

**Form #BLDR-FEC (Rev. August 30, 2017)
Builders Risk – Fire & EC Form**

Words and phrases in quotation marks have special meaning – see Definitions section

1. INDEMNITY AGREEMENT

In the event that any of the property insured be lost or damaged by the perils insured against, the Insurer will indemnify the Insured, subject to the statements contained in the declarations, the additional and statutory conditions, and such other applicable exclusions, limitations, conditions and terms contained in this policy, against the direct loss so caused to an amount not exceeding whichever is the least of:

(a) the “replacement cost” value of the property at the time of loss or damage but in no event to exceed the amount necessarily expended for “replacement”;

(b) the interest of the Insured in the property;

(c) the amount of insurance specified in the “Declarations” or any schedule pertaining hereto in respect of the property lost or damaged.

Provided, however, that where the insurance applies to the property of more than one person or interest, the Insurer’s total liability for loss sustained by all such persons and interests shall be limited in the aggregate to the amount or amounts of insurance specified in the “Declarations” or any Schedule pertaining hereto.

2. PROPERTY INSURED

This Form, except as provided herein, insures the following property at the “project site” for the amount of insurance specified in the “Declarations” for the “Project Site”:

(a) property in course of construction, installation, reconstruction or repair other than property described in 2(b):

(i) owned by the Insured

(ii) owned by others, provided the value of such property is included in the amount of insurance;

all to enter into and form part of the completed project including expendable materials and supplies, not otherwise excluded, necessary to complete the project;

(b) landscaping, growing trees, plants, shrubs or flowers all to enter into and form part of the project provided that the value of such property is included in the amount of insurance;

(c) temporary buildings, scaffolding, false work, forms, hoardings, excavation, site preparation and similar work, provided that the value thereof is included in the amount of insurance and then only to the extent that “replacement” or restoration is necessary to complete the project.

3. DEDUCTIBLE

The Insurer is liable for the amount by which the loss or damage caused by any of the perils insured against exceeds the amount of the deductible specified in the “Declarations” in any one occurrence. Should one occurrence give rise to the application of more than one deductible, only the largest individual deductible amount shall apply.

4. PERILS INSURED

This form insures against direct physical loss or damage caused by the following perils:

(a) Fire or Lighting;

(b) Explosion: except with respect to explosion of natural, coal or manufactured gas, there shall in no event be any liability hereunder for loss or damage caused by explosion, rupture or bursting in or of the following property owned, operated or controlled by the Insured:

(i) (1) the portions containing steam or water under steam pressure of all boilers generating steam, and piping or other equipment connected to said boilers;

(2) piping and apparatus or parts thereof normally containing steam or water under steam pressure from and external source and while under such pressure;

(3) the combustion chambers or fire boxes of steam generating boilers of the chemical recovery type and the flues or passages which conduct the gases of combustion therefrom;

(4) smelt dissolving tanks;

(ii) other vessels and apparatus, and pipes connected therewith, while under pressure, or while in use or in operation provided their maximum normal internal working pressure exceeds 103 kilopascals/15 pounds per square inch above atmospheric pressure except that liability is specifically assumed for loss or damage resulting from the explosion of manually portable gas cylinders;

(iii) moving or rotating machinery or parts of same when such loss or damage is caused by centrifugal force or mechanical breakdown;

(iv) any vessels and apparatus and pipes connected therewith while undergoing pressure tests, but this exclusion shall not apply to other property insured hereunder that has been damaged by such explosion;

(v) gas turbines;

The following are not explosions within the intent or meaning of this Section:

(a) electric arcing or any coincident rupture of electrical equipment due to such arcing;

(b) bursting or rupture caused by hydrostatic pressure or freezing;

(c) bursting or rupture of any safety disc, rupture diaphragm or fusible plug;

(c) Impact by Aircraft, Spacecraft or Land Vehicle: the terms aircraft and spacecraft include articles dropped therefrom. There shall in no event be any liability hereunder due to cumulative damage or for loss or damage:

(i) caused by land vehicles belonging to or under the control of the Insured or any employees of the Insured;

(ii) to aircraft, spacecraft or land vehicles causing the loss;

(iii) caused by aircraft or spacecraft when being taxied or moved inside or outside of buildings;

(d) Riot, Vandalism or Malicious Acts: the term riot includes open assemblies of strikers inside or outside of the “project site” who have quitted work and of locked-out employees;

There shall in no event be any liability hereunder for loss or damage:

(i) due to cessation of work or by interruption to process or business operations or by change in temperature;

(ii) due to flood or release of water impounded by a dam, or due to any explosion other than an explosion in respect of which there is insurance under Clause 4(b); (iii) due to theft or attempt thereof;

(e) Smoke: the term smoke means smoke due to a sudden unusual and faulty operation of any stationary furnace. There shall in no event be any liability hereunder for any cumulative damage;

(f) “Leakage from Fire Protective Equipment”;

(g) Windstorm or Hail: there shall in no event be any liability hereunder for loss or damage:

(i) to the interior of the buildings insured or their contents unless damage occurs concurrently with and results from an aperture caused by windstorm or hail;

(ii) directly or indirectly caused by any of the following, whether driven by wind or due to windstorm or not: snow-load, ice-load, tidal wave, high water overflow, flood, waterborne objects, waves, ice, land subsidence, landslide.

5. EXCLUSIONS

(The following exclusions are additional to those contained in Clause 4):

The Form does not insure:

- (a) loss or damage to electrical devices, appliances or wiring caused by artificially generated electrical currents, including arcing, unless fire or explosion ensues and then only for such ensuing loss or damage;
- (b) loss or damage to goods occasioned by or happening through their undergoing any process involving the application of heat;
- (c) loss or damage caused by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- (d) 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;
- (e) by contamination by radioactive material;
- (f) money, bullion, platinum and other precious metals and alloys, securities, stamps, tickets and tokens, evidence of debt or title;
- (g) automobiles, watercraft, amphibious or air cushion vehicles, aircraft, spacecraft, trailers, motors or other accessories attached to or mounted on such property;
- (h) contractors' tools and equipment including spare parts and accessories whether owned, loaned, hired or leased, other than property insured under Clause 2(c);
- (i) property at locations which to the knowledge of the Insured are vacant, unoccupied or shut down for more than 30 consecutive days;
- (j) loss directly or indirectly, proximately or remotely, arising in consequence of or contributed to by the enforcement of any by-law, regulation, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, which by-law, regulation, ordinance or law makes it impossible to repair or reinstate the property as it was immediately prior to the loss;
- (k) any increase in the "replacement cost" occasioned by a restriction or prohibition in any by-law, regulation, ordinance or law.

6. EXTENSIONS OF COVERAGE

The following extensions of coverage shall not increase the amounts of insurance applying under this Form and are subject to all the conditions of this Form.

(a) Removal

If any of the insured property is necessarily removed from the "project site" to prevent loss or damage or further loss or damage thereto, that part of the insurance under this Form that exceeds the amount of the Insurer's liability for any loss already incurred shall, for 7 days only, or for the unexpired term of the Policy if less than 7 days, insure the property removed and any property remaining at the "project site" in the proportions which the value of the property in each of the respective locations bears to the value of the property in them all.

(b) Debris Removal

The Insurer will indemnify the Insured for expenses incurred in the removal:

- (i) from the "project site", of debris of the property insured occasioned by loss or damage to such property, for which loss or damage insurance is afforded under this Form;
- (ii) of debris or other property which is not insured by this Form but which has been blown upon the "project site" by windstorm.

This extension, however, does not insure against direct or indirect loss, damage, cost or expense:

- (i) arising out of the clean-up, removal, containment, treatment, detoxification, decontamination, stabilization, neutralization, or remediation resulting from any actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release, or escape of "pollutants";
- (ii) 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".

(c) Clean Up Expenses For On Premises Pollutants

This Form insures, subject to all its terms and provisions, for not more than \$10,000 in the aggregate during each separate twelve month period of this policy, expenses incurred in the clean-up of "pollutants" at the "project site" and provided the discharge, dispersal, release or escape of "pollutants":

- (i) is occasioned by loss or damage caused directly by the perils insured under this Form to the property insured by this Form at the "project site"; and
- (ii) originates at the "project site"; and
- (iii) is sudden, unexpected and unintended from the standpoint of the Insured; and
- (iv) occurs during the policy period.

7. CESSATION OF COVERAGE

This Form ceases to insure the project:

- (a) on the commencement of use or occupancy of any part or section of the project unless such use or occupancy is for:
 - (i) construction purposes;
 - (ii) office or habitational purposes;
 - (iii) installing, testing or storing equipment or machinery;
 - (b) when left unattended for more than 30 consecutive days or when construction activity has ceased for more than 30 consecutive days;
 - (c) the expiration of this insurance;
- whichever first occurs.

8. LOSS ADJUSTMENT

Any claim for loss or damage under this Form shall be adjusted with, if named herein, the General Contractor or Owner.

9. 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 project over which the Insured has no control.

10. REINSTATEMENT

Loss under any item of this Form shall not reduce the applicable amount of insurance.

11. SUBROGATION

The Insurer, upon making any payment or assuming liability therefore 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, for, individual or other interest with respect to which insurance is provided by this Form. Where the net amount recovered, after deducting the cost of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that 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.

12. PREMIUM ADJUSTMENT

The premium stated in this Form is provisional. Within 365 days after the termination or expiration of this insurance the Insured shall report to the Insurer the actual completed contract price and the value of any property not included in such completed contract price and insured herein or in the absence of a contract price the Insured shall report the total completed value of the project. The actual premium shall be calculated from inception date of this Form on the total value so reported at the rate shown on the "Declarations". If the premium so calculated exceeds the provisional premium the Insured shall pay to the Insurer the amount of such excess. If such premium is less than the provisional premium, the Insurer shall refund to the Insured the amount of the difference.

13. VERIFICATION OF VALUES

The Insurer or its duly appointed representative shall be permitted at all reasonable times during the term of this Policy or within a year after termination or expiration to inspect the property insured and to examine the Insured's books, records and such policies as relate to any property insured hereunder. This inspection or examination shall not waive nor, in any manner, affect any of the terms or conditions of the Policy.

14. DEFINITIONS

Wherever used in the Form:

- (a) "Declarations" means the Declarations applicable to this Form.
- (b) "Project Site" means the location of premises insured, as specified on the "Declarations".
- (c) "Fire Protective Equipment" includes tanks, watermains, hydrants, valves and any other equipment whether used solely for fire protection or jointly for fire protection and for other purposes, but does not include:
 - (i) branch piping from a joint system where such branches are used entirely for purposes other than fire protection;
 - (ii) any watermains or appurtenances located outside of the project site and forming a part of the public water distribution system;
 - (iii) any pond or reservoir in which the water is impounded by a dam.
- (d) "Leakage From Fire Protective Equipment" means the leakage or discharge of water or other substance from within the equipment used for fire protection purposes for the project specified on the "Declarations" or for adjoining premises and loss or damage caused by the fall or breakage or freezing of such equipment.
- (e) "Replacement" includes repair, construction or reconstruction with new property of like kind and quality.
- (f) "Replacement Cost" means the cost of replacing, repairing, constructing or reconstructing (whichever is the least) the property on the same project site with new property of like kind and quality and for like occupancy without deduction for depreciation.
- (g) "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.