INLAND MARINE

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Commercial Inland Marine Conditions - CM 00 01 09 04

Policy Amendment(s) Commercial Inland Marine

The following conditions apply in addition to the Common Policy Conditions and applicable Additional Conditions in Commercial Inland Marine Coverage Forms:

Loss Conditions

A. **Abandonment**

There can be no abandonment of any property to us.

B. **Appraisal**

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

1. Pay its chosen appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

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

C. **Duties in the Event of Loss**

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

1. Notify the police if a law may have been broken.
2. Give us prompt notice of the loss or damage. Include a description of the property involved.
3. As soon as possible, give us a description of how, when and where the loss or damage occurred.
4. Take all reasonable steps to protect the Covered Property from further damage and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also if feasible, set the damaged property aside and in the best possible order for examination.
5. You will not, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.
6. As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

   Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
7. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the **Fireman's Fund Insurance Companies** as named in the policy

Secretary

President

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8. Send us a signed, sworn proof of loss containing the information we request to settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

9. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit.

10. Cooperate with us in the investigation or settlement of the claim.

D. **Insurance Under Two or More Coverages**

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

E. **Loss Payment**

1. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.

2. We will not pay you more than your financial interest in the Covered Property.

3. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claim against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

4. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.

5. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss if you have complied with all the terms of this Coverage Part and:

   a. We have reached agreement with you on the amount of the loss; or

   b. An appraisal award has been made.

6. We will not be liable for any part of a loss that has been paid or made good by others.

F. **Other Insurance**

1. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.

2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

G. **Pair, Sets or Parts**

1. Pair or Set

In case of loss or damage to any part of a pair or set we may:

   a. Repair or replace any part to restore the pair or set to its value before the loss or damage; or

   b. Pay the difference between the value of the pair or set before and after the loss or damage.

2. Parts

In case of loss or damage to any part of Covered Property consisting of several parts when complete, we will only pay for the value of the lost or damaged part.

H. **Recovered Property**

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

I. **Reinstatement of Limit After Loss**

The Limit of Insurance will not be reduced by the payment of any claim, except for total loss or damage of a scheduled item, in which event we will refund the unearned premium on that item.

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J. **Transfer of Rights of Recovery Against Others to Us**

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

1. Prior to a loss to your Covered Property.
2. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
   a. Someone insured by this insurance; or
   b. A business firm:
      (1) Owned or controlled by you; or
      (2) That owns or controls you.

This will not restrict your insurance.

General Conditions

A. **Concealment, Misrepresentation or Fraud**

This Coverage Part is void in any case of fraud, intentional concealment or misrepresentation of a material fact, by you or any other insured, at any time, concerning:

1. This Coverage Part;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this Coverage Part.

B. **Control of Property**

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Part at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

C. **Legal Action Against Us**

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

1. There has been full compliance with all the terms of this Coverage Part; and
2. The action is brought within 2 years after you first have knowledge of the direct loss or damage.

D. **No Benefit to Bailee**

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

E. **Policy Period, Coverage Territory**

We cover loss or damage commencing:

1. During the policy period shown in the Declarations; and
2. Within the coverage territory.

F. **Valuation**

The value of property will be the least of the following amounts:

1. The actual cash value of that property;
2. The cost of reasonably restoring that property to its condition immediately before loss or damage; or
3. The cost of replacing that property with substantially identical property.

In the event of loss or damage, the value of property will be determinated as of the time of loss or damage.

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Scheduled Articles Floater - 135153 11 82

Policy Amendment Commercial Inland Marine

1. **Property Insured**

   This supplemental policy insures Scheduled Articles described in the Declarations to which this form is attached.

2. **Property Excluded**

   This supplemental policy does not insure the following property or property otherwise eligible for coverage while in the situations described hereunder:

   a. Loss of or damage to accounts, bills, deeds, evidences of debt, letters of credit, passports, documents, railroad or other tickets, notes, securities, money, currency, bullion, precious stones, jewelry or other similar valuables, paintings, statuary and other works of art, manuscripts, mechanical drawings;

   b. Property while waterborne, unless on transporting land conveyances aboard any regular ferry operating on inland waterways;

   c. Property shipped to or from Alaska, Hawaii or Puerto Rico.

3. **Territorial Limits**

   This supplemental policy covers only loss or damage occurring within the 48 contiguous states of the United States, The District of Columbia, Canada or within The State of Alaska or within The State of Hawaii.

4. **Perils Insured. (Broad Form or Specified Perils Form, As Specified In The Declarations)**

   a. **Broad Form.** This supplemental policy insures against all risks of direct physical loss of or damage to the insured property from any external cause, except as otherwise provided.

   b. **Specified Perils Form.** This supplemental policy insures against direct physical loss of or damage to the insured property caused by:

      (1) Fire or lightning;

      (2) Windstorm or hail; Explosion; Riot, riot attending a strike, civil commotion; Aircraft or objects falling therefrom; Vehicles, while the described property is not being transported, excluding vehicles owned or operated by the Insured, members of the Insured's household, or employees or agents of the Insured; Smoke;

      (3) Vandalism and malicious mischief;

      (4) Collapse of bridges or culverts;

      (5) Collision, upset or overturning of a vehicle on which the insured property is being transported;

      (6) Collision with another object, upset or overturn, landslide or cave-in.

5. **Perils Excluded**

   This supplement policy does no insure against:

   a. Loss or damage which is due and confined to wear and tear, inherent vice, gradual deterioration, insects, vermin, freezing, dampness of atmosphere, extremes of temperature, mechanical or electrical breakdown or failure, unless such damage is the result of other loss covered by this policy;

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One of the **Fireman's Fund Insurance Companies** as named in the policy

President

b. Loss or damage caused by or resulting from delay, loss of market, loss of use, or interruption of business;

c. Loss or damage caused by or resulting from infidelity and dishonesty, either or both, of the Insured or any person or persons in the employ or service of the Insured whether or not such act or acts occurred during the regular hours of employment or service, or any person or persons to whom the property may be entrusted (carriers for hire excepted);

d. Unexplained loss, mysterious disappearance, or shortage disclosed upon taking inventory.

e. As respects Broad Form only:

Loss or damage caused by, resulting from, contributed to, or aggravated by flood, surface water, waves, tidal water, or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, or whether driven by wind or not. This exclusion shall not apply to property in due course of transit while in or on a transporting conveyance.

6. **Limit of Liability**

The maximum liability of the Company for any one loss, disaster, or casualty, including expenses and charges, or all combined; shall not exceed the Limit of Liability specified in the Declarations.

7. **Deductible Clause**

Claim for loss or damage to each item insured hereunder shall be adjusted separately, and from the total of all such adjusted claim, or the amount of insurance upon each item, whichever is the lesser, the deductible amount specified in the Declarations shall be deducted.

It is agreed, however, that the total amount to be deducted from the sum of all adjusted claims for loss or damage arising out of one occurrence shall not exceed the aggregate deductible amount also specified in the Declarations.

8. **Coinsurance**

The Company shall be liable in the event of loss for no greater proportion thereof than the amount hereby insured bears to an amount equal to the percentage specified in the Declarations applied to the actual cash value of the property insured hereunder at the time such loss shall happen. If this supplemental policy insures two or more items, this condition shall apply to each item separately.

9. **Loss Payable Clause**

Loss, if any, shall be adjusted with the Insured and made payable to the Insured and Loss Payee specified in the Declarations.

10. **Labels**

In the event of loss or damage to labels, capsules or wrappers, the loss shall be adjusted on the basis of an amount sufficient to pay the cost of new labels, capsules or wrappers.

11. **Other Insurance**

If at the time of loss or damage there is available to a named or unnamed Insured or any other interested party any other insurance which would apply in the absence of this supplemental policy, the insurance under this suplemental policy shall apply only as excess insurance over such other insurance.

12. **Impairment of Recovery Rights**

Any act or agreement by the Insured before or after loss or damage whereby any right of the Insured to recover in whole or in part for loss or damage to property covered hereunder against any carrier, bailee, or other party liable therefor, is released, impaired or lost, shall render this supplemental policy null and void, but the Company's right to retain or recover the premium shall not be affected. The Company is not liable for any loss or damage which, without its written consent, has been settled or compromised by the Insured.

Amendatory Endorsement - Scheduled Articles Floater Replacement Cost - 143246 05 99

Policy Amendment(s) Commercial Inland Marine

This endorsement modifies insurance provided under the following:

Scheduled Articles Floater

I. The following is added to the Scheduled Articles Floater:

13. Valuation

a. If a loss occurs, we will determine the value of the lost or damaged property at its replacement cost value. Replacement Cost means the cost to replace with new property of comparable material and quality and used for the same purpose without deduction for depreciation.

b. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of a replacement cost basis. In the event you elect to have the loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage which replacement cost provides if you notify us of your intent to do so within 180 days after the loss or damage.

c. We will not pay on a replacement cost basis for any loss or damage:

(1) Until the lost or damaged property is actually repaired or replaced; and

(2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

d. We will not pay more for loss or damage on a replacement cost basis than the least of:

(1) The Limit of Insurance applicable to the lost or damaged property;

(2) The cost to replace the lost or damaged property with other property:

(a) Of comparable material and quality; and

(b) Used for the same purpose; or

(3) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

e. We will not pay you for any part of the loss or damage that you have collected from any other source.

II. Section 8., Coinsurance, is replaced by the following:

8. Coinsurance

The Company shall be liable in the event of loss for no greater proportion thereof than the amount hereby insured bears to an amount equal to the percentage specified in the Declarations applied to the replacement cost value of the property insured hereunder at the time such loss shall happen. If this supplemental policy insures two or more items, this condition shall apply to each item separately.

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a. The act resulted in aggregate losses in excess of $5 million; and

b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

3. **Other act of terrorism** means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. However, **other act of terrorism** does not include an act which meets the criteria set forth in Paragraph b. of the definition of **certified act of terrorism** when such act resulted in aggregate losses of $5 million or less. Multiple incidents of an **other act of terrorism** which occur within a seventy-two hour period and appear to be carried out in concert or to have related purpose or common leadership shall be considered to be one incident.

C. Application of Other Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part, Coverage Section, or Policy, such as losses excluded by a Nuclear Hazard Exclusion, a War Exclusion or a War Liability Exclusion.

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