

Form #9718 - Rent or Rental Value
(Rev. February 2003)**1. Indemnity Agreement**

This form insures up to the amount(s) stated in the Declarations, the rent and rental value of the building(s) and its additions and extensions communicating and in contact therewith as described in the Declarations and at the location(s) shown therein.

2. Measure of Recovery

The measure of recovery in the event of loss hereunder shall be the reduction in "gross rent and rental value" directly resulting from being untenable solely and directly due to destruction or damage by the perils insured against to the described building(s), less charges and expenses which do not necessarily continue during the period the building(s) is so untenable, for not exceeding such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the building(s) described as has been destroyed or damaged, commencing with the date of such destruction or damage and limited to a period of 12 consecutive calendar months from the date of such destruction or damage, but not exceeding the actual loss sustained by the Insured resulting from the building(s) being untenable.

3. Co-insurance Clause

The Insured shall maintain insurance concurrent in form, range, and wording with this insurance to the extent of at least the percentage stated in the Declarations of the annual "gross rent and rental value" herein defined of the described building(s) and, failing to do so, the Insured shall only be entitled to recover that portion of any loss that the amount of insurance in force at the time of loss bears to the amount of insurance required to be maintained by this clause.

4. Interruption by Civil Authority

This form is extended to include the actual loss as insured hereunder during the period of time, not exceeding two weeks, while access to the described premises is prohibited by order of civil authority, but only when such order is given as a direct result of damage to neighbouring premises by a peril insured against.

5. Reinstatement

Any loss hereunder shall not reduce the amount of insurance applicable to this form.

6. Exclusions

A. GENERAL ADDITIONAL EXCLUSIONS – The Insurer shall not be liable for:

- a. any increase of loss directly or indirectly, proximately or remotely, resulting from, or contributed to by, the operation of any by-law, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, unless the liability is otherwise specifically assumed by endorsement hereon;
- b. any increase of loss caused by delays or loss of time due to the presence of strikers or other persons or to labour disturbances on or about the premises interfering with the rebuilding, repairing, or replacing of the property damaged or destroyed or the resumption or continuation of business or free access to or control of the premises or due to the action of sympathetic strikers elsewhere;
- c. loss due to the suspension, lapse or cancellation of any lease or license, contract or order, which may affect the Insured's "gross rent and rental value" after the period following any loss during which indemnity is payable;
- d. loss caused by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- e. loss or damage caused directly or indirectly:
 - i. by any nuclear incident as defined in the Nuclear Liability Act or any other nuclear liability act, law or statute, or any law amendatory thereof or nuclear explosion, except for ensuing loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas;
 - ii. by contamination by radioactive material.

B. POLLUTION EXCLUSION – This form does not insure against:

- a. loss or damage caused directly or indirectly by any actual or alleged spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants", nor the cost or expense of any resulting "clean up", but this exclusion does not apply:
 - i. if the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants" is the direct result of a peril not otherwise excluded under this form;
 - ii. to loss or damage caused directly by a peril not otherwise excluded under this form.
- b. cost or expense for any testing, monitoring, evaluating or assessing of an actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".

7. Permissions

Permission is hereby granted:

- a. to make additions, alterations or repairs;
- b. to do such work and to keep and use such articles, materials and supplies in such quantities as are usual or necessary to the Insured's business.

8. Other Insurance

If at the time of the loss, there is other insurance covering the same interest (whether collectible or not), the Insurer shall be liable for no greater proportion of any loss than the amount of insurance applicable to this form bears to the total amount of insurance covering such interest.

9. Waiver of Term or Condition

No term or condition of this form shall be deemed to be waived by the Insurer in whole or in part unless the waiver is clearly expressed in writing signed by a person authorized for that purpose by the Insurer. Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of this form by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or the investigation or adjustment of any claim under this form.

10. Subrogation

The Insurer, upon making any payment or assuming liability therefor under this form, shall be subrogated to all rights of recovery of the Insured against others and may bring action to enforce such rights. Notwithstanding the foregoing, all rights of subrogation are hereby waived against any corporation, firm, individual or other interest with respect to which insurance is provided by this form. Where the net amount recovered after deducting the costs of recovery is not sufficient to provide a complete indemnity for the loss or damage suffered, the amount shall be divided between the Insurer and the Insured in the proportion in which the loss or damage has been borne by them respectively. Any release from liability entered into by the Insured prior to loss shall not affect the right of the Insured to recover.

11. Deductible

The Insurer is liable for the amount by which the loss or damage caused by any of the perils insured under this form exceeds the deductible as stated in the Declarations in any one occurrence.

12. Breach of Conditions

Where a loss occurs and there has been a breach of condition relating to a matter before the happening of the loss, which breach would otherwise disentitle the Insured from recovery under this form, the breach shall not disentitle the Insured from recovery if the Insured establishes that the loss was not caused or contributed to by the breach of condition or if the breach of condition occurred in any portion of the premises over which the Insured has no control.

13. Property Protection Systems

- a. It is agreed that the Insured shall notify forthwith the Insurer of any interruption to, or flaw or defect, coming to the knowledge of the Insured, in any
 - i. sprinkler or other fire extinguishing system; or
 - ii. fire detection system; or
 - iii. intrusion detection system;and shall also notify forthwith the Insurer of the cancellation or non-renewal of any contract which provides monitoring or maintenance services to any of these systems or of the notification of the suspension of police service in response to any of these systems.
- b. In regard to automatic chemical or CO₂ extinguishing systems protecting cooking areas, the Insured, if owner or lessee of the system, shall provide for regular inspection and maintenance of the equipment as recommended by the manufacturer, with a minimum of a semi-annual inspection of the system.

14. Definitions

Wherever used in this form:

- a. "GROSS RENT AND RENTAL VALUE" is defined as the sum of:
 - i. the actual total annual gross rent or rental value of the occupied portion(s) of the building(s);
 - ii. the estimated annual rental value of the unoccupied portion(s) of the building(s); and
 - iii. a fair rental value of the portion(s), if any, of the buildings occupied by the Insured.
- b. "PREMISES" means the entire area within the property lines at the locations described in the Declarations and areas under adjoining sidewalks and driveways.
- c. "POLLUTANTS" means any solid, liquid, gaseous or thermal irritant or contaminant, including odour, vapour, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- d. "CLEAN UP" means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing which is integral to the aforementioned processes.