

**j. Professional Fees**

- (1) We will pay the reasonable expenses you incur in preparing claim data when we require it to adjust a covered loss. This includes the cost of taking inventories, making appraisals and preparing other documentation to show the extent of loss.

- (2) We will not pay for:

- (a) Any expenses incurred, directed, or billed by or payable to lawyers, insurance adjusters or public adjusters, or their associates or subsidiaries;
- (b) Any costs as provided in Loss Condition F.2. (Appraisal); or

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- (c) Any expenses incurred, directed, or billed by or payable to insurance brokers or agents or insurance consultants, or their associates or subsidiaries, without our written consent prior to such expenses being incurred.

**k. Rewards**

We will reimburse you for reward expenses you have incurred leading to:

- (1) The successful return of undamaged stolen articles of Covered Property to a law enforcement agency; or
- (2) The arrest and conviction of any person who has damaged or stolen any of your Covered Property.

These reward payments must be documented. No Deductible applies to this Additional Coverage.

**l. Utility Services**

We will pay for direct physical loss of or damage to Covered Property caused by the interruption of utility service at a job site described in the Builders' Risk Declarations. The interruption must result from direct physical loss or damage by a Covered Cause of Loss to the following property located away from the job site or located at the job site and used to supply the utility service to the job site from a source away from the job site:

- (1) "Water supply services property";
- (2) "Communication supply services property"; or
- (3) "Power supply services property".

**m. Valuable Papers And Records – Cost Of Research**

You may extend the insurance that applies to Covered Property to apply to your costs to research, replace or restore the lost information on lost or damaged "valuable papers and records" for which duplicates do not exist. The loss or damage to "valuable papers and records" must be caused by a Covered Cause of Loss.

**B. EXCLUSIONS**

- 1. We will not pay for loss or damage caused directly or indirectly by any of the following. 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. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

**a. Fungus, Virus Or Bacteria**

- (1) Presence, growth, proliferation, spread or any activity of "fungus"; or
- (2) Any virus, bacterium, or other microorganism that induces or is capable of inducing physical distress, illness or disease.

If a Covered Cause of Loss results, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion does not apply when "fungus" results from a Covered Cause of Loss.

**b. Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread.

This exclusion does not apply to the extent coverage is provided under the Ordinance Or Law Additional Coverage.

**c. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination however caused.

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But if nuclear reaction or radiation, or radioactive contamination results in fire, we will pay for the loss or damage caused by that fire.

**d. Ordinance Or Law**

- (1) The enforcement of any ordinance or law:
  - (a) Regulating the construction, use or repair of any property; or
  - (b) Requiring the tearing down of any property, including the cost of removing its debris.
- (2) This exclusion applies whether the loss results from:
  - (a) An ordinance or law that is enforced even if the property has not been damaged; or
  - (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodelling or demolition of property, or removal of its debris, following a physical loss to that property.
- (3) This exclusion does not apply to the extent coverage is provided under the Ordinance Or Law Additional Coverage.

**e. Terrorism**

- (1) "Terrorism"; or
- (2) Any activity or decision of a government agency or other entity to prevent, respond to or terminate "terrorism".

**f. Utility Services**

The failure or fluctuation of water, communication, power or other utility service supplied to the job site, however caused, if the failure or fluctuation:

- (1) Originates away from the job site; or
- (2) Originates at the job site, but only if such failure or fluctuation involves equipment used to supply the utility service to the job site from a source away from the job site.

Failure or fluctuation of any utility service includes lack of sufficient capacity and reduction in supply.

But if the failure or fluctuation of water, communication, power or other utility service results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause or Loss.

This exclusion does not apply to the extent coverage is provided under the Utility Services Additional Coverage.

**g. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**2. We will not pay for loss or damage caused by or resulting from any of the following:**

**a. Consequential Loss**

- (1) Delay, loss of use or loss of market; or
- (2) Loss of income or extra expenses except as specifically provided in this Coverage Form.

**b. Dishonesty**

- (1) Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
  - (a) Acting alone or in collusion with others; or
  - (b) Whether or not occurring during the hours of employment.

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(2) This exclusion does not apply to:

- (a) Acts of destruction by your employees (including leased employees), but theft by employees is not covered; or
- (b) Carriers for hire.

**c. Electrical Damage Or Disturbance**

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

Electrical, magnetic or electromagnetic energy includes:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; and
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by that fire.

This exclusion does not apply to the extent coverage is provided under the Testing Coverage Extension.

**d. Missing Property**

Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

**e. Other Types Of Losses**

- (1) Wear and tear;
- (2) Rust or other corrosion, gradual deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Frost or freezing;
- (4) Settling, cracking, shrinking or expanding of walls, floors, ceilings, foundations, pilings, patios, driveways or pavements;
- (5) Nesting or infestation or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.

But if a Covered Cause of Loss results, we will pay for that resulting loss or damage caused by that Covered Cause of Loss.

Paragraph (6) of this exclusion does not apply to the extent coverage is provided under the Testing Coverage Extension.

**f. Pollution**

Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by a Covered Cause of Loss.

But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a Covered Cause of Loss, we will pay for the loss or damage caused by such Covered Cause of Loss.

3. We will not pay for the cost necessary to repair or replace:

- a. Any component part or individual item of Covered Property that is defective in design, plan, specification, materials or workmanship; or

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- b. Covered Property that is lost or damaged to enable the repair or replacement of such component part or individual item of Covered Property described in Paragraph a. above.

Paragraph a. above does not apply to other parts or items of Covered Property that are not defective in design, plan, specification, materials or workmanship but are damaged as a result of any such defective condition described in Paragraph a. above.

However, we will not consider the existence of a defect in design, plan, specification, materials or workmanship to be direct physical loss or damage.

**C. LIMITATIONS**

We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

"Valuable papers and records" caused by or resulting from:

- (1) Errors or omissions in processing or copying. But if errors or omissions in processing or copying result in fire or explosion, we will pay for the resulting loss or damage caused by that fire or explosion.
- (2) Programming errors, omissions or incorrect instructions to a machine. But if programming errors, omissions or incorrect instructions to a machine result in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss;
- (3) The misappropriation or misinterpretation of electronic data;
- (4) Any error in creating, amending, entering, deleting, interpreting or using electronic data; or
- (5) The inability to receive, send or use electronic data or other electronic data while being sent electronically.

But if a cause of loss described in paragraph (3), (4) or (5) above results in fire, explosion, smoke or sprinkler leakage, we will pay for the resulting loss or damage caused by that fire, explosion, smoke or sprinkler leakage.

**D. LIMITS OF INSURANCE**

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Builders' Risk Declarations, Builders' Risk Supplemental Declarations or any schedules or endorsements that are a part of this Coverage Form.

**E. DEDUCTIBLE**

We will not pay for loss or damage in any one occurrence until the amount of the adjusted loss or damage exceeds the applicable Deductible shown in the Builders' Risk Declarations. We will then pay the amount of covered loss or damage in excess of the applicable Deductible, up to the applicable Limit of Insurance.

Unless otherwise stated, if more than one Deductible amount applies to loss or damage in any one occurrence, the total of the deductible amounts applied in that occurrence will not exceed the amount of the largest applicable Deductible.

**F. LOSS CONDITIONS**

The following conditions apply in addition to the conditions in the Common Policy Conditions form that is part of your policy:

**1. Abandonment**

There can be no abandonment of any property to us.

**2. Appraisal**

Do not add this form to a policy. It is for informational purposes only.

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser within 30 days of the written demand. Within 15 days of each party selecting an appraiser, the two appraisers will select an umpire. If they cannot agree within that 15 day period, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

### 3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us, or our authorized representative, prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as practicable, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.  
Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Give us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) You will not, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent except as respects to protecting property from further damage.
- (10) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

### 4. Liquidated Damages

If the construction contract for the covered project contains a clause that requires payments to you because of a delay in the completion of the project beyond the "planned completion date", we will subtract the amount due from others, whether you have collected it or not, from the amount of loss we would have otherwise paid under this Coverage Form.

### 5. Loss Adjustment

Do not add this form to a policy. It is for informational purposes only.

If you and we cannot agree on the total amount or extent of the loss or damage to Covered Property caused by or resulting from a Covered Cause of Loss under this Coverage Form, we will pay any undisputed amount of the loss or damage as soon as practicable. Acceptance by you of such payment will not alter your rights against us under the policy.

**6. Loss Payment**

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
  - (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to Paragraphs **b.** and **c.** below;
  - (3) Take all or any part of the property at an agreed or appraised value; or
  - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraphs **b.** and **c.** below.
- b. Except as provided in the Ordinance Or Law Additional Coverage, the cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. The following loss payment provisions are subject to the proportionate loss procedures set forth under the Ordinance Or Law Additional Coverage:
  - (1) For a loss in value of an undamaged portion of a covered building or structure to which Coverage **A** applies, the loss payment for that building or structure will be determined as follows:
    - (a) If the building or structure is being repaired or replaced on the same or another job site, we will not pay more than the lesser of:
      - (i) The cost to repair, rebuild or reconstruct the undamaged portion of the building or structure that was necessarily demolished as a consequence of the ordinance or law, but not for more than the amount it would cost to restore the undamaged portion of the building or structure on the same job site and to the same height, floor area, style, capacity and comparable quality of the original building or structure insured; or
      - (ii) The Limit of Insurance shown in the Builders' Risk Declarations as applicable to the covered building or structure.
    - (b) If the building or structure is not repaired or replaced, or if Replacement Cost valuation does not apply, we will not pay more than the lesser of:
      - (i) The actual cash value of the undamaged portion of the building or structure that is required to be demolished as a consequence of the ordinance or law; or
      - (ii) The applicable Limit of Insurance shown in the Builders' Risk Declarations as applicable to the covered building or structure.
  - (2) Loss payment under Coverage **B** will be determined as follows:
    - (a) The amount you actually spend to demolish and clear the site; or
    - (b) The Limit of Insurance shown in the Builders' Risk Supplementary Declarations for Ordinance Or Law Coverage **B** – Demolition Cost;
 whichever is less.
  - (3) Loss payment under Coverage **C** will be determined as follows:
    - (a) We will not pay under Coverage **C**:
      - (i) Until the building or structure is actually repaired or replaced, at the same or another job site; and
      - (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

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- (b) If the covered building or structure is repaired or replaced at the same job site, or if you elect to rebuild at another location, the most we will pay under Coverage C is the lesser of:
  - (i) The increased cost of construction at the same job site; or
  - (ii) The Limit of Insurance shown in the Builders' Risk Supplementary Declarations for Ordinance Or Law Coverage C – Increased Cost Of Construction.
- (c) If the ordinance or law requires relocation to another location, the most we will pay under Coverage C is the lesser of:
  - (i) The increased cost of construction at the new location; or
  - (ii) The Limit of Insurance shown in the Builders' Risk Supplementary Declarations for Ordinance Or Law Coverage C – Increased Cost Of Construction.
- d. With respect to our options listed in 6.a.(1) through 6.a.(4) above, we will give notice of our intentions within 30 days after we receive the proof of loss.
- e. We will not pay you more than your financial interest in the Covered Property.
- f. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- g. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- h. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all the terms of this Coverage Form and:
  - (1) We have reached agreement with you on the amount of the loss; or
  - (2) An appraisal award has been made.
- i. We will not be liable for any part of the loss or damage that has been paid or made good by others.

## 7. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property.

- a. We will pay:
  - (1) Recovery expenses; and
  - (2) Costs to repair the recovered property.
- b. But the amount we will pay will not exceed:
  - (1) The total of a.(1) and (2) above;
  - (2) The value of the recovered property; or
  - (3) The Limit of Insurance;
 whichever is less.

## 8. Valuation

In the event of loss or damage, the value of Covered Property will be determined as follows:

- a. At replacement cost as of the time of loss or damage, except as otherwise provided in this Loss Condition F.8. (Valuation). Replacement cost is the cost to replace Covered Property at the time of loss or damage without deduction for depreciation.
  - (1) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.
  - (2) We will not pay on a replacement cost basis for any loss or damage:

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- (a) Until the lost or damaged property is actually repaired or replaced; and
- (b) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

Instead, we will pay on an actual cash value basis. This restriction does not apply to losses less than \$10,000.

- b. Property of others at the amount for which you are liable, not to exceed the replacement cost.
- c. We will not pay more for loss or damage on a replacement cost basis than the least of the following, subject to Paragraph d. below:
  - (1) The Limit of Insurance applicable to the lost or damaged property;
  - (2) The cost to replace, at the same job site, the lost or damaged property with other property:
    - (a) Of comparable material and quality; and
    - (b) Used for the same purpose; or
  - (3) The amount you actually spend that is necessary to repair, rebuild or replace the lost or damaged property.

If a building or structure is rebuilt at a different location, the cost described in (2) above is limited to the cost which would have been incurred had the building or structure been built at the original job site described in the Builders' Risk Declarations.

Under Paragraphs (2) and (3) above, the cost to repair, rebuild or replace Covered Property includes the reasonable:

- (1) Architectural, engineering, consulting or supervisory fees incurred;
- (2) Labour and delivery charges; and
- (3) Overhead and profit;

only as related directly to the necessary repair or replacement of the Covered Property sustaining covered loss or damage.

- d. The cost to repair, rebuild, or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property, except as provided in the Ordinance Or Law Additional Coverage.
- e. "Valuable papers and records" at the cost of:
  - (1) Blank material for reproducing the records; and
  - (2) Labour to transcribe or copy records for which duplicates exist.

The restoration of "valuable papers and records" for which duplicates do not exist is provided under the Valuable Papers And Records – Cost Of Research Additional Coverage.

To the extent that the contents of the "valuable papers and records" are not restored or replaced, the "valuable papers and records" will be valued at the cost of replacement with blank material of substantially identical type.

## G. ADDITIONAL CONDITIONS

The following conditions apply in addition to the conditions in the Common Policy Conditions form that is part of your policy:

### 1. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you, as it relates to this Coverage Form at any time. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The Covered Property;

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- c. Your interest in the Covered Property; or
- d. A claim under this Coverage Form.

## 2. Control Of Property

The breach of any condition of this Coverage Form as a result of act or neglect of any person other than you beyond your direction or control will not affect this insurance.

## 3. Currency

Payments for losses will be in the currency of Canada. At our sole option, we may make these payments in a different currency. Any necessary currency conversion for the payment of loss will be calculated based on the rate of exchange on the date of the loss.

## 4. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form unless:

- a. There has been full compliance with all the terms of this insurance; and
- b. Your legal action is commenced within one year from the date you discovered the loss, except that if the applicable law prohibits this one-year limitation period, then such period is amended to be the minimum limitation period permitted by such law.

## 5. Liberalization

If we adopt any revision that would broaden the coverage under this Coverage Form without additional premium within 60 days prior to the start of the policy period or at any time during the policy period, the broadened coverage will immediately apply to this Coverage Form.

## 6. Named Insured

Any person or organization is included as a Named Insured when you have agreed in a written contract or written agreement, executed prior to loss, to name such person or organization as a Named Insured, but only to the extent of their financial interest in the Covered Property.

Any organization you newly acquire or form, other than a partnership or joint venture, of which you are the sole owner or in which you maintain the majority ownership interest, or any organization for which you are responsible for arranging insurance, but only with respect to their interest in the Covered Property, is included as a Named Insured if there is no other insurance which provides similar coverage to that organization.

However, regardless of whether listed as a Named Insured in the Common Policy Declarations or included as a Named Insured under this Paragraph, the following are not Named Insureds:

- a. Any architect, engineer or other party or entity responsible for any design, specification or plan for the fabrication, erection or completion of Covered Property with respect to loss or damage that may be caused by such fault, defect, error or omission in such design, specification or plan; or
- b. Any contractor, manufacturer or supplier of machinery, equipment or other insured property that has agreed to remedy loss or damage under a guaranty or warranty.

## 7. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

## 8. Other Insurance

If there is more specific other insurance covering the same loss or damage we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance under this Coverage Form.

## 9. Policy Period, Coverage Territory

Under this Coverage Form, we cover loss or damage commencing:

- a. During the period of time that:
  - (1) Begins on the first day of the policy period shown in the Common Policy Declarations; and

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- (2) Ends on the last day of the policy period shown in the Common Policy Declarations or on the date that any of the following first occurs, whichever is earlier:
- (a) The covered project is substantially complete and ready for use or occupancy. Such project will not be deemed to be complete and ready for use or occupancy if it has been occupied or put to use by you for:
    - (i) Construction purposes; or
    - (ii) Another purpose you have reported to us and for which we have provided written consent;
  - (b) Such project is completed and has been taken over by the owner or purchaser;
  - (c) Your interest in such project ends; or
  - (d) This insurance is terminated.
- b. Within the "coverage territory", except as otherwise specifically provided.

#### 10. Premium Audit

- a. We will compute all premiums for this insurance in accordance with our rules and rates.
- b. The premium shown in the Common Policy Declarations may be an estimated premium only. If it is an estimated premium, your policy will contain an endorsement that shows when and how we compute your deposit premium and your actual premium.
- c. If the premium is an estimated premium, the first Named Insured must keep records of the information we need for premium computation and must send us copies of those records at such times as we may request.

#### 11. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing prior to a loss under this Coverage Form.

You may waive your rights against another party after a loss under this Coverage Form only if, at time of loss, that party is one of the following:

- a. Someone insured by this insurance; or
- b. A business firm:
  - (1) Owned or controlled by you; or
  - (2) That owns or controls you; or
- c. Your tenant.

This will not restrict your insurance.

Any waiver under this Paragraph 11 to recover damages does not apply to:

- a. Any architect, engineer or other party or entity responsible for any design, specification or plan for the fabrication, erection or completion of Covered Property with respect to loss or damage that may be caused by such fault, defect, error or omission in such design, specification or plan; or
- b. Any contractor, manufacturer or supplier of machinery, equipment or other insured property that has agreed to remedy loss or damage under a guaranty or warranty.

#### 12. Unintentional Errors In Description

Your error in how you describe the address of a job site will not prejudice coverage afforded by this Coverage Form, provided such error is not intentional. Any such error will be reported and corrected when discovered and appropriate premium charged.

### H. DEFINITIONS

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1. **"Building commissioning expense"** means the expense to ensure that a building's or structure's array of systems is designed, installed, and tested to perform according to the design intent.
2. **"Communication supply services property"** means the following types of property supplying communications service to the job site:
  - a. Communication transmission lines including fibre optic transmission lines;
  - b. Coaxial cables;
  - c. Microwave radio relays, except satellites; or
  - d. Other property supplying communications service, including telephone, radio, microwave, television or internet services.

But "communication supply services property" does not include any overhead transmission lines.

3. **"Contents"** means business personal property and home furnishings.
4. **"Coverage territory"** means Canada.
5. **"Fungus"** means any type or form of fungus, including mould or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
6. **"Green"** means products, materials, methods and processes that conserve natural resources, reduce energy or water consumption, avoid toxic or other polluting emissions or otherwise minimize the environmental impact.
7. **"Green authority"** means a recognized authority on "green" buildings or structures or "green" products, materials or processes.
8. **"Money"** means:
  - a. Currency, coins and bank notes in current use and having a face value;
  - b. Bullion; and
  - c. Travelers cheques, registered cheques and money orders held for sale to the public.
9. **"Planned completion date"** means the date the applicable project described in the Builders' Risk Declarations would be put into operation or use for its intended purpose in the normal course of construction if loss of or damage to Covered Property by a Covered Causes of Loss had not occurred.
10. **"Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals, waste and any unhealthful or hazardous building materials (including asbestos and lead products or materials containing lead). Waste includes materials to be recycled, reconditioned or reclaimed.
11. **"Project period"** means the period of time that:
  - a. Begins on the date during the policy period when the work shown in the contract documents for the covered project starts; and
  - b. Ends when coverage ends under Paragraph **a.(2)** of Additional Condition **G.9. Policy Period, Coverage Territory.**
12. **"Power supply services property"** means the following types of property supplying electricity, steam or gas to the job site:
  - a. Utility generating plants;
  - b. Switching stations;
  - c. Substations;
  - d. Transformers; or
  - e. Transmission lines.

But "power supply services property" does not include any overhead transmission lines.

13. **"Securities"** means negotiable and nonnegotiable instruments or contracts representing either "money" or property and includes:

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- a. Tokens, tickets (including lottery tickets held for sale), revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

**14. "Territorial waters"** means that portion of the sea which is immediately adjacent to the shores of any country and over which the sovereignty and exclusive jurisdiction of that country extends, but not exceeding 25 kilometres from the mean low-water mark of the shore of that country.

**15. "Terrorism"** means an ideologically motivated unlawful act or acts, including the use of violence or force or threat of violence or force committed by or on behalf of any group, organization or government for the purpose of influencing any government or instilling fear in the public or a section of the public.

**16. "Testing"** means the following:

**a. Cold Testing**

The checking of any component part of Covered Property by mechanical, electrical, hydrostatic or other forms of testing under dry run conditions, which does not necessitate the firing of furnaces or any application of direct or indirect heat, the use of feedstock or other materials for processing, or in the case of electrical motors, electrical generating, transforming, converting or rectifying equipment, connection to a grid or other load circuit.

**b. Hot Testing**

The checking of any component part of Covered Property under load or operational conditions, including the use of feedstock or other materials for processing or other media to simulate working conditions, or in the case of electrical motors, electrical generating, transforming, converting or rectifying equipment, connection to a grid or other load circuit for the purpose of such checking.

**c. Commissioning**

The operation of any component part of Covered Property with feedstock or other materials for processing, or in the case of electrical motors, electrical generating, transforming, converting or rectifying equipment, connection to a grid or other load circuit, under production conditions for the purpose of attaining specification requirements or training operational personnel.

**17. "Valuable papers and records"** means inscribed, printed or written documents, manuscripts or records, including electronic data, abstracts, books, deeds, drawings, films, maps and mortgages.

But "Valuable papers and records" does not mean:

- a. Accounts receivable; or
- b. "Money" or "securities".

**18. "Water supply services property"** means the following types of property supplying water to the job site:

- a. Pumping stations; or
- b. Water mains.

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