

# Warehouse Operator Coverage Form

WORDS AND PHRASES IN QUOTATIONS HAVE SPECIAL MEANING AS DEFINED

## 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 against the direct loss so caused to an amount not exceeding whichever is the least of:

- a) the actual cash value of the property at the time of loss or damage;
- b) the interest of the Insured in the property;
- c) the amount of insurance specified on the "Declaration Page" 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 on the "Declaration Page".

## 2. Property Insured

This Form insures the liability imposed by law upon the Insured as a warehouse operator for direct physical loss or damage to property of others while at the locations described on the "Declaration Page".

## 3. Amounts of Insurance

The Insurer is not liable under this Form for more than the amounts stated on the "Declaration Page", exclusive of interests and costs.

## 4. 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 on the "Declaration Page" in any one occurrence. If one occurrence could lead to the application of more than one deductible only the largest deductible will apply.

## 5. Property Excluded

This Insurer shall not be liable, nor shall this Form cover any claims or suits for loss, damage or destruction of the following property:

- a) animals, livestock, fish, birds and growing plant(s);
- b) "automobile(s)", amphibious or air cushion vehicle(s), aircraft (including unmanned air vehicles), spacecraft, motor(s) or other accessories attached to or mounted on such property;
- c) jewels, jewellery, watches, pearls, precious and semi-precious stones, gold, silver, platinum, other precious metals and alloys, furs, garments trimmed with fur;
- d) money, bullion, notes, securities, stamps, accounts, bills, deeds, evidence of debt or title, letters of credit, passports, documents, tickets or tokens, valuable papers, original plans, original drawings and specifications, books of account (except for blank value);
- e) property illegally acquired, kept, stored or transported;
- f) property seized or confiscated for breach of any law or by order of any public authority;
- g) property used in whole or in part for the cultivation, harvesting, processing, manufacture, distribution or sale of marijuana or any product derived from, or containing, marijuana or any other substance falling within the Schedules of the Controlled Drugs and Substance Act, whether or not the Insured is aware of such use of the property;
- h) tobacco, tobacco products or contraband.

## 6. A. Perils Excluded

This Insurer shall not be liable, nor shall this Form cover any claims or suits for loss, damage or destruction to property caused by or resulting from, contributed to or caused directly or indirectly by:

- a) centrifugal force, mechanical or electrical breakdown or derangement in or on the "premises" unless fire ensues and then only for the loss or damage caused directly by such ensuing fire;
- b) damage sustained due to or resulting from any repairing, restoration or retouching process;
- c) dampness or dryness of atmosphere, changes of temperature, freezing, heating, shrinkage, evaporation, loss of weight, leakage of equipment or stock, contamination, exposure to light, change in colour or texture or finish, rust or corrosion, marring, scratching or crushing, but this exclusion does not apply to loss or damage caused directly by "Named Perils", rupture of pipes or breakage of apparatus not excluded under Property Excluded hereof, theft or attempt thereat or accident to transporting conveyance. Damage to pipes caused by freezing is insured provided such pipes are not excluded under Property Excluded hereof;
- d) delay, loss of market, loss of use, loss or shortage disclosed on taking inventory;
- e) earthquake, except for ensuing loss or damage which results directly from fire, explosion, smoke or leakage from "fire protective equipment", all as described in "Named Perils";
- f) flood, including waves, tides, tidal waves, tsunamis, or the rising of, the breaking out or the overflow of, any body of water, whether natural or man-made, but this exclusion does not apply to ensuing loss or damage which results directly from fire, explosion, smoke, leakage from "fire protective equipment" or leakage from a water main;
- g) forged warehouse receipts;
- h) liability assumed by the Insured upon contract with another except as specifically provided for in the Special Conditions of this Form;
- i) misappropriation, secretion, conversion, illegal sale, infidelity or any dishonest, fraudulent or criminal act on the part of the Insured or other party of interest, employees or agents of the Insured or any person or persons to whom the property may be entrusted whether acting alone or in collusion with others;
- j) moths, rodents, raccoons, skunks, birds, insects or vermin;
- k) mysterious disappearance;
- l) the ownership, maintenance, operation, use, loading or unloading of any "automobile(s)";
- m) seepage, leakage or influx of water derived from natural sources through basement walls, doors, windows, or other openings therein, foundations, basement floors, sidewalks or sidewalk lights or the backing up of sewers, sumps, septic tanks or drains unless concurrently and directly caused by a peril not otherwise excluded in this Form;
- n) wear and tear, mechanical breakdown, gradual deterioration, any quality in the property that causes it to damage or destroy itself, hidden or latent defect, inherent vice or faulty or improper material, workmanship or design.

## B. Data & Data Problem Excluded

- a) This Form does not insure "data".
- b) This Form does not insure loss or damage caused directly or indirectly by "data problem".

However, if loss or damage caused by "data problem" results in the occurrence of further loss of or damage to property insured that is directly caused by fire, explosion, impact by aircraft, spacecraft or land vehicle, leakage from "fire protective equipment", windstorm or hail, all as described in "Named Perils" this exclusion (b) shall not apply to such resulting loss or damage.

### C. Fungi and Spores Excluded

This Form does not insure:

- a) loss or damage consisting of or caused directly or indirectly, in whole or in part, by any “fungi” or “spores”. This exclusion does not apply:
  - (i) if the “fungi” or “spores” are directly caused by a peril not otherwise excluded in this Form, or
  - (ii) to loss or damage caused directly by a resultant peril not otherwise excluded in this Form.
- b) the cost or expense for any testing, monitoring, evaluating or assessing of “fungi”, or “spores”.

### D. Pollution Excluded

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”.

### E. Terrorism Excluded

This Form does not insure loss or damage caused directly or indirectly, in whole or in part, by “terrorism” or by any activity or decision of a government agency or other entity to prevent, respond to or terminate “terrorism”. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

## 7. Permissions

Permission is hereby granted:

- a) for other insurance, concurrent with this Form;
- b) to make additions, alterations or repairs;
- c) 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. Extensions of Coverage

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

- a) **Removal:** If any of the property insured is necessarily removed from the location(s) specified herein 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 seven days only, or for the unexpired term of the policy if less than seven days, insure the property removed and any property remaining in the locations specified herein 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) (i) **Debris removal:** The Insurer will indemnify the Insured for expenses incurred in the removal from the “premises” of debris of the property insured occasioned by loss or damage to such property, for which loss or damage insurance is afforded under this policy.

The amount payable under this extension shall not exceed 25% of the total amount payable for the direct physical loss to property insured plus the amount of the applicable deductible.

- (ii) **Removal of Windstorm Debris:** The Insurer will indemnify the Insured for expenses incurred in the removal of debris or other property which is not insured by this policy but which has been blown by windstorm upon a location specified on the “Declaration Page”.

Extensions of coverage (i) and (ii) do not apply to costs or expenses:

- a) to "clean up" "pollutants" from land or water; or
- b) for testing, monitoring, evaluating or assessing of an actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants".

## 9. Special Conditions

**Action Against Insurer:** No action shall lie against the Insurer unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this Form, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the Insurer.

Every action or proceeding against the Insurer shall be commenced within one year after the cause of action arose and not afterwards.

**Admission of Liability:** The Insured shall not admit any liability and the Insurer reserves the right to compromise or contest, at its option, on behalf and in the name of but without expense to the Insured, all claims against the Insured in respect of liability covered by this Form. The Insurer is not liable for any expense or settlement incurred or made by the Insured without the written consent of the Insurer.

**Investigation and Disposition:** The Insured shall co-operate with the Insurer in facilitating the investigation and disposition of claims and suits and, upon the Insurer's request, shall attend hearings and trials and shall assist in the conduct of suits, in securing and giving evidence and in obtaining the attendance of witnesses.

**Labels:** In case of loss affecting labels, capsules or wrappers, the loss shall be adjusted on the basis of an amount sufficient to pay the cost of new labels, capsules or wrappers, and reconditioning the goods.

**Part or Parts:** In case of loss of or damage to any part of the property insured consisting when complete for use of several parts, this Insurer shall only be liable for the value of the part lost or damaged.

**Storage Contract Condition:** It is agreed by the Insured that all property accepted for storage by the Insured shall be subject to the terms and conditions of the Insured's standard storage contract which must be signed by the customer or the authorized representative upon delivery of the property to the Insured or as soon thereafter as practicable.

**Specific Statutory Condition:** If any condition of this Form relating to the limitation of time for notice of loss or for any legal proceeding is at variance with any specific statutory condition which would otherwise inure to the benefit of the Insured, such specific statutory condition shall be substituted for such condition.

## 10. Other Insurance

If the Insured has other insurance which applies to a loss or claim, this Form will be considered excess insurance and the Insurer will not pay any loss or claim until the amount of such other insurance is used up.

In all other cases, the Insurer will pay the Insurer rateable proportion of the loss or claim under this Form.

## 11. 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.

## 12. Reinstatement

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

## 13. Reporting Clause

(Applicable only if stated to be on a reporting basis on the "Declaration Page" and an adjustment rate is shown therein)

The Insured shall render to the Insurer or its duly authorized representative within 6 months of the expiry of this policy a statement showing the true and correct amount of "gross receipts" (whether collected or not) of the preceding year's business. The rate stated on the "Declaration Page" shall be applied to the "gross receipts" figure duly reported and the earned premium determined.

If the earned premium so determined exceeds the provisional premium, then the Insured shall pay the Insurer forthwith the difference.

If the earned premium is less than the provisional premium then the Insurer shall refund the difference forthwith to the Insured, subject to a minimum retained premium of 50% of the provisional premium.

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

#### 14. Definitions

Wherever used in this Form:

- a) "Automobile" means a land motor vehicle, trailer or semitrailer that is required by law to be insured under a contract evidenced by a motor vehicle liability policy, or any vehicle insured under such a contract, including any attached machinery or equipment.
- b) "Clean up" means the removal, containment, treatment, decontamination, detoxification, stabilization, neutralization or remediation of "pollutants", including testing, which is integral to the aforementioned processes.
- c) "Declaration Page" means the Declaration Page applicable to this Form.
- d) "Fire Protective Equipment" includes tanks, water mains, 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 water mains or appurtenances located outside of the described "premises" and forming a part of the public water distribution system;
  - (iii) any pond or reservoir in which the water is impounded by a dam.
- e) "Fungi" includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic or toxigenic, and any substance, vapour or gas produced by, emitted from or arising out of any "fungi" or "spores" or resultant mycotoxins, allergens or pathogens
- f) "Gross Receipts" means all charges for storage of goods including handling, loading and unloading thereof.
- g) "Named Perils" means:
  1. Fire or Lightning
  2. 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 or of the following property owned, operated or controlled by the Insured:
    - (i) a) the portions containing steam or water under steam pressure of all boilers generating steam, and piping or other equipment connected to said boilers and containing steam or water under steam pressure;
    - b) piping and apparatus or parts thereof normally containing steam or water under steam pressure from an external source and while under such pressure;
    - c) 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;
    - d) 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 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.
3. Impact by Aircraft, Spacecraft or Land Vehicle: The terms Aircraft and Spacecraft include articles dropped therefrom. The term Aircraft includes unmanned air vehicles (UAVs). 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 of his employees;
  - (ii) to aircraft, spacecraft or land vehicles causing the loss;
  - (iii) caused by any aircraft or spacecraft when being taxied or moved inside or outside of "buildings".
4. Riot, Vandalism or Malicious Acts: The term Riot includes open assemblies of strikers inside or outside the "premises" 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(s) 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 13(g)(2);
  - (iii) due to theft or attempt thereat.
5. 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.
6. Leakage from "Fire Protective Equipment": The term 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 "premises" described in the "Declaration Page" or for adjoining "premises" and loss or damage caused by the fall or breakage or freezing of such equipment.
7. Windstorm or Hail: There shall in no event be any liability hereunder or 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, tsunamis, high water, overflow, flood, waterborne objects, waves, ice, land subsidence, landslide.
- h) "Premises" means the entire area within the property lines and areas under adjoining sidewalks and driveways at the locations described on the "Declaration Page".
- i) "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.
- j) "Spores" includes, but is not limited to, one or more reproductive particles or microscopic fragments produced by, emitted from or arising out of any "fungi".
- k) "Terrorism" means an ideologically motivated unlawful act or acts, including but not limited to the use of violence or force or threat of violence or force, committed by or on behalf of any group(s), organization(s), or government(s) for the purpose of influencing any government and/or instilling fear in the public or a section of the public.