

STATUTORY CONDITIONS
(Newfoundland and
Labrador)

The conditions set out in this section shall be considered to be part of every contract in force in the province and shall be printed on every policy with the heading "Statutory Conditions", and no variation or omission of or addition to any statutory condition is binding on the insured.

Misrepresentation

- 1 Where a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate a circumstance which is material to be made known to the insurer in order to enable it to judge the risk to be undertaken, the contract shall be void as to 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 a person other than the insured, unless the interest of the insured is stated in the contract.

Change of Interest

- 3 The insurer shall be 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 A change material to the risk and within the control and knowledge of the insured shall void the contract as the part affected by it, 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 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 shall, within 15 days of the receipt of the notice pay to the insurer an additional premium; and in default of the payment the contract shall no longer be in force and the insurer shall return the unearned portion of the premium paid.

Termination

- 5 (1) This contract may be terminated
 - (a) by the insurer giving to the insured 15 days' notice of termination by registered mail or 5 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 proportional premium for the expired time, but in no event shall the proportional premium for the expired time be considered to be less than a 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 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 considered to be less than a minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order, or by cheque payable at par.
- (5) The 15 days mentioned in clause (1)(a) of this condition start 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 a loss of or damage to the insured property, the insured shall, where that loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
 - (a) immediately give notice of the loss or damage 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 where 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 a wilful 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 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) where required give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - (d) where required, and where 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 another contract.
- (2) The evidence furnished under clauses (1) (c) and (d) of this condition shall not be considered proof of loss within the meaning of conditions 12 and 13.

Fraud

- 7 A fraud or a wilfully false statement in a statutory declaration in relation to the above particulars shall vitiate 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 where the insured refuses to do so, by a person to whom a part of the insurance money is payable.

Salvage

- 9 (1) The insured, in the event of loss or damage to property insured under the contract, shall take all reasonable steps to prevent further damage to the property so damaged and to prevent damage to other property insured under the contract including, where necessary, its removal to prevent damage or further damage to the property.
- (2) The insurer shall contribute proportionally towards 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 shall have 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 shall not be 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 a 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 Contracts Act before there can be a 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 for an appraisal is made in writing and until after proof of loss has been delivered.

When Loss Payable

- 12 The loss shall be payable within 60 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 to do so within 30 days after receipt of the proof of loss.
- (2) In that event the insurer shall start to repair, rebuild or replace the property within 45 days after receipt of the proofs of loss, and shall after that time proceed with all due diligence to the completion of the property.

Action

- 14 Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract shall be absolutely barred unless commenced within 1 year next after the loss or damage occurs.

Notice

- 15 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. Written notice may be given to the insured named in the contract by letter personally delivered to him or her or by registered mail addressed to him or her at his or her latest post office address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.