

## B2 Berkley Tenant Protect

### YOUR POLICY

Conditions common to Tenant Protect Policy

#### Note:

**The sections indicated below are an integral part of the B2 Berkley Tenant Protect form:**

“Agreement and Period of Insurance and Effective Date”;  
“Definitions”;  
“Conditions Applicable to all Sections”; “Conditions Applicable to Property Insurance”;  
“General Exclusions Applicable to Property Insurance”; and  
“Loss Settlement Conditions”.

#### Agreement

We will provide the insurance described in this policy in return for the money you pay and your compliance with the terms of this insurance.

#### Period of Insurance and Effective Date

This insurance is effective for a period beginning and ending at 12:01 a.m. at your principal residence named on the Declarations page and on the dates shown on the Declarations page.

### DEFINITIONS

**Applicable to ALL sections of your policy as well as the Optional Additional Coverages and Endorsements**

#### Underwriters

Throughout this policy the words “we”, “us” and “our” refer to Berkley Canada who provide this insurance.

#### Insured

We insure the person(s) named on the Declarations page and, if residents of the same household, the spouse or same sex partner (as defined), the relatives of either and any other person in the care of a person insured. The terms of this insurance apply to each person insured.

In addition, a student who is enrolled in and actually attends a school, college or university and is dependent on the Named Insured or his or her spouse or same-sex partner for support and maintenance is also insured even if temporarily residing away from the principal residence.

Throughout this policy the words “you” and “your” refer to any person insured, or collectively, to all persons insured. Persons insured under this policy may also be referred to as “an insured”, “any insured” or “person insured”.

#### Spouse

In this policy the word “spouse” means a man or woman who:

1. Is married to and living with the Named Insured; or
2. Has been living with the Named Insured as husband and wife for two years, or for one year if:
  - a) a child has been born or is to be born of their union;
  - b) they have jointly adopted a child; or
  - c) one of them has adopted a child of the other.

#### Same-sex Partner

In this policy, the term “same-sex partner” means a person of the same sex who has been living with the Named Insured for two years in a relationship as a couple or family.

#### Residence Premises

In this policy the words “residence premises” mean the land contained within the lot lines on which the unit is situated.

#### Personal Property

In this policy the words “personal property” shall, subject to the coverages, exclusions and conditions of this insurance, mean tangible, moveable property, but excluding interest or rights in property and evidences of debt or title.

#### Civil Authority

The term “civil authority” referred to in this policy shall mean any person acting under the authority of the Governor General in Council of Canada or the Lieutenant Governor in Council of a Province, and/or any person acting with authority under a Federal, Provincial or Territorial legislation with respect to the protection of persons and property in the event of an emergency.

## Plumbing System

"Plumbing system" means water supply distribution and disposal piping on the premises, including appliances and equipment attached thereto, between their connection points to a public or private system.

## CONDITIONS APPLICABLE TO ALL SECTIONS

### Liberalization of Coverage

If, while your insurance is in force, we were to revise the wordings within this booklet such that the coverages would be broadened **without additional premium**, the broader coverages would apply to your policy as well.

### Assignment

The assignment of this insurance to others is **not** effective unless and until we give our written consent.

### Recovery of Loss from Others

You may waive in writing **before a loss** but never **after a loss** your rights of recovery from any person. If you do not waive your rights, we may require you to assign them to us for any loss where we have made payment. You are asked to cooperate in every way possible to assist in recovery from others.

### Important Notice

If any of the terms of this policy conflict with any local or Provincial statute, this insurance is amended to conform to the applicable statute.

## SECTION ONE PROPERTY INSURANCE

### Limits of Insurance

We will pay up to the applicable limit of insurance shown on the Declarations page for the following:

#### Personal Property

We cover your personal property while at the residence premises.

We also cover that personal property anywhere in the world while it is temporarily removed from the residence premises, or if it is newly acquired.

The personal property owned by others is covered at your option while that property is in your care or custody, or in any part of a residence occupied by you, but we **do not** insure the property of roomers or boarders who are not related to you.

The personal property of a residence employee is covered at your option while that property is in a residence of yours or is with the employee while he or she is travelling for you.

Personal property normally kept at your place of business is insured up to \$1,000 in all.

If you are not the owner of the building, we also insure dwelling improvements and betterments made by you or acquired at your expense.

### SPECIFIC LIMITS OF INSURANCE

The following categories of personal property are subject to the specific limits of insurance shown below **for any insured peril**. These are the total limits for all property included in each category.

These limits **do not** increase the limit of insurance shown on the Declarations page for Personal Property.

#### For any one loss, the most we will pay is:

\$ 500 for money, bank notes and bullion;

\$ 5,000 for securities, whether they are stored on your premises or at a bank or other financial institution;

\$ 2,000 for manuscripts;

\$ 2,500 for watercraft, including equipment, furnishings and outboard motors;

\$ 5,000 for computer software and information stored in memory or media. However, loss or damage caused by programming error or by incorrect instruction to the computer is not covered. (For business computer data refer to "Property not Covered" "f." in the section entitled "General Exclusions Applicable to Property Insurance");

\$ 2,500 for animals, birds or fish, but we **do not** cover loss by theft or impact by vehicles, watercraft or aircraft;

\$ 5,000 for collectible cards, such as sports cards, and comic books.

The following categories of personal property are subject to the specific limits of insurance shown below, **but only for property which is lost, stolen or misplaced**. These are the total limits for all property included in each category.

These limits **do not** increase the limit of insurance shown on the Declarations page for Personal Property.

#### For any one loss, the most we will pay is:

\$ 500 for coin collections, including numismatic property;

\$ 2,000 for stamp collections, including philatelic property;

\$ 6,000 for fur garments and garments trimmed with fur, jewelry, watches, precious and semiprecious stones;

\$ 10,000 for silverware, silverplated ware, goldware, gold platedware and pewterware;

\$ 1,000 for each bicycle, including equipment and accessories.

### Additional Living Expenses

If the Residence Premises insured become uninhabitable because of damage caused by a peril insured against, we provide the following coverage:

1. Additional Living Expense, which means any necessary increase in living expenses, including moving expenses, if necessary, incurred by you so that your household can maintain its normal standard of living.
2. Rental Value, which means the fair rental value of that part of the premises rented or held for rental by you. However this shall not include any expense that does not continue while the premises are uninhabitable.
3. Loss of Income, which also includes any loss of wage or salary of the person or the spouse of the person named on the Declarations page resulting from a peril insured, subject to a maximum of \$200 per week.

Any payment for loss of use or increased cost of living (as defined above) shall be for the shortest time required to repair or replace the premises or, if you permanently relocate, for you to settle elsewhere.

This coverage also includes loss of use for a period not exceeding two weeks, during which time use of your premises is prohibited by the civil authorities because of direct damage to neighbouring premises caused by a peril insured against.

The period of time covered **is not** limited by expiration of this insurance.

We **do not** cover loss or expense due to cancellation of a lease or agreement.

### Additional Living Expenses – Mass Evacuation

We will pay the necessary and reasonable increase in living expense incurred by you while access to your dwelling is prohibited by order of civil authority, but only when such order is given for mass evacuation as a result of a sudden and accidental event within Canada or the United States of America. You are covered for a period not exceeding two weeks from the date of the order of evacuation.

You **are not** covered for any claim arising from evacuation resulting from:

- a. Flood, meaning waves, tides, surface water tidal waves and the rising of, the break out or the overflow of, any body of water, whether natural or man-made;
- b. Earthquake;
- c. War, invasion, act of foreign enemy, hostilities, civil war, rebellion, revolution, insurrection or military power;
- d. Directly or indirectly:
  - i. 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 ensuring loss or damage which results directly from fire, lightning or explosion of natural, coal or manufactured gas;
  - ii. contamination by radioactive material.
- e. Evacuation due to any kind of contagion

### PERILS YOU ARE INSURED AGAINST

We insure the property in this Section One against all risks of direct physical loss, destruction or damage, other than the risks listed below and those mentioned in the "General Exclusions applicable to Property Insurance".

We **do not** cover loss or damage:

- a. Caused by wear and tear, deterioration, defect or mechanical breakdown, rust or corrosion, extremes of temperature, wet or dry rot or mould, smog and contamination;
- b. Caused by smoke from industrial or agricultural operations;
- c. Due to settling, expansion, contraction, moving, bulging, buckling or cracking of the building;
- d. Caused by vermin, rodents or insects;
- e. Caused directly or indirectly after the building containing the property insured, has been, to your know ledge, vacant for more than 30 consecutive days, unless previously agreed by us;
- f. Caused by flood, surface water, spray, waves, tidal waves, waterborne objects or ice, all whether driven by wind or not, except loss or damage resulting:
  - i. from fire, explosion, theft;
  - ii. from the escape of water from a public water main, swimming pool or equipment attached;
  - iii. to personal property in transit
- g. Caused by continuous or repeated seepage of water or steam over a period of time from within a plumbing, heating or air conditioning system, sprinkler system, waterbed, aquarium or household appliance;
- h. Caused by seepage or leakage of water below the surface of the ground including through sidewalks, driveways, foundations, walls, basement or other floors or through doors, windows or any other openings, unless the loss or damage resulted from the escape of water from a public water main, swimming pool or equipment attached;
- i. Caused by freezing, thawing, pressure or weight of water or ice, whether driven by wind or not, to fence, pavement, patio, swimming pool and equipment, water main, sewer, foundation, retaining wall, bulkhead, pier, wharf or dock;
- j. Caused by freezing of a plumbing, heating, sprinkler or cooling system or an appliance which uses or holds water which is not within a building in which heat is maintained during the heating season;
- k. Caused by freezing of a plumbing, heating, sprinkler or cooling system or an appliance which uses or holds water while your premises are **unoccupied** in excess of **seven consecutive days** (i.e. 168 hours) **unless**;

- i. you have shut off the water supply and drained the system and appliances of water, or
  - ii. you have maintained heat in the building and have made arrangements to assure that heat is continued during any time the premises are unoccupied.
- l. Caused by breakage of sporting equipment where the loss or damage is due to its use;
  - m. Due to marring, scratching and breakage of fragile articles such as: art glass windows, glassware, statuary, marble, bric-a-brac and porcelains, unless caused by fire, theft or attempted theft, earth movement, explosion, falling objects striking the exterior of a building, collapse of a building or part thereof, water, impact by aircraft or landing vehicle, lightning, riot, smoke, vandalism or malicious acts, windstorm or hail, or by accident to land vehicle, watercraft or aircraft, or by rupture of a plumbing, heating or air
  - n. To personal property undergoing any process or while being worked on, where the damage results from such process or work, but resulting damage to other property insured is covered.
  - o. We do not cover the cost of making good faulty design, material or workmanship.

## **EXTENSIONS OF COVERAGE**

Within the limits of insurance shown on the Declarations page the following additional coverage is given:

### **Removal and Safeguard Expenses**

We will reimburse you for the reasonable expenses incurred by you to protect your property from further damage following the occurrence of an insured peril, or to remove property from your premises when endangered by an insured peril.

**Personal Records Stored in a Personal Computer:** We will pay for data recovery of personal records lost because of a peril not otherwise excluded. To the extent that data recovery of personal records is not possible, we will pay for data recreation. Coverage under this feature is limited to maximum of \$3,000. The deductible applies to this coverage.

We also will cover for direct loss from any insured peril the property which is removed from your premises to protect it from damage from an insured peril. This coverage applies for a period of 14 days but not exceeding the expiry date of this insurance, and no deductible is applied to any payment by us under this extension of coverage.

### **Debris Removal**

We will pay the reasonable expenses you incur for the removal of debris following an insured loss to your property.

### **Tear Out**

We will replace or repair any parts of your improvements and betterments that must be removed or torn apart before repairs can be made to a plumbing, heating, air conditioning or sprinkler system, domestic appliance, aquarium or water bed having caused insured damage, **except damage related to an outdoor swimming pool or equipment attached, public water mains carrying drinking water or public sewers.**

### **Loss Caused by Change of Temperature**

We will cover any loss or damage to personal property caused by a temperature change after your dwelling or other structure insured under this insurance has been damaged by an insured peril.

### **Moving to Another Home**

We insure your personal property that is being moved to another location within Canada which is to be occupied by you as your principal dwelling. The limit of insurance for Personal Property will be divided between the premises, in transit and at the new location on the basis of the percentage of the total value of the property at your premises, in transit and at the new location. This coverage applies only for a period of 30 days from the date you commenced removal.

### **Food Spoilage**

We will pay up to \$1,000, without deductible, for the loss of or damage to food while contained in a food freezer located on your residence premises caused by mechanical breakdown of the freezer or power failure. Within this limit, we will reimburse any reasonable expenses incurred by you to reduce or avert a loss.

### **Fire Department Charges**

If you have a legal liability to, or an agreement with, a fire department outside the municipality where your dwelling is located, we will reimburse you for up to \$2,000, without deductible, if that fire department charges for having been called to save or protect property from a "Peril You Are Insured Against".

### **Lock Replacement**

We will pay up to \$750, without deductible, to replace the locks of your residence premises if your keys are stolen.

### **Reward Coverage**

We will pay up to \$750, without deductible, to any individual or organization, other than police while in the line of duty, for information leading to the arrest and conviction of any person or persons who commit any illegal act resulting in covered loss or damage to the property insured.

### **Damage to Dwelling**

You may apply up to \$500 of your Personal Property insurance to pay for damage to your dwelling directly caused by theft or attempted theft, by vandalism or malicious acts.

### **Trees, Plants, Shrubs, and Lawns**

Trees, plants, shrubs, and lawns for an amount not exceeding 5% of the limit of the insurance applicable to Personal Property. The limit for any one tree, plant or shrub is \$500, including debris removal.

However, these items are insured only against loss or damage caused by fire, lightning, explosion, theft or attempted theft, vandalism, malicious acts, civil disturbances, riot, impact by vehicles, watercraft or aircraft. We **do not** cover any property grown for commercial purposes.

### **Inflation Protection**

The limits of insurance applicable to Section One shown on the Declarations page will be automatically increased (if applicable) by amounts which are solely attributable to the inflation increase since the most recent of:

1. The effective date of this policy;
2. The last renewal date of this insurance;
3. The date of the latest change to the limits of insurance.

## **CONDITIONS APPLICABLE TO PROPERTY INSURANCE**

### **Time Element**

This insurance applies only to loss or damage which occurs during the period of insurance stated on the Declarations page.

### **Deductible**

We will pay for that portion of any loss or damage which exceeds the deductible amount shown on the Declarations page up to the limit of insurance for any one occurrence.

### **Occupancy of Premises**

Any use of the premises other than for normal dwelling occupancy, or any condition of vacancy, must be reported to us as soon as practicable, but not later than 30 days after the change in occupancy or the beginning of the vacancy. However, the premises may remain vacant for up to one school term. You may make alterations, additions and repairs to your premises without notice to us. (Refer to "General Exclusions Applicable to Property Insurance" – "Vacancy").

### **Notice to Authorities**

When any loss is believed to be caused by theft, disappearance or any illegal act of others, you must give immediate notice to the police or other authorities having jurisdiction.

### **Protection of Property from Loss**

You must use all reasonable means to protect the insured property from loss or damage when endangered by an insured peril, and to save and preserve such property during and after the time of loss or damage.

### **Insurance not to Benefit Others**

No person or organization having custody of any property covered by this insurance, and receiving payment for such services, shall benefit from this insurance.

### **Other Insurance**

The insurance provided by this policy is over and above any other valid insurance, other than insurance written specifically to apply as additional to our limits of liability in this insurance. When both this insurance and other insurance(s) provide coverage on the same basis for loss or damage, then we will pay only our share. Our share is the proportion which our limit of insurance bears to the total limits, or amounts of insurance, of all policies which provide coverage.

## **GENERAL EXCLUSIONS APPLICABLE TO PROPERTY INSURANCE**

### **We do not cover:**

#### **War Risk**

Loss or damage caused by war, invasion, act of a foreign enemy, hostilities, civil war, rebellion, revolution, insurrection or military power.

#### **Nuclear Risk**

Loss or damage caused directly or indirectly by:

- a. 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;
- b. Contamination by radioactive material.

#### **Pollutants**

Loss or damage arising out of the actual or threatened discharge, dispersal, release or escape of pollutants.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste.

The sudden and accidental discharge of fuel oil which is contained in a fixed fuel tank, apparatus or pipes used to heat the insured dwelling will not be considered a "pollutant" within this definition.

However, we **do not** cover:

- a. Loss or damage arising from pollutants emanating from an underground fuel tank. Fuel tanks that are located in the basement of a property are deemed to be above ground;

- b. Loss or damage resulting from gradual leakage or seepage.

**Earth Movement**

Loss or damage caused by snow slide, earthquake, landslide or other earth movement, except for ensuing loss or damage which results from fire or explosion.

**Criminal Act or Willful Negligence**

Loss or damage resulting from any criminal act or willful negligence by an Insured, but this exclusion does not apply to any other Insured who has not committed and is not involved in the criminal act or willful negligence.

**Ordinance or Law**

Loss or damage caused directly or indirectly from the enforcement of any ordinance or law regulating the construction, repair or demolition of a building or other structure.

**Vacancy**

Loss or damage caused directly or indirectly after the building insured has been, to your knowledge, vacant for more than 30 consecutive days, unless previously agreed to by us.

"Vacancy" means the occupants have moved out with no intention to return. A newly constructed dwelling is vacant after it is completed and before the occupants move in.

**Property not Covered**

- a. Property illegally acquired or kept;
- b. Property lawfully seized or confiscated unless such property is destroyed to prevent the spread of fire;
- c. Aircraft and parts;
- d. Motorized vehicles and trailers, including their furnishings and equipment, other than:
  - 1) motorized wheelchairs, motorized golf carts, remote-control caddies, watercraft, "drawn machinery", motorized lawn mowers, other gardening equipment and snow blowers;
  - 2) vehicles used to service your premises which are not licensed for road use;
- e. Buildings used for commercial or farming purposes, unless such use is stated on the Declarations page;
- f. Property pertaining to business is only covered up to \$2,000 in all and only when **on your residence property**.

**LOSS SETTLEMENT CONDITIONS APPLICABLE TO PROPERTY INSURANCE**

Subject to the General Conditions or Statutory Conditions which form part of this policy, your insured losses will be settled as follows:

**Insurable Interest**

We will not pay to any Insured any amount greater than the Insured's interest, at the time of loss, in the property covered by this insurance.

**Limit of this Insurance**

Regardless of the number of persons insured or persons having claim under this insurance, or the value of the damaged property, we will not pay more for any loss than our applicable limit of this insurance.

**Valuation of Property and Loss Payment**

An insured loss will be paid on the basis of the value of the damaged property at the time of the loss. This value will be determined as follows:

**A. On Personal Property**

On personal property, fixtures, equipment and structures that are not buildings, an insured loss will be paid on the basis of Replacement Cost:

- 1. Being the cost to repair or replace, whichever is less, at the time of the loss or damage with new materials of like kind and quality, without deduction for depreciation;
- 2. Provided the repair or replacement is executed with due diligence and promptly;
- 3. The amount we pay will be the lesser of the actual expenditure to repair or replace, but not exceeding the applicable limit of insurance.

**The replacement cost basis of settlement does not apply to:**

- a. Property which was not in good and workable condition;
- b. Property not being used by you, or being stored by you, unless the property is intended for use and only temporarily out of service;
- c. Articles, which by their inherent nature cannot be replaced with same or similar articles, such as: antiques, fine arts, paintings, statuary, memorabilia, souvenirs, photographs, negatives, rare books, manuscripts and collectors' items;
- d. Other similar articles the age, history and rarity of which contribute significantly to their value;
- e. Property, which at the time of loss or damage is no longer manufactured, or is unobtainable, but we will pay the cost of a new article of comparable quality and usefulness.

**If You do not Repair or Replace**

If you choose not to repair or replace any article, we will pay for the loss or damage to that article on the basis of "Actual Cash Value".

**B. Optional Additional Coverages (if applicable)**

Optional additional coverages and those provided by endorsement to your policy will be settled on an Actual Cash Value basis unless otherwise specified.

#### **Actual Cash Value Basis**

Actual Cash Value will take into account the cost of replacement, less any depreciation or obsolescence. In determining depreciation, the condition immediately preceding the damage, the resale value and the normal life expectancy will be taken into consideration.

We will pay **the lesser** of:

1. The cost to repair or replace the damaged property with material of like kind and quality;
2. The actual cash value of the articles at the time of the loss;
3. The applicable limit of insurance.

We reserve the right to repair or replace the article(s).

#### **Loss to a Pair, Set, or Parts**

In the case of an insured loss to a pair, set, or a part of an article which consists of several parts when complete, we have the option to:

1. Repair or replace any part to restore the property to its value before the loss, or
2. Pay the difference between the Actual Cash Value of the property before and after the loss.

#### **Loss Payments shall not Reduce Limits**

Any loss or damage shall not reduce the amounts of insurance provided under Section One (Property Insurance).

## **SECTION TWO - PERSONAL LIABILITY INSURANCE**

### **COVERAGES**

#### **Limit of Liability**

This insurance applies only to accidents or occurrences which take place during the period of insurance indicated on the Declarations page. We provide coverage up to the limit of insurance shown on the Declarations page, for any one accident or occurrence.

#### **Separate Insureds**

Each person insured is a separate insured, but this does not increase the limit of insurance.

### **PERSONAL LIABILITY INSURANCE**

We will pay all sums on your behalf which you become legally liable to pay as compensatory damage because of bodily injury or property damage. We **will not** pay any fines, penalties, punitive damages, exemplary damages or any other sum over and above actual compensatory damages.

The amount of insurance is the maximum amount we will pay for all compensatory damages in respect of one accident or occurrence.

You are insured for claims made against you arising from:

#### **A. Personal Liability**

Legal liability for unintentional bodily injury or property damage arising out of your personal actions anywhere in the world.

You **are not** insured for claims made against you arising from:

- a. The ownership, use or operation of any motorized vehicle, trailer or watercraft, except those for which coverage is provided in the policy. (Refer to the section entitled "Definitions of Certain Terms");
- b. Damage to property you own, use, occupy or lease;
- c. Damage to property in your care, custody or control;
- d. Damage to personal property or fixtures as a result of work done on them by you or anyone on your behalf;
- e. Bodily injury to you or to any person residing in your household other than a residence employee.

#### **B. Premises Liability**

Legal liability arising out of your ownership, use or occupancy of the premises. This insurance also applies if you assume, by a written contract, the legal liability of other persons in relation to your premises.

You **are not** insured for claims made against you arising from:

- a. Damage to property you own, occupy or lease;
- b. Damage to property in your care, custody or control;
- c. Damage to personal property or fixtures as a result of work done on them by you or anyone on your behalf;
- d. Bodily injury to you or to any person residing in your household other than a residence employee.

#### **C. Tenants Legal Liability**

Legal liability for unintentional property damage caused directly to premises or their contents which you are using, renting or have in your custody or control.

You **are not** insured:

- a. For liability you have assumed by contract unless your legal liability would have applied even if no contract had been in force.

You **are not** insured for claims made against you from:

- a. Wear and tear or deterioration;

- b. Dampness or dryness of atmosphere, condensation, extremes of temperature, exposure to light, contamination, change in colour, rust, corrosion, mould, dry or wet rot;
- c. Loss or damage to tools, bicycles or sporting equipment where the loss or damage is due to their use;
- d. Loss or damage to electrical devices or appliances caused by electrical currents other than lightning, unless fire ensues, and then only for the resulting damage;
- e. Loss or damage to watercraft, motorized vehicles or aircraft;
- f. Loss or damage caused by animals, birds or fish;
- g. Loss or damage to real or personal property while undergoing any process or while actually being worked upon, but resulting damage to other property is insured;
- h. Any event, unless sudden and accidental;
- i. Loss or damage occurring after your dwelling or unit has, to your knowledge, been vacant for more than 30 consecutive days.

We **do not** insure:

- j. Loss or damage caused by water unless the loss or damage resulted from:
  - 1) the sudden and accidental discharge or overflow of water from public water mains carrying drinking water;
  - 2) the sudden and accidental discharge or overflow of water or steam from within a plumbing, heating, sprinkler or air conditioning system, domestic appliance, aquarium, water bed, swimming pool or equipment attached;
  - 3) freezing of any part of a plumbing, heating, sprinkler or air conditioning system, domestic appliance, aquarium, water bed, swimming pool or equipment attached, which is located inside an insured building heated during the usual heating season;
  - 4) water which enters through an opening which has been created suddenly and accidentally by an insured peril. "Plumbing system" means water supply, distribution and disposal piping on the premises, including appliances and equipment attached thereto, between their connection points to a public or private system.

**You are not insured for claims arising from loss or damage:**

- a) to public water mains carrying drinking water or public sewers;
  - b) to a system or appliance from which the water escaped;
  - c) caused by the backing up or escape of water from a sewer, sump, septic tank, eavestrough or downspout;
  - d) caused by flood, surface water, spray, waves, tides, tidal waves, waterborne objects or ice, all whether driven by wind or not;
  - e) occurring while the building is under construction or vacant, even if we have given permission for construction or vacancy.
- k. Mysterious disappearance;
- l. Loss or damage caused directly or indirectly, proximately or remotely, arising in consequence of or contributed to by the enforcement of any bylaw, regulation, ordinance or law regulating zoning or the demolition, repair or construction of buildings or structures, which by-law, regulation, or law makes it impossible to repair or reinstate the property as it was immediately prior to the loss.

**Nor are you insured for claims made against you arising from:**

- m. Marring, scratching of any property or breakage of any fragile or brittle articles, such as glasses, glassware, marble, porcelain and china, unless caused by fire, explosion, smoke or water damage;
- n. Damage to trees, plants, shrubs and lawns permanently in the open on your premises, unless caused by fire or explosion;
- o. Damage to trees, plants and shrubs which are usually inside a dwelling and to animals, birds or fish, unless caused by fire, explosion, smoke or water damage.

**D. Employer's Liability**

Legal liability for unintentional bodily injury to residence employees arising out of and in the course of their employment by you. You are not insured for claims made against you resulting from the ownership, use or operation of aircraft while being operated or maintained by your employee. You are not insured for liability imposed upon or assumed by you under any Workers' Compensation Statute.

**Claim Investigation and Defense**

We will defend, by counsel of our choice, any suit against you alleging bodily injury or property damage and seeking compensatory damages, even if it is groundless, false or fraudulent. We reserve the right to investigate, negotiate and settle any claim or suit if we decide this is appropriate.

**Additional Payments**

In addition to the limit of insurance, we will pay:

- 1. All expenses which we incur;
- 2. All costs charged against you in any suit insured under this coverage;
- 3. Any interest, and indemnity as defined in the applicable article of the Civil Code of Quebec, accruing after judgment, or where applicable, interest accruing from the date of the action, or determined by the Court, on that part of the judgment which is within the limit of insurance;
- 4. Premiums for appeal bonds required in any insured suit involving you and bonds to release any property that is being held as security, up to the limit of insurance, but we are not obligated to apply for or provide these bonds;
- 5. Expenses which you have incurred for emergency medical or surgical treatment to others following an insured accident or occurrence;
- 6. Reasonable expenses, except loss of earnings, which you incur at our request.

**VOLUNTARY MEDICAL PAYMENTS TO OTHERS**

We will pay reasonable medical expenses incurred within one year of the date of the accident if you unintentionally injure another person or if they are accidentally injured on your premises. This coverage is available even though you are not legally liable. Medical expenses include surgical, dental, hospital, nursing, ambulance service and funeral expenses. Medical expenses for residence employees are insured.

The amount of insurance shown on the Declarations page is the maximum amount we will pay for each person in respect of one accident or occurrence. We **will not** pay expenses covered by any medical, dental, surgical or hospitalization plan or law, or under any other insurance contract.

We **will not** pay your medical expenses or those of persons residing with you, other than residence employees. We **will not** pay medical expenses of any person covered by any Workers' Compensation Statute.

You **are not** insured for claims arising out of the ownership, use or operation of any motorized vehicle, trailer or watercraft, except those for which coverage is provided in this policy.

You shall attempt to arrange for the injured person, if requested, to:

1. Give us, as soon as possible, written proof of claim, under oath if required;
2. Submit to physical examination at our expense by doctors we select as often as we may reasonably require;
3. Authorize us to obtain medical and other records. Proofs and authorization may be given by someone acting on behalf of the injured person.

#### **VOLUNTARY PROPERTY DAMAGE PAYMENTS TO OTHERS**

We will pay for unintentional direct damage you cause to property even though you are not legally liable. You may also use this coverage to reimburse others for direct property damage caused intentionally by an insured 12 years of age or under.

You **are not** insured for claims:

- a. Resulting from the ownership, use or operation of automobiles or watercraft;
- b. For property you or your tenants own or rent;
- c. Caused by the loss of use, disappearance or theft of property.

We will pay whichever is the least of the following:

1. The actual cash value of the property at the time of the loss;
2. What it would cost to repair or replace the property with materials of similar quality at the time of loss;
3. The amount shown on the Declarations page.

We may pay for the loss in money or may repair or replace the property, and may settle any claim for loss of property either with you or the owner of the property. We may take over any salvage if we wish.

Within 60 days after the loss, you must submit to us (under oath if required) a Proof of Loss Form containing the following information:

1. The amount, place, time and cause of loss;
2. The interest of all persons in the property affected;
3. The actual cash value of the property at the time of loss. If necessary, you must help us to verify the damage.

#### **DEFINITIONS of certain terms used in this Section Two Insured**

"You" and "your" in this Section have the same meaning as defined in "Your Policy" – "Definitions".

#### **Additional Insureds**

In addition, the following persons are insured:

1. Any person or organization legally liable for damage caused by a watercraft or animal owned by you, and to which this insurance applies. This does not include anyone using or having custody of the watercraft or animal in the course of any business or without the owner's permission;
2. Any person while performing duties as your residence employee;
3. Your legal representative having temporary custody of the insured premises, if you die while insured by this policy, for legal liability arising out of the insured premises;
4. Any person who is insured by this policy at the time of your death and who continues residing on the insured premises.

#### **Bodily Injury and Property Damage**

"Bodily Injury" means bodily injury, sickness or disease or resulting death. "Property Damage" means damage to, or destruction of, or loss of use of property.

#### **Residence Employee**

"Residence Employee" means a person employed by you to perform duties in connection with the maintenance or use of the insured premises. This includes persons who perform household or domestic services or duties of a similar nature for you. This does not include persons while performing duties in connection with your business.

#### **Premises**

"Premises" means all premises where the person(s) named as Insured on the Declarations page, their spouse or same-sex partner maintains a residence, provided such premises are specifically described on the Declarations page. It also includes:

1. Other residential premises specified on the Declarations page, except business property and farms;
2. Individual or family cemetery plots or burial vaults;
3. Vacant land you own or rent, excluding farm land;

4. Land where an independent contractor is building a one or two-family residence to be occupied by you;
5. Premises you are using or where you are temporarily residing, if you do not own such premises.

#### **Watercraft You Own**

You are insured against claims arising out of your ownership, use or operation of watercraft equipped with an outboard motor or motors of not more than 19 kW (25 HP) in total when used with or on a single watercraft.

You are also insured if your watercraft has an inboard or an inboard-outboard motor of not more than 38 kW (50 HP) or for any other type of watercraft not more than 8 meters (26 feet) in length.

If you own any motors or watercraft larger than those stated above, you are insured only if they are shown on the Declarations page. If they are acquired after the effective date of this policy, you will be insured automatically for a period of 30 days only from the date of the acquisition.

NB: You are **not insured** if your watercraft is a jet propelled personal watercraft.

#### **Watercraft You Do Not Own**

You are insured against claims arising out of your use or operation of watercraft which you do not own, but not for damage to the watercraft itself.

#### **Motorized Vehicles You Own**

You are insured against claims arising out of your ownership, use or operation of the following:

1. Self-propelled lawn mowers, snow blowers, garden-type tractors, or implements, used or operated mainly on your property, provided they are not used for compensation or hire, and their trailers;
2. Motorized golf-carts while in use on a golf course, and their trailers;
3. Remote control caddies;
4. Motorized wheelchairs.

#### **Motorized Vehicles You Do Not Own**

You are insured against claims arising out of your use or operation of any self-propelled land vehicle, amphibious vehicle or air cushion vehicle including their trailers which you do not own, provided that:

1. The vehicle is not licensed and is designed primarily for use off public roads;
2. You are not using it for business or organized racing. You are not insured for damage to the vehicle itself.

#### **Trailers**

You are insured against claims arising out of your ownership, use or operation of any trailer or its equipment, provided that such trailer is not being towed by, attached to or carried on a motorized vehicle.

#### **Business or Business Use**

"Business" means a trade, profession or occupation.

"Business Property" means property on which a business is conducted, property rented in whole or in part to others, or held for rental.

You are insured against claims arising out of:

1. Your work for someone else as a sales representative, collector, messenger or clerk, provided that the claim does not involve injury to a fellow employee;
2. Your work as a teacher, provided that the claim does not involve physical disciplinary action to a student or injury to a fellow employee;
3. The occasional rental of your residence to others, rental to others of a one or two-family dwelling usually occupied in part by you as a residence, provided no family unit includes more than two roomers or boarders;
4. The rental of space in your residence to others for incidental office, school or studio occupancy;
5. The rental to others, or holding for rent, of not more than three car spaces or stalls in garages or stables;
6. Activities during the course of your trade, profession or occupation which are ordinarily incidental to non-business pursuits;
7. The temporary or part time business pursuits of an Insured under the age of 21 years.

Claims arising from the following business pursuits are insured only if the properties or operations are declared on the Declarations page:

1. The rental of residential buildings containing not more than six dwelling units;
2. The use of part of your residence by you for incidental office, school or studio occupancy.

#### **Aircraft**

The term aircraft includes Hang Gliders and all other devices which will bear the weight of an individual and become air borne when towed behind a motor vehicle, watercraft or aircraft, or by free flight from land elevations or structures. The term does not apply to model aircraft.

### **GENERAL EXCLUSIONS APPLICABLE TO PERSONAL LIABILITY INSURANCE**

You **are not** insured for claims arising from:

- a. Loss or damage caused by war, invasion, act of a foreign enemy, hostilities, civil war, rebellion, revolution, insurrection or military power;
- b. Bodily injury or property damage which is required to be insured under a nuclear energy liability policy issued by the Nuclear Insurance Association of Canada, or any other group or pool of Insurers;

- c. Your business or any business use of your premises except as defined or specified on the Declarations page;
- d. The rendering or failure to render any professional service;
- e. Bodily injury or property damage caused by your intentional or criminal act or failure to act, or any intentional or criminal act or failure to act by any other person at your direction;
- f. The ownership, use or operation of any aircraft or premises used as an airport or landing strip, and all necessary or incidental operations;
- g. The transmission of communicable disease by an insured;
- h. Indecent acts, sexual assault, sexual, physical, psychological or emotional harassment, corporal punishment or abuse:
  - a) by or with the express or implied consent of an insured;
  - b) by any other person at the direction of an insured;
- i. The ownership, use or operation of any motorized vehicle, trailer or watercraft, except those for which coverage is provided in this policy;
- j. Underground fuel tanks or resultant pollutants. Fuel tanks that are located in the basement of a property are deemed to be above ground.
- k. Bodily injury or property damage arising directly or indirectly, in whole or in part, out of the ownership, maintenance, use or entrustment to others of any "motorized bicycle" owned or operated by or on behalf of or rented or loaned to any insured. This exclusion applies regardless of any other contributing or aggravating cause or event that contributes concurrently or in any sequence to the bodily injury or property damage.

For the purposes of this exclusion "a motorized bicycle" is defined as "bikes, scooters, hoverboards, or any other similar electric or battery powered conveyance which can be propelled by pedal power and have a motor attached designed for propulsion assistance, or which can be used as the primary source of propulsion, regardless if such motor is being used or not at the time of the loss.

## CLAIM AND DEFENSE CONDITIONS APPLICABLE TO PERSONAL LIABILITY INSURANCE

### Notice of Accident or Occurrence

When an accident or occurrence takes place, you must immediately give us notice (in writing if required). The notice must include:

1. Your name and policy number;
2. The time, place and circumstances of the accident;
3. The names and addresses of witnesses and potential claimants.

### Assistance and Co-operation

You are required to:

1. Help us obtain witnesses, information and evidence about the accident and co-operate with us in any legal actions if we ask you;
2. Immediately send us every demand, notice, letter, document or writ received concerning the claim;
3. Not interfere in any settlement or legal proceeding.

### Unauthorized Settlements

You shall **not**, except at your cost, voluntarily make any payment, assume any obligations or incur expenses, other than first aid expenses necessary at the time of accident.

### Action Against Us

You shall not bring suit against us until you have fully complied with all the terms of this policy, nor until the amount of your obligation to pay has been finally determined either by judgment against you or by an agreement which has our consent.

With respect to "Voluntary Medical Payments to Others" and "Voluntary Property Damage Payments to Others", you **shall not** bring suit against us until you have fully complied with all the terms of this policy, nor until 60 days after the required Proof of Loss Form has been filed with us.

### Other Liability Insurance

In the event you have other insurance which applies to a loss or claim, our policy will be considered excess insurance and we will not pay any loss or claim until the amount of such other insurance is exhausted.

## SECTION THREE - CREDIT AND DEBIT CARD COVERAGE

We cover you up to the limit of insurance stated on the Declarations page for loss described below resulting from the dishonesty of others. We **do not** cover:

- a. Loss resulting from the dishonesty of any insured;
- b. Losses arising out of your business pursuits;
- c. Losses caused by the use of your credit card or electronic banking card by a resident of your household or by a person to whom you have entrusted the card.

There is no deductible under this Section.

### We cover:

#### Credit Cards, Debit Cards and Electronic Banking Cards

Any loss to you caused by your legal obligation to pay because of the theft, forgery, alteration, or unauthorized use of any credit card, debit card or electronic banking card issued to or registered in your name, provided that you comply with all the terms and conditions under which the card was issued.

**Conditions**

We may make any investigation and settle any claim or suit brought against you for liability under this section. We may defend at our discretion and at our expense, over and above the amount of insurance provided, either for you or your bank. Payment of our limit of insurance ends our duty to defend or settle.

DRAFT

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Water Escape Limitation Endorsement

**This extension modifies coverage, provided by the B2 Berkley Tenant Protect form.**

Notwithstanding anything contained in the policy as listed on the Declaration Page, this endorsement modifies the policy for "Water Escape" to a maximum limit as shown on the Declaration Page for any one loss or damage caused by "Water Escape" and resulting from an insured peril, subject to Deductible as shown on the Declaration Page for each and every loss. However, terms of this Endorsement shall not apply to loss or damage caused by Leakage from Fire Protective Equipment or by Fire Fighting.

**Co-Insurance Clause:** For the purpose of this extension, this extension is **NOT** subject to co-insurance notwithstanding anything contained in the Policy Declarations to the contrary.

**"Water Escape"** is defined as the accidental discharge or overflow of water or steam from a plumbing, heating, sprinkler or air conditioning system, equipment attached and public watermains, but does not include backing up or escape of water from sewers, sumps, septic tanks or drains.

All other terms and conditions of this Policy remain unchanged.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Sewer Backup Additional Insured Peril Endorsement

#### Agreement

This extension modifies coverage, provided by the B2 Berkley Tenant Protect Form.

This insurance is hereby extended to include loss or damage caused directly by the backing-up of sewers, sumps, septic tanks or drains.

This extension does not insure damage caused by continuous or repeated seepage or leakage; the escape, overflow, or backing-up of water from sewers due to rising or overflowing of streams or other bodies of water; or occurring while the building is under construction or is vacant, even though permission may have been given for construction or vacancy.

The Insurer is liable for the amount by which the loss or damage caused by any of the perils insured against under this extension exceeds in any one occurrence the deductible amount, if any, specified on the Declarations Page applicable to this extension.

The Insurer is not liable for loss or damage caused by any of the perils insured against in any one occurrence in excess of the sub-limit, if any, specified on the Declarations Page applicable to this extension.

If **Restricted to locations** is indicated on the Declarations Page applicable to this extension, sewer back-up coverage is restricted to the locations so indicated.

All other terms and conditions of this policy remain unchanged.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Contagion Virus Exclusion

(For use on property policies)

1. This policy, subject to all applicable terms, conditions, and exclusions, covers losses attributable to direct physical loss or physical damage occurring during the period of insurance. Consequently and notwithstanding any other provision of this policy to the contrary, this policy does not insure any loss, damage, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this endorsement, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
  - 2.1. for a Communicable Disease, or
  - 2.2. any property insured hereunder that is affected by such Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 3.3. the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.
4. This endorsement applies to all coverage extensions, additional coverages, exceptions to any exclusion and other coverage grant(s).

All other terms, conditions and exclusions of the policy remain the same.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Primary and Non-Contributory Endorsement

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

#### **PRIMARY AND NON-CONTRIBUTORY OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

PERSONAL LIABILITY INSURANCE COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary and Non-contributory Insurance. This insurance is primary to and will not seek contribution from any other insurance available.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Contagion Virus Exclusion

(For use on liability policies)

1. Notwithstanding any provision to the contrary within this policy, this policy does not cover all actual or alleged loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this endorsement, loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for a Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
  - 3.1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
  - 3.2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
  - 3.3. the disease, substance or agent can cause or threaten bodily injury, illness, emotional distress, damage to human health, human welfare or property damage.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Fully Earned Premium

In consideration of the payment of premium, it is understood and agreed that Paragraph 5 iii) (TERMINATION) under the Section STATUTORY CONDITIONS (FIRE) is deleted in its entirety and replaced with the following:

- iii) This policy may be cancelled by the Named Insured by a written notice stating when thereafter such cancellation shall be effective. If cancelled by the Named Insured, Underwriters shall retain 100% of the Total Premium shown on the Declarations page.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Service Animal Endorsement

This policy provides liability coverage for service animals under the following conditions:

#### Definition - Service Animal

**Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.** Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.

#### Service Animals Must be Under Control

**A service animal must be under the control of its handler. Service animals must be harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or these devices interfere with the service animal's safe, effective performance of tasks.** In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

A customer with a disability may be charged for damage caused by themselves or their service animal.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Summer Student Endorsement

This endorsement will extend coverage until August 31st of the expiring year @12:01 am for those students registered and living in residence and enrolled in the summer University program. All other terms and conditions of the policy remain in effect.

No additional premium will be charged for this endorsement.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### War And Civil War Exclusion Clause

Notwithstanding anything to the contrary contained herein this Policy does not cover Loss or Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Biological or Chemical Materials Exclusion

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### **Growing or Selling of Plants, Drugs and/or Substances Exclusions**

This Policy does not cover loss or damage arising from any activity relating to the growing, cultivation, harvesting, manufacture, distribution, or sale of cannabis and/or related products whether or not the Insured has knowledge of such activity(ies).

Any claims, losses or expenses which arise from the Insured's consumption, possession or sale of cannabis or a plant, drug and/or substance categorized as "Illegal" under the Federal Controlled Drugs and Substances Act, are excluded under this policy, whether or not the Insured has knowledge of such activity(ies).

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Cyber, Data and Cyber Attack Exclusion Endorsement

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto this policy does apply to any loss, damage, liability, claim, fines, penalties, cost or expenses directly or indirectly arising out of, caused by, or contributed to or resulting from a **Cyber Act, Cyber Incident or Cyber-attack**:

1. Functioning, nonfunctioning, improperly functioning, availability or unavailability of:
  - a. The internet or similar facility; or
  - b. Any intranet or private network or similar facility; or
  - c. Any website, bulletin board, chat room, search engine, portal or similar third-party application service.
2. Alteration, corruption, destruction, distortion, erasure, theft or other loss or loss of use or damage to DATA, software, information repository, microchip, integrated system or similar device in any computer equipment or non-computer equipment or any kind of programming or instruction set; or
3. Loss of use or functionality, whether partial or entire, costs, expense of data, coding, program, software any computer or computer system or other device dependent upon any microchip or embedded logic and any ensuing inability or failure of any insured to conduct business; or
4. Loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any **Data**, including any amount pertaining to the value of such **Data**; regardless of any other cause or event contributing concurrently or in any other sequence thereto.

Clauses (1), (2) and (3) apply regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Policy further excludes any **Cyber Loss** and any loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data; regardless of any other cause or event contributing concurrently or in any other sequence thereto.

2. In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

Defined Terms include:

**Cyber Act** means an unauthorized, malicious or criminal act or series of related unauthorized, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.

**Cyber Attack** means:

- a. the spread of computer viruses, worm, logic bomb or Trojan horse,
- b. any malicious or non-malicious act and/or inappropriate E-mail,
- c. any unauthorized collection or misuse of any data
- d. any breach of confidentiality or infringement of any privacy law or right to privacy

**Cyber Incident** means:

- a. any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **Computer System**; or
- b. any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **Computer System**.

## Berkley Insurance Company

---

**Cyber Loss** means any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident.

**Computer System** means:

- a. any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.

**Data** means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System**.

DRAFT

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### **Radioactive Contamination Exclusion Clause - Physical Damage – Direct**

This policy does not cover any loss or damage arising directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination however such nuclear reaction nuclear radiation or radioactive contamination may have been caused\*

NEVERTHELESS if Fire is an insured peril and a Fire arises directly or indirectly from nuclear reaction nuclear radiation or radioactive contamination any loss or damage arising directly from that Fire shall (subject to the provisions of this policy) be covered EXCLUDING however all loss or damage caused by nuclear reaction nuclear radiation or radioactive contamination arising directly or indirectly from that Fire.

\* NOTE. - If Fire is not an insured peril under this policy the words "NEVERTHELESS" to the end of the clause do not apply and should be disregarded.

This endorsement changes the policy.  
Please read it carefully.

**Endorsement**

**Radioactive Contamination Exclusion Clause**

This policy does not cover”

- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;
- b) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Seepage And/Or Pollution And/Or Contamination Exclusion

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure:

- a) any loss, damage, cost or expense, or
- b) any increase in insured loss, damage, cost or expense, or
- c) any loss, damage, cost, expense, fine or penalty, which is incurred, sustained or imposed by order, direction, instruction or request of, or by any agreement with, any court, government agency or any public, civil or military authority; or threat thereof, (and whether or not as a result of public or private litigation),

which arises from any kind of seepage or any kind of pollution and/or contamination, or threat thereof, whether or not caused by or resulting from a peril insured, or from steps or measures taken in connection with the avoidance, prevention, abatement, mitigation, remediation, clean-up or removal of such seepage or pollution and/or contamination or threat thereof.

The term 'any kind of seepage or any kind of pollution and/or contamination' as used in this Endorsement includes (but is not limited to):

seepage of, or pollution and/or contamination by, anything, including but not limited to, any material designated as a 'hazardous substance' by the United States Environmental Protection Agency or as a 'hazardous material' by the United States Department of Transportation, or defined as a 'toxic substance' by the Canadian Environmental Protection Act for the purposes of Part II of that Act, or any substance designated or defined as toxic, dangerous, hazardous or deleterious to persons or the environment under any other Federal, State, Provincial, Municipal or other law, ordinance or regulation; and

the presence, existence, or release of anything which endangers or threatens to endanger the health, safety or welfare of persons or the environment.

This endorsement changes the policy.  
Please read it carefully.

**Endorsement**

**Fungi and Fungal Derivatives Exclusion (Property)**

**THIS POLICY IS AMENDED AS FOLLOWS:**

The following **EXCLUSION** is added to the **PROPERTY** section of this policy.

- 1. This policy shall not insure:**
  - (a) loss or damage consisting of or caused directly or indirectly, in whole or in part, by any "Fungi" or "Spores" unless such "Fungi" or "Spores" are directly caused by or directly result from a peril otherwise insured and not otherwise excluded by this policy.
  - (b) the cost or expense for any testing, monitoring, evaluating or assessing of "Fungi" or "Spores".
- 2. DEFINITIONS**
  - (c) "Fungi" includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic or oxygenic and any substance, vapour or gas produced by, emitted from or arising out of any "Fungi" or "Spores" or resultant micro toxins, allergens, or pathogens.
  - (d) "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".

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Nuclear Incident Exclusion Clause-Liability-Direct (Broad) Canada

It is agreed that this Policy does not apply:

- a. to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- b. to bodily injury or property damage with respect to which an Insured under this policy is also insured under a contract of nuclear energy liability insurance (whether the Insured is unnamed in such contract and whether or not it is legally enforceable by the Insured) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; nor
- c. to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
  - i. the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an Insured;
  - ii. the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and
  - iii. the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an Insured.

As used in this policy:

1. The term "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material;
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy;
3. The term "nuclear facility" means:
  - a. any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
  - b. any equipment or device designed or used for
    - i. separating the isotopes of plutonium, thorium and uranium or any one or more of them
    - ii. processing or utilising spent fuel, or
    - iii. handling, processing or packaging waste;
  - c. any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - d. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material; and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

## Berkley Insurance Company

---

4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
5. With respect to property, loss of use of such property shall be deemed to be property damage. It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

BERKLEY

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Fungi and Fungal Derivatives Exclusion (Liability)

This policy is amended as follows:

The following EXCLUSION is added to the LIABILITY section of this policy.

#### FUNGI AND FUNGAL DERIVATIVES EXCLUSION

This policy shall not insure:

- a. "bodily injury"
- b. any supervision
- c. any obligation

The following are added to the DEFINITIONS:

- a. "Fungi" includes, but is not limited to, any form or type of mould, yeast, mushroom or mildew whether or not allergenic, pathogenic or oxygenic and any substance, vapour or gas produced by, emitted from or arising out of any "Fungi" or "Spores" or resultant micro toxins, allergens, or pathogens.
- b. "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".

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Misinterpretation of Data Exclusion Endorsement

THIS ENDORSEMENT MODIFIES THE COVERAGE PROVIDED IN THOSE FORMS SHOWN ON THE DECLARATION PAGE UNDER THE COVERAGE SUMMARY HEADING LIABILITY AND TO ANY LIABILITY COVERAGES PROVIDED UNDER MISCELLANEOUS AND/OR OTHER COVERAGES HEADINGS OF THIS POLICY.

THIS INSURANCE DOES NOT APPLY TO ANY LIABILITY OR ALLEGED LIABILITY BASED UPON, ARISING FROM, OR IN CONSEQUENCE OF:

1. The actual or alleged failure, malfunction or inadequacy of any:
  - a) electronic data processing equipment, or other equipment, including micro-chips embedded therein;
  - b) computer program;
  - c) software;
  - d) computer networks;
  - e) media;
  - f) data;
  - g) memory storage system;
  - h) memory storage device;
  - i) real time clock;
  - j) date calculator;
  - k) other related component, system, process or device; or
  - l) other products and any services, data, or functions that directly or indirectly use or rely upon, in any manner, any of the items referred to in paragraph a) through k) above to correctly read, recognize, process, distinguish, interpret, or accept any encoded, abbreviated or encrypted data, time or combined date/time data or data field. Such failure shall include any error in original or modified data entry or programming.
2. any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by the Insured or on the Insured's behalf to determine, rectify, or test for any potential or actual problems described in paragraph 1 of this endorsement.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Abuse or Molestation Exclusion Endorsement

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ CAREFULLY**

This endorsement modifies insurance provided under the Liability Section of this Policy.

This insurance does not apply to 'bodily injury', 'personal injury' or 'property damage' arising out of:

1. The alleged, actual, threatened, or proposed act of sexual harassment, sexual misconduct, sexual molestation, physical abuse, or mental abuse of any person.
2. The transmission of disease arising out of any act referred to in paragraph 1 above.
3. The failure to take all reasonable and proper steps to guard against the possibility of any of the foregoing.

Attached to and forming part of this Policy.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Fraudulent Conduct and Misrepresentation Clause

The entire Contract of Insurance and any loss or claim thereunder will be void if, whether before or after a loss, an Insured has:

- a) intentionally concealed or intentionally misrepresented any material fact or circumstance;
- b) engaged in fraudulent conduct; or
- c) made false statements;

relating to the Contract of Insurance or any loss or claim thereunder.

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

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Statutory Conditions (Fire)

#### Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

#### Property of Others

2. Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

#### Change of Interest

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* (Canada) or change of title by succession, by operation of law, or by death.

#### Material Change

4. Any change material to the risk and within the control and knowledge of the insured voids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

#### Termination

5. 1. This contract may be terminated,
  - a. by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
  - b. by the insured at any time on request.
2. Where this contract is terminated by the insurer,
  - a. the insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time, but, in no event, shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - b. the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
3. Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of the premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
4. The refund may be made by money, postal or express company money order or cheque payable at par.

## Berkley Insurance Company

---

5. The fifteen days mentioned in clause 1(a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

### Requirements After Loss

6. 1. Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
- a. forthwith give notice thereof in writing to the insurer;
  - b. deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,
    - i. giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
    - ii. stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - iii. stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the insured,
    - iv. showing the amount of other insurances and the names of other insurers,
    - v. showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
    - vi. showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
    - vii. showing the place where the property insured was at the time of loss;
  - c. if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
  - d. if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
2. The evidence furnished under clauses 1(c) and (d) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

### Fraud

7. Any fraud or willfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

### Who May Give Notice and Proof

8. Notice of loss may be given and proof of loss may be made by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

### Salvage

9. 1. The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
2. The insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph (1) of this condition according to the respective interests of the parties.

**Entry, Control, Abandonment**

10. After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

**Appraisal**

11. In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the Insurance Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

**When Loss Payable**

12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

**Replacement**

13. 1. The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

2. In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

**Action**

14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year\* next after the loss or damage occurs.

\* Two years in the Province of Manitoba and the Northwest and Yukon Territories.

Saskatchewan Statutory Condition 14 is repealed. See The Limitations Act, S.S. 2004, c.L-16.1.

**Notice**

15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to the insured or by registered mail addressed to the insured at the insured's latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Statutory Conditions

The conditions as set out below apply to all of the perils insured by this policy either as STATUTORY CONDITIONS or as contractual conditions as the law may require.

**1. Misrepresentation**

If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

**2. Property of Others**

Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

**3. Change of Interest**

The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* (Canada) or change of title by succession, by operation of law, or by death.

**4. Material Change**

Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

**5. Termination**

1. This contract may be terminated,
  - a. by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;
  - b. by the insured at any time on request.
2. Where this contract is terminated by the insurer,
  - a. the insurer shall refund the excess of premium actually paid by the insured over the *pro rata* premium for the expired time, but, in no event, shall the *pro rata* premium for the expired time be deemed to be less than any minimum retained premium specified; and
  - b. the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
3. Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of the premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
4. The refund may be made by money, postal or express company money order or cheque payable at par.
5. The fifteen days mentioned in clause 1(a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

**6. Requirements After Loss**

1. Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
  - a. forthwith give notice thereof in writing to the insurer;

## Berkley Insurance Company

---

- b. deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,
  - i. giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
  - ii. stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
  - iii. stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the insured,
  - iv. showing the amount of other insurances and the names of other insurers,
  - v. showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
  - vi. showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
  - vii. showing the place where the property insured was at the time of loss;
- c. if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
- d. if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.

2. The evidence furnished under clauses 1(c) and (d) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

### 7. **Fraud**

Any fraud or willfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

### 8. **Who May Give Notice and Proof**

Notice of loss may be given and proof of loss may be made by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

### 9. **Salvage**

1. The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
2. The insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph (1) of this condition according to the respective interests of the parties.

### 10. **Entry, Control, Abandonment**

After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

### 11. **Appraisal**

In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the *Insurance Act* before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

### 12. **When Loss Payable**

The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

### 13. **Replacement**

1. The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

2. In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

**14. Action**

Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year\* next after the loss or damage occurs.

\* Two years in the Province of Manitoba and the Northwest and Yukon Territories.

Saskatchewan Statutory Condition 14 is repealed. See The Limitations Act, S.S. 2004, c.L-16.1.

**15. Notice**

Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Province. Written notice may be given to the insured named in the contract by letter personally delivered to the insured or by registered mail addressed to the insured at the insured's latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

**ADDITIONAL CONDITIONS**

**1. Notice to Authorities**

Where the loss is due to malicious acts, burglary, robbery, theft, or attempt thereat, or is suspected to be so due, the Insured shall give immediate notice thereof to the police or other authorities having jurisdiction.

**2. No Benefit to Bailee**

It is warranted by the Insured that this insurance shall in no way ensure directly or indirectly to the benefit of any carrier or other bailee.

**3. Pair and Set**

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled which are a part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

**4. Parts**

In the case of loss of or damage to any part of the insured property whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

**5. Sue and Labour**

It is the duty of the insured in the event that any property insured hereunder is lost to take all reasonable steps in and about the recovery of such property. The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with the foregoing according to the respective interests of the parties.

**6. Basis of Settlement**

Unless otherwise provided, the Insurer is not liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.

**7. Subrogation**

The insurer, upon making any payment or assuming liability therefore under this Policy, shall be subrogated to all rights of recovery of the Insured against any person, and may bring action in the name of the Insured to enforce such rights. 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, that amount shall be divided between the Insurer and the Insured in the proportions in which the loss or damage has been borne by them respectively.

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Statutory Conditions (Alberta)

- 1. Misrepresentation**
  - 1.1.** If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.
- 2. Property of others**
  - 2.1.** The insurer is not liable for loss or damage to property owned by a person other than the insured unless
    - 2.1.1** otherwise specifically stated in the contract, or
    - 2.1.2** the interest of the insured in that property is stated in the contract.
- 3. Change of interest**
  - 3.1.** The insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy and Insolvency Act (Canada) or a change of title by succession, by operation of law or by death.
- 4. Material change in risk**
  - 4.1.** The insured must promptly give notice in writing to the insurer or its agent of a change that is
    - 4.1.1.** material to the risk, and
    - 4.1.2.** within the control and knowledge of the insured.
  - 4.2.** If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
  - 4.3.** If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
    - 4.3.1.** terminate the contract in accordance with Statutory Condition 5, or
      - 4.3.1.1.1.1.** or
    - 4.3.2.** notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
  - 4.4.** If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.
- 5. Termination of insurance**
  - 5.1.** The contract may be terminated
    - 5.1.1** by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
    - 5.1.2** by the insured at any time on request.
  - 5.2.** If the contract is terminated by the insurer,
    - 5.2.1.** the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
    - 5.2.2.** the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
  - 5.3.** If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
  - 5.4.** The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.
- 6. Requirements after loss**
  - 6.1.** On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
    - 6.1.1.** immediately give notice in writing to the insurer,
    - 6.1.2.** deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,
      - 6.1.2.1.** giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,

- 6.1.2.2. stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
    - 6.1.2.3. stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the insured,
    - 6.1.2.4. stating the amount of other insurances and the names of other insurers,
    - 6.1.2.5. stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
    - 6.1.2.6. stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
    - 6.1.2.7. stating the place where the insured property was at the time of loss,
  - 6.1.3. 6.1.3. if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - 6.1.4. 6.1.4. if required by the insurer and if practicable,
    - 6.1.4.1. produce books of account and inventory lists,
    - 6.1.4.2. furnish invoices and other vouchers verified by statutory declaration, and
    - 6.1.4.3. furnish a copy of the written portion of any other relevant contract.
  - 6.2. The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.
- 7. Fraud**
- 7.1. Any fraud or willfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.
- 8. Who may give notice and proof**
- 8.1. Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made
    - 8.1.1. by the agent of the insured, if
      - 8.1.1.1. the insured is absent or unable to give the notice or make the proof, and
      - 8.1.1.2. the absence or inability is satisfactorily accounted for, or
    - 8.1.2. by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.
- 9. Salvage**
- 9.1. In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
  - 9.2. The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.
- 10. Entry, control, abandonment**
- 10.1. After loss or damage to insured property, the insurer has
    - 10.1.1. an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
    - 10.1.2. after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
    - 10.1.3. without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
    - 10.1.4. without the insurer's consent, there can be no abandonment to it of the insured property.
- 11. In case of disagreement**
- 11.1. In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the Insurance Act, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.
  - 11.2. There is no right to a dispute resolution process under this condition until
    - 11.2.1. a specific demand is made for it in writing, and
    - 11.2.2. the proof of loss has been delivered to the insurer.
- 12. When loss payable**
- 12.1. Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.
- 13. Repair or replacement**
- 13.1. Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.

**13.2.** If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

**14. Notice**

**14.1.** Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.

**14.2.** Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's last known address as provided to the insurer by the Insured.

DRAFT

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Statutory Conditions (British Columbia)

#### 1. Misrepresentation

1.1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

#### 2. Property of others

2.1. The insurer is not liable for loss or damage to property owned by a person other than the insured unless

- 2.1.1. otherwise specifically stated in the contract, or
- 2.1.2. the interest of the insured in that property is stated in the contract.

#### 3. Change of interest

3.1. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy and Insolvency Act* (Canada) or a change of title by succession, by operation of law or by death.

#### 4. Material change in risk

4.1. The insured must promptly give notice in writing to the insurer or its agent of a change that is

- 4.1.1. material to the risk, and
- 4.1.2. within the control and knowledge of the insured.

4.2. If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.

4.3. If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may

- 4.3.1. terminate the contract in accordance with Statutory Condition 5, or
- 4.3.2. notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.

4.4. If the insured fails to pay an additional premium when required to do so under subparagraph (3) (b) of this condition, the contract is terminated at that time and Statutory Condition 5 (2) (a) applies in respect of the unearned portion of the premium.

#### 5. Termination of insurance

5.1. The contract may be terminated

- 5.1.1. by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
- 5.1.2. by the insured at any time on request.

5.2. If the contract is terminated by the insurer,

- 5.2.1. the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
- 5.2.2. the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.

5.3. If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.

**5.4.** The 15 day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**6. Requirements after loss**

**6.1.** On the happening of any loss of or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,

**6.1.1.** immediately give notice in writing to the insurer,

**6.1.2.** deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration,

**6.1.3.** giving a complete inventory of that property and showing in detail quantities and cost of that property and particulars of the amount of loss claimed,

**6.1.4.** stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,

**6.1.5.** stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the insured,

**6.1.6.** stating the amount of other insurances and the names of other insurers,

**6.1.7.** stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,

**6.1.8.** stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and

**6.1.9.** stating the place where the insured property was at the time of loss,

**6.1.10.** if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and

**6.1.11.** if required by the insurer and if practicable,

**6.1.12.** produce books of account and inventory lists,

**6.1.13.** furnish invoices and other vouchers verified by statutory declaration, and

**6.1.14.** furnish a copy of the written portion of any other relevant contract.

**6.1.15.** The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

**7. Fraud**

**7.1.** Any fraud or willfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

**8. Who may give notice and proof**

**8.1.** Notice of loss under Statutory Condition 6 (1) (a) may be given and the proof of loss under Statutory Condition 6 (1) (b) may be made

**8.2.** by the agent of the insured, if

**8.3.** the insured is absent or unable to give the notice or make the proof, and

**8.4.** the absence or inability is satisfactorily accounted for, or

**8.5.** by a person to whom any part of the insurance money is payable, if the insured refuses to do so or in the circumstances described in clause (a) of this condition.

**9. Salvage**

**9.1.** In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.

**9.2.** The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**10. Entry, control, abandonment**

**10.1.** After loss or damage to insured property, the insurer has

**10.2.** an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and

**10.3.** after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but

**10.4.** without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and

**10.5.** without the insurer's consent, there can be no abandonment to it of the insured property.

**11. In case of disagreement**

**11.1.** In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those questions must be determined using the applicable dispute resolution process set out in the *Insurance Act*, whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.

**11.1.1.** There is no right to a dispute resolution process under this condition until

**11.1.2.** a specific demand is made for it in writing, and

**11.1.3.** the proof of loss has been delivered to the insurer.

**12. When loss payable**

**12.1.** Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**13. Repair or replacement**

**13.1.** Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.

**13.2.** If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss, and must proceed with all due diligence to complete the work within a reasonable time.

**14. Notice**

**14.1.** Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.

**14.1.1.** Written notice to the insured may be personally delivered at, or sent by registered mail addressed to, the insured's known address as provided to the insurer by the insured.

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Statutory Conditions (Manitoba)

#### 1. Misrepresentation

- a. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

#### 2. Property of others

- a. The insurer is not liable for loss or damage to property owned by a person other than the insured unless
  - i. otherwise specifically stated in the contract, or
  - ii. the interest of the insured in that property is stated in the contract.

#### 3. Change of interest

- a. The insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy and Insolvency Act (Canada) or a change of title by succession, by operation of law or by death.

#### 4. Material change in risk

- a. The insured must promptly give notice in writing to the insurer or its agent of a change that is
  - i. material to the risk, and
  - ii. within the control and knowledge of the insured.
- b. If an insurer or its agent is not promptly notified of a change under subparagraph (1) of this condition, the contract is void as to the part affected by the change.
- c. If an insurer or its agent is notified of a change under subparagraph (1) of this condition, the insurer may
  - i. terminate the contract in accordance with Statutory Condition 5, or
  - ii. notify the insured in writing that, if the insured desires the contract to continue in force, the insured must, within 15 days after receipt of the notice, pay to the insurer an additional premium specified in the notice.
- d. If the insured fails to pay an additional premium when required to do so under subparagraph 3.b. of this condition, the contract is terminated at that time and Statutory Condition 5 2.a. applies in respect of the unearned portion of the premium.

#### 5. Termination of contract

- a. The contract may be terminated
  - i. by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 days' written notice of termination personally delivered, or
  - ii. by the insured at any time on request.
- b. If the contract is terminated by the insurer,
  - i. the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract, and
  - ii. the refund must accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund must be made as soon as practicable.
- c. If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time specified in the contract, but in no event may the short rate premium for the expired time be less than any minimum retained premium specified in the contract.
- d. The 15-day period referred to in subparagraph (1) (a) of this condition starts to run on the day the registered letter or notification of it is delivered to the insured's postal address.

**6. Requirements after loss**

- a. On the happening of any loss or damage to insured property, the insured must, if the loss or damage is covered by the contract, in addition to observing the requirements of Statutory Condition 9,
  - i. immediately give notice in writing to the insurer,
  - ii. deliver as soon as practicable to the insurer a proof of loss in respect of the loss or damage to the insured property verified by statutory declaration
  - iii. giving a complete inventory of that property and showing in detail quantities and costs of that property and particulars of the amount of loss claimed,
  - iv. stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
  - v. stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the insured,
  - vi. stating the amount of other insurances and the names of other insurers,
  - vii. stating the interest of the insured and of all others in that property with particulars of all liens, encumbrances and other charges on that property,
  - viii. stating any changes in title, use, occupation, location, possession or exposure of the property since the contract was issued, and
  - ix. stating the place where the insured property was at the time of loss,
  - x. if required by the insurer, give a complete inventory of undamaged property showing in detail quantities and cost of that property, and
  - xi. if required by the insurer and if practicable,
  - xii. produce books of account and inventory lists,
  - xiii. furnish invoices and other vouchers verified by statutory declaration, and
  - xiv. furnish a copy of the written portion of any other relevant contract.
- b. The evidence given, produced or furnished under subparagraph (1) (c) and (d) of this condition must not be considered proofs of loss within the meaning of Statutory Conditions 12 and 13.

**7. Fraud**

- a. Any fraud or willfully false statement in a statutory declaration in relation to the particulars required under Statutory Condition 6 invalidates the claim of the person who made the declaration.

**8. Who may give notice and proof**

- a. Notice of loss under Statutory Condition 6.1.a. may be given and the proof of loss under of Statutory Condition 6.1.b may be made
  - i. by the agent of the insured if
  - ii. the insured is absent or unable to give the notice or make the proof, and
  - iii. the absence or inability is satisfactorily accounted for, or
  - iv. by a person to whom any part of the insurance money is payable, if the insured refuses to do so, or in the circumstances described in clause (a) of this condition.

**9. Salvage**

- a. In the event of loss or damage to insured property, the insured must take all reasonable steps to prevent further loss or damage to that property and to prevent loss or damage to other property insured under the contract, including, if necessary, removing the property to prevent loss or damage or further loss or damage to the property.
- b. The insurer must contribute on a prorated basis towards any reasonable and proper expenses in connection with steps taken by the insured under subparagraph (1) of this condition.

**10. Entry, control, abandonment**

- a. After loss or damage to insured property, the insurer has
- b. an immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and
- c. after the insured has secured the property, a further right of access and entry by accredited representatives sufficient to enable them to appraise or estimate the loss or damage, but
- d. without the insured's consent, the insurer is not entitled to the control or possession of the insured property, and
- e. without the insurer's consent, there can be no abandonment to it of the insured property.

**11. In case of disagreement**

- a. In the event of disagreement as to the value of the insured property, the value of the property saved, the nature and extent of the repairs or replacements required or, if made, their adequacy, or the amount of the loss or damage, those

questions must be determined using the applicable dispute resolution process set out in the *Insurance Act* whether or not the insured's right to recover under the contract is disputed, and independently of all other questions.

- b. There is no right to a dispute resolution process under this condition until
  - i. a specific demand is made for it in writing, and
  - ii. proof of loss has been delivered to the insurer.

**12. When loss payable**

- a. Unless the contract provides for a shorter period, the loss is payable within 60 days after the proof of loss is completed in accordance with Statutory Condition 6 and delivered to the insurer.

**13. Replacement**

- a. Unless a dispute resolution process has been initiated, the insurer, instead of making payment, may repair, rebuild or replace the insured property lost or damaged, on giving written notice of its intention to do so within 30 days after receiving the proof of loss.
- b. If the insurer gives notice under subparagraph (1) of this condition, the insurer must begin to repair, rebuild or replace the property within 45 days after receiving the proof of loss and must proceed with all due diligence to complete the work within a reasonable time.

**14. Notice**

- a. Written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province.
- b. Written notice to the insured may be personally delivered at, or sent by registered mail addressed to the insured's last known address as provided to the insurer by the insured.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Cancellation Clause

NOTWITHSTANDING anything contained in this Insurance to the contrary this Insurance may be cancelled by the Insured at any time by written notice or by surrendering of this contract of insurance. This Insurance may also be cancelled by or on behalf of the Underwriters by delivering to the Insured or by mailing to the Insured, by registered, certified or other first class mail, at the Insured's address as shown in this Insurance, written notice stating when, not less than 30 days thereafter, the cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice and this Insurance shall terminate at the date and hour specified in such notice.

If this Insurance shall be cancelled by the Insured the premium is 100% earned and retained and no return premium will apply.

If this Insurance shall be cancelled by or on behalf of the Underwriters the Underwriters shall retain the pro rata proportion of the premium hereon, except that if this Insurance is on an adjustable basis the Underwriters shall receive the earned premium hereon or the pro rata proportion of any minimum premium stipulated herein whichever is the greater.

Payment or tender of any unearned premium by the Underwriters shall not be a condition precedent to the effectiveness of Cancellation but such payment shall be made as soon as practicable.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### English Language Clause

The Named Insured, for itself and all Insureds, consents to this Policy and all notices required hereunder being drafted and delivered in the English language.

L' assure, en son nom propre et au nom de tous les assures, consent expressément a ce que le présent contrat et tous les avis exigés par les présentes soient rédigés et transmis en anglais

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### **Quebec Amendatory Endorsement Quebec Civil Code Amendment (From Cicc077 12-03)**

Where this policy is required to be interpreted by the law of the Province of Quebec then the policy provisions shall be deemed to be amended to comply with the applicable provisions of the Quebec Civil Code, but only to the extent necessary to comply with requirements of the Quebec Civil Code and only to the extent that the Quebec Civil Code in law governs this contract. Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Quebec Civil Code.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Asbestos Exclusion Clause

This Policy does not cover any claims of any kind whatsoever directly or indirectly relating to, arising out of or in consequence of:

1. the actual, alleged or threatened presence of or exposure to asbestos in any form whatsoever, or
2. any obligation, request, demand, order, or statutory or regulatory requirement that any Insured or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against, indemnify for any costs or damages relating to or in any other way respond to the actual, alleged or threatened presence of asbestos in any form whatsoever.

Notwithstanding any other provisions of this Policy, Insurers will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under paragraphs (1) or (2) hereof.

All other terms and conditions of the Policy remain unchanged.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### **Microorganism Exclusion (Absolute)**

This Policy does not insure any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to: mold, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This Exclusion applies regardless whether there is (i) any physical loss or damage to insured property; (ii) any insured peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

This Exclusion replaces and supersedes any provision in the Policy that provides insurance, in whole or in part, for these matters.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Electronic Date Recognition Exclusion (EDRE)

This policy does not cover any loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a. the calculation, comparison, differentiation, sequencing or processing of data involving any date change, including leap year calculations, by any computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not; or
- b. any change, alteration, or modification involving date change, including leap year calculations, to any such computer system, hardware, program or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the insured or not.

This clause applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Electronic Data Endorsement D

#### 1. Electronic Data Exclusion

- 1.1. Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:
  - 1.1.1. This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.
  - 1.1.2. ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.
  - 1.1.3. COMPUTER VIRUS means a set of corrupting, harmful or otherwise unauthorized instructions or code including a set of maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

#### 2. Electronic Data Processing Media Valuation

- 2.1. Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:
  - 2.1.1. Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost of the blank media plus the costs of copying the ELECTRONIC DATA from backup or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such ELECTRONIC DATA to the Assured or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

## Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

### Endorsement

#### Terrorism Exclusion Endorsement

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the even any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

# Berkley Insurance Company

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Additional Agreements and Conditions

**A. STANDARD MORTGAGE CLAUSE (approved by the Insurance Bureau of Canada) - IT IS HEREBY PROVIDED AND AGREED THAT**

- BREACH OF CONDITIONS BY MORTGAGOR, OWNER OR OCCUPANT** - This insurance and every documented renewal thereof--AS TO THE INTEREST OF THE MORTGAGEE ONLY THEREIN--is and shall be in force notwithstanding any act, neglect, omission or misrepresentation attributable to the mortgagor, owner or occupant of the property insured, including transfer of interest, any vacancy or non-occupancy, or the occupation of the property for purposes more hazardous than specified in the description of the risk;  
PROVIDED ALWAYS that the Mortgagee shall notify forthwith the Insurer (if known) of any vacancy or non-occupancy extending beyond thirty (30) consecutive days, or of any transfer of interest or increased hazard THAT SHALL COME TO HIS KNOWLEDGE; and that every increase of hazard (not permitted by the Policy) shall be paid for by the Mortgagee--on reasonable demand--from the date such hazard existed, according to the established scale of rates for the acceptance of such increased hazard, during the continuance of this insurance.
- RIGHT OF SUBROGATION** - Whenever the Insurer pays the Mortgagee any loss award under this Policy and claims that --as to the Mortgagor or Owner--no liability therefor existed, it shall be legally subrogated to all rights of the Mortgagee against the Insured; but any subrogation shall be limited to the amount of such loss payment and shall be subordinate and subject to the basic right of the Mortgagee to recover the full amount of its mortgage equity in priority to the Insurer; or the Insurer may at its option pay the Mortgagee all amounts due or to become due under the mortgage or on the security thereof, and shall thereupon receive a full assignment and transfer of the mortgage together with all securities held as collateral to the mortgage debt.
- OTHER INSURANCE** - If there be other valid and collectible insurance upon the property with loss payable to the Mortgagee--at law or in equity--then any amount payable thereunder shall be taken into account in determining the amount payable to the Mortgagee.
- WHO MAY GIVE PROOF OF LOSS** - In the absence of the Insured, or the inability, refusal or neglect of the Insured to give notice of loss or deliver the required Proof of Loss under the Policy, then the Mortgagee may give the notice upon becoming aware of the loss and deliver as soon as practicable the Proof of Loss.
- TERMINATION** - The term of this mortgage clause coincides with the term of the Policy;  
PROVIDED ALWAYS that the Insurer reserves the right to cancel the Policy as provided by Statutory provision but agrees that the Insurer will neither terminate nor alter the Policy to the prejudice of the Mortgagee without the notice stipulated in such Statutory provision.
- FORECLOSURE** - Should title or ownership to said property become vested in the Mortgagee and/or assigns as owner or purchaser under foreclosure or otherwise, this insurance shall continue until expiry or cancellation for the benefit of the said Mortgagee and/or assigns.

SUBJECT TO THE TERMS OF THIS MORTGAGE CLAUSE (and these shall supersede any policy provisions in conflict therewith BUT ONLY AS TO THE INTEREST OF THE MORTGAGEE), loss under this policy is made payable to the Mortgagee.

**B. APPLICATION OF DEDUCTIBLE**

Should one occurrence give rise to the application of more than one deductible, only the largest individual deductible amount shall apply.

**C. COMMERCIAL PROPERTY POLICY CONDITIONS (Applicable in all jurisdictions except the Province of Québec)**

- MISREPRESENTATION** - If a person applying for insurance falsely describes the property to the prejudice of the Insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the Insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.
- PROPERTY OF OTHERS** - Unless otherwise specifically stated in the contract, the Insurer is not liable for loss or damage to property owned by any person other than the Insured, unless the interest of the Insured therein is stated in the contract.

## Berkley Insurance Company

---

3. CHANGE OF INTEREST - The Insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act or change of title by succession, by operation of law, or by death.
  4. MATERIAL CHANGE - Any change material to the risk and within the control and knowledge of the Insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the Insurer or its local agent, and the Insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the Insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the Insurer an additional premium, and in default of such payment the contract is no longer in force and the Insurer shall return the unearned portion, if any, of the premium paid.
  5. TERMINATION
    - i. This contract may be terminated
      - a. by the Insurer giving to the Insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered
      - b. by the Insured at any time on request.
    - ii. Where this contract is terminated by the Insurer,
      - a. the Insurer shall refund the excess of premium actually paid by the Insured over the pro rata premium for the expired time, but, in no event, shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified, and
      - b. the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
    - iii. Where this contract is terminated by the Insured, the Insurer shall refund as soon as practicable the excess of the premium actually paid by the Insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
    - iv. The refund may be made by money, postal or express company money order or cheque payable at par.
    - v. The fifteen days mentioned in clause (a) of sub condition i) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.
  6. REQUIREMENTS AFTER LOSS
    - i) Upon the occurrence of any loss of or damage to the insured property, the Insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11
      - (a) forthwith give notice thereof in writing to the Insurer
      - (b) deliver as soon as practicable to the Insurer a proof of loss verified by a statutory declaration,
    - ii) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed
      - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the Insured knows or believes
      - (iii) stating that the loss did not occur through any willful act or neglect or the procurement, means or connivance of the Insured
      - (iv) showing the amount of other insurances and the names of other Insurers
      - (v) showing the interest of the Insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property
      - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract
      - (vii) showing the place where the property insured was at the time of loss
    - (c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value
    - (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.
  - iii) The evidence furnished under clauses (c) and (d) of sub-paragraph i) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.
7. FRAUD - Any fraud or willfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

## Berkley Insurance Company

---

8. WHO MAY GIVE NOTICE AND PROOF - Notice of loss may be given and proof of loss may be made by the agent of the Insured named in the contract in case of absence or inability of the Insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the Insured refuses to do so, by a person to whom any part of the insurance money is payable.
9. SALVAGE
- i) The Insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
  - ii) The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the Insured and required under sub-paragraph i) of this condition according to the respective interests of the parties.
10. ENTRY, CONTROL, ABANDONMENT - After loss or damage to insured property, the Insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the Insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the Insurer is not entitled to the control or possession of the insured property, and without the consent of the Insurer there can be no abandonment to it of insured property.
11. APPRAISAL - In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under The Insurance Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.
12. WHEN LOSS PAYABLE - The loss is payable within sixty (60) days after completion of the proof of loss, unless the contract provides for a shorter period.
13. REPLACEMENT
- iii) The Insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty (30) days after receipt of the proofs of loss.
  - iv) In that event the Insurer shall commence to so repair, rebuild, or replace the property within forty-five (45) days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.
14. ACTION - Every action or proceeding against the Insurer for the recovery of any claim under or by virtue of this contract is absolutely barred unless commenced within one year\* next after the loss or damage occurs.  
\* two years in Province of Manitoba and Yukon Territory.  
Saskatchewan Statutory Condition 14 is repealed. See The Limitations Act, S.S. 2004, c.L-16.1
15. NOTICE - Any written notice to the Insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the Insurer in the Province. Written notice may be given to the Insured named in the contract by letter personally delivered to him or by registered mail addressed to him at his latest post office address as notified to the Insurer. In this condition, the expression "registered" means registered in or outside Canada.
16. CONTRIBUTION - If on the happening of any loss or damage to property in consequence of which a claim is or may be made under this policy there is in force more than one contract covering the same interest, the liability of the Insurer hereunder shall be limited to its rateable proportion of such claim.

**D. ADDITIONAL CONDITIONS (Applicable in all jurisdictions except the Province of Québec)**

- 1. NOTICE TO AUTHORITIES - Where the loss is due to malicious acts, burglary, robbery, theft, or attempt thereof, or is suspected to be so due, the Insured shall give immediate notice thereof to the police or other authorities having jurisdiction.
- 2. NO BENEFIT TO BAILEE - It is warranted by the Insured that this insurance shall in no wise ensure directly or indirectly to the benefit of any carrier or other bailee.

3. PAIR AND SET - In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are a part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.
4. PARTS - In the case of loss of or damage to any part of the insured property whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.
5. SUE AND LABOUR - It is the duty of the Insured in the event that any property insured hereunder is lost to take all reasonable steps in and about the recovery of such property. The Insurer shall contribute pro rata towards any reasonable and proper expenses in connection with the foregoing according to the respective interests of the parties.
6. BASIS OF SETTLEMENT - Unless otherwise provided, the Insurer is not liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.
7. SUBROGATION - The Insurer, upon making any payment or assuming liability therefor under this Policy, shall be subrogated to all rights of recovery of the Insured against any person, and may bring action in the name of the Insured to enforce such rights. 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, that amount shall be divided between the Insurer and the Insured in the proportions in which the loss or damage has been borne by them respectively.

**E. GENERAL CONDITIONS (Applicable in the Province of Québec)**

This policy is subject to the Civil Code of the Province of Québec

Reference to Civil Code articles in some instances is for easier reading only and should not be construed as exact quotations.

For all coverages except where inapplicable.

**1. STATEMENTS**

1.1. Representation of risk (article 2408)

The client, and the Insured if the Insurer requires it, is bound to represent all the facts known to him which are likely to materially influence an insurer in the setting of the premium, the appraisal of the risk or the decision to cover it, but he is not bound to represent facts known to the Insurer or which from their notoriety he is presumed to know, except in answer to inquiries.

The client means the person submitting an insurance application.

1.2. Material change in risk (articles 2466 and 2467)

The Insured shall promptly notify the Insurer of any change that increases the risks stipulated in the policy and that results from events within his control if it is likely to materially influence an insurer in setting the rate of the premium, appraising the risk or deciding to continue to insure it.

On being notified of any material change in the risk, the Insurer may cancel the contract or propose, in writing, a new rate of premium. Unless the new premium is accepted and paid by the Insured within thirty days of the proposal, the policy ceases to be in force.

1.3. Misrepresentations or concealment (Articles 2410, 2411 and 2466)

Any misrepresentation or concealment of relevant facts mentioned in section 1.1 and in the first paragraph of section 1.2 by the client or the Insured nullifies the contract at the instance of the Insurer, even in respect of losses not connected with the risk so misrepresented or concealed.

Unless the bad faith of the client or of the Insured is established or unless it is established that the Insurer would not have covered the risk if he had known the true facts, the Insurer remains liable towards the Insured for such proportion of the indemnity as the premium he collected bears to the premium he should have collected.

1.4. Warranties (Article 2412)

Any increase in risk resulting from a breach of warranty suspends the coverage until accepted by the Insurer or until such breach has been remedied by the Insured.

**2. GENERAL PROVISIONS**

2.1 Insurable interest (Articles 2481 and 2484) (Applicable only to property insurance)

A person has an insurable interest in a property where the loss or deterioration of the property may cause him direct and immediate damage. It is necessary that the insurable interest exist at the time of the loss but not necessary that the same interest have existed throughout the duration of the contract. The insurance of a property in which the Insured has no insurable interest is null.

2.2 Changes (Article 2405)

The terms of this policy shall not be waived or changed except by endorsement.

2.3 Assignment (Articles 2475 and 2476)

This policy may be assigned only with the consent of the Insurer and in favour of a person who has an insurable interest in the insured property.

Upon the death or bankruptcy of the Insured or the assignment of his interest in the insurance to a co-Insured, the insurance continues in favour of the heir, trustee in bankruptcy or remaining Insured, subject to his performing the obligations that were incumbent upon the Insured.

### 2.4 Books and records

The Insurer and its authorized representatives shall have the right to examine the Insured's books and records related to the subject matter of this insurance at any time during the period of this policy and the three subsequent years.

### 2.5 Inspection

The Insurer and its authorized representatives shall have the right but are not obligated to make inspections of the risk, inform the Insured of the conditions found and recommend changes. Any inspections, surveys, findings or recommendations relate only to insurability and the premiums to be charged. They shall not constitute a warranty that the premises, property or operations are safe or healthful or comply with laws, codes or standards.

### 2.6 Currency

All limits of insurance, premiums and other amounts as expressed in this policy are in Canadian currency.

## 3. LOSSES

### 3.1 Notice of loss (Article 2470)

The Insured shall notify the Insurer of any loss which may give rise to an indemnity, as soon as he becomes aware of it. Any interested person may give such notice.

### 3.2 In the event that the requirement set out in the preceding paragraph is not fully complied with, all rights to compensation shall be forfeited by the Insured where such non-compliance has caused prejudice to the Insurer.

### 3.3 Information to be provided (Article 2471)

The Insured shall inform the Insurer as soon as possible of all the circumstances surrounding the loss, including its probable cause, the nature and extent of the damage, the location of the insured property, the rights of third parties, and any concurrent insurance; he shall also furnish him with vouchers and swear or warrant to the truth of the information.

Where, for a serious reason, the Insured is unable to fulfil such obligation, he is entitled to a reasonable time in which to do so. If the Insured fails to fulfil his obligation, any interested person may do so on his behalf.

In addition, the Insured shall forthwith send to the Insurer a copy of any notice, letter, subpoena or writ or document received in connection with a claim.

### 3.4 False representation (Article 2472)

Any deceitful representation entails the loss of the right of the person making it to any indemnity in respect of the risk to which the representation relates.

However, if the occurrence of the event insured against entails the loss of both movable and immovable property or of both property for occupational use and personal property, forfeiture is incurred only with respect to the class of property to which the representation relates.

### 3.5 Intentional Fault (Article 2464)

The Insurer is never liable to compensate for injury resulting from the Insured's intentional fault.

Where there is more than one Insured, the obligation of coverage remains in respect of those Insureds who have not committed an intentional fault.

Where the Insurer is liable for injury caused by a person for whose acts the Insured is liable, the obligation of coverage subsists regardless of the nature or gravity of that person's fault.

### 3.6 Notice to police (applicable to property insurance only)

The Insured must promptly give notice to the police of any loss caused by vandalism, theft or attempted theft or other criminal act.

### 3.7 Safeguarding and examination of property (Article 2495) (applicable to property insurance only)

At the expense of the Insurer, the Insured must take all reasonable steps to prevent further loss or damage to the insured property and any further loss or damage resulting directly or indirectly from the Insured's failure to take such action shall not be recoverable.

The Insured may not abandon the damaged property if there is no agreement to that effect. The Insured shall facilitate the salvage and inspection of the insured property by the Insurer.

He shall, in particular, permit the Insurer and his representatives to visit the premises and examine the insured property before repairing, removing or modifying the damaged property, unless so required to safeguard the property.

### 3.8 Admission of liability and cooperation

The Insured shall cooperate with the Insurer in the processing of all claims

(The following two paragraphs are applicable to liability insurance only: article 2504) No transaction made without the consent of the Insurer may be set up against him.

The Insured shall not admit any liability nor settle or attempt to settle any claim, except at his own risk.

### 3.9 Right of action (Article 2502) (applicable to liability insurance only)

The Insurer may set up against the injured third person any grounds he could have invoked against the Insured at

the time of the loss, but not grounds pertaining to facts that occurred after the loss; the Insurer has a right of action against the Insured in respect of facts that occurred after the loss.

#### 4. COMPENSATION AND SETTLEMENT

##### 4.1 Basis of settlement (Articles 2490, 2491, 2493) (applicable to property insurance only)

Unless otherwise provided, the Insurer shall not be liable for more than the actual cash value of the property at the time of loss as normally determined.

In unvalued policies, the amount of insurance does not make proof of the value of the insured property. In valued policies, the agreed value makes complete proof, between the Insurer and the Insured, of the value of the insured property.

If the amount of insurance is less than the value of the property the Insurer is released by paying the amount of the insurance in the event of total loss or a proportional indemnity in the event of partial loss.

##### 4.2 Pair and set (applicable to property insurance only)

In the case of loss of or damage to any article or articles, whether scheduled or unscheduled, which are part of a set, the measure of loss of or damage to such article or articles shall be a reasonable and fair proportion of the total value of the set, but in no event shall such loss or damage be construed to mean total loss of set.

##### 4.3 Parts (applicable to property insurance only)

In the case of loss of or damage to any part of the insured property, whether scheduled or unscheduled, consisting, when complete for use, of several parts, the Insurer is not liable for more than the insured value of the part lost or damaged, including the cost of installation.

##### 4.4 Replacement (Article 2494) (applicable to property insurance only)

Subject to the rights of preferred and hypothecary creditors, the Insurer reserves the right to repair, rebuild or replace the insured property. He is then entitled to salvage and may take over the property.

##### 4.5 Time of payment (Articles 1591, 2469 and 2473)

The Insurer shall pay the indemnity within sixty days after receiving the notice of loss or, at his request, all relevant information and vouchers, provided the Insured shall have complied with all the terms of the contract.

Any outstanding premium may be deducted from the indemnity payable.

##### 4.6 Property of others (applicable to property insurance only)

Where a claim is made as a result of loss of or damage to property not owned by the Insured, the Insurer reserves the right to pay the indemnity to the Insured or to the owner of the property and to deal directly with such owner.

##### 4.7 Waiver

Neither the Insurer nor the Insured shall be deemed to have waived any term or condition of the policy by any act relating to arbitration or to the completion or delivery of proof of loss, or to the investigation or adjustment of the claim.

##### 4.8 Limitation of actions (Article 2925)

Every action or proceeding against the Insurer under this policy shall be commenced within three years from the date the right of action has arisen.

##### 4.9 Subrogation (Article 2474)

Unless otherwise provided, the Insurer shall be subrogated to the extent of the amount paid or the liability assumed therefor under this policy to the rights of the Insured against persons responsible for the loss except when they are members of the Insured's household. The Insurer may be fully or partly released from his obligation towards the Insured where, owing to any act of the Insured, he cannot be so subrogated.

#### 5. OTHER INSURANCE

##### 5.1 Property insurance (Article 2496)

The Insured who, without fraud, is insured by several insurers, under several policies, for the same interest and against the same risk so that the total amount of indemnity that would result from the separate performance of such policies would exceed the loss incurred may be indemnified by the insurer or insurers of his choice, each being liable only for the amount he has contracted for.

No clause suspending all or part of the performance of the contract by reason of other insurance may be used against the Insured.

Unless otherwise agreed, the indemnity is apportioned among the insurers in proportion to the share of each in the total coverage, except in respect of specific insurance, which constitutes primary insurance.

##### 5.2 Liability insurance

The liability insurance provided under this policy is primary insurance except when stated to apply in excess of, or contingent upon the absence of, other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Insurer's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis whether primary, excess or contingent, the Insurer shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

## Berkley Insurance Company

---

- Contribution by equal share:  
If all of such other collectible insurance provides for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than would be payable if each insurer contributed an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.
- Contribution by limits:  
If any such other insurance does not provide for contribution by equal shares, this Insurer shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

6. CANCELLATION (Articles 2477 and 2479) This policy may be cancelled at any time:

- (a) By mere written notice from each of the Named Insureds. Termination takes effect upon receipt of the notice and the Insured shall therefore be entitled to a refund of the excess of the premium actually paid over the short-term rate for the expired time.
- (b) By the Insurer giving written notice to each Named Insureds. Termination takes effect fifteen days following receipt of such notice by the Insured at his last known address and the Insurer shall refund the excess of premium actually paid over the pro rata premium for the expired time. If the premium is subject to adjustment or determination as to amount, the refund shall be made as soon as practicable.

Where one or more of the Named Insureds have been mandated to receive or send the notices provided for under paragraph (a) or (b) above, notices sent or received by them shall be deemed to have been sent or received by all Named Insureds.

In this Condition, the words "premium actually paid" mean the premium actually paid by the Insured to the Insurer or its representative but do not include any premium or part thereof paid to the Insurer by a representative unless actually paid to the representative by the Insured.

7. NOTICE

Any notice to the Insurer may be sent by any recognized means of communication to the Insurer or its authorized representative. Notice may be given to the named Insured by letter personally delivered to him or by mail addressed to him at his last known address. It is incumbent upon the sender to prove that such notice was received.

# Berkley Insurance Company

---

This endorsement changes the policy.  
Please read it carefully.

## Endorsement

### Notice to Insureds

Pursuant to the Freedom of Information and Protection of Privacy Act, 1987

#### **Important**

The notice below applies to insurance contracts containing non-automobile legal liability coverages in provinces where statistical data relating to such contracts must be reported to the Superintendent of Insurance.

#### **LEGAL AUTHORITY FOR COLLECTION**

Insurance Act, R.S.O. 1990, c18, section 101 (1).

#### **PRINCIPAL PURPOSE FOR WHICH PERSONAL INFORMATION IS INTENDED TO BE USED**

Information collected by insurers from Insureds or supplied to insurers pertaining to the attached document will be used:

- to compile aggregate statistical data to be used in monitoring trends in the insurance industry;
- to develop statistical exhibits to be used in monitoring the insurance industry;
- to respond to requests for customized statistical information on the insurance industry;
- to respond to inquiries on statistical information made to Office of the Superintendent of insurance; and
- to use and disclose such information for purposes which are consistent with the previous clauses.

#### **THE PUBLIC OFFICIAL WHO CAN ANSWER QUESTIONS ABOUT THE COLLECTION IS:**

Manager, Statistical Services

Financial Services Commission of Ontario

5160 Yonge Street, 17th Floor, Box 85

North York, ON M2N 6L9

Tel: (416) 250-7250

Fax: (416) 590-7070