

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

CARLISLE BANQUETS INC., and NEW  
MERIDIAN BANQUETS INC., d/b/a  
MERIDIAN BANQUETS,

Plaintiffs,

v.

OWNERS INSURANCE COMPANY,

Defendant.

Case No. 1:21cv517

Honorable John Robert Blakey

**OWNERS INSURANCE COMPANY'S BRIEF IN SUPPORT OF  
MOTION TO DISMISS FIRST AMENDED COMPLAINT**

**TABLE OF CONTENTS**

CONCISE STATEMENT OF THE ISSUES PRESENTED ..... V  
INTRODUCTION ..... 1  
STATEMENT OF FACTS ..... 1  
    A. Plaintiffs’ First Amended Complaint..... 2  
    B. The Policies..... 2  
STANDARD OF REVIEW ..... 4  
ARGUMENT ..... 5  
II. PLAINTIFFS HAVE PLED THEMSELVES OUT OF A CLAIM. .... 5  
    A. Plaintiffs Failed To Allege A Direct Physical Loss, Which Triggers  
        Coverage ..... 5  
    B. Plaintiffs Are Not Entitled to Civil Authority Coverage ..... 10  
    C. The Virus Exclusion Bars Coverage..... 12  
    D. Other Exclusions Apply..... 14  
III. PLAINTIFFS FAILED TO STATE A CLAIM FOR BAD FAITH..... 15  
CONCLUSION..... 15

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>CASES</b>	
<i>7th Inning Stretch LLC v. Arch Ins. Co.</i> , Civil Action No. 20-8161, 2021 U.S. Dist. LEXIS 11326 (D.N.J. Jan. 19, 2021).....	13
<i>AE Mgmt., LLC v. Ill. Union Ins. Co.</i> , No. 20-22925-Civ, 2021 U.S. Dist. LEXIS 40230 (S.D. Fla. Mar. 4, 2021).....	8
<i>Am. States Ins. Co. v. Koloms</i> , 177 Ill. 2d 473, 227 Ill. Dec. 149, 687 N.E.2d 72 (1997).....	13
<i>Apps. Commun., Inc. v. Hartford Cas. Ins. Co.</i> , No. 11 C 3994, 2011 U.S. Dist. LEXIS 118906 (N.D. Ill. Oct. 14, 2011).....	6
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009).....	4, 5
<i>Bank of Carbondale v. Kansas Bankers Surety Co.</i> , 755 N.E.2d 543 (Ill. App. 2001).....	15
<i>Bell Atl. Corp. v. Twombly</i> , 550 U.S. 544 (2007).....	5, 11
<i>Bend Hotel Dev. Co., LLC v. Cincinnati Ins. Co.</i> , No. 20 C 4636, 2021 U.S. Dist. LEXIS 15303 (N.D. Ill. Jan. 27, 2021) (Bucklo, J.).....	7
<i>Bituminous Cas. Corp. v. Gust K. Newberg Constr. Co.</i> , 578 N.E.2d 1003 (App. Ill. 1991).....	6
<i>Boxed Foods Co., LLC v. Cal. Capital Ins. Co.</i> , No. 20-cv-04571-CRB, 2020 U.S. Dist. LEXIS 198859 (N.D. Cal. Oct. 26, 2020).....	13
<i>Bradley Hotel Corp. v. Aspen Specialty Ins. Co.</i> , No. 20 C 4249, 2020 U.S. Dist. LEXIS 245686 (N.D. Ill. Dec. 22, 2020) (Kocoras, J.)...7, 10, 11	
<i>Carrot Love, LLC v. Aspen Specialty Ins. Co.</i> , No. 20-23586-Civ, 2021 WL 124416 (S.D. Fla. Jan. 13, 2021) . (See also Exhibit G, list of similar COVID-19 cases with favorable results to insurers).....	5
<i>Cincinnati Ins. Co. v. Flanders Elec. Motor Serv.</i> , 40 F.3d 146 (7th Cir. 1994).....	13
<i>Circus Circus Lv v. Aig Specialty Ins. Co.</i> , No. 2:20-cv-01240-JAD-NJK, 2021 U.S. Dist. LEXIS 36306 (D. Nev. Feb. 26, 2021).....	8

*Dominick’s Finer Foods v. Ind. Ins. Co.*,  
102 N.E.3d 692 (App. Ill. 2018) .....15

*Family Tacos, LLC v. Auto Owners Ins. Co.*,  
No. 5:20-CV-01922, 2021 U.S. Dist. LEXIS 29774 (N.D. Ohio Feb. 17, 2021).....8, 9, 12

*Gavrilides Management Co. et al v. Mich. Ins. Co.*,  
Case No. 20-258-CB-C30 (Mich. Cir. Ct. July 21, 2020) (Exhibit K, Transcript and  
Order.).....9

*Harvest Moon Distributors v. Southern-Owners Ins. Co.*,  
No. 6:20-cv-1026-Orl-40DCI (M.D. Fla. Mar. 1, 2021) (Exhibit M) .....14

*Hous. Auth. v. Assisted Hous. Risk Mgmt. Ass’n*,  
2020 IL App (4th) 180737-U .....14

*K D Unlimited, Inc. v. Owners Ins. Co.*,  
No. 1:20-CV-2163-TWT, 2021 U.S. Dist. LEXIS 5926 (N.D. Ga. Jan. 5, 2021).....9

*Kessler Dental Assocs., P.C. v. Dentists Ins. Co.*,  
No. 2:20-cv-03376-JDW, 2020 U.S. Dist. LEXIS 228859 (E.D. Pa. Dec. 7, 2020) .....14

*Lee v. State Farm Fire & Casualty Co.*,  
No. 20 CH 4589 (Ill. Cir. Ct. Jan. 13, 2021).....5, 6, 12

*Mama Jo’s Inc. v. Sparta Ins. Co.*,  
823 F. App’x 868 (11th Cir. 2020) .....10

*Mashallah, Inc. v. W. Bend Mut. Ins. Co.*,  
No. 20 C 5472, 2021 U.S. Dist. LEXIS 31816 (N.D. Ill. Feb. 22, 2021) (Kocoras, J.) .....12

*Mastellone v. Lightning Rod Mut. Ins. Co.*,  
884 N.E.2d 1130 (Ohio. Ct. App., 2008).....9

*Mudpie, Inc. v. Travelers Cas. Ins. Co.*,  
No. 20-cv-03213-JST, 2020 U.S. Dist. LEXIS 168385 (N.D. Cal. Sep. 14, 2020).....8

*Neiman v. Economy Preferred Ins. Co.*,  
829 N.E. 2d 907 (App. Ill. 2005) .....15

*Newman Myers Kreines Gross, PC v. Great Northern Ins. Co.*,  
17 F. Supp. 3d 323 (S.D.N.Y. 2014).....9

*Part Two LLC v Owners Ins Co.*,  
2021 US Dist LEXIS 7485 (ND Ala., Jan 14, 2021).....12

*Plan Check Downtown III, LLC v. AmGuard Ins. Co.*,  
No. CV 20-6954-GW-SKx, 2020 U.S. Dist. LEXIS 178059 (C.D. Cal. Sep. 10, 2020) .....7

*Riverside Dental of Rockford, Ltd. v. Cincinnati Ins. Co.*,  
 No. 20-cv-50284 (N.D. Ill. Jan. 19, 2021) (Reinhard, J.) (Exhibit I) .....7, 11

*Riverwalk Seafood Grill Inc. v. Travelers Cas. Ins. Co. of Am.*,  
 No. 20 C 3768, 2021 U.S. Dist. LEXIS 5899 (N.D. Ill. Jan. 7, 2021) (Kocoras, J.) .....12

*S. Hospitality, Inc. v. Zurich Am. Ins. Co.*,  
 393 F.3d 1137 (10th Cir. 2004) .....11

*Sandy Point Dental, PC v. Cincinnati Ins. Co.*,  
 No. 20 CV 2160, 2020 U.S. Dist. LEXIS 171979 (N.D. Ill. Sep. 21, 2020)  
 (Gettleman, J.) .....6, 7, 15

*Ski Shawnee, Inc. v. Commonwealth Ins. Co.*,  
 No. 3:09-cv-02391, 2010 U.S. Dist. LEXIS 67092 (M.D. Pa. July 6, 2010) .....11

*Sojo’s Studios, Inc. v. Citizens Ins. Co. of Am.*,  
 No. 1:20-cv-0478, slip op. (N.D. Ill. Mar. 4, 2021) (Kocoras, J.) (Exhibit L) .....13

*Summit Hosp. Grp., Ltd. v. Cincinnati Ins. Co.*,  
 No. 5:20-CV-254-BO, 2021 U.S. Dist. LEXIS 40613 (E.D.N.C. Mar. 4, 2021) .....11

*T & E Chi. LLC v. Cincinnati Ins. Co.*,  
 No. 20 C 4001, 2020 U.S. Dist. LEXIS 217090 (N.D. Ill. Nov. 19, 2020)  
 (Lienenweber, J.) .....6, 7

*TJBC, Inc. v. Cincinnati Ins. Co.*,  
 No. 20-cv-815-DWD (S.D. Ill. Jan. 25, 2021) (Exhibit J) .....7

*TMC Stores, Inc. v. Federated Mut. Ins. Co.*,  
 No. A04-1963, 2005 Minn. App. LEXIS 585 (Minn. Ct. App. June 7, 2005) .....11

*Traveler’s Ins. Co. v. Eljer Mfg.*,  
 757 N.E.2d 481 (Ill. Sup. Ct. 2001) .....5, 6, 10

*Wausau Ins. Co. v. All Chicagoland Moving & Storage Co.*,  
 777 N.E.2d 1062 (App. Ill. 2002) .....9

*Windridge of Naperville Condo Ass’n v. Philadelphia Indem. Ins. Co.*,  
 932 F.3d 1035 (7th Cir. 2019) .....6

**CONCISE STATEMENT OF THE ISSUES PRESENTED**

1. Are Plaintiffs entitled to Business Income or Extended Business Income or Civil Authority coverage under the insurance policies at issue when Plaintiffs have not alleged that they suffered tangible, non-economic damage to their property as a result of a covered cause of loss?

Owners' Answer: No

2. Are Plaintiffs' claims barred by the virus exclusion contained in their insurance policies, which provides that Owners Insurance Company "will not pay for loss or damage caused by or resulting from virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease"?

Owners' Answer: Yes.

3. By attempting to plead around the virus exclusion, and argue that the Governor's Executive Order was the sole cause of their damages, did Plaintiffs plead directly into their policies' Acts or Decisions and Loss of Use and Loss of Market exclusions?

Owners' Answer: Yes.

4. Does Plaintiffs' bad faith claim arising out of Owners' alleged denial of coverage fail because Illinois law does not permit such a claim premised on a denial of coverage or where there is a bona-fide coverage dispute, as there is here?

Owners' Answer: Yes.

## INTRODUCTION

This case involves an insurance coverage dispute where Plaintiffs claim they are entitled to coverage for lost income as a result of the COVID-19 pandemic. Plaintiffs' theories of liability have been flatly rejected repeatedly by the Illinois state and federal courts. Plaintiffs are two banquet halls insured under commercial property policies issued by Owners Insurance Company ("Owners") under policy numbers 154604-07232982-20 and 154604-07295126-20 (the "Policies").<sup>1</sup> Plaintiffs seek coverage under those policies for business interruption losses arising out of the Governor's orders in response to COVID-19. Owners denied their claims based on the lack of any "direct physical loss" and cited various exclusions. In their First Amended Complaint ("FAC") against Owners, Plaintiff assert they are entitled to damages for breach of contract, bad faith, and seek a declaration that they are entitled to coverage of their lost income under the policies issued by Owners. Plaintiffs' claims must be dismissed in their entirety because, *first*, the Governor's orders did not cause property damage to their premises, and, as a result, coverage is excluded under the Policies, including for Civil Authority coverage. *Second*, even if Plaintiffs alleged sufficient facts establishing property damage, their losses are plainly excluded by the virus exclusion, the "loss-of-use" and "loss-of-market" exclusion, and the governmental acts or decisions exclusion. *Third*, Illinois law does not permit a bad faith claim arising out of a denial of coverage, as Plaintiffs allege here, or where there is a bona-fide coverage dispute, as here. Accordingly, Plaintiffs' FAC must be dismissed with prejudice.

## STATEMENT OF FACTS

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<sup>1</sup> For purposes of this motion, the Policies, attached as Exhibits D and E, contain the same material language, as they include the same coverage forms, but only Carlisle Banquet's policy (Exhibit D) will be pin-cited herein for the purpose of brevity.

**A. Plaintiffs' First Amended Complaint**

Plaintiffs are Illinois corporations that own and operate restaurants in Illinois. (Exhibit A, FAC, at ¶1.) Their FAC alleges they are entitled to insurance coverage under the Policies because they suffered lost income as a result of Governor Pritzker's Executive Orders 2020-07 and 2020-10 ("Closure Orders" or "Orders"), which were made in response to the COVID-19 pandemic. (*Id.* at ¶¶ 2, 32-36, 50, 52, 54, 89.) Order 2020-07 prohibited restaurants and banquet halls from hosting "on-premises consumption" from March 16, 2020 to March 30, 2020 but allowed and "encouraged" such businesses "to serve food and beverages so that they may be consumed off-premises...through means such as in-house delivery, third-party delivery, drive-through, and curbside pick-up." (Exhibit B, E.O. 2020-07.) Order 2020-10 extended the prohibition of on-premises dining until April 7, 2020. (Exhibit C, E.O. 2020-10.) Specifically, Plaintiffs argue that they are entitled to coverage under the Business Income (And Extra Expense) and Civil Authority coverage forms, which are set forth below. (*See* Exhibit A, ¶¶ 18-27, 36.)

**B. The Policies**

The relevant provisions of the Policies are identical and provide as follows:

**BUILDING AND PERSONAL PROPERTY COVERAGE FORM**

**A. Coverage**

We will pay for direct physical loss of or damage to the Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss....

**3. Covered Cause of Loss**

See applicable Causes Of Loss Form as shown in the Declarations.

**BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM**

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration." The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or



damage must be caused by or result from a Covered Cause of Loss.

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**a. Civil Authority**

...When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

**BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM<sup>2</sup>**

We will pay for the actual loss of Business Income you sustain due to the necessary “suspension” of your “operations” during the “period of restoration”. The “suspension” must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which ACTUAL LOSS SUSTAINED is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss...

We will only pay for loss of Business Income that you sustain during the “period of restoration” and that occurs within 12 consecutive months after the date of direct physical loss or damage.

**CAUSES OF LOSS- SPECIAL FORM**

**A. COVERED CAUSES OF LOSS**

When Special is shown in the Declarations, Covered Causes of Loss means Risks Of Direct Physical Loss unless the loss is [excluded.]

**B. EXCLUSIONS**

1. We will not pay for loss or damage caused directly or indirectly by any

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<sup>2</sup> This form also includes Civil Authority coverage with identical material language as stated above.

of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

**i. Virus Or Bacteria**

We will not pay for loss or damage caused by or resulting from virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

With respect to any loss or damage subject to this exclusion, such exclusion supersedes any exclusion relating to “pollutants”.

Exclusions B.1.a. through B.1.i. apply whether or not the loss event results in widespread damage or affects a substantial area.

\*\*\*

2. We will not pay for loss or damage caused by or resulting from any of the following:

- b. Delay, loss of use, or loss of market.

\*\*\*

3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. However, if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

- b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

(Exhibit D, Carlisle Banquet Policy).

**STANDARD OF REVIEW**

Under Rule 12(b)(6), a complaint must allege “sufficient factual matter, accepted as true, to ‘state a claim of relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While the Rule 8 pleading standard does not require “detailed factual allegations,” it does demand “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)) (internal

citation omitted)). It “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555 (2007) (internal quotations omitted). Factual allegations must be enough to raise a right to relief above the speculative level.” *Id.* “Mere conclusory statements in support of a threadbare recital of the elements of a cause of action will not suffice.” *Iqbal*, 556 U.S. at 678.

## ARGUMENT

### **II. PLAINTIFFS HAVE PLED THEMSELVES OUT OF A CLAIM.**

#### **A. Plaintiffs Failed To Allege A Direct Physical Loss, Which Triggers Coverage**

Plaintiffs have been clear that their losses do not arise from the presence of COVID-19 on their premises but solely as a result of the Governor’s Orders that “prohibited the public from accessing” their restaurants. (Exhibit A, ¶¶ 33, 35.) But coverage under the Policies is only triggered where there is a “direct physical loss of or damage to the covered property[.]” (Exhibit D, p. 64.) Recently, in a case where a restaurant sought coverage for lost business as a result of the same Orders at issue here, an Illinois court held that because the Illinois Supreme Court has ruled that “property does not experience ‘physical injury’ if that property suffers intangible damage”, lost business income as a result of COVID-19 pandemic is not a direct physical loss. *Lee v. State Farm Fire & Casualty Co.*, No. 20 CH 4589 (Ill. Cir. Ct. Jan. 13, 2021) (Exhibit F, p. 5). This decision is in line with the “nearly unanimous view that COVID-19 does not cause direct physical loss or damage to a property sufficient to trigger coverage[.]” *Carrot Love, LLC v. Aspen Specialty Ins. Co.*, No. 20-23586-Civ, 2021 WL 124416, at \*2 (S.D. Fla. Jan. 13, 2021) (collecting cases). (See also Exhibit G, list of similar COVID-19 cases with favorable results to insurers).

Illinois law is clear that “property damage” “unambiguously connotes damage to tangible property causing an alteration in appearance, shape, color or other material dimension.” *Traveler’s Ins. Co. v. Eljer Mfg.*, 757 N.E.2d 481, 502 (Ill. Sup. Ct. 2001). The Illinois Supreme Court found

“physical injury” did not include intangible damage, such as economic loss. *Id. Accord, Bituminous Cas. Corp. v. Gust K. Newberg Constr. Co.*, 578 N.E.2d 1003 (App. Ill. 1991) (intangible damage such as diminution of value caused by product failure not “physical injury”). In *Lee*, an Illinois court held “economic losses do not constitute ‘accidental direct physical loss to’” a restaurant closed under the same COVID-19 Orders at issue here. The court explained that “Plaintiffs fail to allege that their restaurant suffered an ‘alteration in appearance, shape, color or other material dimension’ as a result of the Closure Orders.” *Lee, supra.* (Exhibit F, p. 6.) In *Its Nice, Inc. v. State Farm Fire & Casualty Co.*, No. 20 L 547 (Ill. Cir. Ct. Sep 29, 2020), another COVID-19 business interruption case, an Illinois court observed “[t]he words direct and physical, which modify the word loss, ordinarily connote actual demonstrable harm of some form to the premises itself rather than force the closure of the premises for reasons extraneous to the premises itself or adverse business consequences that flow from such closure.” (Exhibit H, at p. 27.)

The Seventh Circuit, applying Illinois law, has held that an agreement to insure against “direct physical loss”, refers to “property that has been damaged.” *Windridge of Naperville Condo Ass’n v. Philadelphia Indem. Ins. Co.*, 932 F.3d 1035, 1040 (7th Cir. 2019). The reference to “physical” refers to tangible as opposed to intangible damage. *Id. See also Apps. Commun., Inc. v. Hartford Cas. Ins. Co.*, No. 11 C 3994, 2011 U.S. Dist. LEXIS 118906, \* 9 (N.D. Ill. Oct. 14, 2011).

Likewise, this Court, on five separate occasions, applying Illinois law, has also found that neither the presence of COVID-19 nor Governor Pritzker’s Orders result in “direct physical loss.” *See Sandy Point Dental, PC v. Cincinnati Ins. Co.*, No. 20 CV 2160, 2020 U.S. Dist. LEXIS 171979, at \*4-6 (N.D. Ill. Sep. 21, 2020) (Gettleman, J.) (no coverage for COVID-19-related closure); *T & E Chi. LLC v. Cincinnati Ins. Co.*, No. 20 C 4001, 2020 U.S. Dist. LEXIS 217090,

at \*9 (N.D. Ill. Nov. 19, 2020) (Lienenweber, J.) (no coverage for restaurant closed due to Governor’s Order because “[t]he Business Income, Extra Expense, and Civil Authority coverages likewise apply only to income losses tied to physical loss or damage to property and not losses incurred to protect the public from disease.); *Bradley Hotel Corp. v. Aspen Specialty Ins. Co.*, No. 20 C 4249, 2020 U.S. Dist. LEXIS 245686, at \*8 (N.D. Ill. Dec. 22, 2020) (Kocoras, J.) (Hotel’s allegations that Governor Pritzker’s Orders “forced closure of the premises” was “not enough to trigger coverage.”); *Riverside Dental of Rockford, Ltd. v. Cincinnati Ins. Co.*, No. 20-cv-50284 (N.D. Ill. Jan. 19, 2021) (Reinhard, J.) (Exhibit I) (no civil authority coverage as a result of Governor’s orders); *Bend Hotel Dev. Co., LLC v. Cincinnati Ins. Co.*, No. 20 C 4636, 2021 U.S. Dist. LEXIS 15303, at \*2 (N.D. Ill. Jan. 27, 2021) (Bucklo, J.) (same). The Southern District of Illinois reached the same conclusion in another strikingly similar case where two food and beverage establishments alleged the Governor’s same Orders caused them “direct physical loss[.]” *TJBC, Inc. v. Cincinnati Ins. Co.*, No. 20-cv-815-DWD (S.D. Ill. Jan. 25, 2021) (Exhibit J) (Executive orders do not cause direct physical loss to property). *Sandy Point, T & E Chi. LLC, Bradley Hotel Riverside Dental, Bend Hotel Dev. Co., and TJBC, Inc.* are in line with the rulings of courts across the country “that have evaluated coverage for losses resulting from Covid-19 closure orders under similar policy provisions.” *Id.*

Courts have almost unanimously rejected Plaintiffs’ argument that “direct physical loss” means “the loss of the ability to physically access or use property”. (Exhibit A, ¶ 43; *see also* ¶¶ 43-61.) *See e.g., Bradley Hotel*, 2020 U.S. Dist. LEXIS 245686 (Governor Pritzker’s Orders forcing closure did not trigger coverage); *Plan Check Downtown III, LLC v. AmGuard Ins. Co.*, No. CV 20-6954-GW-SKx, 2020 U.S. Dist. LEXIS 178059, at \*14 (C.D. Cal. Sep. 10, 2020) (finding the words “direct physical loss of” did not provide coverage for a restaurants’ loss of

ability to use its premises). The District of Nevada explained that “[t]his claim, which hinges on the disjunctive tense in the clause ‘direct physical loss or damage,’ finds no basis in the plain language of the provision, which requires the plaintiff to allege a permanent “loss” or dispossession from the property.” *Circus Circus Lv v. Aig Specialty Ins. Co.*, No. 2:20-cv-01240-JAD-NJK, 2021 U.S. Dist. LEXIS 36306, at \*11 (D. Nev. Feb. 26, 2021) (also noting “[m]ultiple courts have reasoned similarly”). As the Northern District of California explained, in a COVID-19 business-interruption case, the term “loss of...property” means “the permanent dispossession of something”, “misplaced”, or “unrecoverable[.]” *Mudpie, Inc. v. Travelers Cas. Ins. Co.*, No. 20-cv-03213-JST, 2020 U.S. Dist. LEXIS 168385, at \*10 (N.D. Cal. Sep. 14, 2020). Accepting Plaintiffs’ argument would require the court to make an interpretive leap to read the Policies as “direct physical loss of *access to*” property and this interpretation contravenes the rule that “direct physical loss” to property “requires ‘a distinct, demonstrable, physical alteration of the property[.]’” *AE Mgmt., LLC v. Ill. Union Ins. Co.*, No. 20-22925-Civ, 2021 U.S. Dist. LEXIS 40230, at \*9 (S.D. Fla. Mar. 4, 2021). *See Family Tacos, LLC v. Auto Owners Ins. Co.*, No. 5:20-CV-01922, 2021 U.S. Dist. LEXIS 29774, at \*15 (N.D. Ohio Feb. 17, 2021) (policy does not read “loss of *use* of property”).

Here, the Policies’ surrounding language plainly supports this interpretation. The Policies provide coverage for “actual loss of Business Income” sustained during the “period of restoration”, which is defined as the period of time between the time when the “direct physical loss or damage” occurs and “the date when the property at the described premises should ***be repaired, rebuilt, or replaced...***” (Exhibit D, pp. 78, 85-86, 96, 100-101) (emphasis added). Thus, the remedy for lost property is for it to be ***rebuilt*** or ***replaced***, indicating the Policies only cover a “direct physical loss” of property that is physically, tangibly harmed, destroyed, or missing. *See e.g. Mudpie, supra*,

at \*11 (“[t]he words ‘[r]ebuild,’ ‘repair’ and ‘replace’ all strongly suggest that the damage contemplated by the Policy is physical in nature.”); *Newman Myers Kreines Gross, PC v. Great Northern Ins. Co.*, 17 F. Supp. 3d 323 (S.D.N.Y. 2014) (law firm did not suffer “direct physical loss” when electric utility preemptively shut off power in advance of Hurricane Sandy). Interpreting the same “period of restoration” definition from an Owners’ policy, the Northern District of Georgia stated, “[t]his range of contemplated harms aligns with an understanding that ‘direct physical loss or damage to’ requires a physical change in the property subject to restoration.” *K D Unlimited, Inc. v. Owners Ins. Co.*, No. 1:20-CV-2163-TWT, 2021 U.S. Dist. LEXIS 5926, at \*13 (N.D. Ga. Jan. 5, 2021). *See also Family Tacos, supra* at \*14 (reading policy to cover a loss of use would render the Period of Restoration nonsensical or meaningless);

Because Illinois law requires the entire policy be analyzed to give meaning to its parts, the definition of “period of restoration”, and the numerous references to the same, is instructive in analyzing the meaning of “direct physical loss of or damage.” *See Wausau Ins. Co. v. All Chicagoland Moving & Storage Co.*, 777 N.E.2d 1062, 1069 (App. Ill. 2002). *See also Gavrilides Management Co. et al v. Mich. Ins. Co.*, Case No. 20-258-CB-C30 (Mich. Cir. Ct. July 21, 2020) (finding the plaintiff’s argument “nonsense” that a loss of use constitutes direct physical loss because “it comes nowhere close to meeting the requirement that there’s...some physical alteration or physical damage or tangible damage to the integrity of the building.”) (Exhibit K, Transcript and Order.)

While Plaintiffs allege they were “forced to make material physical alterations to the[ir] premises in order to host customers in a COVID-19 friendly environment”, this does not constitute a “period of restoration.” (*See Exhibit A, ¶ 38.*) There is no coverage for a loss where a premises need only be cleaned. *See Mastellone v. Lightning Rod Mut. Ins. Co.*, 884 N.E.2d 1130 (Ohio. Ct.

App., 2008) (mold that could be cleaned did not constitute physical damage); *See also Mama Jo's Inc. v. Sparta Ins. Co.*, 823 F. App'x 868, 879 (11th Cir. 2020) (dismissing similar COVID-19 business-interruption case and holding “an item or structure that merely needs to be cleaned has not suffered a ‘loss’ which is both ‘direct’ and ‘physical’”). Indeed, all public places must be cleaned. The necessity to do so does not constitute grounds to file an insurance claim. Simply put, none of Plaintiffs’ allegations establish tangible, direct physical, structural damage to Plaintiffs’ property under Illinois law. *Eljer Mfg.*, 757 N.E.2d at 496.

**B. Plaintiffs Are Not Entitled to Civil Authority Coverage**

Even if Plaintiffs alleged a direct physical loss to trigger coverage, which they did not, they failed to set forth facts supporting the elements of a claim for Civil Authority coverage. For Civil Authority coverage to apply, a “Covered Cause of Loss” must “cause[] damage to property other than property at the described premises.” Moreover, one of the following must also apply: (1) the “action of civil authority” must “prohibit[] access to the described premises due to direct physical loss or damage to property within one mile of the described premises[.]” or (2) the “action of civil authority” must be taken in response to a dangerous physical condition resulting from “the Covered Cause of Loss” that the action is taken to “enable a civil authority to have unimpeded access to the damaged property[.]” (Exhibit D, pp. 79, 97.) Here, because such requirements are not met, Plaintiffs’ claim for Civil Authority coverage fails.

*First*, Plaintiffs do not set forth any facts establishing that some property “other than” theirs, within one mile, sustained “direct physical loss or damage.” The Northern District of Illinois rejected a similar claim for coverage on such grounds. *Bradley Hotel Corp.*, 2020 U.S. Dist. LEXIS 245686, at \*10 (dismissing claims under the Civil Authority provision). Instead, Plaintiffs, in wholly conclusory fashion, allege “access to the area immediately surrounding the damaged property has been prohibited by civil authority as a result of the damage.” (*Id.* at ¶ 62.)



This is insufficient under *Twombly*, which requires more than conclusory statements. *Twombly*, 550 U.S. at 555 (2007). Plaintiffs' FAC is clear that their claim is that the Governor's Orders forced them to halt their business and prevented the public from accessing their restaurants. (Exhibit A, ¶¶ 1, 2, 27, 33, 35.) Placing a stray, unsupported statement that surrounding property was damaged does not save their claim.

**Second**, despite Plaintiffs' assertions to the contrary, the Orders did not "prohibit[] access" to their premises. (Exhibit A, ¶ 26.) See e.g. *Riverside Dental*, No. 20-cv-50284 slip op. at pp. 6-7 (Governor Pritzker's orders limited services but did not prohibit access). Courts interpreting similar provisions recognize that "generally, coverage under the civil authority section is only available when access is *completely prohibited*." *TMC Stores, Inc. v. Federated Mut. Ins. Co.*, No. A04-1963, 2005 Minn. App. LEXIS 585, at \*10 (Minn. Ct. App. June 7, 2005). "[W]here the action of a civil authority merely hinders access to the covered premises, without completely prohibiting access, federal courts have held that such action is not covered[.]" *Ski Shawnee, Inc. v. Commonwealth Ins. Co.*, No. 3:09-cv-02391, 2010 U.S. Dist. LEXIS 67092, at \*9-10 (M.D. Pa. July 6, 2010); *S. Hospitality, Inc. v. Zurich Am. Ins. Co.*, 393 F.3d 1137, 1140-41 (10th Cir. 2004) (collecting cases denying coverage "where the civil authority order had only the indirect effect of restricting or hampering access to the business premises."). Here, the Governor's Orders merely restricted on-premises dining but did not otherwise prohibit access. Order 2020-7 "encouraged" restaurants to prepare food for delivery, drive-through, or curbside pick-up. (Exhibit B, p. 2.) Because access to Plaintiffs' buildings were not "completely prohibited," coverage does not apply. See e.g. *Bradley Hotel Corp, supra* at \*10. "[R]estricted access is not the same as denied access." *Summit Hosp. Grp., Ltd. v. Cincinnati Ins. Co.*, No. 5:20-CV-254-BO, 2021 U.S. Dist. LEXIS 40613, at \*11 (E.D.N.C. Mar. 4, 2021).

*Finally*, Plaintiffs plead no facts to support the third prong that the Orders were issued to “enable” the Illinois government “unimpeded access to” any allegedly damaged property. Thus, even if the Orders were “in response to a dangerous physical condition,” this prong is not met. Plaintiffs plainly cannot meet the requirements for Civil Authority coverage.

**C. The Virus Exclusion Bars Coverage.**

Even if Plaintiffs could allege facts establishing property damage, Plaintiffs’ losses are plainly excluded.<sup>3</sup> Plaintiffs allege the virus exclusion doesn’t apply because their losses were caused by the Closure Orders, not the virus. (Exhibit A, ¶¶ 66-67.) This argument has been flatly rejected in Illinois and *twice* already in this district. *Riverwalk Seafood Grill Inc. v. Travelers Cas. Ins. Co. of Am.*, No. 20 C 3768, 2021 U.S. Dist. LEXIS 5899, at \*6 (N.D. Ill. Jan. 7, 2021) (federal courts have nearly unanimously determined virus exclusions bar coverage of COVID-19 business interruption claims) (Kocoras, J.); *Mashallah, Inc. v. W. Bend Mut. Ins. Co.*, No. 20 C 5472, 2021 U.S. Dist. LEXIS 31816, at \*9 (N.D. Ill. Feb. 22, 2021) (Governor Pritzker’s Orders were necessitated by virus, thus, virus exclusion applies to any losses resulting therefrom) (Kocoras, J.). *See also Lee*, No. 20 CH 4589 (Ill. Cir. Ct. Jan. 13, 2021) (same) (Exhibit F, p. 7).

The virus exclusion could not be clearer—coverage is excluded for “loss or damage caused directly or indirectly...by or resulting from virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease[.]” (Exhibit D, p. 88) (emphasis added). Because the Orders were necessitated by COVID-19 – directly or indirectly -- any losses resulting from the Orders are excluded. *Mashallah, supra . Part Two LLC v Owners Ins Co.*, 2021 US Dist LEXIS 7485, at \*6-7 (ND Ala., Jan 14, 2021); see also *Family Tacos*, slip op at 23 (“Defendant has carried its burden of showing that the losses Plaintiff alleges fall squarely within

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<sup>3</sup> While Owners notes three of these exclusions herein, other exclusions may also apply and Owners does not waive its right to argue their applicability should this case survive this motion.

the policy language of the virus exclusion.”)

Finally, Plaintiffs argue that the “insurance industry”, through trade groups not a party to this case, obtained regulatory approval of the virus exclusion on the basis of misrepresentations regarding how the exclusion would affect the scope of coverage and, thus, insurers should be estopped from relying on the exclusion. (Exhibit A, ¶¶ 68-75.) This argument has also been largely rejected by courts for the following reasons. First, “extrinsic evidence may not be used to show that words in contracts mean the exact opposite of their ordinary meaning.” *Boxed Foods Co., LLC v. Cal. Capital Ins. Co.*, No. 20-cv-04571-CRB, 2020 U.S. Dist. LEXIS 198859, at \*16-17 (N.D. Cal. Oct. 26, 2020) (internal quotation and citation omitted). This district reached the same conclusion. *Sojo’s Studios, Inc. v. Citizens Ins. Co. of Am.*, No. 1:20-cv-0478, at 3 slip op. (N.D. Ill. Mar. 4, 2021) (Kocoras, J.) (Exhibit L). Likewise, the Seventh Circuit declined to consider a regulatory estoppel challenge to a policy exclusion because it would “not look beyond the unambiguous policy language[.]” *Cincinnati Ins. Co. v. Flanders Elec. Motor Serv.*, 40 F.3d 146, 153 (7th Cir. 1994).

Second, while most forums do not recognize the doctrine of regulatory estoppel<sup>4</sup>, even those that do have refused to apply it in cases like this because, like here, the defendant, even if a member of the trade groups, has not taken a position inconsistent with the alleged misrepresentations. *Sojo’s Studios, Inc.*, No. 1:20-cv-0478, at 4 slip op. (collecting cases) (Exhibit

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<sup>4</sup> See e.g., *7th Inning Stretch LLC v. Arch Ins. Co.*, Civil Action No. 20-8161, 2021 U.S. Dist. LEXIS 11326, at \*4 n.5 (D.N.J. Jan. 19, 2021) (citing *SnyderGeneral Corp. v. General Am. Ins. Co.*, 928 F. Supp. 674, 682 (N.D. Tex. 1996) (collecting cases and noting that regulatory estoppel “has been rejected by virtually every other state and federal court to address the issue”). Illinois has not directly considered the issue. *But see Am. States Ins. Co. v. Koloms*, 177 Ill. 2d 473, 489, 227 Ill. Dec. 149, 156, 687 N.E.2d 72, 79 (1997) (considering the drafting history of a policy exclusion in an effort to interpret the exclusion where the court found the exclusion ambiguous). Nonetheless, *Koloms* does not authorize a court to look beyond unambiguous language, such as the virus exclusion in this case. *Sojo’s Studios, Inc.*, No. 1:20-cv-0478, at 3 slip op. (Exhibit L).

L). Indeed, insurers in these COVID-19 business interruption cases are taking “the same position...as the ISO and AAIS did in 2006; [they] argue[] that the Virus Exclusion bars coverage.” *Kessler Dental Assocs., P.C. v. Dentists Ins. Co.*, No. 2:20-cv-03376-JDW, 2020 U.S. Dist. LEXIS 228859, at \*10 (E.D. Pa. Dec. 7, 2020). Both reasons apply here, thus, Plaintiffs’ argument must be rejected. The question is not close. Even if this Court finds that Plaintiffs plead a “direct physical loss or damage” (which they did not), the virus exclusion applies to exclude coverage.

**D. Other Exclusions Apply.**

First, in their zeal to plead around the virus exclusion, Plaintiffs plead straight into the Acts or Decisions Exclusion, which excludes “loss or damage caused by or resulting from . . . Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.” (Exhibit D, p. 90.) In essence, Plaintiffs’ allegations that the Governor’s Executive Orders caused their losses boils down to an argument that the acts or decisions of a “governmental body” caused Plaintiffs’ damages, and thus falls squarely in this exclusion.

Second, coverage for COVID-19 business losses is excluded for a “loss or use, or loss of market[.]” (*Id.* at p. 89). See *Harvest Moon Distributors v. Southern-Owners Ins. Co.*, No. 6:20-cv-1026-Orl-40DCI, at \*15 (M.D. Fla. Mar. 1, 2021) (Exhibit M) (finding, for second time, identical “loss of market” and “Acts or Decisions” exclusions applicable in another COVID-19 business interruption case).<sup>5</sup> To the extent Plaintiffs purport to plead that it was the occurrence of the pandemic itself that caused its economic losses (a lack of clientele), coverage is excluded. This also plainly demonstrates that Plaintiffs’ argument that a loss of use is covered is incorrect.

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<sup>5</sup> Illinois courts apply the exclusion as do other jurisdictions. See e.g., *Hous. Auth. v. Assisted Hous. Risk Mgmt. Ass’n*, 2020 IL App (4th) 180737-U, ¶ 61 (no coverage for lost income incurred because the policy excluded loss or damage caused or resulting from “delay, loss of use or loss of market.”).

### **III. PLAINTIFFS FAILED TO STATE A CLAIM FOR BAD FAITH.**

Count III purports to state a bad faith claim under section 155 of the Illinois Insurance Code premised solely on Owners' decision to deny coverage without further investigation. First, this count in essence assumes that a denial of coverage in and of itself gives rise to a viable cause of action under section 155. It does not. *See e.g., Sandy Point Dental, P.C.*, 2020 U.S. Dist. LEXIS 171979. Section 155 is reserved for those instances where the insurer uses its superior position to unreasonably deny policy benefits to its insured. *See Neiman v. Economy Preferred Ins. Co.*, 829 N.E. 2d 907, 917 (App. Ill. 2005). An insurance company cannot have acted vexatiously and unreasonably in failing to pay a claim if the benefits were never owed under the policy. *See Bank of Carbondale v. Kansas Bankers Surety Co.*, 755 N.E.2d 543, 547 (Ill. App. 2001).

Second, Owners cannot be held liable under section 155 here as a matter of law because the parties are engaged in a *bona fide* coverage dispute regarding whether there is coverage available for COVID-19 related business interruption claims. This dispute insulates Owners from a bad faith claim as a matter of law. *See Sandy Point Dental*, 2020 U.S. Dist. LEXIS 171979 (dismissing section 155 claim finding that the dispute as to the availability of coverage for COVID-19 losses was *bona fide*). Moreover, Owners is insulated from bad faith even if its coverage position is ultimately rejected. *See Dominick's Finer Foods v. Ind. Ins. Co.*, 102 N.E.3d 692, 709 (App. Ill. 2018) (*bona fide* coverage dispute exists even if the insurer's position is ultimately rejected). Plaintiffs' bad faith claim fails.

### **CONCLUSION**

For the reasons stated above, Owners respectfully requests that this Court enter an Order dismissing Plaintiffs' claims against Owners, with prejudice, pursuant to Rule 12(b)(6).

Dated: March 19, 2021

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 19, 2021, I electronically filed the foregoing **Reply Brief in Support of Motion to Dismiss First Amended Complaint** with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day and was served upon all counsel of record via the Court's CM/ECF system

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# Exhibit A



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

CARLISLE BANQUETS INC., and NEW )  
MERIDIAN BANQUETS INC., d/b/a )  
MERIDIAN BANQUETS, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
OWNERS INSURANCE COMAPANY, )  
 )  
Defendant. )

Case No. 1:21cv517

Honorable John Robert Blakey

**FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**

NOW COME the Plaintiffs, CARLISLE BANQUETS INC., and MERIDIAN BANQUETS INC., d/b/a MERIDIAN BANQUETS by and through their attorneys, ARGIONIS & ASSOCIATES, LLC, and for their Complaint for Declaratory Judgment against the Defendant, OWNERS INSURANCE COMPANY, state as follows:

**COMMON FACTUAL ALLEGATIONS**

1. Plaintiffs are owners and operators of restaurants in Illinois who have been forced, by recent civil authority Orders issued by the State of Illinois as part of the State’s efforts, to slow the spread of the COVID-19 global pandemic. The closures mandated by the civil authority Orders present an existential threat to these small local businesses that employ many Illinois residents. To protect their businesses from situations like these, which threaten their livelihoods based on factors wholly outside of their control, the Plaintiffs obtained business interruption insurance from Defendant, OWNERS INSURANCE COMPANY. In blatant breach of its obligations that it voluntarily undertook in exchange for Plaintiffs’ premium payments,

Defendant OWNERS INSURANCE COMPANY, has denied Plaintiffs' claims arising from the Civil Authority State Ordered interruption of their businesses.

2. As a result of the Closure Orders, the Plaintiffs have been forced to halt ordinary operations, resulting in substantial lost revenue and forcing the Plaintiffs to furlough or lay off the majority of their employees.

3. But despite Owners Insurance Company's express promise in its Policies to cover the Plaintiffs' business interruption losses when the government forces them to close, Owners Insurance Company has issued blanket denials to Plaintiffs' claims—without first conducting any meaningful coverage investigation, let alone a “reasonable investigation based on all available information,” as required under Illinois law.

4. Plaintiffs purchased and paid for “all-risk” business interruption insurance policies from Defendant, which provide broad property insurance coverage for all non-excluded lost business income, including the losses asserted here.

5. To the extent Owners Insurance Company has provided any reason to Plaintiffs for its categorical assertion that Plaintiffs' losses are not covered, it is based on the assertion that the “actual or alleged presence of the coronavirus,” which led to Closure Orders which prohibited Plaintiffs from operating their businesses, does not constitute “direct physical loss or damage.”

6. But Owners Insurance Company's conclusory statement that the actual or alleged presence of a substance like COVID-19 does not result in property damage is contrary to the law in Illinois. Illinois courts have consistently held that the presence of a dangerous substance in a property constitutes “physical loss or damage.” *See, e.g., Bd. Of Educ. of Twp. High Sch. Dist.*

*No. 211 v. Int'l Ins. Co.*, 720 N.E.2d 622, 625-26 (Ill. Ct. App. 1999), as modified on denial of reh'g (Dec. 3, 1999).

7. Owners Insurance Company waited until after it collected Plaintiffs' premiums, and after a pandemic and the resulting Closure Orders caused catastrophic business losses to Plaintiffs, to try to limit its exposure on the back-end through its erroneous assertion that the presence of the coronavirus is not "physical loss" and therefore is not Covered Cause of Loss under its Policies.

8. Owners Insurance Company's assertion ignores the fact that their Policies promised to provide coverage for losses incurred due to government actions "taken in response to dangerous physical conditions," even if those dangerous physical conditions cause damage to property at locations other than those insured under their Policies.

9. Thus, Owners Insurance Company's wholesale, cursory coverage denials are arbitrary and unreasonable, and inconsistent with the facts and plain language of the Policies it issued. These denials appear to be driven by the Owners Insurance Company's desire to preempt its own financial exposure to the economic fallout resulting from the COVID-19 crisis, rather than to initiate, as Owners Insurance Company is obligated to do, a full and fair investigation of the claims and a careful review of the Policies they sold to Plaintiffs in exchange for valuable premiums.

10. Owners' interpretation of the policy contract is wrong, and its denial for losses caused by limitations on the physical use and access to Plaintiffs' property breached the contract.

11. As a result of Owners Insurance Company's wrongful denial of coverage, Plaintiffs file this action for a declaratory judgement establishing that they are entitled to receive the benefit of the insurance coverage they purchased, for indemnification of the business losses

they have sustained, for breach of contract, and for bad faith claims handling under 215 ILCS 5/155.

**PARTIES, JURISDICTION AND VENUE**

12. Plaintiff, CARLISLE BANQUETS INC.'s sole member is Jim Apostolou, a citizen of Illinois. CARLISLE BANQUETS INC. has a Businessowners policy from Owners Insurance Company, Policy No. 07232982 which covered losses for occurrences at CARLISLE BANQUETS INC.

13. Plaintiff, NEW MERIDIAN BANQUETS INC., is an Illinois Corporation, doing business as MERIDIAN BANQUETS. MERIDIAN BANQUET's sole member is Jim Apostolou, a citizen of Illinois. MERIDIAN BANQUETS has a Businessowners Policy from Owners Insurance Company, Policy No. 07295126 which covered losses for occurrences at the restaurant.

14. Defendant Owners is an insurance company engaged in the business of selling insurance contracts to commercial entities such as Plaintiffs in Illinois and elsewhere. Owners Insurance Company is incorporated in the State of Michigan and maintains its principal place of business in Michigan.

15. Defendant Owners Insurance Company delivered the Policies to Plaintiffs in Illinois. The Policies insured Plaintiffs' property, business operations and liabilities in connection with its business operations, and the covered losses at issue. The only issue in this case is the interpretation of the Policies which are governed by Illinois law.

16. This Court has personal jurisdiction over Owners Insurance Company pursuant to the Illinois "long arm statute," 735 ILCS 5/2-209, because Owners Insurance Company has submitted to jurisdiction in this state by: (a) transacting business in Illinois; (b) contracting to

insure a person, property or risk located within Illinois. See 7.5 ILCS 5/2-209(1), (4), (7). In addition, Owners Insurance Company exercises substantial, systematic and continuous contracts within Illinois by doing business in Illinois, serving insureds in Illinois, and seeking additional business in Illinois.

### **FACTUAL ALLEGATIONS**

17. Plaintiffs incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1-16 above.

#### **A. The Owners Insurance Company Policies**

18. In exchange for substantial premiums, Owners sold commercial property insurance policies promising to indemnify the Plaintiffs' for losses resulting from occurrence; including the "necessary suspension" of business operations at any insured location caused by a government order, during the relevant time period (each a "Policy and collectively, the "Policies").

19. Each Policy was issued to Plaintiffs at their principal places of business in Illinois.

20. The Policy is an "all risk" policy that provides broad coverage for losses caused by any cause unless expressly excluded.

21. In addition to property damage losses, Owners also agreed to "pay for the actual loss of Business Income" sustained by Plaintiffs "due to the necessary suspension" of Plaintiffs' operations during the period of business interruption caused by "by direct physical loss of damage to covered property" at the insured's premises.

22. With respect to business interruption losses, "suspension" means: (1) "the partial slowdown or complete cessation of your business activities"; or (2) "that a part or all of the described premises is rendered untenable if coverage for Business Income applies."

23. “Business Income” is defined in relevant part under the Policies as “Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred” plus “continuing operating expenses incurred.”

24. Owners also promised to “pay necessary Extra Expense” Plaintiffs incurred during the period of interruption that they “would not have incurred if there had been no direct physical loss or damage to covered property at the described premises.”

25. “Extra Expense” is defined in relevant part under the Policies as any expense incurred (1) “to avoid or minimize the suspension of business and to continue operations at the described premises”; (2) “[t]o minimize the suspension of business if [Plaintiffs] cannot continue operations”; or (3) “to [r]epair or replace any property[.]”

26. The Owners Policies also include “Civil Authority” coverage, pursuant to which Owners Insurance Company promised to pay for the loss of Business Income and necessary Extra Expense sustained by Plaintiffs “caused by action of civil authority that prohibits access” to Plaintiffs’ insured premises. The term “Civil Authority” is not defined in the Policies.

27. This Civil Authority coverage is triggered when a non-excluded Cause of Loss results in “damage to property other than property” at the Plaintiffs’ premises, and is intended to cover losses resulting from governmental actions “taken in response to dangerous physical conditions.”

28. While the Policies were in force, Plaintiffs sustained, and continue to sustain, losses due to the Closure Orders issued by the Governor of Illinois and the Illinois Department of Health.

29. State and local governmental authorities, and public health officials around the Country, acknowledge that COVID-19 and the Pandemic cause direct

physical loss and damage to property. For example:

- a. The state of Colorado issued a Public Health Order indicating that “COVID-19... physically *contributes to property loss, contamination, and damage* ...” (Emphasis added);
- b. The City of New York issued an Emergency Executive Order in response to COVID-19 and the Pandemic, in part “because the virus *physically is causing property loss and damage.*” (Emphasis added);
- c. Broward County, Florida issued an Emergency Order acknowledging that COVID-19 “*is physically causing property damage.*” (Emphasis added);
- d. The State of Washington issued a stay at home Proclamation stating the “COVID-19 pandemic and its progression... remains a public disaster affecting life, health, [and] *property* ...” (Emphasis added);
- e. The State of Indiana issued an Executive Order recognizing that COVID-19 has the “propensity to *physically* impact surfaces and personal *property.*” (Emphasis added);
- f. The City of New Orleans issued an order stating “there is reason to believe that COVID-19 may spread amongst the population by various means of exposure, including the propensity to attach to surfaces for prolonged period of time, thereby spreading from surface to person and *causing property loss and damage* in certain circumstances.” (Emphasis added);
- g. The State of New Mexico issued a Public Health Order acknowledging the “threat” COVID-19 “poses” to “*property.*” (Emphasis added);
- h. North Carolina issued a statewide Executive Order in response to the Pandemic not only “to assure adequate protection for lives,” but also to “assure adequate protection of... *property.*” (Emphasis added); and
- i. The City of Los Angeles issued an Order in response to COVID19 “because, among other reasons, the COVID-19 virus can spread easily from person to person and it is *physically causing property loss or damage* due to its tendency to attach to surfaces for prolonged periods of time.” (Emphasis added).

## **B. The Closure Orders**

30. On March 1, 2020, the World Health Organization declared that the emerging threat from the novel coronavirus—otherwise known as COVID-19—constituted a global pandemic.

31. Emerging research on the virus and recent reports from the CDC indicate that the COVID-19 strains physically infect and can stay alive on surfaces for at least 17 days, a characteristic that renders property exposed to the contagion potentially unsafe and dangerous. Other research indicates that the virus may linger on surfaces for up to four weeks in low temperatures.

32. In response to the pandemic, and the spread of the coronavirus in Chicago and throughout Illinois, Illinois Governor Pritzker issued Executive Order 2020-07 on March 15, 2020 requiring that all restaurants close to the public beginning March 16, 2020 and continuing through March 30, 2020 at the earliest. This closure was later extended as it relates to in-house dining.

33. Executive Order 2020-07 was issued in direct response to these dangerous and physical conditions, and prohibited the public from accessing Plaintiffs' restaurants, thereby causing the necessary suspension of their operations and triggering the Civil Authority coverage under the Policies. Executive Order 2020-07 specifically states "the Department of Public Health recommends Illinois residents avoid group dining in public settings, such as in bars restaurants, which usually involves prolonged close social contrary to recommended practice for social distancing," and that "frequently used surfaces in public settings, including bars and restaurants, if not cleaned and disinfected frequently and properly, also pose a risk of exposure."

34. Governor Pritzker's March 20, 2020 Closure Order (Executive Order 2020-10) losing all "non-essential" businesses in Illinois, including all restaurants, likewise was made in direct response to the continued and increasing presence of the coronavirus on property or around Plaintiffs' premises.



35. Like the March 15, 2020 Closure Order, the March 20, 2020 Order prohibited the public from accessing Plaintiffs' restaurants, thereby causing the necessary suspension of their operations triggering the Civil Authority coverage under the Policies.

36. As a result of the Closure Orders, the Plaintiffs have each suffered substantial Business Income losses and incurred Extra Expense. The covered losses incurred by the Plaintiffs and owed under the Policies are increasing every day. As a result of these catastrophic losses, Plaintiffs have been forced to furlough their workers and may have to close their locations permanently.

37. As a result of the Closure Orders, Plaintiffs' premises were physically impaired in their use and function.

38. As a result of the Closure Orders, Plaintiffs were forced to make material physical alterations to the premises in order to host customers in a COVID-19 friendly environment.

39. As Plaintiffs' premises were both physically impaired in their use and function, and Plaintiffs had to make material physical alterations to the premises, Plaintiffs suffered direct physical loss of and damage to their property, and were therefore entitled to coverage.

40. Following March 15, 2020 Closure Order, the Plaintiffs each submitted a claim to Owners Insurance Company requesting coverage for their business interruption losses promised under the Policies (collectively, the "Closure Order Claims").

41. Owners has denied each of the Closure Order Claims, either verbally or in writing.

### **COUNT I: DECLARATORY JUDGEMENT**

42. Plaintiffs incorporate by reference, as if fully set forth herein, the facts set forth in paragraphs 1-41 above.

**A. Loss of Access or Use Constitutes Direct Physical Loss**

43. Owner's interpretation that the requirement of "direct physical loss" is not satisfied by losing physical access or use and quiet enjoyment of Plaintiffs' property is wrong. Owners chose not to define these terms. Both undefined phrases are reasonably construed, however, to mean the loss of the ability to physically access or use property. Losing the ability to access or use one's property is a direct loss of physical, material rights and advantages, substantial and important. Considering that exclusions to coverage must be narrowly construed; that language drafted by the insurer with ambiguity should ordinarily be construed against the drafter; and that Plaintiffs' interpretation is supported by dictionary definitions of the terms, coverage should be afforded.

44. The Policies do not define "direct physical loss" or "damage", nor the phrase "direct physical loss of or damage to..."

45. However, the use of the disjunctive "or" in the phrase "direct physical loss of or damage to..." means that coverage is triggered if either a physical loss of property or damage to property occurs.

46. Common usage of the words in these phrases dictates that ouster and prohibition/interdiction of access and use by insureds and insured's agents, employees, and customers are physical losses. Such losses are direct in that ouster of and prohibition/interdiction of access and use by all nonessential people results directly in a physical loss.

47. Physical means relating to "material things" that are "perceptible especially through the senses," according to Merriam-Webster Dictionary. It is also defined in a way that is tied to the body: "of or relating to the body." Another Merriam-Webster Dictionary defines the

concept of physical this way: “of or relating to natural or material things as opposed to things mental, moral, spiritual, or imaginary.”

48. Prohibiting or limiting the physical presence on the premises of any or all persons (except for those facilitating minimal maintenance or takeout and delivery services) and the prohibition or limitation of the physical use of equipment, fixtures, and furniture constitutes a physical loss that caused the suspension of business operations.

49. Coverage under the "all risks" Policies is provided for any risk of direct loss unless expressly limited or excluded.

50. The business-income losses, extra expenses, and other losses sustained by Plaintiffs were caused by or resulted from the Closure Orders, a Covered Cause of Loss.

51. The Policies further require that the business-income losses be incurred because of the necessary suspension of operations during the period of restoration. Plaintiffs suffered losses because of suspension of operations during the period of restoration.

52. The direct loss of physical access to and use of the premises listed in the declaration, and business property thereon, for Plaintiffs and their vendors, agents, employees, and customers, as a result of the Closure Orders, caused the suspension of the Plaintiffs' operations.

53. Because the Policies cover all risks, including these Closure Orders that, for the good of the public, do no more than limit physical access to and use of property (real and personal), coverage is required.

54. The Closure Orders affecting Plaintiffs' property, including executive and other Orders that directly or indirectly limited direct physical access to Plaintiffs' real and personal property, have caused a loss of income and an increase in expense, exactly the "outside force"

that interrupts business and causes insureds to close their doors for a period of time, that requires capital to continue to flow to keep the business afloat and to help replace lost income and pay expenses such as salaries and mortgages. These Closure Orders are precisely the unexpected jolt that motivates the purchase of insurance.

55. The Policies are an insurance contract under which Owners was paid premiums in exchange for its promise to pay Plaintiffs losses for claims covered by the Policies, such as business losses incurred as a result of the Closure Orders forcing them to close their businesses.

56. Plaintiffs have complied with all applicable provisions of the Policies, including payment of the premiums in exchange for coverage under the Policies.

57. Owners has arbitrarily and without justification refused to reimburse Plaintiffs for any losses incurred by Plaintiffs in connection with the covered business losses related to the Closure Orders and the necessary interruption of their businesses stemming from the COVID-19 pandemic.

58. One risk addressed in the exclusions is governmental action. (54219 (12-10)) (“Governmental Action”)

59. By recognizing governmental action in the exclusions, the Policies confirm governmental action as a risk of direct physical loss, and therefore as a Covered Cause of Loss.

60. The Policies exclude some but not all governmental action from coverage. Specifically, the Policies only exclude coverage for any loss caused directly or indirectly by governmental action that consists of seizure or destruction of property by order of governmental authority unless the destruction as done to prevent the spread of a fire. As ordinarily used, “seizure” means “taking possession of person or property by legal process.”

61. The Closure Orders affecting Plaintiffs' property do not require seizure or destruction because the government did not destroy Plaintiffs' property or take physical possession of, or title to, such property. Instead, the Closure Orders limited access to and use of covered property at the premises described in the Policies' declarations.

**B. Coverage Is Warranted Under the Policies' Civil Authority Provisions**

62. Moreover, access to the area immediately surrounding the damaged property has been prohibited by civil authority as a result of the damage, as described herein.

63. The Civil Authority provisions further require that the governmental actions are "taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage."

64. Owners chose not to define the term "dangerous physical conditions." According to Merriam-Webster dictionary, "Dangerous" means "( 1) involving possible injury, pain, harm, or loss ... (2) able or likely to inflict injury or harm." The presence of COVID-19 results in conditions that are both dangerous and physical. And by their own terms, the Closure Orders described herein were entered in response to these dangerous physical conditions resulting from the damage or continuation of COVID-19 that caused the damage at properties other than Plaintiff's properties.

**C. Coverage for the COVID-19 Pandemic Is Not Excluded Under the Policies**

65. The Policies contain a coverage exclusion for "loss or damage caused by or resulting from any virus, bacterium or other microorganism" (64010 (12-10)) ("Virus Or Bacteria")

66. No applicable exclusions or limitations, including the Virus Exclusion, apply to preclude coverage for the direct physical loss caused by or resulting from the Closure Orders.

67. First, to the extent that the Closure Orders, in and of themselves, constitute direct physical loss of or damage to Plaintiff's Covered Property, the Virus Exclusion does not apply.

68. Further, to the extent that coverage under the Policies derives from direct physical loss of or damage caused by the COVID-19 virus, either to Plaintiff's Covered Property or to property other than Plaintiff's Covered property, Defendant should be estopped from enforcing the Virus Exclusion, on principles of regulatory estoppel, as well as general public policy.

69. In 2006, two insurance industry trade groups, Insurance Services Office, Inc. ("ISO") and the American Association of Insurance Services ("AAIS"), represented hundreds of insurers in a national effort to seek approval from state insurance regulators for the adoption of the Virus Exclusion.

70. In their filings with the various state regulators, on behalf of the insurers, ISO and AAIS represented that the adoption of the Virus Exclusion was only meant to "clarify" that coverage for "disease-causing agents" has never been in effect, and was never intended to be included, in the property policies.

71. Specifically, in its "ISO Circular" dated July 6, 2006 and entitled "New Endorsements Filed to Address Exclusion of Loss Due to Virus or Bacteria," ISO represented to the state regulatory bodies that:

While property policies have not been a source of recovery for losses involving contamination by disease-causing agents, the specter of pandemic or hitherto unorthodox transmission of infectious material raises the concern that insurers employing such policies may face claims in which there are efforts to expand coverage to create sources of recovery for such losses, contrary to policy intent.

72. Similarly, AAIS, in its "Filing Memorandum" in support of the Virus Exclusion, represented:

Property policies have not been, nor were they intended to be, a source of recovery for loss, cost or expense caused by disease-causing agents. With the

possibility of a pandemic, there is concern that claims may result in efforts to expand coverage to create recovery for loss where no coverage was originally intended . . . This endorsement clarifies that loss, cost, or expense caused by, resulting from, or relating to any virus, bacterium, or other microorganism that causes disease, illness, or physical distress or that is capable of causing disease, illness, or physical distress is excluded . . .

73. The foregoing representations made by the insurance industry were false. By 2006, the time of the state applications to approve the Virus Exclusion, courts had repeatedly found that property insurance policies covered claims involving disease-causing agents, and had held on numerous occasions that any condition making it impossible to use property for its intended use constituted “physical loss or damage to such property.”

74. The foregoing assertions by the insurance industry (including Defendant), made to obtain regulatory approval of the Virus Exclusion, were in fact misrepresentations and for this reason, among other public policy concerns, insurers should now be estopped from enforcing the Virus Exclusion to avoid coverage of claims related to the COVID-19 pandemic.

75. In securing approval for the adoption of the Virus Exclusion by misrepresenting to the state regulators that the Virus Exclusion would not change the scope of coverage, the insurance industry effectively narrowed the scope of the insuring agreement without a commensurate reduction in premiums charged. Under the doctrine of regulatory estoppel, the Court should not permit the insurance industry to benefit from this type of duplicitous conduct before the state regulators.

**D. No Other Exclusions Apply to Preclude Coverage**

76. The provision excluding “Delay, loss of use or loss of market” does not preclude coverage. (64010 (12-10)) (“Delay, loss of use or loss or market”)

77. This provision means the Policies will not pay for losses caused by or resulting from any “loss of use.” Losses are excluded under this provision only to the extent they flow

from the “loss of use.” Here, Plaintiffs’ losses were not caused by and do not flow from the “loss of use.” Rather, Plaintiffs’ loss *is* the “loss of use,” which itself was caused by the Closure Orders. The insured against peril – governmental action – resulted directly and immediately in Plaintiffs’ direct physical loss of access or use.

78. Put differently, the exclusion for “loss of use” applies only to losses that are consequential. Consequential losses, or consequential damages, are special or indirect damages. In other words, consequential damages are “[l]osses that do not flow directly and immediately from an injurious act but that result indirectly from the act. They are also termed indirect damages, according to Black’s Law Dictionary.

79. Limiting the “loss of use” exclusion to consequential losses also renders sensible an exclusion that otherwise swallows the entire policy.

80. An actual case or controversy exists regarding Plaintiffs’ rights and Owners Insurance Company’s obligations under the Policies to reimburse Plaintiffs for the full amount of losses incurred by Plaintiffs in connection with Closure Orders and the necessary interruption of their businesses stemming from the COVID-19 pandemic.

81. There is a dispute about whether Plaintiffs are entitled to coverage under the Policies for their losses sustained and to be sustained in the future. Accordingly, Plaintiffs are entitled to declaratory relief from this Court pursuant to 735 ILCS 5/2-701.

82. Pursuant to 735, ILCS 5/2-701, Plaintiffs seek a declaratory judgment from this Court declaring the following:

- a. Plaintiffs sustained direct physical loss or damage to property at its premises described in the Policies as a result of the Closure Orders, COVID-19 and/or the Pandemic;
- b. COVID-19 is a covered cause of loss under the Policies;



- c. The Pandemic is a covered cause of loss under the Policies;
- d. The losses incurred by Plaintiffs as the result of the Closure Orders issued by the Governor of Illinois and the Illinois Department of Health are covered losses under the Policies;
- e. Defendant Owners has not and cannot prove the application of any exclusion or limitation to the coverage for Plaintiffs' losses alleged herein;
- f. Plaintiffs are entitled to coverage for its past and future Business Income loss(es) and Extra Expense resulting from COVID-19 and/or the Pandemic for the time period set forth in the Policies;
- g. Plaintiffs are entitled to coverage for loss(es) due to the actions of Illinois's civil authorities, including the Governor of Illinois and the Illinois Department of Health;
- h. Plaintiffs have coverage for any substantially similar civil authority order in the future that limits or restricts the access to Plaintiffs' places of business and/or its operations; and
- i. Any other issue that may arise during the course of litigation that is a proper issue on which to grant declaratory relief.
- j. Owners Insurance Company has waived any right it may have had to assert defenses to coverage or otherwise seek to bar or limit coverage for Plaintiffs' losses by issuing blanket coverage denials without conducting a claim investigation as required under Illinois law; and

83. Plaintiffs do not seek a determination of its damages resulting from COVID-19

and/or the pandemic. If there is a dispute between the parties as to the amount of the loss, the Policy provides that such a dispute should be resolved by appraisal.

### **Appraisal:**

#### **Appraisal**

If we and you disagree on the amount of "Business Income" or Extra Expense "loss", either may make written demand for an appraisal 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 amount of "Business Income" or Extra Expense "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:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we still retain our right to deny the claim. (TBP2 05-15)

84. Plaintiffs pray for declaratory relief from the Court that Defendant Owners Insurance Company must resolve any dispute about the amount of loss via Appraisal. Plaintiffs also request the Court to appoint the umpire if the appraisers cannot agree.

85. Plaintiffs pray for any further relief the Court deems proper, including attorney fees, interest, and costs as allowed by law or in the exercise of the Court's equitable jurisdiction.

WHEREFORE, Plaintiffs' seek judgement against Defendant Owners Insurance Company, as set forth above, plus interest, costs and attorney fees as allowed by law.

### **COUNT II: BREACH OF CONTRACT**

86. Plaintiffs incorporate by reference, as if fully set forth herein, the facts set forth in paragraphs 1-85 above.

87. The Policies are an insurance contract under which Owners was paid premiums in exchange for its promise to pay Plaintiffs' losses for claims covered by the Policies, such as business losses incurred as a result of the Closure Orders forcing them to close their businesses.

88. Plaintiffs have complied with all applicable provisions of the Policies, including payment of the premiums in exchange for coverage under the Policies, and yet Owners has abrogated its insurance coverage obligations pursuant to the Policies' clear and unambiguous terms.

89. The Policies require payment of direct losses caused by or resulting from the forced suspension of operations mandated by the Closure Orders issued in Illinois, including but not limited to Business Income and Extra Expense. Coverage for these losses is in no way limited or excluded under the Policies' terms.

90. The Policies further require payment of losses caused by action of civil authority that prohibit access to premises other than Plaintiffs' premises where COVID-19 – a non-excluded Covered Cause of Loss – caused damage to those other premises; where access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage; and where the action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the COVID-19 pandemic that caused the damage. Coverage for these losses is in no way limited or excluded by the Policies' terms.

91. Owners has arbitrarily and without justification refused to reimburse Plaintiff for any losses incurred by Plaintiff in connection with the covered business losses related to the Closure Orders and the necessary interruption of their businesses stemming from the COVID-19 pandemic.

92. By denying coverage for any business losses incurred by Plaintiffs in connection with the Closure Orders and the COVID-19 pandemic, Owners Insurance Company has breached its coverage obligations under the Policies.

93. As a result of Owners Insurance Company breaches of the Policies, Plaintiffs have sustained substantial damages for which Owners Insurance Company is liable, in an amount to be established at trial.

WHEREFORE, Plaintiffs' seek judgement against Defendant Owners Insurance Company and award damages for breach of contract in an amount to be proven at trial.

**COUNT III: STATUTORY PENALTY FOR BAD FAITH DENIAL OF INSURANCE  
UNDER 215 ILCS 5/155**

94. Plaintiffs incorporate by reference, as if fully set forth herein, the facts set forth in paragraphs 1-93 above.

95. Upon receipt of the Closure Order Claims, Owners Insurance Company immediately denied the claims (either verbally or through cursory emails) without conducting any investigation, let alone a “reasonable investigation based on all available information” as required under Illinois law. See 215 ILCS 5/154.6.

96. Owners Insurance Company’s denials were vexatious and unreasonable.

97. Owners Insurance Company’s denials constitute “improper claims practices” under Illinois law—namely Owners Insurance Company’s (1) refusals to pay Plaintiffs’ claims without conducting reasonable investigations based on all available information and (2) failure to provide reasonable and accurate explanations of the bases in its denials. See 215 ILCS 5/154.6 (h), (n).

98. Therefore, pursuant to 215 ILCS 5/155, Plaintiffs request that, in addition to entering a judgement in favor of Plaintiffs and against Owners Insurance Company for the amount owed under the Policies at the time of judgement, the Court enter a judgement in favor of Plaintiffs and against Owners Insurance Company for an amount equal to the greater of (1) 60% of the amount which the trier of fact finds the Plaintiffs are entitled to recover under the Policies, exclusive of costs; and (2) \$60,000 per Plaintiff. See 215 ILCS 5/155.

WHEREFORE, the Plaintiffs seek judgment against Defendant Owners Insurance Company in favor of Plaintiffs in the amount equal to the greater of (1) 60% of the amount which the trier of fact finds that Plaintiffs are entitled to recovery under the Policies, exclusive of costs; (2) \$60,000.00 per Plaintiff; (3) in an amount equal to all attorneys’ fees and related costs

incurred for the prosecution of this coverage action against Owners Insurance Company, pursuant to 215 ILCS5/155, which amount to be established at the conclusion of this action; (4) award to Plaintiffs and against Owners Insurance Company prejudgment interest, to be calculated according to law, to compensate Plaintiffs for the loss of funds caused by Owners Insurance Company's wrongful refusal to pay Plaintiffs for the full amount in costs incurred in connection with Closure Order Claims; and award Plaintiffs such other, further, and additional relief that this Court deems fair and just.

Respectfully Submitted,

/S/ Evan Finneke  
Attorney for Plaintiff

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Evan Finneke  
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Attorney No: 6326893  
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ak@argionislaw.com

### CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **Plaintiff's First Amended Complaint** with this Court using the CM/ECF system, which provides notice of filing to all counsel of record as listed below:

Harry Arger  
Dykema Gossett PLLC  
10 S. Wacker Drive, Ste. 2300  
Chicago, IL 60606  
harger@dykema.com

This the 26<sup>th</sup> day of February, 2021.

Respectfully Submitted,

/s/ Evan Finneke

George G. Argionis  
Evan Finneke  
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Chicago, Illinois 60601  
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Atty No.: 6326893  
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ejf@argionislaw.com

# Exhibit B

➕ View up to date information on how Illinois is handling the Coronavirus Disease 2019 (COVID-19) from the [State of Illinois Coronavirus Response Site \(https://coronavirus.illinois.gov/\)](https://coronavirus.illinois.gov/).

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# Executive Order 2020-07

EXECUTIVE ORDER 2020-07

March 16, 2020

## EXECUTIVE ORDER IN RESPONSE TO COVID-19 (COVID-19 EXECUTIVE ORDER NO. 5)

**WHEREAS**, in late 2019, a new and significant outbreak of Coronavirus Disease 2019 (COVID-19) emerged; and,

**WHEREAS**, COVID-19 is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and,

**WHEREAS**, certain populations are at higher risk of experiencing more severe illness as a result of COVID-19, including older adults and people who have serious chronic medical conditions such as heart disease, diabetes, or lung disease; and,

**WHEREAS**, despite efforts to contain COVID-19, the World Health Organization and the Centers for Disease Control (CDC) indicate that it is expected to spread; and,

**WHEREAS**, in communities with confirmed COVID-19 cases, the CDC currently recommends mitigation measures, including practicing social distancing, staying at home when sick, staying home when a household member is sick with respiratory disease symptoms or when instructed to do so by public health officials or a health care provider, and keeping away from others who are sick; and,

**WHEREAS**, the CDC currently recommends the cancellation or postponement of in-person events that consist of 50 people or more; and,

**WHEREAS**, social distancing, which consists of maintain at least a six-foot distance between people, is the paramount strategy for minimizing the spread of COVID-19 in our communities; and,

**WHEREAS**, the Illinois Department of Public Health recommends Illinois residents avoid group dining in public settings, such as in bars and restaurants, which usually involves prolonged close social contact contrary to recommended practice for social distancing; and,

**WHEREAS**, frequently used surfaces in public settings, including bars and restaurants, if not cleaned and disinfected frequently and properly, also pose a risk of exposure; and,



**WHEREAS**, current testing availability has identified further spread of confirmed cases throughout the State of Illinois, and it is expected that increased testing capacity would demonstrate that COVID-19 is circulating in communities across Illinois that currently have not identified a confirmed case; and,

**WHEREAS**, the number of suspected COVID-19 cases in Illinois is increasing exponentially and across more locations in Illinois, indicating that drastic social distancing measures are needed, even in communities where confirmed cases have not yet been identified, to reduce the number of people who become sick at any given time and the possibility of exhausting our health care resources; and,

**WHEREAS**, the ongoing spread of COVID-19 and the danger the virus poses to the public's health and wellness require the reduction of on-premises consumption of food and beverages; and,

**WHEREAS**, State agencies have been directed to temporarily reduce activities and workforce to core mission functions and essential operations, encouraging working remotely where possible; and,

**WHEREAS**, the Liquor Control Act of 1934, 235 ILCS 5, "shall be liberally construed, to the end that the health, safety, and welfare of the People of the State of Illinois shall be protected"; and,

**WHEREAS**, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 ("Gubernatorial Disaster Proclamation"); and,

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic; and,

**WHEREAS**, it is necessary and appropriate for the State of Illinois to immediately take measures to protect the public's health in response to this COVID-19 outbreak;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(3), and 7(8) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby order the following:

Section 1. Beginning March 16, 2020 at 9 p.m. through March 30, 2020, all businesses in the State of Illinois that offer food or beverages for on-premises consumption—including restaurants, bars, grocery stores, and food halls—must suspend service for and may not permit on-premises consumption. Such businesses are permitted and encouraged to serve food and beverages so that they may be consumed off-premises, as currently permitted by law, through means such as in-house delivery, third-party delivery, drive-through, and curbside pick-up. In addition, customers may enter the premises to purchase food or beverages for carry-out. However, establishments offering food or beverages for carry-out, including food trucks, must ensure that they have an environment where patrons maintain adequate social distancing. Businesses located in airports, hospitals, and dining halls in colleges and universities are exempt from the requirements of this Executive Order. Hotel restaurants may continue to provide room service and carry-out. Catering services may continue.

Section 2. Beginning March 18, 2020, all public and private gatherings in the State of Illinois of 50 people or more are prohibited for the duration of the Gubernatorial Disaster Proclamation. A public or private gathering includes community, civic, public leisure, faith-based events, sporting events with spectators, concerts, conventions, and any similar event or activity that brings together 50 or more people in a single room or a single space at the same time. This includes venues such as fitness centers/health clubs, bowling alleys, private clubs, and theatres. This does not include venues that provide essential goods or services such as grocery stores, hospitals, pharmacies, gas stations, banks/credit unions, and shelters. This order amends Section 1 of EO 2020-04, which prohibited gatherings of 1,000 people or more.

Section 3. Pursuant to Sections 7(2) and 7(3) of the Illinois Emergency Management Act, the Illinois State Police, the Illinois Department of Public Health, the State Fire Marshal, and the Illinois Liquor Control Commission are directed to cooperate with one another and to use available resources to enforce the provisions of this Executive Order with respect to entities under their jurisdiction under Illinois law.

Section 4. Nothing in this Executive Order shall amend or supersede the authority of the Illinois Department of Public Health pursuant to Section 2310-15 of the Department of Public Health Powers and Duties Law, 20 ILCS 2310/2310-15.

Section 5. During the duration of the Gubernatorial Disaster Proclamation, the provision of the Unemployment Insurance Act, 820 ILCS 405/500(D), requiring a one-week waiting period for unemployment insurance claims is suspended for claimants who are unemployed and who are otherwise eligible for unemployment insurance benefits.

Section 6. During the duration of the Gubernatorial Disaster Proclamation, the provisions of the Open Meetings Act, 5 ILCS 120, requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that “members of a public body must be physically present” is suspended; and (2) the conditions in 5 ILCS 120/7 limiting when remote participation is permitted are suspended. Public bodies are encouraged to postpone consideration of public business where possible. When a meeting is necessary, public bodies are encouraged to provide video, audio, and/or telephonic access to meetings to ensure members of the public may monitor the meeting, and to update their websites and social media feeds to keep the public fully apprised of any modifications to their meeting schedules or the format of their meetings due to COVID-19, as well their activities relating to COVID-19.

Issued by the Governor March 16, 2020

Filed by the Secretary of State March 16, 2020

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Executive Branch (/government/executive-branch)

[Executive Orders \(/government/executive-orders\)](#)

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[Transparency & Accountability \(/government/transparency-accountability\)](#)

**BUSINESS (/BUSINESS)**

[Consumers \(/business/consumers\)](#)

[Manage your Business \(/business/manage-your-business\)](#)

[Manage your Employees \(/business/manage-your-employees\)](#)

[Registration, Licenses, & Permits \(/business/registration-licenses-permits\)](#)

**EMPLOYMENT (/EMPLOYMENT)**

[Employee Rights \(/employment/employee-rights\)](#)

[Find Jobs \(/employment/find-jobs\)](#)

[Professional Licenses \(/employment/professional-licenses\)](#)

[Volunteering \(/employment/volunteering\)](#)

**EDUCATION (/EDUCATION)**

[Educators \(/education/educators\)](#)

[Learning Resources \(/education/learning-resources\)](#)

[Parents \(/education/parents\)](#)

[Students \(/education/students\)](#)

**RESIDENTS (/RESIDENTS)**

[Cars & Transportation \(/residents/cars-transportation\)](#)

[Citizen Resources \(/residents/citizen-resources\)](#)

[Family & Home \(/residents/family-home\)](#)

[Health & Safety \(/residents/health-safety\)](#)

[Neighborhoods/Housing \(/residents/neighborhoods-housing\)](#)

[Parent/Child Resources \(/residents/parent-child-resources\)](#)

[Senior Citizen Resources \(/residents/senior-citizen-resources\)](#)

[Veteran Resources \(/residents/veteran-resources\)](#)

**VISITING (/VISITING)**

Arts and Culture (/visiting/arts-and-culture)  
Family Attractions (/visiting/family-attractions)  
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# Exhibit C

➕ View up to date information on how Illinois is handling the Coronavirus Disease 2019 (COVID-19) from the [State of Illinois Coronavirus Response Site \(https://coronavirus.illinois.gov/\)](https://coronavirus.illinois.gov/).

Illinois.gov (/)

# Executive Order 2020-10

March 20, 2020

EXECUTIVE ORDER 2020-10

## **EXECUTIVE ORDER IN RESPONSE TO COVID-19** **(COVID-19 EXECUTIVE ORDER NO. 8)**

**WHEREAS**, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (Gubernatorial Disaster Proclamation) in response to the outbreak of Coronavirus Disease 2019 (COVID-19 (Coronavirus Disease 2019)); and,

**WHEREAS**, in a short period of time, COVID-19 (Coronavirus Disease 2019) has rapidly spread throughout Illinois, necessitating updated and more stringent guidance from federal, state, and local public health officials; and,

**WHEREAS**, for the preservation of public health and safety throughout the entire State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take additional measures consistent with public health guidance to slow and stop the spread of COVID-19 (Coronavirus Disease 2019);

**WHEREAS**, COVID-19 (Coronavirus Disease 2019) has resulted in significant economic impact, including loss of income and wages, that threaten to undermine housing security and stability;

**WHEREAS**, the enforcement of eviction orders for residential premises is contrary to the interest of preserving public health and ensuring that individuals remain in their homes during this public health emergency;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), 7(10), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS (Illinois Compiled Statutes) 3305, and consistent with the powers in public health laws, I hereby order the following, effective March 21, 2020 at 5:00 pm and for the remainder of the duration of the Gubernatorial Disaster Proclamation, which currently extends through April 7, 2020:

Section 1. Stay at Home; Social Distancing Requirements; and Essential Businesses and Operations

1. **Stay at home or place of residence.** With exceptions as outlined below, all individuals currently living within the State of Illinois are ordered to stay at home or at their place of residence except as allowed in this Executive Order. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible maintain social distancing of at least six feet from any other person, consistent with the Social Distancing Requirements set forth in this Executive Order. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses and Operations, all as defined below.

Individuals experiencing homelessness are exempt from this directive, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to use in their operation COVID-19 (Coronavirus Disease 2019) risk mitigation practices recommended by the U.S. Centers for Disease Control and Prevention (CDC (Centers for Disease Control and Prevention)) and the Illinois Department of Public Health (IDPH (Illinois Department of Public Health))). Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location. For purposes of this Executive Order, homes or residences include hotels, motels, shared rental units, shelters, and similar facilities.

2. **Non-essential business and operations must cease.** All businesses and operations in the State, except Essential Businesses and Operations as defined below, are required to cease all activities within the State except Minimum Basic Operations, as defined below. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

All Essential Businesses and Operations are encouraged to remain open. To the greatest extent feasible, Essential Businesses and Operations shall comply with Social Distancing Requirements as defined in this Executive Order, including by maintaining six-foot social distancing for both employees and members of the public at all times, including, but not limited to, when any customers are standing in line.

3. **Prohibited activities.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Executive Order. Pursuant to current guidance from the CDC (Centers for Disease Control and Prevention), any gathering of more than ten people is prohibited unless exempted by this Executive Order. Nothing in this Executive Order prohibits the gathering of members of a household or residence.

All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement rides, carnivals, amusement parks, water parks, aquariums, zoos, museums, arcades, fairs, children's play centers, playgrounds, funplexes, theme parks, bowling alleys, movie and other theaters, concert and music halls, and country clubs or social clubs shall be closed to the public.

This Executive Order supersedes Section 2 of Executive Order 2020-07 (COVID-19 (Coronavirus Disease 2019) Executive Order No. 5), which prohibited gatherings of 50 people or more.



4. **Prohibited and permitted travel.** All travel, including, but not limited to, travel by automobile, motorcycle, scooter, bicycle, train, plane, or public transit, except Essential Travel and Essential Activities as defined herein, is prohibited. People riding on public transit must comply with Social Distancing Requirements to the greatest extent feasible. This Executive Order allows travel into or out of the State to maintain Essential Businesses and Operations and Minimum Basic Operations.
5. **Leaving the home for essential activities is permitted.** For purposes of this Executive Order, individuals may leave their residence only to perform any of the following Essential Activities:
- a. For health and safety. To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional.
  - b. For necessary supplies and services. To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, household consumer products, supplies they need to work from home, and products necessary to maintain the safety, sanitation, and essential operation of residences.
  - c. For outdoor activity. To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements, as defined below, such as, by way of example and without limitation, walking, hiking, running, or biking. Individuals may go to public parks and open outdoor recreation areas. However, playgrounds may increase spread of COVID-19 (Coronavirus Disease 2019), and therefore shall be closed.
  - d. For certain types of work. To perform work providing essential products and services at Essential Businesses or Operations (which, as defined below, includes Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure) or to otherwise carry out activities specifically permitted in this Executive Order, including Minimum Basic Operations.
  - e. To take care of others. To care for a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed by this Executive Order.
6. **Elderly people and those who are vulnerable as a result of illness should take additional precautions.** People at high risk of severe illness from COVID-19 (Coronavirus Disease 2019), including elderly people and those who are sick, are urged to stay in their residence to the extent possible except as necessary to seek medical care. Nothing in this Executive Order prevents the Illinois Department of Public Health or local public health departments from issuing and enforcing isolation and quarantine orders pursuant to the Department of Public Health Act, 20 ILCS (Illinois Compiled Statutes) 2305.
7. **Healthcare and Public Health Operations.** For purposes of this Executive Order, individuals may leave their residence to work for or obtain services through Healthcare and Public Health Operations.

Healthcare and Public Health Operations includes, but is not limited to: hospitals; clinics; dental offices; pharmacies; public health entities, including those that compile, model, analyze

and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood, platelets, plasma, and other necessary materials; licensed medical cannabis dispensaries and licensed cannabis cultivation centers; reproductive health care providers; eye care centers, including those that sell glasses and contact lenses; home healthcare services providers; mental health and substance use providers; other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services; and entities that transport and dispose of medical materials and remains.

Specifically included in Healthcare and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.

Healthcare and Public Health Operations also includes veterinary care and all healthcare services provided to animals.

Healthcare and Public Health Operations shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. Healthcare and Public Health Operations does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities.

8. **Human Services Operations.** For purposes of this Executive Order, individuals may leave their residence to work for or obtain services at any Human Services Operations, including any provider funded by the Illinois Department of Human Services, Illinois Department of Children and Family Services, or Medicaid that is providing services to the public and including state-operated, institutional, or community-based settings providing human services to the public. Human Services Operations includes, but is not limited to: long-term care facilities; all entities licensed pursuant to the Child Care Act, 225 ILCS (Illinois Compiled Statutes) 10, except for day care centers, day care homes, group day care homes, and day care centers licensed as specified in Section 12(s) of this Executive Order; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

9. **Essential Infrastructure.** For purposes of this Executive Order, individuals may leave their residence to provide any services or perform any work necessary to offer, provision, operate, maintain and repair Essential Infrastructure.

Essential Infrastructure includes, but is not limited to: food production, distribution, and sale;

construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, and housing construction); building management and maintenance; airport operations; operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

10. **Essential Governmental Functions.** For purposes of this Executive Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support Essential Businesses and Operations are categorically exempt from this Executive Order.

Essential Government Functions means all services provided by the State or any municipal, township, county, subdivision or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Government Functions. Each government body shall determine its Essential Governmental Functions and identify employees and/or contractors necessary to the performance of those functions.

This Executive Order does not apply to the United States government. Nothing in this Executive Order shall prohibit any individual from performing or accessing Essential Governmental Functions.

11. **Businesses covered by this Executive Order.** For the purposes of this Executive Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function it performs, or its corporate or entity structure.
12. **Essential Businesses and Operations.** For the purposes of this Executive Order, Essential Businesses and Operations means Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure, and the following:
- a. Stores that sell groceries and medicine. Grocery stores, pharmacies, certified farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, alcoholic and non-alcoholic beverages, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries, medicine, including medication not requiring a medical prescription, and also that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and Essential Businesses and Operations;
  - b. Food, beverage, and cannabis production and agriculture. Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock,

- fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption; licensed medical and adult use cannabis dispensaries and licensed cannabis cultivation centers; and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities;
- c. Organizations that provide charitable and social services. Businesses and religious and secular nonprofit organizations, including food banks, when providing food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities;
- d. Media. Newspapers, television, radio, and other media services;
- e. Gas stations and businesses needed for transportation. Gas stations and auto-supply, auto-repair, and related facilities and bicycle shops and related facilities;
- f. Financial institutions. Banks, currency exchanges, consumer lenders, including but not limited, to payday lenders, pawnbrokers, consumer installment lenders and sales finance lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, affiliates of financial institutions, entities that issue bonds, related financial institutions, and institutions selling financial products;
- g. Hardware and supply stores. Hardware stores and businesses that sell electrical, plumbing, and heating material;
- h. Critical trades. Building and Construction Tradesmen and Tradeswomen, and other trades including but not limited to plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, moving and relocation services, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses and Operations;
- i. Mail, post, shipping, logistics, delivery, and pick-up services. Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods or services to end users or through commercial channels;
- j. Educational institutions. Educational institutions—including public and private pre-K-12 schools, colleges, and universities—for purposes of facilitating distance learning, performing critical research, or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible. This Executive Order is consistent with and does not amend or supersede Executive Order 2020-05 (COVID-19 (Coronavirus Disease 2019) Executive Order No. 3) or Executive Order 2020-06 (COVID-19 (Coronavirus Disease 2019) Executive Order No. 4) except that affected schools are ordered closed through April 7, 2020;
- k. Laundry services. Laundromats, dry cleaners, industrial laundry services, and laundry service providers;
- l. Restaurants for consumption off-premises. Restaurants and other facilities that prepare and serve food, but only for consumption off-premises, through such means as in-house delivery, third-party delivery, drive-through, curbside pick-up, and carry-out. Schools and

- other entities that typically provide food services to students or members of the public may continue to do so under this Executive Order on the condition that the food is provided to students or members of the public on a pick-up and takeaway basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site due to the virus's propensity to physically impact surfaces and personal property. This Executive Order is consistent with and does not amend or supersede Section 1 of Executive Order 2020-07 (COVID-19 (Coronavirus Disease 2019) Executive Order No. 5) except that Section 1 is ordered to be extended through April 7, 2020;
- m. Supplies to work from home. Businesses that sell, manufacture, or supply products needed for people to work from home;
  - n. Supplies for Essential Businesses and Operations. Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate, including computers, audio and video electronics, household appliances; IT and telecommunication equipment; hardware, paint, flat glass; electrical, plumbing and heating material; sanitary equipment; personal hygiene products; food, food additives, ingredients and components; medical and orthopedic equipment; optics and photography equipment; diagnostics, food and beverages, chemicals, soaps and detergent; and firearm and ammunition suppliers and retailers for purposes of safety and security;
  - o. Transportation. Airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers necessary for Essential Activities and other purposes expressly authorized in this Executive Order;
  - p. Home-based care and services. Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery;
  - q. Residential facilities and shelters. Residential facilities and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness;
  - r. Professional services. Professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services);
  - s. Day care centers for employees exempted by this Executive Order. Day care centers granted an emergency license pursuant to Title 89, Section 407.400 of the Illinois Administrative Code, governing Emergency Day Care Programs for children of employees exempted by this Executive Order to work as permitted. The licensing requirements for day care homes pursuant to Section 4 of the Child Care Act, 225 ILCS (Illinois Compiled Statutes) 10/4, are hereby suspended for family homes that receive up to 6 children for the duration of the Gubernatorial Disaster Proclamation.
  - t. Manufacture, distribution, and supply chain for critical products and industries. Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and

disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, communications, as well as products used by other Essential Businesses and Operations.

- u. Critical labor union functions. Labor Union essential activities including the administration of health and welfare funds and personnel checking on the well-being and safety of members providing services in Essential Businesses and Operations – provided that these checks should be done by telephone or remotely where possible.
- v. Hotels and motels. Hotels and motels, to the extent used for lodging and delivery or carry-out food services.
- w. Funeral services. Funeral, mortuary, cremation, burial, cemetery, and related services.

13. **Minimum Basic Operations.** For the purposes of this Executive Order, Minimum Basic Operations include the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:

- a. The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions.
- b. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

14. **Essential Travel.** For the purposes of this Executive Order, Essential Travel includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section.

- a. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses and Operations, or Minimum Basic Operations.
- b. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.
- c. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
- d. Travel to return to a place of residence from outside the jurisdiction.
- e. Travel required by law enforcement or court order, including to transport children pursuant to a custody agreement.
- f. Travel required for non-residents to return to their place of residence outside the State. Individuals are strongly encouraged to verify that their transportation out of the State remains available and functional prior to commencing such travel.

15. **Social Distancing Requirements.** For purposes of this Executive Order, Social Distancing Requirements includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

- a. Required measures. Essential Businesses and Operations and businesses engaged in Minimum Basic Operations must take proactive measures to ensure compliance with Social Distancing Requirements, including where possible:
  - i. Designate six-foot distances. Designating with signage, tape, or by other means six-foot spacing for employees and customers in line to maintain appropriate

distance;

- ii. Hand sanitizer and sanitizing products. Having hand sanitizer and sanitizing products readily available for employees and customers;
- iii. Separate operating hours for vulnerable populations. Implementing separate operating hours for elderly and vulnerable customers; and
- iv. Online and remote access. Posting online whether a facility is open and how best to reach the facility and continue services by phone or remotely.

16. **Intent of this Executive Order.** The intent of this Executive Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 (Coronavirus Disease 2019) to the greatest extent possible. When people need to leave their places of residence, whether to perform Essential Activities, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times and as much as reasonably possible comply with Social Distancing Requirements. All provisions of this Executive Order should be interpreted to effectuate this intent.
17. **Enforcement.** This Executive Order may be enforced by State and local law enforcement pursuant to, inter alia, Section 7, Section 18, and Section 19 of the Illinois Emergency Management Agency Act, 20 ILCS (Illinois Compiled Statutes) 3305.
18. **No limitation on authority.** Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing the State or any county, or local government body from ordering (1) any quarantine or isolation that may require an individual to remain inside a particular residential property or medical facility for a limited period of time, including the duration of this public health emergency, or (2) any closer of a specific location for a limited period of time, including the duration of this public health emergency. Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing a county or local government body to enact provisions that are stricter than those in this Executive Order.

## **Section 2. Order ceasing evictions.**

Pursuant to the Illinois Emergency Management Agency Act, 20 ILCS (Illinois Compiled Statutes) 3305/7(2), (8), and (10), all state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for residential premises for the duration of the Gubernatorial Disaster Proclamation. No provision contained in this Executive Order shall be construed as relieving any individual of the obligation to pay rent, to make mortgage payments, or to comply with any other obligation that an individual may have under tenancy or mortgage.

## **Section 3. Savings clause.**

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor March 20, 2020

Filed by the Secretary of State March 20, 2020

## GOVERNMENT (/GOVERNMENT)

Executive Branch (/government/executive-branch)

Executive Orders (/government/executive-orders)

Judicial Branch (/government/judicial-branch)

Legislative Branch (/government/legislative-branch)

Resources & Records (/government/resources-records)

Transparency & Accountability (/government/transparency-accountability)

## BUSINESS (/BUSINESS)

Consumers (/business/consumers)

Manage your Business (/business/manage-your-business)

Manage your Employees (/business/manage-your-employees)

Registration, Licenses, & Permits (/business/registration-licenses-permits)

## EMPLOYMENT (/EMPLOYMENT)

Employee Rights (/employment/employee-rights)

Find Jobs (/employment/find-jobs)

Professional Licenses (/employment/professional-licenses)

Volunteering (/employment/volunteering)

## EDUCATION (/EDUCATION)

Educators (/education/educators)

Learning Resources (/education/learning-resources)

Parents (/education/parents)

Students (/education/students)

## RESIDENTS (/RESIDENTS)

Cars & Transportation (/residents/cars-transportation)

Citizen Resources (/residents/citizen-resources)

Family & Home (/residents/family-home)

Health & Safety (/residents/health-safety)

Neighborhoods/Housing (/residents/neighborhoods-housing)



Parent/Child Resources (/residents/parent-child-resources)

Senior Citizen Resources (/residents/senior-citizen-resources)

Veteran Resources (/residents/veteran-resources)

VISITING (/VISITING)

Arts and Culture (/visiting/arts-and-culture)

Family Attractions (/visiting/family-attractions)

Museums (/visiting/museums)

Outdoors (/visiting/outdoors)

Travel & Recreation (/visiting/travel-recreation)

ABOUT (/ABOUT)

History (/about/history)

State Information (/about/state-information)

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SERVICES (/SERVICES)

NEWS (/NEWS)

Release (/news/release)

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[Road Conditions \(http://www.gettingaroundillinois.com/\)](http://www.gettingaroundillinois.com/)

[Traffic Alerts \(http://www.iltrafficalert.com/\)](http://www.iltrafficalert.com/)

[Get Email Updates \(https://www.illinois.gov/gov/Pages/CommunicationsOptIn.aspx\)](https://www.illinois.gov/gov/Pages/CommunicationsOptIn.aspx)

## Helpful Links

[Illinois Privacy Info \(/Pages/About/Privacy.aspx\)](/Pages/About/Privacy.aspx)

[Kids Privacy \(/Pages/About/Kids-Privacy.aspx\)](/Pages/About/Kids-Privacy.aspx)

[Contact Us \(/Pages/About/ContactUs.aspx\)](/Pages/About/ContactUs.aspx)

[FOIA Contacts \(/Pages/FOIA-Contacts.aspx\)](/Pages/FOIA-Contacts.aspx)

[State Press Contacts](#)

[\(https://www.illinois.gov/cms/agency/media/relations/Pages/MediaContacts.aspx\)](https://www.illinois.gov/cms/agency/media/relations/Pages/MediaContacts.aspx)

[Tech Ready Illinois \(https://www.techreadyillinois.com/\)](https://www.techreadyillinois.com/)

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- [Amber Alerts \(http://www.amberillinois.org/\)](http://www.amberillinois.org/) [Illinois Privacy Info \(/Pages/About/Privacy.aspx\)](/Pages/About/Privacy.aspx)

[Governor JB Pritzker \(/sites/gov\)](/sites/gov)

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# Exhibit D

04-0627-00  
AFINA INSURANCE ADVISORS INC  
1S660 MIDWEST RD STE 300  
OAKBROOK TERRACE IL 60181-4458

# *Auto-Owners* INSURANCE

LIFE • HOME • CAR • BUSINESS

P.O. BOX 30660 • LANSING, MICHIGAN 48909-8160

Owners Insurance Company

01-15-2020

CARLISLE BANQUETS INC  
435 E BUTTERFIELD RD  
LOMBARD IL 60148-5602

**Remember**, you can view your policy, pay your bill or change your paperless options any time online, at [www.auto-owners.com](http://www.auto-owners.com). If you have not already enrolled your policy, you may do so using policy number **154604-07232982-20** and Personal ID Code (PID) **G6P 27N 5X9**.

Your agency's phone number is 630-524-3090.

RE: Policy 154604-07232982-20

Thank you for selecting Auto-Owners Insurance Group to serve your insurance needs! Feel free to contact your independent Auto-Owners agent with questions you may have.

Auto-Owners and its affiliate companies offer a variety of programs, each of which has its own eligibility requirements, coverages and rates. In addition, Auto-Owners also offers many billing options. Please take this opportunity to review your insurance needs with your Auto-Owners agent, and discuss which company, program, and billing option may be most appropriate for you.

Auto-Owners Insurance Company was formed in 1916. The Auto-Owners Insurance Group is comprised of five property and casualty companies and a life insurance company. Our A++ (Superior) rating by A.M. Best Company signifies that we have the financial strength to provide the insurance protection you need.

~ *Serving Our Policyholders and Agents Since 1916* ~

000001

## POLICYHOLDER ASSISTANCE AND INFORMATION

Dear Policyholder:

We are here to serve you and as our policyholder your satisfaction is very important to us. Should you have any questions or a complaint regarding your policy that cannot be resolved by your agent, you may contact our Illinois Branch Office for assistance. Please direct your inquiries to:

Branch Manager  
Auto-Owners Insurance Company  
6715 North Big Hollow Rd.  
Peoria, Illinois 61615  
P.O. Box 3337  
Peoria, Illinois 61612-3337  
Telephone: 309-693-2550

You may contact the Illinois Department of Insurance at any time for further assistance at the following address: Public Services Section, Department of Insurance, 320 West Washington, Springfield, Illinois 62767.

Auto-Owners Insurance Company  
Owners Insurance Company  
Auto-Owners Life Insurance Company

## NOTIFICATION OF POSSIBLE CHANGES IN COVERAGE FOR TERRORISM

Dear Policyholder:

The Terrorism Risk Insurance Act (including ensuing Congressional actions pursuant to the Act) will expire on December 31, 2020 unless the Federal government extends the Act. What this means to you is the following:

1. Subject to policy terms and conditions, the enclosed policy will provide insurance coverage for certified acts of terrorism as defined in the Act only until December 31, 2020.
2. A conditional endorsement entitled, Conditional Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) is enclosed. This conditional endorsement will only apply if the Act is not extended or if the Act is revised to increase statutory deductibles, decrease the federal government's share in potential losses above the statutory deductibles, change the levels, terms or conditions of coverage and we are no longer required to make terrorism coverage available and elect not to do so. It will not apply if the Act is simply extended.
3. The conditional endorsement will provide coverage for an incident of terrorism pursuant to the terms and conditions of the policy only if the incident does not involve nuclear, biological or chemical material.
4. A premium charge for the conditional endorsement will be applied effective January 1, 2021. The premium will be pro rated for the remainder of the policy term and is one-half of the current premium charge appearing in the Declarations for TERRORISM - CERTIFIED ACTS. However, it will only be made if the Terrorism Risk Insurance Act (including ensuing Congressional actions pursuant to the Act) is not extend. Revised Declarations will be mailed to you after January 1, 2021.
5. If the Act is extended without any revision, the enclosed policy will continue to provide coverage for certified acts of terrorism. The conditional endorsement will not be activated and the changes in coverage or premium referenced above will not apply.
6. If the Act is extended with revisions or is replaced, and we are required or elect to continue to offer coverage for certified acts of terrorism, we may amend this policy in accordance with the provisions of the revised Act or its replacement.

This notice is for informational purposes only.

If you have any questions concerning your policy or this notice, please contact your Auto-Owners agency.

64295 (11-17)

**NOTICE OF CHANGE IN POLICY TERMS  
BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS  
SUSTAINED COVERAGE FORM**

Dear Policyholder,

We currently offer 12 month Business Income and Extra Expense Actual Loss Sustained coverage and we are adding options of 18 and 24 month Business Income and Extra Expense Actual Loss Sustained coverage. Therefore, we have updated Business Income (and Extra Expense) Actual Loss Sustained Coverage form 64014 (2-16) to Business Income (and Extra Expense) Actual Loss Sustained Coverage form 64014 (7-17). This form change results in no change of coverage or premium for your policy.

This notice is for informational purposes only. Your policy contains the specific terms and conditions of the coverage.

If you have any questions regarding your policy or this notice please contact your Auto-Owners Insurance agency.

64295 (11-17)

Page 1 of 1

000004

# ***Tailored Protection Insurance Policy***

***Owners Insurance Company***



In witness whereof, we, the Owners Insurance Company, have caused this policy to be issued and to be duly signed by our President and Secretary.



Secretary



President

55003 (7-12)

**Owners**

Issued 01-15-2020

INSURANCE COMPANY  
6101 ANACAPRI BLVD., LANSING, MI 48917-3999

**TAILORED PROTECTION POLICY DECLARATIONS**

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012 630-524-3090

Reissue Effective 01-31-2020

**POLICY NUMBER 154604-07232982-20**

INSURED CARLISLE BANQUETS INC

Company Use 07-46-IL-1501

ADDRESS 435 E BUTTERFIELD RD  
LOMBARD IL 60148-5602

Company Bill

Policy Term	
12:01 a.m.	12:01 a.m.
to	
01-31-2020	01-31-2021

55039 (11-87)

**COMMON POLICY INFORMATION**

**Business Description:** Banquet Hall

**Entity:** Corporation

**Program:** Restaurant

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PART(S):	PREMIUM
COMMERCIAL PROPERTY COVERAGE	\$10,347.00
COMMERCIAL GENERAL LIABILITY COVERAGE	\$11,210.00
MINIMUM PREMIUM ADJUSTMENT (GL)	\$36.00
LIQUOR LIABILITY COVERAGE (REFER TO COVERAGE PART)	(INCLUDED)
COMMERCIAL INLAND MARINE COVERAGE	\$707.00
<b>TOTAL</b>	<b>\$22,300.00</b>
<b>PAID IN FULL DISCOUNT</b>	<b>\$2,374.00</b>
<b>TOTAL POLICY PREMIUM IF PAID IN FULL</b>	<b>\$19,926.00</b>
<b>THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.</b>	
The Paid in Full Discount does not apply to fixed fees, statutory charges or minimum premiums.	

Premium shown above for commercial general liability coverage is an advanced premium deposit and may be subject to audit.

Forms that apply to all coverage part(s) shown above (except garage liability, dealer's blanket, commercial automobile, if applicable):  
IL0017 (11-85) 55003 (07-12) 55056 (07-87) 59390 (01-15)

A 04% Cumulative Multi-Policy Discount applies. Supporting policies are marked with an (X):  
Comm Umb(X) Comm Auto() WC(X) Life() Personal() Farm().

A merit rating plan factor of 0.90 applies.

Countersigned By: \_\_\_\_\_

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

54104 (07-87)

**COMMERCIAL PROPERTY COVERAGE**

55198 (12-10)

**PREMIER PROPERTY PLUS COVERAGE PACKAGE DECLARATION**

The coverages and limits below apply separately to each location or sublocation that sustains a loss to covered property and is designated in the Commercial Property Coverage Declarations. No deductible applies to the below Property Plus Coverages.

COVERAGE	LIMIT
ACCOUNTS RECEIVABLE	\$200,000
BAILEES	\$15,000
	\$10,000 PER ITEM
BUSINESS INCOME & EXTRA EXPENSE W/RENTAL VALUE, INCLUDING NEWLY ACQUIRED LOC-S 0 HOUR WAITING PERIOD	\$150,000
DEBRIS REMOVAL	\$100,000
ELECTRONIC DATA PROCESSING EQUIPMENT	\$100,000
EMPLOYEE DISHONESTY	\$50,000
FINE ARTS, COLLECTIBLES AND MEMORABILIA	\$50,000
	\$10,000 PER ITEM
FIRE DEPARTMENT SERVICE CHARGE	\$25,000
FORGERY AND ALTERATION	\$50,000
MONEY AND SECURITIES INSIDE PREMISES	\$50,000
MONEY AND SECURITIES OUTSIDE PREMISES	\$50,000
NEWLY ACQUIRED BUSINESS PERSONAL PROPERTY	\$500,000 FOR 90 DAYS
NEWLY ACQUIRED OR CONSTRUCTED PROPERTY	\$1,000,000 FOR 90 DAYS
ORDINANCE OR LAW	SEE COMMERCIAL PROPERTY DECLARATIONS
OUTDOOR PROPERTY	\$25,000
TREES, SHRUBS OR PLANTS	\$1,000 PER ITEM
RADIO OR TELEVISION ANTENNAS	\$20,000
PERSONAL EFFECTS AND PROPERTY OF OTHERS	\$50,000
POLLUTANT CLEAN UP AND REMOVAL	\$100,000
PROPERTY IN TRANSIT	\$100,000
PROPERTY OFF PREMISES	\$100,000
REFRIGERATED PRODUCTS	\$25,000
SALESPERSON'S SAMPLES	\$25,000

000008

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

55198 (12-10)

**PREMIER PROPERTY PLUS COVERAGE PACKAGE DECLARATION**

COVERAGE	LIMIT
UTILITY SERVICES FAILURE	\$150,000
VALUABLE PAPERS AND RECORDS ON PREMISES	\$150,000
VALUABLE PAPERS AND RECORDS OFF PREMISES	\$25,000
WATER BACK-UP FROM SEWERS OR DRAINS	\$50,000

Forms that apply to this coverage part:

64004 (12-10)	54198 (12-10)	54334 (12-10)	64020 (12-10)	54189 (12-10)
54186 (12-10)	54218 (03-13)	54217 (03-13)	54216 (03-13)	54214 (03-13)
54221 (12-10)	54220 (06-00)	54219 (12-10)	54338 (03-13)	54339 (03-13)
64010 (12-10)	64000 (12-10)			

**Coverages Provided**

Insurance at the described premises applies only for coverages for which a limit of insurance is shown.

**LOCATION 0001 - BUILDING 0001**

**Location:** 435 E Butterfield Rd, Lombard, IL 60148-5602

**Occupied As:** Restaurant/Banquet

**Secured Interested Parties:** See Attached Schedule

**Rating Information**

Territory: 115

Program: Restaurant

Protection Class: 03

Annual Receipts: \$2,583,000

Specific Rate - Pers Prop: 0.203

County: Du Page

Construction: Non-Comb

Class Code: 0543

Specific Rate - Building: 0.138

Class Rate - Bi & Extra Exp: 1.919

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
BUILDING			\$3,583,100		
Causes of Loss					
Basic Group I	80%	\$2,500		0.111	\$3,977.00
Basic Group II	80%	\$2,500		0.050	\$1,792.00
Special	80%	\$2,500		0.020	\$717.00
Theft	80%	\$2,500			Included
OPTIONAL COVERAGE					
Inflation Guard Factor Building 1.054					
Replacement Cost					
Property Plus Coverage Package		None	See 55198 (12-10)		\$860.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$126.00

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
ORDINANCE OR LAW					
Coverage A-Undamaged Portion		\$2,500	Incl in Bldg Limit		Included
Coverage B-Demolition		\$2,500	\$160,000		Included
Coverage C-Increased Cost		\$2,500	\$160,000		Included
PERSONAL PROPERTY			\$740,010		
Causes of Loss					
Basic Group I	80%	\$2,500		0.149	\$1,103.00
Basic Group II	80%	\$2,500		0.058	\$429.00
Special	80%	\$2,500		0.040	\$296.00
Theft	80%	\$2,500			Included
OPTIONAL COVERAGE					
Replacement Cost					
Inflation Guard Factor Personal Property 1.025					
Property Plus Coverage Package		None	See 55198 (12-10)		\$242.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$35.00
ORDINANCE OR LAW					
Coverage D-Tenant's I&B		\$2,500	\$160,000		Included
BI & EXTRA EXP			Actual Loss Sustained		
0 Hour Waiting Period			12 Months		
Causes of Loss					
Special	0%	\$0		0.774	\$495.00
Theft					Excluded
OPTIONAL COVERAGE					
Equipment Breakdown		\$0	See Form 54843		\$8.00

Forms that apply to this building:

54833 (07-08)	54236 (02-12)	IL0003 (07-02)	64037 (01-12)	64042 (12-10)
59350 (01-15)	64224 (01-16)	IL0284 (01-18)	CP0090 (07-88)	64000 (12-10)
64013 (12-10)	64010 (12-10)	64020 (12-10)	64004 (12-10)	54843 (11-17)
64014 (07-17)	59390 (01-15)			

**LOCATION 0001 - BUILDING 0002**

**Location:** 435 E Butterfield Rd, Lombard, IL 60148-5602

**Occupied As:** Street Sign

**Secured Interested Parties:** None

**Rating Information**

Territory: 115

Program: Restaurant

Protection Class: 03

Spcl Class Rate - Street Lights: 0.095

County: Du Page

Construction: N/A

Class Code: 1190

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
STREET LIGHTS			\$25,000		
Causes of Loss					
Basic Group I	80%	\$2,500		0.031	\$8.00
Basic Group II	80%	\$2,500		0.148	\$37.00
Special	80%	\$2,500		0.040	\$10.00
Theft	80%	\$2,500			Included
OPTIONAL COVERAGE					
Replacement Cost					
Property Plus Coverage Package		None	See 55198 (12-10)		\$8.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$1.00
ORDINANCE OR LAW					
Coverage A-Undamaged Portion		\$2,500	Incl in Bldg Limit		Included
Coverage B-Demolition		\$2,500	\$160,000		Included
Coverage C-Increased Cost		\$2,500	\$160,000		Included

Forms that apply to this building:

54833 (07-08)	54236 (02-12)	IL0003 (07-02)	64037 (01-12)	64042 (12-10)
59350 (01-15)	64224 (01-16)	IL0284 (01-18)	CP0090 (07-88)	64000 (12-10)
64010 (12-10)	64020 (12-10)	64004 (12-10)	54843 (11-17)	59390 (01-15)

COMMERCIAL PROPERTY COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59350, 54833, 59390	\$203.00
<b>LOCATION 0001</b>	<b>\$10,347.00</b>

Secured Interested Parties and/or Additional Interested Parties

Applies to Loc/Bldg(s):

0001/001  
RICOH  
C/O INSURANCE SERVICECENTER  
Po Box 979220  
#0360040482000  
Miami, FL 33197  
Interest: Loss Payable

55040 (11-87)

COMMERCIAL GENERAL LIABILITY COVERAGE

COVERAGE	LIMITS OF INSURANCE
General Aggregate (Other Than Products-Completed Operations)	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

COVERAGE	LIMITS OF INSURANCE
Personal And Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
<b>COMMERCIAL GENERAL LIABILITY PLUS ENDORSEMENT</b>	
Damage to Premises Rented to You (Fire, Lightning, Explosion, Smoke or Water Damage)	\$300,000 Any One Premises
Medical Payments	\$10,000 Any One Person
Expanded Coverage Details See Form:	
Extended Watercraft	
Personal Injury Extension	
Broadened Supplementary Payments	
Broadened Knowledge Of Occurrence	
Additional Products-Completed Operations Aggregate	
Blanket Additional Insured - Lessor of Leased Equipment	
Blanket Additional Insured - Managers or Lessors of Premises	
Newly Formed or Acquired Organizations Extension	
Blanket Waiver of Subrogation	

Twice the "General Aggregate Limit", shown above, is provided at no additional charge for each 12 month period in accordance with form 55885.

**AUDIT TYPE:** Annual Audit

Forms that apply to this coverage:

CG2001 (04-13)	55405 (07-08)	59350 (01-15)	CG2407 (01-96)	IL0021 (07-02)
IL0017 (11-85)	55146 (06-04)	CG2106 (05-14)	55352 (05-17)	CG0001 (04-13)
55791 (05-17)	55358 (05-17)	IL0147 (09-11)	CG2109 (06-15)	55513 (05-17)
55029 (05-17)	CG2196 (03-05)	55152 (05-17)	CG2147 (12-07)	55885 (05-17)
59390 (01-15)				

**LOCATION 0001 - BUILDING 0001**

**Location:** 435 E Butterfield Rd, Lombard, IL 60148-5602

**Territory:** 009

**County:** Du Page

CLASSIFICATION	CODE	SUBLINE	PREMIUM BASIS	RATE	PREMIUM
Commercial General Liability Plus Endorsement Included At 7.5% Of The Premises Operation Premium	00501	Prem/Op	Prem/Op Prem Included	Included	Included
Restaurants - With Sale Of Alcoholic Beverages That Are Less Than 30% Of Annual Receipts Of The Restaurant - With Table Service	16910	Prem/Op Prod/Comp Op	Gross Sales \$2,583,000 \$2,583,000	Each 1000 3.921 .111	\$10,128.00 \$287.00

COMMERCIAL GENERAL LIABILITY COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59350, 55405, 59390	\$104.00
<b>LOCATION 0001</b>	<b>\$10,519.00</b>

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

55409 (07-07)

**LIQUOR LIABILITY COVERAGE**

COVERAGE	LIMITS OF INSURANCE
Liquor Liability Aggregate	\$1,000,000
Liquor Liability Each Common Cause	\$1,000,000
Liquor Liability Each Common Cause - Illinois See Form 55414	

**AUDIT TYPE:** Annual Audit

Forms that apply to this coverage:

55405 (07-08) 59350 (01-15) IL0021 (07-02) 55414 (10-08) 55521 (06-11)  
55398 (10-07) 55381 (07-07) IL0017 (11-85) CG0033 (12-07) CG0200 (01-18)  
59390 (01-15)

**LOCATION 0001 - BUILDING 0001**

**Location:** 435 E Butterfield Rd, Lombard, IL 60148-5602

**Territory:** 009

**County:** Du Page

CLASSIFICATION	CODE	SUBLINE	PREMIUM BASIS	RATE	PREMIUM
Liquor Liability - Restaurants	58161	Liquor Liab	Gross Sales \$315,000	Each 1000 2.172	\$684.00

LIQUOR LIABILITY COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59350, 55405, 59390	\$7.00
<b>LOCATION 0001</b>	<b>\$691.00</b>

16198 (07-87)

**COMMERCIAL INLAND MARINE COVERAGE**

**COVERAGES PROVIDED**

Insurance applies to covered property for which a limit of insurance is shown.

Forms that apply to Inland Marine:

59350 (01-15) 16381 (07-08) 16080 (07-13) 59390 (01-15)

**LOCATION 0001 - BUILDING 0001**

**Location:** 435 E Butterfield Rd, Lombard, IL 60148-5602

**Rating Information for CONTRACTORS EQUIPMENT**

Territory: 022

Program: Restaurant

County: Du Page

Rate Class: 3



Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
CONTRACTORS EQUIPMENT RENTED EQUIPMENT - SPECIAL FORM Rented Equipment Valuation: Actual Cash Value		\$500	\$100,000	Variable	\$700.00
TOTAL FOR THIS COVERAGE:					\$700.00

Forms that apply to this location:

16242 (05-95) 16071 (07-09)

COMMERCIAL INLAND MARINE COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59350, 16381, 59390	\$7.00
<b>LOCATION 0001</b>	<b>\$707.00</b>

A single deductible applies per claim. If more than one item is involved in a claim, the single highest applicable deductible amount is used.

Owners Ins. Co.

Issued 01-15-2020

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07232982-20  
Bill 07-46-IL-1501

INSURED CARLISLE BANQUETS INC

Term 01-31-2020 to 01-31-2021

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55056 (07-87)

## SUPPLEMENTAL DECLARATIONS

16071 CONTRACTORS EQUIPMENT

LOSS PAYABLE: RENT-RITE  
1260 HIGGINS RD  
ELK GROVE VILLAGE IL 60007  
(APPLIES TO RENTED EQUIPMENT)

CG2001 04-13 PRIMARY AND NONCONTRIBUTORY-OTHER INS CO

VILLAGE OF LOMBARD

000015

**COMMERCIAL GENERAL LIABILITY**  
**55414 (10-08)**

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

## ILLINOIS CHANGES - LIQUOR LIABILITY

This endorsement modifies insurance provided under the following:

LIQUOR LIABILITY COVERAGE PART

SCHEDULE

	Limits Of Insurance
<b>Each Person Bodily Injury Limit</b>	<b>\$ 70,091.09</b>
<b>Each Person Property Damage Limit</b>	<b>\$ 70,091.09</b>
<b>Loss Of Means Of Support Or Loss Of Society Limit</b>	<b>\$ 85,666.89</b>

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

With respect to "injury" which is subject to the Illinois Liquor Control Act of 1934:

**A.** The Each Common Cause Limit shown in the Declaration is replaced by the limits shown in the Schedule above. The Aggregate Limit shown in the Declaration continues to apply.

**B.** Paragraph **3. of Section III - Limits Of Insurance** is replaced by the following:

**3.** Subject to the Aggregate Limit, the Loss Of Means Of Support Or Loss Of Society Limit is the most we will pay for all loss of means of support or society claimed by one or more persons because of "bodily injury" sustained by any one provider of such support or society as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**C.** The following paragraphs are added to **Section III - Limits Of Insurance**:

**4.** Subject to the Aggregate Limit, the Each Person Bodily Injury Limit is the most we will pay for all "bodily injury" sustained by one person as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**5.** Subject to the Aggregate Limit, the Each Person Property Damage Limit is the most we will pay for all "property damage" sustained by one person or organization as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**D. Conformity To Statute**

If the limitation provided under Section 235.5/6-21 as published in the Illinois Administrative Code is raised during the policy period, the limits of insurance provided in the Schedule of this endorsement are hereby amended to conform to that statute.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 24 07 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****PRODUCTS/COMPLETED OPERATIONS HAZARD  
REDEFINED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE****Description of Premises and Operations:**435 E BUTTERFIELD RD, LOMBARD IL  
RESTAURANT/BANQUETS

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products - completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products - completed operations hazard"

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

54186 (12-10)

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

## **WATER BACK-UP FROM SEWERS OR DRAINS**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM  
BUSINESS INCOME AND EXTRA EXPENSE ACTUAL LOSS SUSTAINED COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Subject to the provisions of paragraph **2.** below, under **B. EXCLUSIONS**, **g. Water** subparagraph **(3)** is deleted.
2. Under **C. LIMITATIONS** the following limitation is added:

In any one loss, we will not pay more than the Limit of Insurance shown in the Declarations under WATER BACK-UP FROM SEWERS OR DRAINS for loss of or damage to Covered Property caused by water back-up from sewers or drains. In the event that the amount of loss of or damage to Covered Property does not exceed the Limit of Insurance shown in the Declarations for WATER BACKUP FROM SEWERS OR DRAINS, you may, at your option, apply the remainder of this Limit of Insurance to your actual loss of Business Income or necessary Extra Expense, if any, subject to the terms and conditions of the BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM, or the BUSINESS INCOME AND EXTRA EXPENSE ACTUAL LOSS SUSTAINED COVERAGE FORM.

All other policy terms and conditions apply.

54186 (12-10)

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Page 1 of 1

000018

54198 (12-10)

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

## DEBRIS REMOVAL

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

Under **A. COVERAGE, 4. Additional Coverages, a. Debris Removal, (4)** is deleted and replaced by the following:

**(4)** We will pay an additional amount, up to the Limit of Insurance shown in the Declarations for DEBRIS REMOVAL, for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

**(a)** The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

**(b)** The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if **(4)(a)** and/or **(4)(b)** apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus the Limit of Insurance shown in the Declarations for DEBRIS REMOVAL.

All other policy terms and conditions apply.

54198 (12-10)

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Page 1 of 1

000019

54216 (3-13)

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

## **SALESPERSON'S SAMPLES**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Under the **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:  
**Salesperson's Samples**

We will pay for direct physical loss of or damage to samples of merchandise described which are:

- a. Owned by you while in your care, custody or control;
- b. Owned by you and in the care, custody or control of your salesperson and/or agents; or
- c. While in transit, except by parcel post, between your premises and the salesperson and/or agent caused by or resulting from any Covered Cause of Loss.

This coverage does not apply to:

- (1) Jewelry, furs or articles consisting principally of fur;
- (2) Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises;
- (3) Property at or on the premises of your salespersons and/or agents; or
- (4) Merchandise intended for sale, which may be sold and shipped by you to others, or which has been purchased by you from others.

Our payment for any one loss shall not exceed the Limit of Insurance shown in the Declarations for SALESPERSON'S SAMPLES. The Additional Condition, Coinsurance, does not apply to this Additional Coverage.

2. Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage:
- a. Misappropriation, secretion, conversion, infidelity or any dishonest act by you or other or the employees or agents of either to whom the covered property may be entrusted. This exclusion does not apply to carriers for hire.
  - b. Breakage, marring, scratching, tearing or denting, unless caused by: fire or lightning; aircraft; theft and/or attempted theft; earthquake; flood; explosion; malicious damage or collision, derailment or overturn of a transporting conveyance.
  - c. Mysterious or unexplained disappearance or from shortage disclosed by taking inventory.
  - d. Theft from any vehicle, unless at the time of the theft, there is actually in or upon such vehicle your salesperson, representative or a permanent employee, or a person whose sole duty it is to attend the vehicle. This exclusion shall not apply to property in the custody of a common carrier.
3. In addition to the conditions of this policy, the following conditions apply only this Additional Coverage:
- a. **PAIR OR SET**  
In case of loss of or damage to any part of a pair or set, we may:
    - (1) Repair or replace any part of the pair or set to restore it to its value before the loss; or
    - (2) Pay the difference between the actual cash value of the property before and after the loss.
  - b. **PARTS**  
In case of loss or damage to any part of property covered, consisting of several parts when complete, we shall pay only for the value of the part lost or damaged.

All other policy terms and conditions apply.

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

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

**1. Under A. COVERAGE, 4. Additional Coverages,**  
 the following Additional Coverage is added:

**Bailees Coverage**

**a.** We will pay for direct physical loss or damage to the property of others that:

- (1) Is in your possession or in the possession of any of your employees; or
- (2) Is being transported by you, any of your employees, a public carrier or mail service.

**b.** We will also cover your actual incurred cost for labor and materials.

**c.** We do not cover the following properties:

- (1) Property held for storage or for which a storage charge is made. If you do not have instructions from the owner of the goods to store goods held by you, such goods are not considered stored.
- (2) Property while in the possession of any person, company or corporation other than you, your employees, a public carrier or mail service.
- (3) Any land motor vehicle.
- (4) Watercraft.
- (5) Aircraft including objects falling from aircraft.
- (6) Animals, fish, fowl, reptiles or amphibians.
- (7) Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities.
- (8) Contraband or property in the course of illegal transportation or trade.

**d.** In addition to other policy exclusions, we will not pay for loss or damage caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

- (1) Misappropriation, secretion, conversion, infidelity or any dishonest act by you or others or the employees or agents of either

to whom the covered property may be entrusted. This exclusion does not apply to carriers for hire.

- (2) Delay.
  - (3) Vandalism or malicious mischief.
  - (4) Burglary of property left in your delivery vehicles overnight unless locked and in your building which you occupy.
- e.** We will pay no more than the smallest of either:
- (1) The cost to replace damaged property with new property of similar quality and features reduced by the amount of decrease in value because of age, wear, obsolescence or market value applicable to the damaged property immediately prior to the loss; or
  - (2) The Limit of Insurance shown in the Declarations for BAILEES COVERAGE.

This is an additional amount of insurance.

Our payment for loss of or damage to property of others will only be for the account of the owner of the property.

**f.** No deductible applies to this Additional Coverage.

**2.** The Additional Condition, Coinsurance does not apply to this Additional Coverage.

All other policy terms and conditions apply.



54189 (12-10)

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

## REFRIGERATED PRODUCTS

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM  
 BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
 CAUSES OF LOSS - SPECIAL FORM

1. Under the BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM, and the CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

### Refrigerated Products

Subject to **3. Limits of Insurance** below, we shall pay for loss of or damage to "perishable stock" caused directly by any of the following:

- (1) Mechanical or electrical breakdown of the refrigeration system; or
- (2) The interruption of electrical services to the refrigeration system caused by direct physical damage to the electrical generating or transmission equipment of your "local utility service" caused by or resulting from any Covered Cause of Loss.

You must exercise diligence in inspecting and maintaining refrigeration equipment. If interruption of electrical service or mechanical or electrical breakdown is known, you must use all reasonable means to protect the covered property from further damage.

2. Under the BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, and the BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **A. COVERAGE, 5. Additional Coverages**, the following Additional Coverage is added:

### Refrigerated Products

Subject to **3. Limits of Insurance** below, we shall pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur because of loss or damage to "perishable stock" caused directly by any of the following:

- (1) Mechanical or electrical breakdown of the refrigeration system; or
- (2) The interruption of electrical services to the refrigeration system caused by direct physical damage to the electrical generating or transmission equipment of your "local utility service" caused by or resulting from any Covered Cause of Loss.

You must exercise diligence in inspecting and maintaining refrigeration equipment. If interruption of electrical service or mechanical or electrical breakdown is known, you must use all reasonable means to protect the covered property from further damage.

### 3. Limits of Insurance

Under:

- a. BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM, and CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **C. LIMITS OF INSURANCE**; and
- b. Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, and the BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **B. LIMITS OF INSURANCE** the following is added:

### Refrigerated Products

The most we shall pay for the sum of **1.** and **2.** above in any one loss, is the Limit of Insurance

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shown in the Declarations for REFRIGERATED PRODUCTS.

**4. Under the CAUSE OF LOSS - SPECIAL FORM, B.**

**EXCLUSIONS:**

- a.** Exclusion **1.e. Utility Services** is deleted and replaced by the following exclusion for this Additional Coverage only:
- e. Utility Services**  
We shall not pay for loss or damage caused by or resulting from the failure to supply "power supply services" from any regional or national grid.
- b.** Exclusion **2.d.(6)** is deleted and replaced by the following exclusion for this Additional Coverage only:
- (6)** Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, this does not apply to any resulting loss or damage caused by elevator collision or mechanical breakdown of refrigeration systems.

**5. Definitions**

The following definitions apply only to this Additional Coverage:

- a.** "Local utility service" means your billing entity, repair entity or service entity directly providing "power supply services" to the premises described in the Declarations.
- b.** "Perishable stock" means merchandise held in storage or for sale that is refrigerated for preservation and is susceptible to loss or damage if the refrigeration fails.
- c.** "Power supply services" means the following types of property supplying electricity to the described premises that are not located on a described premises and not rented, leased or owned by an insured:
- (1)** Utility generating plants;
  - (2)** Switching stations;
  - (3)** Substations;
  - (4)** Transformers; and
  - (5)** Transmission lines.

All other policy terms and conditions apply.

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54189 (12-10)

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Page 2 of 2

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

## **VALUABLE PAPERS AND RECORDS (OTHER THAN "ELECTRONIC DATA")**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

With respect to coverage provided under this endorsement only, **A. COVERAGE**, is amended as follows:

1. Under **2. Property Not Covered**, **o.** is deleted and replaced by the following:
  - o.** "Valuable papers and records" except as provided under the Additional Coverage - Valuable Papers and Records (Other Than "Electronic Data").
2. Under **4. Additional Coverages**, the following Additional Coverage is added:  
**Valuable Papers and Records (Other Than "Electronic Data")**

We cover "valuable papers and records" that:

- a.** You own; or
- b.** Are owned by others and are in your care, custody or control.

If duplicates of "valuable papers and records" do not exist, we will pay the cost to research, and replace or restore the lost information.

This Additional Coverage does not apply to:

- a.** "Valuable papers and records" which exist as "electronic data";
- b.** Property held as samples or for delivery after sale;
- c.** Property in storage away from the premises shown in the Declarations; or
- d.** Errors or omissions in processing or copying "valuable papers and records", unless fire or explosion ensues and then only for direct loss caused by such fire or explosion.

The most we will pay under this Additional Coverage in any one occurrence are the Limits of Insurance shown in the Declarations for:

- a.** VALUABLE PAPERS AND RECORDS ON PREMISES; and

- b.** VALUABLE PAPERS AND RECORDS OFF PREMISES.

The Coinsurance Condition does not apply to this Additional Coverage.

Under **E. LOSS CONDITIONS, 7. Valuation** does not apply to this endorsement. The following applies:

Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.

The following additional definitions apply only to this endorsement.

- a.** "Valuable Papers and Records" means inscribed, printed or written:
  - (1)** Documents;
  - (2)** Manuscripts; and
  - (3)** Records including abstracts, books, deeds, drawings, films, maps or mortgages. However, "valuable papers and records" does not mean "money" or "securities".
- b.** "Money" means:
  - (1)** Currency, coins and bank notes in current use and having a face value; and
  - (2)** Travelers checks, register checks and money orders held for sale to the public.
- c.** "Securities" means all negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:

- (1) Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- (2) Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you but does not include "money".

- 3. Under **5. Coverage Extensions, c. Valuable Papers and Records (Other Than "Electronic Data")** is deleted.

All other policy terms and conditions apply.

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Page 2 of 2

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

## **ELECTRONIC DATA PROCESSING EQUIPMENT**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
 CAUSES OF LOSS - SPECIAL FORM

Under **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

### **Electronic Data Processing Equipment**

#### **1. Covered Property**

We will pay for:

- a. Direct physical loss of or damage to electronic equipment, component parts of such equipment, "media" and air conditioning equipment necessary for the operation of the electronic equipment:
  - (1) Which you own or which is in your care, custody or control; and
  - (2) While located at the premises described in the Declarations; and
  - (3) Caused by or resulting from any Covered Cause of Loss.

We do not cover "laptop computers".

- b. Your costs to research, replace or restore "electronic data" contained on damaged "media" because such "electronic data" has been destroyed or corrupted.

#### **2. Exclusions**

Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage:

- a. "Electrical disturbance" unless caused by lightning.
- b. Loss or damage caused by:
  - (1) Data processing "media" failure; or
  - (2) Breakdown or malfunction of the data processing equipment and component parts while the "media" is being run through the system. We will cover loss, damage or expense caused directly by ensuing fire or explosion.
- c. Actual work upon, installation or testing of Covered Property. We will cover loss, caused by ensuing fire or explosion.

- d. "Mechanical breakdown". We will cover loss, damage or expense caused directly by lightning or by ensuing fire or explosion.
- e. Faulty construction or error in design of the Covered Property. We will cover loss, damage or expense caused directly by ensuing fire or explosion.
- f. Delay or loss of market.

#### **3. Limit of Insurance**

- a. Our payment for electronic equipment, component parts of such equipment and air conditioning equipment necessary for the operation of such electronic equipment shall not exceed the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.
- b. Our payment for "media" shall not exceed the smallest of the following:
  - (1) The actual cost to repair, replace or reproduce the "media", including your costs to research, replace or restore information;
  - (2) If the "media" is not repaired, replaced or reproduced, the value of blank "media"; or
  - (3) The Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

The Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT is the total limit of our liability for loss or damage to all Covered Property in any one occurrence at one location. With respect to Covered Property you do not own, we will pay no more than the amount for which you are legally liable.

The Additional Condition, Coinsurance, does not apply to this Additional Coverage.

#### **4. Coverage Extensions**

The following extensions apply only to this endorsement:

**a. Property At Newly Acquired Or Temporary Locations:**

You may extend the coverage provided under **1. Covered Property**, above to apply to property:

- (1) At any location you acquire; or
- (2) At any temporary location, other than fairs or exhibitions, you acquire within the territorial limits and intended for similar occupancy or warehousing purposes for the business described in the Declarations.

The most we will pay for loss or damage under this extension is the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

This coverage extension will end when any of the following first occurs:

- (1) 60 days from your acquisition or use of such property;
- (2) On the date values at such locations are reported to us; or
- (3) On the expiration date of the policy.

**b. Newly Acquired Property:**

You may extend the coverage provided under **1. Covered Property**, above to apply to property which you newly acquire, of the same type as the property covered at the described premises.

The most we will pay for loss or damage under this extension is the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

This coverage extension will end when any of the following first occurs:

- (1) 60 days from your acquisition or use of such property;
- (2) On the date values of such property are reported to us; or
- (3) On the expiration date of the policy.

Each of these extensions is additional insurance.

**5. The following Additional Coverages apply only to this endorsement:**

**a. Transportation**

You may apply up to \$10,000, for any one occurrence for loss of or damage to property caused by:

- (1) Fire; lightning; explosion; smoke; riot and civil commotion; and vandalism and malicious mischief;

- (2) The overturning, upset, or collision of the vehicle transporting the insured property, with another vehicle or object other than the road bed; or
- (3) Theft of an entire shipping bale, case or package from a vehicle:

(a) While such property is in a fully enclosed and securely locked body or compartment; and

(b) Theft results from forcible entry, evidenced by visible marks

which occurs during transportation by motor vehicles you own, lease or operate.

We do not cover under this extension property held as samples, held for rental or sale or that you rent to others while in the care, custody or control of salespersons.

**b. Business Income and Extra Expense**

**(1) Business Income**

(a) Subject to the Limit of Insurance provisions of this Additional Coverage, we will pay for the actual loss of Business Income you sustain as a direct result of the necessary "suspension" of your "operations" during the "period of restoration" caused by accidental direct physical loss of or damage to:

- 1) The electronic equipment or "media" covered by this Additional Coverage;
- 2) The building housing the electronic equipment or "media" that prevents access to and use of the electronic equipment or "media"; or
- 3) The air conditioning or electrical systems that are required to operate the electronic equipment, provided such damage or destruction is inside the building or outside within 1,000 feet of the building

caused by the perils insured against and subject to **2. Exclusions**.

(b) We will also pay expenses you incur to reduce the covered loss. We will not pay for expenses:

- 1) You incur to extinguish a fire; or
- 2) That exceed the amount by which the covered loss is reduced.

(c) Business Income means the:

- 1) Net income (Net Profit or Loss before income taxes) that would

have been earned or incurred;  
and

- 2) Continuing normal operating expenses incurred, including payroll.

**(2) Extra Expense**

- (a)** Subject to the Limit of Insurance provisions of this Additional Coverage, we will pay necessary Extra Expense, other than loss of Business Income, you incur to continue "normal" operations of your business following accidental direct physical loss of or damage to:

- 1) The electronic equipment or "media" covered by this Additional Coverage;
- 2) The building housing the electronic equipment or "media" that prevents access to and use of the equipment or "media"; or
- 3) The air conditioning or electrical systems that are required to operate the electronic equipment, provided such damage or destruction is inside the building or outside within 1,000 feet of the building

caused by the perils insured against and subject to **2. Exclusions**.

You must resume normal operation of your business as soon as practical.

- (b)** We will also cover the cost to repair, replace or restore:

- 1) Books of account, abstracts, drawings;
- 2) Card index systems; or
- 3) Other records or data such as film, tape, disks, drum, cell or other magnetic storage or recording "media" for electronic data processing

that have been damaged or destroyed by perils we insure against, if such cost:

- 1) Exceeds the normal cost for such repair, replacement or restoration; and
- 2) Was incurred to reduce loss under this endorsement.

- (c)** Extra Expense means expense incurred:

- 1) To avoid or minimize the "suspension" of business and continue "operations":

- a) At the described premises; or
- b) At replacement premises or at temporary locations, including:
  - i. Relocation expenses; and
  - ii. Costs to equip and operate the replacement or temporary locations.

- 2) To minimize the suspension of business if you cannot continue "operations".

- 3) **a)** To repair or replace any Covered Property; or
- b)** To research, replace or restore the lost information on damaged valuable papers and records to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage.

**(3) Coverage Extension - Civil Authority**

In this Coverage Extension - Civil Authority, the described premises are premises to which this endorsement applies, as shown in the Declarations. When a Covered Cause of Loss causes damage to property other than property at the described premises, you may extend your Business Income and Extra Expense Coverages to apply to the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (a)** Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (b)** The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income and Extra Expense will begin

immediately following the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which coverage began.

**(4) Exclusions**

The following exclusions apply to Business Income and Extra Expense provided by this Additional Coverage only, in addition to those contained in **2. Exclusions** above.

**(a)** We will not be liable for any increase in loss of Business Income or Extra Expense caused by any of the following, whether or not any other cause or happening contributes concurrently or in any sequence to the loss or damage:

- 1)** Enforcement of any ordinance or law regulating construction, repair or demolition of buildings or structures;
- 2)** Interference at the described premises by strikers or other persons with:
  - a)** Rebuilding, repairing or replacing the property; or
  - b)** Resumption or continuation of business; or
- 3)** The suspension, lapse, or cancellation of any lease, license, contract or order beyond the "period of restoration".

**(b)** We will not cover loss or damage caused directly or indirectly by any of the following, whether or not any other cause or happening contributes concurrently or in any sequence to the loss or damage:

- 1)** Theft of any property, which is not an integral part of a building or structure at the time of loss. We will cover direct loss that ensues from a peril not excluded in this policy. We will cover direct loss by pillage and looting which occurs during and at the immediate place of riot or civil commotion.
- 2)** Any other consequential or remote loss.

**(5) Limit of Insurance**

**(a) Business Income**

Subject to **(c)** below, we will pay only for loss of your Business

Income that occurs during the "period of restoration", but not exceeding 12 consecutive months after the date of accidental direct physical loss of or damage to Covered Property, resulting from a Covered Cause of Loss.

**(b) Extra Expense**

Subject to **(c)** below, we will pay for necessary Extra Expense during the "period of restoration" starting with the date of damage or destruction. Payments under this coverage shall not be limited by the expiration of the policy.

**(c)** Our total payment for both Business Income and Extra Expense for any one occurrence shall not exceed \$100,000.

**(6) Loss Determination**

**(a)** The amount of Business Income loss will be determined based on:

- 1)** The Net Income of the business before the direct physical loss or damage occurred;
- 2)** The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- 3)** The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
- 4)** Other relevant sources of information, including:
  - a)** Your financial records and accounting procedures;
  - b)** Bills, invoices and other vouchers; and
  - c)** Deeds, liens or contracts.

**(b)** The amount of Extra Expense will be determined based on:

- 1)** All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct phys-



ical loss or damage had occurred. We will deduct from the total of such expenses:

- a) The salvage value that remains of any property bought for temporary use during the "period of restoration" once "operations" are resumed; and
  - b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
- 2) All necessary expenses that reduce the Business Income loss that otherwise would have been incurred.
- (c) Resumption Of Operations  
We will reduce the amount of your:
- 1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
  - 2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- (d) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

**(7) Loss Payment - Business Income and Extra Expense**

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if:

- (a) You have complied with all of the terms of this endorsement; and
- (b) 1) We have reached agreement with you on the amount of loss; or
- 2) An appraisal award has been made.

**6. Definitions**

The following definitions apply only to this Additional Coverage:

- a. "Electrical Disturbance" means electrical or magnetic damage, disturbance or erasure of electronic recordings.
- b. "Laptop Computer" means portable data collectors, notebook (laptop) computers, subnote book computers, palmtop computers, handheld computers and portable or any similar computer. Laptop computer does not mean cellular phone, wireless phone or pager.
- c. "Mechanical Breakdown" means component failure or mechanical malfunction, breakdown or failure.
- d. "Media" means materials on which information is recorded such as film, magnetic tape, paper tape, disks, drums, and cards. Media includes computer software.
- e. "Normal" means the condition that would have existed had no loss occurred.
- f. "Operations" means your business activities occurring at the described premises.
- g. "Period of Restoration" means the period of time that:
  - (1) Begins with the date of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the described premises; and
  - (2) Ends on the date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality.

"Period of Restoration" does not include any increased period required due to the enforcement of any law that:

  - (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (2) Regulates the prevention, control, repair, clean-up or restoration of environmental damage.

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.
- h. "Suspension" means:
  - (1) The slowdown or cessation of your business activities; or
  - (2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

All other policy terms and conditions apply.

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

## **ACCOUNTS RECEIVABLE**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Under **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

**Accounts Receivable**

We will pay:

- a. All amounts your customers owe you that you cannot collect;
- b. Interest charges on loans you secure to offset impaired receipts until we pay these amounts;
- c. Collection costs in excess of normal; and
- d. Other expenses you reasonably incur to re-establish your records which result from direct physical loss of or damage to your records of accounts receivable:
  - i. caused by or resulting from any Covered Causes Of Loss; and
  - ii. which occurs on the premises described in the Declarations.

Our payment for any one loss shall not exceed the Limit of Insurance shown in the Declarations for ACCOUNTS RECEIVABLE.

2. Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage.

- a. Bookkeeping, accounting or billing errors or omissions.
- b. Falsification, alteration, concealment or destruction of records done to conceal the wrongful giving, taking or withholding of money, securities or other property. This exclusion applies only to the extent of the wrongful giving, taking or withholding.
- c. Electrical or magnetic injury, disturbance or erasure of electronic recordings. But we do cover direct loss caused by lightning.
- d. We will not pay for any loss that relies solely upon an audit of records on an inventory computation to prove its factual existence.

3. In addition to the conditions of this policy, the following conditions apply only to this Additional Coverage:

**a. Protection of Records of Accounts Receivable**

For coverage to apply under this Additional Coverage, you must keep all records of accounts receivable in a locked safe or vault when:

- (1) You are not open for business; or
- (2) You are not using such records; or
- (3) Such records are not removed from premises as permitted under the Additional Coverage, **Preservation of Property**.

**b. The following is added to the Loss Payment Condition:**

- (1) If you cannot accurately establish the accounts receivable outstanding as of the time of loss or damage, the following method will be used:
  - (a) Determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and

- (b) Adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
- (2) The following will be deducted from the total amount of accounts receivable, however that amount is established:
  - (a) The amount of the accounts for which there is no loss or damage;
  - (b) The amount of the accounts that you are able to re-establish or collect;
  - (c) An amount to allow for probable bad debts that you are normally unable to collect; and
  - (d) All unearned interest and service charges.

All other policy terms and conditions apply.

54218 (3-13)

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Page 2 of 2

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

## **MONEY AND SECURITIES**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

**A. A. COVERAGE** is amended as follows:

1. Under **2. Property Not Covered**, a. is deleted and replaced by the following for this endorsement only:

a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities.

However, "money" and "securities" are covered as provided by this endorsement.

2. Under **4. Additional Coverages**, the following Additional Coverage is added:

**Money And Securities**

**a. Inside The Premises**

(1) We will pay for loss of "money" and "securities" inside the "premises" or a "banking premises" resulting directly from:

(a) "Theft"; or

(b) Disappearance or destruction.

(2) We will pay for loss from damage to the "premises" or its exterior resulting directly from an actual or attempted "theft" of "money" and "securities" if you are the owner of the "premises" or are liable for damage to it.

(3) We will pay for loss of, and loss from damage to, a locked safe, vault, cash register, cash box or cash drawer located in the "premises" resulting directly from an actual or attempted:

(a) "Theft" of; or

(b) Unlawful entry into those containers.

**b. Outside The Premises**

(1) We will pay for loss of "money" and "securities" outside the "premises" in the care and custody of a "messenger" or an armored motor vehicle company. The loss must result from:

(a) "Theft"; or

(b) Disappearance or destruction.

(2) Any covered "money" and "securities" loss from an armored motor vehicle company, we will pay only for the amount of loss you cannot recover:

(a) Under your contract with the armored motor vehicle company; and

(b) From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

**B. EXCLUSIONS**

1. The Covered Causes Of Loss Form shown in the Declarations as applicable to Property, does not apply to this coverage.

2. We will not pay for loss caused by any of the following:

a. **Accounting Or Arithmetical Errors Or Omissions:** Loss resulting from accounting or arithmetical errors or omissions.

b. **Acts Committed By You, Your Partners Or Your Members:** Loss resulting from any dishonest or criminal act committed by you or any of your partners or members whether acting alone or in collusion with other persons.

c. **Acts Of Employees, Managers, Directors, Trustees Or Representatives:** Loss resulting from any dishonest or criminal act committed by any of your "employees", managers, directors, trustees or authorized representatives:

(1) Acting alone or in collusion with other persons; or

(2) While performing services for you or otherwise.

d. **Exchanges Or Purchases:** Loss resulting from the giving or surrendering of property in any exchange or purchase.

e. **Fire:** Loss from damage to the "premises" resulting from fire, however caused.

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- f. Governmental Action:** Loss resulting from seizure or destruction of property by order of governmental authority.
- g. Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:
- (1) Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, "money" or "securities".
  - (2) Payment of damages of any type for which you are legally liable. However, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - (3) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
- h. Legal Expenses:** Expenses related to any legal action.
- i. Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
- j. War And Military Action:** Loss or damage resulting from:
- (1) War, including undeclared or civil war;
  - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- k. Money Operated Devices:** Loss of property contained in any money operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.
- l. Transfer Or Surrender Of Property:**
- (1) Loss of property after it has been transferred or surrendered to a person or place outside the "premises" or "banking premises":
    - (a) On the basis of unauthorized instructions; or
    - (b) As a result of a threat to do:
      - 1) Bodily harm to any person; or
      - 2) Damage to any property.
  - (2) However, this exclusion does not apply under **A.2.b.** above to loss of covered "money" and "securities" while outside the "premises" in the care and custody of a "messenger" if you:
    - (a) Had no knowledge of any threat at the time the conyenance began; or
    - (b) Had knowledge of a threat at the time the conyenance began, but the loss was not related to the threat.
- m. Vandalism:** Loss from damage to the "premises" or its exterior or to containers of covered "money" and "securities" by vandalism or malicious mischief.
- n. Voluntary Parting Of Title To Or Possession Of Property:** Loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.
- C. LIMIT OF INSURANCE**  
The most we will pay for loss of "money" and "securities" inside the "premises", and outside the "premises" are the Limits of Insurance shown in the Declarations for MONEY AND SECURITIES.
- D. DEDUCTIBLE**  
We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for MONEY AND SECURITIES. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance.
- E. GENERAL CONDITIONS**  
The following Conditions apply in addition to the Common Policy Conditions:
- 1. Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
    - a. Any additional persons become "employees"; or
    - b. You acquire the use and control of any additional "premises" any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
      - a. Give us written notice within 30 days thereafter; and
      - b. Pay us an additional premium.
  - 2. Discovery Period For Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
  - 3. Duties In The Event Of Loss**
    - a. After you discover a loss or a situation that may result in loss of, or loss from damage to, covered "money" or "securities" you must:
      - (1) Notify us as soon as possible.

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- (2) Submit to examination under oath at our request and give us a signed statement of your answers.
- (3) Give us a detailed, sworn proof of loss within 120 days.
- (4) Cooperate with us in the investigation and settlement of any claim.
- b. If you have reason to believe that any loss of or loss from damage to, covered "money" or "securities" involves a violation of law, you must notify the police.
- 4. Joint Insured**
- a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named Insured ceases to be covered, then the next named Insured will become the first named Insured.
- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An "employee" of any Insured is considered to be an "employee" of every Insured.
- d. If this insurance or any of its coverages are canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
- e. We will not pay more for loss sustained by more than one Insured than the amount we should pay if all the loss had been sustained by one Insured.
- 5. Legal Action Against Us:** You may not bring any legal action against us involving loss:
- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you discover the loss.
- 6. Loss Covered Under More Than One Coverage Of This Insurance:** If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:
- a. The actual amount of loss; or
- b. The sum of the limits of insurance applicable to those coverages.
- 7. Loss Sustained During Prior Insurance**
- a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
- (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
- (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
- b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
- (1) This insurance as of its effective date; or
- (2) The prior insurance had it remained in effect.
- 8. Loss Covered Under This Insurance And Prior Insurance Issued By Us Or Any Affiliate:** If any loss is covered:
- a. Partly by this insurance; and
- b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.
- 9. Non-Cumulation Of Limit Of Insurance:** Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
- 10. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not or more than the Limit of Insurance.
- 11. Ownership Of Property; Interests Covered:** The property covered under this insurance is limited to property:
- a. That you own or hold; or
- b. For which you are legally liable.
- However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.
- 12. Policy Period**
- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss

that you sustain through acts committed or events occurring during the Policy Period.

- 13. Records:** You must keep records of all Covered Property so we can verify the amount of any loss.
- 14. Recoveries**
- a.** Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
- (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made; and
  - (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.
- b.** Recoveries do not include any recovery:
- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
  - (2) Of original "securities" after duplicates of them have been issued.
- 15. Territory:** This insurance covers only acts committed or events occurring within the United States of America (including its territories and possessions), Puerto Rico and Canada.
- 16. Transfer Of Your Rights Of Recovery Against Others To Us:** You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.
- 17. Valuation - Settlement**
- a.** Subject to the Limit of Insurance provision we will pay for:
- (1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:
    - (a) At face value in the "money" issued by that country; or
    - (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.
  - (2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:
    - (a) Pay the value of such "securities" or

replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or

- (b)** Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
- 1) Value of the "securities" at the close of the business on the day the loss was discovered; or
  - 2) Limit of Insurance.
- (3)** Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:
- (a) Actual cash value of the property on the day the loss was discovered;
  - (b) Cost of repairing the property or "premises"; or
  - (c) Cost of replacing the property with property of like kind and quality.
- We may, at our option, pay the actual cash value of the property or repair or replace it.
- If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.
- b.** We may, at our option, pay for loss of, or loss from damage to, property other than "money":
- (1) In the "money" of the country in which the loss occurred; or
  - (2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.
- c.** Any property that we pay for or replace becomes our property.
- F. DEFINITIONS**
1. "Banking Premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.
  2. "Employee" means:
    - a.** Any natural person:
      - (1) While in your service (and for 30 days after termination of service);
      - (2) Whom you compensate directly by salary, wages or commissions; and

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- (3) Whom you have the right to direct and control while performing services for you; or
- b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises". However, "employee" does not mean any:
- (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.
3. "Messenger" means you, any of your partners or any "employee" while having care and custody of the property outside the "premises".
4. "Money" means:
- a. Currency, coins and bank notes in current use and having a face value; and
- b. Travelers checks, register checks and money orders held for sale to the public.
5. "Occurrence" means an:
- a. Act or series of related acts involving one or more persons; or
- b. Act or event, or a series of related acts or events not involving any person.
6. "Premises" means the interior of that portion of any building you occupy in conducting your business.
7. "Property Other Than Money And Securities" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form as Property Not Covered.
8. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:
- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you but does not include "money".
9. "Theft" means any act of stealing.
10. "Watchperson" means any person you retain specifically to have care and custody of property inside the "premises" and who has no other duties.

All other policy terms and conditions apply.



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

## **FORGERY OR ALTERATION**

This endorsement adds Crime Coverage to the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

### **A. COVERAGE**

We will pay for loss involving Covered Instruments resulting directly from the Covered Causes of Loss.

- 1. Covered Instruments:** Checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in "money" that are:
  - a. Made or drawn by or drawn upon you;
  - b. Made or drawn by one acting as your agent; orthat are purported to have been so made or drawn.
- 2. Covered Cause of Loss:** Forgery or alteration of, on or in any Covered Instrument.

### **3. Coverage Extension**

**Legal Expenses:** If you are sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and you have our written consent to defend the suit, we will pay for any reasonably legal expenses that you incur and pay in that defense. The amount we will pay under this extension is in addition to the Limit of Insurance applicable to this insurance.

### **B. EXCLUSIONS**

We will not pay for loss as specified below:

- 1. Acts Committed by You or Your Partners:** Loss resulting from any dishonest or criminal act committed by you or any of your partners whether acting alone or in collusion with other persons.
- 2. Acts of Employees, Directors, or Trustees:** We will not pay for loss resulting from any dishonest or criminal act committed by any of your "employees", directors, or trustees:
  - a. Whether acting alone or in collusion with other persons; or
  - b. Whether while performing services for you or otherwise.
- 3. Governmental Action:** Loss resulting from seizure or destruction or property by order of governmental authority.

4. **Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:
  - a. Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Instruments.
  - b. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - c. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
5. **Legal Expenses:** Expenses related to any legal action.
6. **Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
7. **War and Similar Actions:** Loss resulting from war, whether or not declared, warlike action, insurrection, rebellion or revolution, or any related act or incident.

### C. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the Limit of Insurance shown in the Declarations for FORGERY AND ALTERATION.

### D. DEDUCTIBLE

We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for FORGERY AND ALTERATION. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance. This provision does not apply to legal expenses paid under the Coverage Extension.

### E. GENERAL CONDITIONS

1. **Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
  - a. Any additional persons become "employees"; or
  - b. You acquire the use and control of any additional "premises";any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
  - a. Give us written notice within 30 days thereafter; and
  - b. Pay us an additional premium.
2. **Discovery Period for Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
3. **Duties in the Event of Loss:** After you discover a loss or a situation that may result in loss of, or loss from damage to, Covered Instruments you must:
  - a. Notify us as soon as possible.

- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Give us a detailed, sworn proof of loss within 120 days.
- d. Cooperate with us in the investigation and settlement of any claim.

#### 4. Joint Insured

- a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named Insured ceases to be covered, then the next named Insured will become the first named Insured.
- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An "employee" of any Insured is considered to be an "employee" of every Insured.
- d. If this insurance or any of its coverages is canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
- e. We will not pay more for loss sustained by more than one Insured than the amount we should pay if all the loss had been sustained by one Insured.

#### 5. Legal Action Against Us: You may not bring any legal action against us involving loss:

- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you discover the loss.

#### 6. Loss Covered Under More Than One Coverage of This Insurance: If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:

- a. The actual amount of loss; or
- b. The sum of the limits of insurance applicable to those coverages.

#### 7. Loss Sustained During Prior Insurance

- a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
  - (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
  - (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
- b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
  - (1) This insurance as of its effective date; or

(2) The prior insurance had it remained in effect.

**8. Loss Covered Under This Insurance and Prior Insurance Issued by Us or Any Affiliate:** If any loss is covered:

- a. Partly by this insurance; and
- b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

**9. Non-Cumulation of Limit of Insurance:** Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

**10. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not or more than the Limit of Insurance.

**11. Ownership of Property; Interests Covered:** The property covered under this insurance is limited to property:

- a. That you own or hold; or
- b. For which you are legally liable.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.

**12. Policy Period**

- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss that you sustain through acts committed or events occurring during the Policy Period.

**13. Records:** You must keep records of all Covered Instruments so we can verify the amount of any loss.

**14. Recoveries**

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
  - (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made;
  - (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.
- b. Recoveries do not include any recovery:
  - (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or

(2) Of original "securities" after duplicates of them have been issued.

**15. Territory:** This insurance covers only acts committed or events occurring within the United States of America, U.S. Virgin Islands, Puerto Rico, Canal Zone or Canada.

**16. Transfer of Your Rights of Recovery Against Others to Us:** You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

### 17. Valuation - Settlement

a. Subject to the Limit of Insurance provision we will pay for:

(1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America;

(a) At face value in the "money" issued by that country; or

(b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

(2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:

(a) Pay the value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities";

(b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

i. Value of the "securities" at the close of the business on the day the loss was discovered; or

ii. Limit of Insurance.

(3) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:

(a) Actual cash value of the property on the day the loss was discovered;

(b) Cost of repairing the property or "premises"; or

(c) Cost of replacing the property with property of like kind and quality.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.

b. We may, at our option, pay for loss of, or loss from damage to, property other than "money:"

(1) In the "money" of the country in which the loss occurred; or

(2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.

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c. Any property that we pay for or replace becomes our property.

**18. Facsimile Signatures:** We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.

**19. Proof of Loss:** You must include with your proof of loss any instrument involved in that loss, or if that is not possible, an affidavit setting forth the amount and cause of loss.

## F. DEFINITIONS

1. **"Employee"** means:

a. Any natural person:

(1) While in your service (and for 30 days after termination of service);

(2) Whom you compensate directly by salary, wages or commissions; and

(3) Whom you have the right to direct and control while performing services for you; or

b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises".

But "employee" does not mean any:

(1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.

2. **"Money"** means:

a. Currency, coins and bank notes in current use and having a face value; and

b. Travelers checks, register checks and money orders held for sale to the public.

3. **"Occurrence"** means all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments.

4. **"Property Other Than Money and Securities"** means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form and Property Not Covered.

5. **"Securities"** means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

All other policy terms and conditions apply.

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

## EMPLOYEE DISHONESTY

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

**A. A. COVERAGE** is amended as follows:

We will pay for loss involving Covered Property resulting directly from the Covered Cause of Loss.

1. **Covered Property** for this endorsement means "money", "securities", and "property other than money and securities".
2. **Covered Cause of Loss** means "Employee Dishonesty".
3. **Coverage Extension**  
**Employee Temporarily Outside Coverage Territory:** We will pay for loss caused by any "employee" while temporarily outside the territory specified in **E. GENERAL CONDITIONS, 15. Territory** for a period not more than 90 days. The amount we pay under this Extension is part of, not in addition to, the Limit of Insurance shown in the Declarations for **EMPLOYEE DISHONESTY**.
4. "Money" and "securities" as defined in this endorsement are withdrawn from **2. Property Not Covered**.

**B. EXCLUSIONS**

1. The Covered Causes Of Loss Form shown in the Declarations as applicable to Property, does not apply to this Coverage.
2. We will not pay for loss caused by any of the following:
  - a. **Acts Committed By You, Your Partners Or Your Members:** Loss resulting from any dishonest or criminal act committed by you, any of your partners or members whether acting alone or in collusion with other persons.
  - b. **Governmental Action:** Loss resulting from seizure or destruction of property by order of governmental authority.
  - c. **Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:

- (1) Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Property.
  - (2) Payment of damages of any type for which you are legally liable. However, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - (3) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
- d. **Legal Expenses:** Expenses related to any legal action.
  - e. **Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
  - f. **War And Military Action:**  
 Loss or damage resulting from:
    - (1) War, including undeclared or civil war;
    - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
    - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
  - g. **Employee Canceled Under Prior Insurance:** Loss caused by any "employee" of yours, or predecessor in interest of yours, for whom similar prior insurance has been canceled and not reinstated since the last such cancellation.
  - h. **Inventory Shortages:** Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

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- (1) An inventory computation; or
- (2) A profit and loss computation.

#### C. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the Limit of Insurance shown in the Declarations for EMPLOYEE DISHONESTY.

#### D. DEDUCTIBLE

1. We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for EMPLOYEE DISHONESTY. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance. This provision does not apply to legal expenses paid under the Coverage Extension.
2. You must:
  - a. Give us notice as soon as possible of any loss of the type insured under this Coverage Form even though it falls entirely within the Deductible Amount.
  - b. Upon our request, give us a statement describing the loss.

#### E. GENERAL CONDITIONS

1. **Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
  - a. Any additional persons become "employees"; or
  - b. You acquire the use and control of any additional "premises" any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
    - a. Give us written notice within 30 days thereafter; and
    - b. Pay us an additional premium.
2. **Discovery Period For Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
3. **Duties In The Event Of Loss:** After you discover a loss or a situation that may result in loss of, or loss from damage to Covered Property, you must:
  - a. Notify us as soon as possible.
  - b. Submit to examination under oath at our request and give us a signed statement of your answers.
  - c. Give us a detailed, sworn proof of loss within 120 days.
  - d. Cooperate with us in the investigation and settlement of any claim.
4. **Joint Insured**
  - a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named

Insured ceases to be covered, then the next named Insured will become the first named Insured.

- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
  - c. An "employee" of any Insured is considered to be an "employee" of every Insured.
  - d. If this insurance or any of its coverages are canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
  - e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.
5. **Legal Action Against Us:** You may not bring any legal action against us involving loss:
    - a. Unless you have complied with all the terms of this insurance;
    - b. Until 90 days after you have filed proof of loss with us; and
    - c. Unless brought within 2 years from the date you discover the loss.
  6. **Loss Covered Under More Than One Coverage Of This Insurance:** If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:
    - a. The actual amount of loss; or
    - b. The sum of the limits of insurance applicable to those coverages.
  7. **Loss Sustained During Prior Insurance**
    - a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
      - (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
      - (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
    - b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
      - (1) This insurance as of its effective date; or
      - (2) The prior insurance had it remained in effect.

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**8. Loss Covered Under This Insurance And Prior Insurance Issued By Us Or Any Affiliate:** If any loss is covered:

- a. Partly by this insurance; and
  - b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest
- the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

**9. Non-Cumulation Of Limit Of Insurance:**

Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

- 10. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not for more than the Limit of Insurance.

**11. Ownership Of Property; Interests Covered:**

The property covered under this insurance is limited to property:

- a. That you own or hold; or
  - b. For which you are legally liable.
- However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.

**12. Policy Period**

- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss that you sustain through acts committed or events occurring during the Policy Period.

- 13. Records:** You must keep records of all Covered Property so we can verify the amount of any loss.

**14. Recoveries**

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
  - (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made; and

- (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.

- b. Recoveries do not include any recovery:

- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
- (2) Of original "securities" after duplicates of them have been issued.

- 15. Territory:** This insurance covers only acts committed or events occurring within the United States of America (including its territories and possessions), Puerto Rico and Canada.

**16. Transfer Of Your Rights Of Recovery Against Others To Us:**

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

**17. Valuation - Settlement**

- a. Subject to the Limit of Insurance provision we will pay for:

- (1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:

- (a) At face value in the "money" issued by that country; or
- (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

- (2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:

- (a) Pay the value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or

- (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

- 1) Value of the "securities" at the close of the business on the day

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the loss was discovered; or

**2) Limit of Insurance.**

**(3) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:**

- (a) Actual cash value of the property on the day the loss was discovered;**
- (b) Cost of repairing the property or "premises"; or**
- (c) Cost of replacing the property with property of like kind and quality.**

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.

- b. We may, at our option, pay for loss of, or loss from damage to, property other than "money":**
  - (1) In the "money" of the country in which the loss occurred; or**
  - (2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.**
- c. Any property that we pay for or replace becomes our property.**

**18. Cancellation As To Any Employee:** This insurance is canceled as to any "Employee":

- a. Immediately upon discovery by:**
  - (1) You; or**
  - (2) Any of your partners, officers or directors not in collusion with the "employee"**

of any dishonest act committed by that "employee" whether before or after becoming employed by you.
- b. On the date specified in a notice mailed to you. That date will be at least 30 days after the date of mailing. The notice will be mailed to you at your last mailing address known to us.**

**F. DEFINITIONS**

- 1. "Employee" means:**
  - a. Any natural person:**
    - (1) While in your service (and for 30 days after termination of service);**
    - (2) Whom you compensate directly by salary, wages or commissions; and**
    - (3) Whom you have the right to direct and control while performing services for you; or**

- b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises". However, "employee" does not mean any:**
  - (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or**
  - (2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.**

- 2. "Employee Dishonesty" in paragraph A.2. means only dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons, except you or a partner, with the manifest intent to:**
  - a. Cause you to sustain loss; and also**
  - b. Obtain financial benefit (other than employee benefits earned in the normal course of employment, including: salaries, commissions, fees, bonuses, promotions, awards, profit sharing or pensions) for:**
    - (1) The "employee"; or**
    - (2) Any person or organization intended by the "employee" to receive that benefit.**
- 3. "Money" means:**
  - a. Currency, coins and bank notes in current use and having a face value; and**
  - b. Travelers checks, register checks and money orders held for sale to the public.**
- 4. "Occurrence" means all loss caused by, or involving one or more "employees", whether the result of a single act or series of acts.**
- 5. "Property Other Than Money And Securities" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form as Property Not Covered.**
- 6. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:**
  - a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and**
  - b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you**

but does not include "money".

All other policy terms and conditions apply.

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

**ILLINOIS CHANGES**

This endorsement modifies insurance provided under the COMMERCIAL PROPERTY COVERAGE PART.

- A. The following is added to The LEGAL ACTION AGAINST US Condition:  
The two year period for legal action against us is extended by the number of days between the date the proof of loss is filed with us and the date we deny the claim in whole or in part.
- B. If this policy covers:
  - 1. The following in a. and b., then Paragraphs 2. and 3. apply:
    - a. Real property used principally for residential purposes up to and including a four family dwelling; or
    - b. Household or personal property that is usual or incidental to the occupancy of any premises used for residential purposes.
  - 2. The second paragraph of the Appraisal Condition is deleted and replaced by the following:
    - a. Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except as provided in b. below.
    - b. We will pay your appraiser's fee and the umpire's appraisal fee, if the following conditions exist:
      - (1) You demanded the appraisal; and
      - (2) The full amount of loss, as set by your appraiser, is agreed to by our appraiser or by the umpire.
  - 3. The Concealment, Misrepresentation Or Fraud Condition is replaced by the following:  
**CONCEALMENT, MISREPRESENTATION OR FRAUD**
    - a. This Coverage Part or Coverage Form is void if you or any insured ("insured") commit fraud or conceal or misrepresent a fact in the process leading to the issuance of this insurance, and such fraud, concealment or misrepresentation is stated in the policy or endorsement or in the written application for this policy and:
      - (1) Was made with actual intent to deceive; or
      - (2) Materially affected either our decision to provide this insurance or the hazard we assumed.
 However, this condition will not serve as a reason to void this Coverage Part or Coverage Form after the Coverage Part or Coverage Form has been in effect for one year or one policy term, whichever is less.
    - b. This Coverage Part or Coverage Form is void if you or any other insured ("insured"), at any time subsequent to the issuance of this insurance, commit fraud or intentionally conceal or misrepresent a material fact relating to:
      - (1) This Coverage Part or Coverage Form;
      - (2) The Covered Property;
      - (3) Your interest in the Covered Property; or
      - (4) A claim under this Coverage Part or Coverage Form.
    - c. Notwithstanding the limitations stated in 3.a. above, we may cancel the Coverage Part or Coverage Form in accordance with the terms of the Cancellation Condition.
- C. For the Commercial Property Coverage Part, the following exclusion and related provisions are added to Paragraph B.2. Exclusions in the Causes of Loss Forms and to any Coverage Form or policy to which a Causes of Loss Form is not attached:
  - 1. We will not pay for loss or damage arising out of any act committed:
    - a. By or at the direction of any insured; and
    - b. With the intent to cause a loss.
  - 2. However, this exclusion will not apply to deny payment to any innocent co-insured who did not cooperate in or contribute to the creation of the loss if:
    - a. The loss arose out of a pattern of criminal domestic violence; and
    - b. The perpetrator of the loss is criminally prosecuted for the act causing the loss.

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- 3. If we pay a claim pursuant to Paragraph C.2., our payment to the insured is limited to that insured's insurable interest in the property less any payments we first made to a mortgagee or other party with a legal secured interest in the property. In no event will we pay more than the Limit of Insurance.
- D. If this policy includes the MOTEL/HOTEL PLUS - CRIME COVERAGE ENDORSEMENT, condition g. Other Insurance is deleted and replaced by the following:
  - g. Other Insurance  
You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this policy. 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 policy bears to the Limits of Insurance of all applicable policies.

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Page 2 of 2

54334 (12-10)

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

## UTILITY SERVICES FAILURE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM  
 BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
 CAUSES OF LOSS - SPECIAL FORM

**A. A. COVERAGE** is amended as follows:

1. Under BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM AND CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **4. Additional Coverages**, the following is added:

**Utility Services Failure**

We shall pay for loss or damage to Covered Property due to the interruption of utility service(s) to the premises described in the Declarations. The interruption must result from direct physical damage by a Covered Cause of Loss to the property of your "local utility service".

2. Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM and BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **5. Additional Coverages**, the following is added:

**Utility Services Failure**

We shall pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to the interruption of utility service(s) to the premises described in the Declarations. The interruption must result from direct physical damage by a Covered Cause of Loss to the property of your "local utility service".

**B. Limits of Insurance**

The most we shall pay for the sum of **A.1.** and **2.** above, in any one loss, is the Limit of Insurance shown in the Declarations for UTILITY SERVICES FAILURE.

**C. Exclusions**

The following exclusions apply only to this endorsement:

**1. Perishable Stock**

We will not pay for loss or damage to "perishable stock".

**2. Power or Other Utility Grid Failure**

Under CAUSES OF LOSS - SPECIAL FORM, **B. EXCLUSIONS**, exclusion **1.e. Utility Services** is deleted and replaced by the following:

**e. Utility Services**

We shall not pay for loss or damage caused by or resulting from the failure to supply "communication supply services", "power supply services" or "water supply services" from any regional or national grid.

**D. Definitions**

1. Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, **F. DEFINITIONS**, and BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **D. DEFINITIONS**, **4.** "Period of restoration" is deleted and replaced by the following with respect to the coverage provided by this endorsement only:

4. "Period of restoration" means period of time that:

- a. Begins immediately following the time of the interruption of utility service(s) to premises described in the Declarations caused by or resulting from direct physical loss or damage by a Covered Cause of Loss to the property of your "local utility service"; and

- b. Ends on the date when the interruption of utility service to the premises described in the Declarations is restored.

"Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:

- a. Regulates the construction, use or repair, or requires the tearing down of any property; or
- b. Regulates the prevention, control, re-

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pair, clean-up or restoration of environmental damage.

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

2. The following definitions apply only to this Additional Coverage:
- a. "Communication Supply Services" meaning property supplying communication services, including telephone, radio, microwave or television services, to the described premises, that are not located on a described premises and not rented, leased or owned by any insured, such as:
    - (1) Communication transmission lines, including optic fiber transmission lines;
    - (2) Coaxial cables; and
    - (3) Microwave radio relays, except satellites.
  - b. "Local Utility Service" means your billing entity, repair entity or service entity directly supplying your "communication supply services", "power supply services" or "water supply services" to the premises described in the Declarations.

- c. "Perishable Stock" means merchandise held in storage or for sale that is refrigerated for preservation and is susceptible to loss or damage if the refrigeration fails.
- d. "Power Supply Services" meaning the following types of property supplying electricity, steam or gas to the described premises, that are not located on a described premises and not rented, leased or owned by any insured:
  - (1) Utility generating plants;
  - (2) Switching stations;
  - (3) Substations;
  - (4) Transformers; and
  - (5) Transmission lines.
- e. "Water Supply Services" mean the following types of property supplying water to the described premises, that are not located on a described premises and not rented, leased or owned by any insured:
  - (1) Pumping stations; and
  - (2) Water mains.

All other policy terms and conditions apply.

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

# FINE ARTS, COLLECTIBLES AND MEMORABILIA

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

**A. Under A. COVERAGE, 4. Additional Coverages,**  
the following Additional Coverage is added:

**Fine Arts, Collectibles and Memorabilia**

**1. Coverage**

We will pay for direct physical loss or damage to "fine arts", "collectibles" and "memorabilia" that are:

- a. Located at the premises described in the Declarations;
- b. Not held for sale; and
- c. Owned by:
  - (1) You; or
  - (2) If you are:
    - (a) An individual, your spouse.
    - (b) A partnership or a joint venture, your members, your partners and their spouses.
    - (c) A limited liability company, your members.
    - (d) An organization other than a partnership, joint venture or limited liability company, your "executive officers".
    - (e) A trust, your trustees.

**2. Exclusions**

Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage.

- a. An action committed by you or at your direction with the intent to cause loss or damage.
- b. Damage caused by any repairing, restoration or retouching process.
- c. Breakage of art glass windows, statuary, marble, glassware, bric-a-brac, porcelains and similar fragile articles unless caused by:
  - (1) Fire or lightning;
  - (2) Aircraft;

- (3) Theft or attempted theft;
- (4) Earthquake;
- (5) Flood or storm surge;
- (6) Malicious damage; or
- (7) Collision, derailment or overturn of conveyance except as we may state otherwise.
- d. Mysterious disappearance unless the loss is a direct result of forcible entry of which there is visible evidence.
- e. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

**3. Limit Of Insurance**

We will pay no more than the smallest of either:

- a. The cost to replace damaged property with new property of similar quality and features reduced by the amount of decrease in value because of age, wear, obsolescence or market value applicable to the damaged property immediately prior to the loss; or
- b. The limits shown in the Declarations for FINE ARTS, COLLECTIBLES AND MEMORABILIA.

In no event shall our payment for all items in any one loss exceed the limits shown in the Declarations for FINE ARTS, COLLECTIBLES AND MEMORABILIA.

Our payment for loss of or damage to "fine arts", "collectibles", and "memorabilia" will only be for the account of the owner of the property. This is an additional amount of insurance.

**4. Deductible**

No deductible applies to this Additional Coverage.

**5. Conditions**

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

- (1) Repair or replace any part of the pair or set to restore it to its value before the loss; or
  - (2) Pay the difference between the actual cash value of the property before and after the loss.
- b. In case of loss or damage to any part of property covered, consisting of several parts when complete, we shall pay only for the value of the part lost or damaged.
  - c. In the event of loss or damage to property covered, claim payment is subject to the insurable interest of the covered insured.
- B.** Under **F. ADDITIONAL CONDITIONS, Coinsurance**, does not apply to this coverage.
- C.** Under **C. LIMITATIONS** of CAUSES OF LOSS - SPECIAL FORM, paragraph **2.b.** does not apply to this Additional Coverage.
- D.** The following **Definitions** apply to this Additional Coverage only:

1. "Fine arts" mean paintings, etchings, pictures, tapestries, art glass windows and other bona fide works of art of rarity, historical value or artistic merit.
2. "Collectibles" mean objects collected as a hobby, for display or as an investment whose value may appreciate.
3. "Memorabilia" means objects valued for their connection to historical events, culture, entertainment or experiences worthy of remembrance.
4. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

All other policy terms and conditions apply.



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

## EQUIPMENT BREAKDOWN COVERAGE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CAUSES OF LOSS - BASIC FORM  
CAUSES OF LOSS - BROAD FORM  
CAUSES OF LOSS - SPECIAL FORM

**1. The BUILDING AND PERSONAL PROPERTY COVERAGE FORM is amended.**

**a. A. COVERAGE** is amended. The following coverage is added for purposes of this endorsement only.

We will pay for "Equipment Breakdown" in any one occurrence at any one location where "Equipment Breakdown" is shown in the Declarations. The most we will pay for "Equipment Breakdown" is shown in the Declarations and is subject to the Limits of Insurance section of this endorsement.

**b. A. COVERAGE, 4. Additional Coverages** is amended for purposes of this endorsement only.

**(1) Paragraph d. Pollutant Clean-up And Removal** is deleted and replaced by the following.

**d. Pollutant Clean-up And Removal**

We will pay for the pollutant clean-up, removal, repair or replacement of damaged Covered Property resulting from an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

This coverage does not include contamination of perishable stock by a refrigerant.

**(2) Paragraph e. Electronic Data** is deleted and replaced by the following.

**e. Electronic Data Restoration**

**(1)** We will pay for your reasonable and necessary cost to research, replace or restore "electronic data" which has been destroyed or corrupted as a result of "Equipment Breakdown". To the extent that "electronic data" is not replaced or restored, the loss

will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

**(2)** The term "electronic data" has the meaning set forth in the DEFINITIONS section of the BUILDING AND PERSONAL PROPERTY COVERAGE FORM.

**(3)** The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(3) The following Additional Coverages** are added.

**(a) Expediting Expenses**

We will pay for the expediting expense loss resulting from an "Equipment Breakdown" with respect to your damaged Covered Property. We will pay the "reasonable extra cost" to:

**1)** Make temporary repairs;  
**2)** Expedite permanent repairs; or  
**3)** Expedite permanent replacement.  
"Reasonable extra cost" shall mean "the extra cost of temporary repair and of expediting the repair of such damaged equipment of the insured, including overtime and the extra cost of express or other rapid means of transportation". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(b) Refrigerant Contamination**

We will pay for loss to your Covered Property that is damaged by contamination by a refrigerant used in the refrigerating, cooling or humidity control

equipment at the described premises as a result of an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(c) Spoilage Coverage**

1) We will pay for loss of "perishable goods" caused by spoilage resulting from lack of power, light, heat, steam or refrigeration caused by an "Equipment Breakdown" to types of property covered by this policy, that are:

- a) Located on or within 1,000 feet of your described premises; and
- b) Owned by you, the building owner (if you are a tenant), or owned by a public utility, or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission.

2) However, we will not pay for any physical loss or damage caused by or resulting from any of the causes of loss listed below, unless loss or damage not otherwise excluded results, then we will pay for such resulting damage:

- a) Fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water damage, earth movement; or
- b) Flood, unless an "Equipment Breakdown" ensues.

Our payment will be based upon the actual replacement cost of the "perishable goods" at the time of loss. The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(d) CFC Refrigerants**

We will pay for the "additional costs" to repair or replace Covered Property

because of the use or presence of a refrigerant containing CFC (chlorofluorocarbon) substances.

"Additional costs" mean those in excess of what would have been required to repair or replace Covered Property, had no CFC refrigerant been involved. We will also pay for additional loss as described under Spoilage Coverage or loss of Business Income Coverage provided by this endorsement, caused by the presence of a refrigerant containing CFC substances.

We will pay no more than the least of the following:

- 1) The cost to repair the damaged property and replace any lost CFC refrigerant;
- 2) The cost to repair the damaged property, retrofit the system to accept a non-CFC refrigerant, and charge the system with a non-CFC refrigerant; or
- 3) The cost to replace the system with one using a non-CFC refrigerant.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(e) Computer Equipment**

We will pay for direct physical loss or damage to your computers as a result of an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(f) Business Interruption, Extra Expense, Electronic Data and Service Interruption**

Any insurance provided for Business Income, Extra Expense or Electronic Data is extended to apply to your loss, damage or expense caused by an "Equipment Breakdown" to equipment that is owned by a utility, landlord or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks, data transmission or "cloud computing". The equipment must meet the definition of "Equipment Breakdown" except that it is not Covered Property.

We will pay:

- 1) Your actual loss sustained from a total or partial interruption of business; and
- 2) The reasonable extra expense you sustain to run your business during the interruption, caused solely by an "Equipment Breakdown", including an "Equipment Breakdown" to any transformer, electrical apparatus, or any covered equipment that is:
  - a) Located on or within 1,000 feet of your described premises;
  - b) Owned by you, the building owner (if you are a tenant), or owned by a public utility company; and
  - c) Used to supply electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(g) Temperature Fluctuation**

We will pay for loss of "perishable goods" only caused by or resulting from any condition or event to Covered Property that can be resolved by calibrating, resetting, tightening, adjusting or cleaning.

However, we will not pay for loss of "perishable goods" as a result of resetting the power supply to the Covered Property containing the "perishable goods".

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(h) Unauthorized Instruction**

We will pay for loss or damage to your "computer equipment" caused by an "unauthorized instruction" which results in an "Equipment Breakdown".

"Computer equipment" means Covered Property that is electronic computer or other data processing equipment, including peripherals used in conjunction with such equipment and electronic media and records.

"Unauthorized instruction" means a virus, harmful code or similar instruction

introduced into or enacted on a computer system or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(i) Risk Improvement**

If Covered Property suffers direct physical loss or damage caused by an "Equipment Breakdown", we will pay for the insured to improve the "power quality" of the electrical system or equipment at the loss location where the "Equipment Breakdown" occurred. "Power quality" means the conditions that allow electrical systems or equipment to operate as intended by limiting voltage fluctuations and other power influences that would adversely affect the operational performance and/or reduce the reliability or the lifespan of the electrical system.

We will pay the reasonable extra cost to improve "power quality" for the following electrical systems and/or equipment improvements:

- 1) Installation of surge protection devices (SPD's) which are installed at the loss location's line disconnect, load disconnect, or on specific pieces of equipment and that are certified by Underwriter Laboratories (UL) or has an equivalent certification. However SPD's do not include any SPD's which are cord-connected surge strips, direct plug-in SPD's or receptacle SPD's;
- 2) An upgrade and/or replacement of electrical panels, switchgear and/or circuit breakers; or
- 3) Electrical wire and wiring improvements which include installation of flexible conduit, junction boxes and/or ground wiring.

An invoice for implementation of this Additional Coverage must be sent to us within 180 days after the payment of the loss is received.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(j) Off-Premises Coverage**

We will pay for loss or damage to Covered Property resulting from a covered "Equipment Breakdown" while temporarily at a premises or location that is not a described premises. The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(4) The following is added to 5. Coverage Extensions.****Replacement Cost Coverage**

We will pay you the amount you actually spend to repair or replace your damaged property with new property of like kind, capacity, size and quality, whichever is less except for the following.

If any damaged property is not repaired or replaced, then we will pay only the actual cash value at the time of the "Equipment Breakdown".

**c. B. EXCLUSIONS AND LIMITATIONS** is

amended. The following provision is added for purposes of this endorsement only.

Under Business Interruption, Extra Expense and Service Interruption, we will not pay for:

- (1) The interruption of business that would not or could not have been carried on if the "Equipment Breakdown" had not occurred;
- (2) Your failure to use due diligence and dispatch and all reasonable means to resume business at the location(s) shown on the Declarations page; or
- (3) The part of any loss or expense that is due solely to the suspension, lapse or cancellation of a contract following an "Equipment Breakdown" extending beyond the time business would have resumed if the contract had not lapsed, been suspended or canceled.

**d. C. LIMITS OF INSURANCE** is deleted and replaced by the following for purposes of this endorsement only.**C. LIMITS OF INSURANCE**

1. The most we will pay for "Equipment Breakdown" for one or more coverages in any one occurrence at any one location is the amount equal to the "total insured value" at each location where "Equipment Breakdown" is shown in the Declarations. This provision does not apply to Paragraph C.4.
2. The limit of insurance for **Pollutant Clean-up And Removal, Electronic Data Restoration, Refrigerant Contamination, Spoilage Coverage,**

**Temperature Fluctuation, Risk Improvement and Off-Premises Coverage** are not additional limits of insurance, but are included in the "total insured value". We will pay the lesser of "total insured value" or:

- a. For Pollutant Clean-up And Removal, the greater of \$250,000 or the limit shown in the Declarations for Pollutant Clean-up And Removal or the limit shown in an endorsement that is attached to the property form;
  - b. For Electronic Data Restoration, up to \$100,000 for loss, damage or expense including actual loss of Business Income you sustain and necessary Extra Expense you incur;
  - c. For Refrigerant Contamination, up to \$750,000 for loss or damage;
  - d. For Spoilage Coverage, up to \$750,000 for loss or damage;
  - e. For Temperature Fluctuation, up to \$5,000 for loss including actual loss of Business Income you sustain and necessary Extra Expense you incur;
  - f. For Risk Improvement, 10% of the loss amount paid, up to a maximum limit of \$10,000; and
  - g. For Off-Premises Coverage, up to \$25,000 for loss or damage.
3. In no event will we pay more than the "total insured value" for each location where "Equipment Breakdown" is shown in the Declarations.
  4. As regards Business Interruption, Extra Expense and Service Interruption, our limit of liability for any one "Equipment Breakdown" is equal to twelve (12) consecutive months of actual loss sustained for a total or partial interruption of your business. The twelve (12) consecutive months begin on the date of the "Equipment Breakdown".
- e. F. ADDITIONAL CONDITIONS** is amended. The following conditions are added for purposes of this endorsement only.
- (1) **Suspension**  
Whenever Covered Property is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss to that Covered Property for the perils covered by

this endorsement. Coverage can be suspended and possibly reinstated by delivering or mailing a written notice of suspension or coverage reinstatement to:

- (a) Your last known address; or
- (b) The address where the property is located.

If we suspend your insurance, you will get a pro rata refund of premium. However, the suspension will be effective even if we have not yet made or offered a refund.

**(2) Jurisdictional Inspections**

If any Covered Property under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

**(3) Environmental, Safety and Efficiency Improvements**

If Covered Property requires replacement caused by an "Equipment Breakdown", we will pay your additional cost to replace with equipment that is better for the environment, safer, or more efficient than the equipment being replaced.

However, we will not pay more than 150% of what the cost would have been to repair or replace with like kind and quality. This condition does not apply to any property to which Actual Cash Value applies.

**(4) Green Environmental and Efficiency Improvements**

(a) If Covered Property requires repair or replacement caused by an "Equipment Breakdown", we will pay:

- 1) The lesser of the reasonable and necessary additional cost incurred by you to repair or replace physically damaged Covered Property with equipment of like kind and quality which qualifies as "Green". Like kind and quality includes similar size and capacity.
- 2) The additional reasonable and necessary fees incurred by you for an accredited professional certified by a "Green Authority" to participate in the repair or replacement of physically damaged Covered Property as "Green".
- 3) The additional reasonable and necessary cost incurred by you for certification or recertification of the repaired or replaced Covered Property as "Green".

- 4) The additional reasonable and necessary cost incurred by you for "Green" in the removal, disposal or recycling of damaged Covered Property.
- 5) The business interruption (if coverage is provided by the policy to which this endorsement is attached) loss during the additional time required for repair or replacement of Covered Property, consistent with "Green", in the coverage above.

We will not pay more than 150%, up to a maximum limit of \$100,000, of what the cost would have been to repair or replace with equipment of like kind and quality inclusive of fees, costs and any business interruption loss incurred as stated above.

**(b) Green Environmental and Efficiency Improvements** does not cover any of the following.

- 1) Covered Property does not include stock, raw materials, finished goods, "production machinery", merchandise, electronic data processing equipment not used in the functional support of the real property, process water, molds and dies, property in the open, property of others for which you are legally liable, or personal property of others.
- 2) Any loss adjusted on any valuation basis other than a repair or replacement cost basis as per E. LOSS CONDITIONS, 4. Loss Payment.
- 3) Any loss covered under any other section of this policy.
- 4) Any cost incurred because of any law or ordinance with which you were legally obligated to comply with prior to the time of the "Equipment Breakdown".

**(5) Other Insurance Issued By Us**

If this policy provides coverage for Data Processing Equipment Coverages, Electronic Data Processing Equipment, Refrigerated Products or Mechanical Breakdown where two or more of this policy's coverages apply to the same loss or damage, the Coverage of this endorsement shall supersede any coverages provided outside of this Equipment Breakdown Endorsement for the loss or damage that arises out of an "Equipment Breakdown" loss.

This Condition supersedes any similar Condition when provided by us in this policy.

**2. B. EXCLUSIONS** of the CAUSES OF LOSS FORMS is amended.

- a.** CAUSES OF LOSS - BASIC FORM and CAUSES OF LOSS - BROAD FORM are amended. The following exclusions are deleted for purposes of this endorsement only. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
- (1) Electrical or electronic wire, device, appliance, system or network; or
  - (2) Device, appliance, system or network utilizing cellular or satellite technology.
- For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:
- (a) Electrical current, including arcing;
  - (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
  - (c) Pulse of electromagnetic energy; or
  - (d) Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire. Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion.

- b.** CAUSES OF LOSS - SPECIAL FORM is amended. The following exclusions are deleted for purposes of this endorsement only.
- a.** Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
- (1) Electrical or electronic wire, device, appliance, system or network; or
  - (2) Device, appliance, system or network utilizing cellular or satellite technology.
- For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:
- (a) Electrical current, including arcing;
  - (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;

- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire. Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- c.** CAUSES OF LOSS - SPECIAL FORM, **C. LIMITATIONS** is amended. The following limitations are deleted for purposes of this endorsement only.
- (1) Steam boilers, steam pipes, steam engines, or steam turbines caused by or resulting from any condition or event inside such equipment. However, we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
  - (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than any explosion.

**3. DEFINITIONS** is amended.

- a.** CAUSES OF LOSS - SPECIAL FORM, "Specified Causes of Loss" is amended to include "Equipment Breakdown" for purposes of this endorsement only.
- b.** CAUSES OF LOSS - SPECIAL FORM, CAUSES OF LOSS - BASIC FORM and CAUSES OF LOSS - BROAD FORM is amended. The following definitions are added for purposes of this endorsement only.

"Cloud computing" means on-demand network access to a shared pool of computing resources via networks, servers, storage, applications and services provided by an organization with whom

you have a contract with using the following service models: Software as a Service (SaaS), Platform as a Service (PaaS) and Infrastructure as a Service (IaaS) on the following deployment models: public cloud, community cloud, hybrid cloud and private cloud.

"Electronic equipment" means devices which operate using many small electrical parts such as, but not limited to, microchips, transistors or circuits.

"Electronic equipment deficiency" means the quality or condition inside of "electronic equipment" which renders this equipment unexpectedly inoperable and which is operable again once a piece of "electronic equipment" has been replaced.

However, "electronic equipment deficiency" will not include replacement of "electronic equipment" for any condition that could have been resolved without replacement of the "electronic equipment" including but not limited to "computer equipment" maintenance or the reinstallation or incompatibility of software.

"Equipment Breakdown" means:

- (1) Physical loss or damage both originating within:
  - (a) Boilers, fired or unfired pressure vessels, vacuum vessels, and pressure piping, all normally subject to vacuum or internal pressure other than static pressure of contents, excluding:
    - 1) Waste disposal piping;
    - 2) Any piping forming part of a fire protective system;
    - 3) Furnaces; and
    - 4) Any water piping other than:
      - a) Boiler feed water piping between the feed pump and the boiler;
      - b) Boiler condensate return piping; or
      - c) Water piping forming part of a refrigerating or air conditioning system.
  - (b) All mechanical, electrical, "electronic equipment" or fiber optic equipment; and
- (2) Caused by, resulting from, or consisting of:
  - (a) Mechanical breakdown;
  - (b) Electrical or electronic breakdown and "electronic equipment deficiency"; or
  - (c) Rupture, bursting, bulging, implosion, or steam explosion.

- (3) However, "Equipment Breakdown" does not mean:

Physical loss or damage caused by or resulting from any of the following; however, if loss or damage not otherwise excluded results, then we will pay for such resulting damage:

- (a) Wear and tear;
- (b) Rust or other corrosion, decay, deterioration, hidden or latent defect, "fungi", wet rot, dry rot, virus, bacteria or any other quality in property that causes it to damage or destroy itself;
- (c) Smog;
- (d) Settling, cracking, shrinking or expansion;
- (e) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (f) Any accident, loss, damage, cost, claim, or expense, whether preventative, remedial, or otherwise, directly or indirectly arising out of or relating to the recognition, interpretation, calculation, comparison, differentiation, sequencing, or processing of data by any computer system including any hardware, programs or software;
- (g) Scratching or marring; and
- (h) Loss, damage, cost or expense directly caused by, contributed to by, resulting from or arising out of the following causes of loss:
  - 1) Fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water damage, earth movement; or
  - 2) Flood, unless an "Equipment Breakdown" ensues.

"Total insured value" means:

The sum of the limits for the following coverages if shown at the location where "Equipment Breakdown" is shown in the Declarations:

- (1) Building;
- (2) Business Personal Property;
- (3) Stock;
- (4) Personal Property of Others;
- (5) Tenants Improvements and Betterments;
- (6) Improvements and Alterations;

- (7)** Furniture;
- (8)** Fixtures;
- (9)** Machinery and Equipment;
- (10)** Personal Property in the Open;
- (11)** Legal Liability Real Property;
- (12)** Business Income and Extra Expense (when Business Income and Extra Expense - Actual Loss Sustained is shown in the Declarations, Business Income and Extra Expense applies at 25% of the sum of the building and business personal property limits at that location);
- (13)** Business Income (Without Extra Expense);
- (14)** Extra Expense; and
- (15)** Any other property described.

"Green" means products, materials, methods and processes certified by a "Green Authority" that conserve natural resources, reduce energy or water consumption, avoid toxic or other polluting emissions or otherwise minimize environmental impact.

"Green Authority" means an authority on "Green" buildings, products, materials, methods or processes certified and accepted by Leadership in Energy and Environmental Design (LEED®), "Green" Building Initiative Green Globes®, Energy Star Rating System or any other recognized "Green" rating system.

"Perishable goods" means stock preserved and maintained under controlled conditions and susceptible to loss or damage if the controlled conditions change.

"Production machinery" means any machine which processes, forms, shapes or transports raw materials, materials in process, waste materials or finished products.

All other policy terms and conditions apply.



64013 (12-10)

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

## **LIMITATION - SPECIALTY GLASS**

This endorsement modifies insurance provided under the following:

CAUSES OF LOSS - SPECIAL FORM  
CAUSES OF LOSS - BROAD FORM  
CAUSES OF LOSS - BASIC FORM

- A.** Under **LIMITATIONS** in Causes of Loss - Special Form and **LIMITATION** in Causes of Loss - Broad Form and Basic Form, the following limitation is added:  
We will not pay more than \$500 in any one occurrence for direct physical loss of or damage to "specialty glass" at the premises described in the Declarations regardless of the number of panes, plates or similar units of glass. Subject to this aggregate, we will not pay more than \$100 for any one pane, plate, multiple plate insulating unit, jalousie, louver or shutter.

This limitation does not apply to loss or damage by the "specified causes of loss", except vandalism.

- B.** Under **DEFINITIONS**, the following definition is added:  
"Specialty glass" means art glass, etched glass, half tone screens, memorial windows, mosaic art, roto-gravure screens, stained glass or stained glass in leaded sections.

All other policy terms and conditions apply.

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64013 (12-10)

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Page 1 of 1

000062

64042 (12-10)

## ILLINOIS CHANGES - ARTIFICIALLY GENERATED ELECTRICAL CURRENT EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL PROPERTY COVERAGE PART

**A.** The exclusion set forth in:

1. Paragraph **B.2.a.** of the CAUSES OF LOSS - BASIC FORM, the CAUSES OF LOSS - BROAD FORM and the CAUSES OF LOSS - SPECIAL FORM; and
2. Paragraph **B.2.b.** of the MORTGAGEHOLDERS ERRORS AND OMISSIONS COVERAGE FORM

is deleted and replaced by the following exclusion:  
We will not pay for loss or damage caused by or resulting from artificially generated electrical or magnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

1. Electrical or electronic wire, device, appliance, system or network; or

2. Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical or magnetic energy includes but is not limited to:

- (a) Electrical current, including arcing; or
- (b) Electrical charge produced or conducted by a magnetic field.

However, if fire results, we will pay for the loss or damage by that fire.

- B.** If Illinois Electrical Apparatus endorsement is included in this policy, **A.** above does not apply to such endorsement.

All other policy terms and conditions apply.

64042 (12-10)

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Page 1 of 1

64224 (1-16)

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

## CHANGES - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

### COMMERCIAL PROPERTY COVERAGE PART

**COMMERCIAL PROPERTY CONDITIONS, I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** is amended. The following condition is added.

If the claim paid is less than the agreed loss because of any deductible or other limiting terms, the recovery is

prorated between you and us based on the interest of each in the loss. This condition only applies if we pay for a loss and then payment is made by those responsible for the loss.

All other policy terms and conditions apply

64224 (1-16)

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Page 1 of 1

000063

## BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **H. DEFINITIONS**.

The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

### A. COVERAGE

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

#### 1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in Section **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

- a. Building**, meaning the building or structure described in the Declarations, including:
- (1) Completed additions;
  - (2) Fixtures, including outdoor fixtures;
  - (3) Permanently installed:
    - (a) Machinery; and
    - (b) Equipment;
  - (4) Building glass, meaning glass that is part of the building or structure;
  - (5) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
    - (a) Fire-extinguishing equipment;
    - (b) Outdoor furniture;
    - (c) Floor coverings; and
    - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering; and
  - (6) If not covered by other insurance:
    - (a) Additions under construction, alterations and repairs to the building or structure; and
    - (b) Materials, equipment, supplies and temporary structures, on or within 1,000 feet of the described prem-

ises, used for making additions, alterations or repairs to the building or structure.

- b. Your Business Personal Property** located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property - Separation Of Coverage endorsement:
- (1) Furniture and fixtures;
  - (2) Machinery and equipment;
  - (3) "Stock";
  - (4) All other personal property owned by you and used in your business;
  - (5) Labor, materials or services furnished or arranged by you on personal property of others;
  - (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
    - (a) Made a part of the building or structure you occupy but do not own; and
    - (b) You acquired or made at your expense but cannot legally remove; and
  - (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property Of Others.
- c. Personal Property Of Others** that is:
- (1) In your care, custody or control; and

- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

## 2. Property Not Covered

Covered Property does not include:

- a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and in your care, custody or control, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1) The lowest basement floor; or
  - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;
- n. "Electronic data", except as provided under the Additional Coverage - Electronic Data. This Paragraph n. does not apply to your "stock" of prepackaged software;
- o. The cost to replace or restore the information on valuable papers and records, including those which exist as "electronic data". Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valu-

able Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as "electronic data";

- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1) Are licensed for use on public roads; or
  - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

  - (a) Vehicles or self-propelled machines or automobiles you manufacture, process or warehouse;
  - (b) Vehicles or self-propelled machines, other than automobiles, you hold for sale;
  - (c) Rowboats or canoes out of water at the described premises; or
  - (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers; or
- q. The following property while outside of buildings:
  - (1) Grain, hay, straw or other crops; or
  - (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

## 3. Covered Causes Of Loss

See applicable Causes Of Loss Form as shown in the Declarations.

## 4. Additional Coverages

### a. Debris Removal

- (1) Subject to Paragraphs (3) and (4) below, we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Extract "pollutants" from land or water; or
  - (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4) below, the following provisions apply:
  - (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit

of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

(4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

**(5) Examples**

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

The following examples assume that there is no Coinsurance penalty.

**EXAMPLE #1**

Limit of Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$50,000
Amount of Loss Payable:	\$49,500
	(\$50,000 - \$500)
Debris Removal Expense:	\$10,000
Debris Removal Expense Payable:	\$10,000
	(\$10,000 is 20% of \$50,000.)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

**EXAMPLE #2**

Limit of Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$80,000
Amount of Loss Payable:	\$79,500
	(\$80,000 - \$500)
Debris Removal Expense:	\$30,000
Debris Removal Expense Payable	
Basic Amount:	\$10,500
Additional Amount:	\$10,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$30,000 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

**b. Preservation Of Property**

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 45 days, unless a higher number of days are shown in the Declarations, after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 per occurrence, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

**d. Pollutant Clean-up And Removal**

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". However, we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000, unless a higher limit is shown in the Declarations, for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

**e. Electronic Data**

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.
- (2) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage, Electronic Data, subject to the following:
  - (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage, Electronic

Data, is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.

- (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage, Electronic Data, includes Collapse as set forth in that form.
  - (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to coverage provided under this Additional Coverage, Electronic Data.
  - (d) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. However, there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.
- (3) Limit of Insurance
- (a) Annual Aggregate Limit – The most we will pay under this Additional Coverage, Electronic Data, for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations.
  - (b) Per Occurrence Limit - Subject to (a) above, we will pay up to the following amounts in any one occurrence of loss or damage:
    - 1) \$10,000 if the computer system(s) are equipped with active virus scanning or anti-virus software at the time of loss; or

- 2) \$2,500 if the computer system(s) are not equipped with active virus scanning or anti-virus software at the time of loss.

If loss payment for the first occurrence does not exhaust the annual aggregate limit shown in (a) above, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

**f. Fire Extinguisher Systems Recharge Expense**

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 1,000 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$10,000, unless a higher limit is shown in the Declarations, in any one occurrence.

**g. Arson Reward**

- (1) We will pay for information which leads to a conviction for arson in connection with a fire loss to Covered Property insured by this policy.
- (2) The most we will pay per occurrence is \$7,500, unless a higher limit is shown in the Declarations, regardless of the number of persons who provide information.

**h. Theft Reward**

- (1) We will pay for information which leads to a conviction for theft of Covered Property insured by this policy.

- (2) The most we will pay per occurrence is 25% of the amount of covered loss or \$7,500, whichever is less, unless a higher limit is shown in Declarations, regardless of the number of persons who provide information.

**i. Rekeying of Locks**

- (1) If the keys to locks on doors of the building described in the Declarations are a part of a theft loss covered by this policy, we will pay reasonable necessary expenses you incur to rekey locks on doors of the building described in the Declarations.
- (2) The most we will pay per occurrence is \$1,000, unless a higher limit is shown in the Declarations.

**5. Coverage Extensions**

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises.

If a coinsurance percentage of 80% or more, or a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

**a. Newly Acquired Or Constructed Property**

**(1) Buildings**

If this policy covers Building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
- 1) Similar use as the building described in the Declarations; or
- 2) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$500,000, unless a higher limit is shown in the Declarations, at each building.

**(2) Your Business Personal Property**

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:
- 1) Business personal property (other than "stock"), including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;

- 2) Business personal property (other than "stock"), including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or
- 3) Business personal property (other than "stock") that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this Extension is \$250,000, unless a higher limit is shown in the Declarations, at each building.

- (b) This Extension does not apply to:
- 1) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
  - 2) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

**(3) Period Of Coverage**

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 60 days expire after you acquire the property or begin construction of that part of the building that would qualify as covered property, unless a higher number of days are shown in the Declarations; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as covered property.

**b. Personal Effects And Property Of Others**

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This Extension does not apply to loss or damage by theft.

- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher limit is shown in the Declarations, at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**c. Valuable Papers and Records (Other Than "Electronic Data")**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. However, this Extension does not apply to valuable papers and records which exist as "electronic data".
- (2) If the Causes Of Loss - Special Form applies, coverage under this Extension is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (3) If the Causes Of Loss – Broad Form applies, coverage under this Extension includes Collapse as set forth in that form.
- (4) Under this Extension, the most we will pay in any one occurrence to replace or restore the lost information is:
  - (a) \$10,000 at each described premises; and
  - (b) \$10,000 while valuable papers and records are away from a described premises unless higher limit(s) are shown in the Declarations. Such amounts are additional insurance.
- (5) We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

**d. Property Off-premises**

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property, including "stock",



while it is away from the described premises, if it is:

- (a) Temporarily at a location you do not own, lease or operate;
  - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
  - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to Covered Property:
- (a) In or on a vehicle; or
  - (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.
- (3) The most we will pay for loss or damage under this Extension is \$10,000, unless a higher limit is shown in the Declarations.

**e. Outdoor Property**

You may extend the insurance provided by this Coverage Form to apply to your outdoor:

- (1) Fences, trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:
- (a) Fire;
  - (b) Lightning;
  - (c) Explosion;
  - (d) Riot or Civil Commotion; or
  - (e) Aircraft.
- The most we will pay for loss or damage is \$10,000, but not more than \$1,000 for any one tree, shrub or plant, unless higher limits are shown in the Declarations. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.
- (2) Radio and television antennas (including satellite dishes), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:
- (a) Fire;
  - (b) Lightning;
  - (c) Windstorm or Hail;
  - (d) Ice, snow or sleet;
  - (e) Explosion;
  - (f) Riot or Civil Commotion; or

**(g) Aircraft.**

The most we will pay for loss or damage is \$2,000, unless a higher limit is shown in the Declarations. This limit applies to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

**f. Non-owned Detached Trailers**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
- (a) The trailer is used in your business;
  - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
  - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
- (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
  - (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.
- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.
- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

**B. EXCLUSIONS AND LIMITATIONS**

See applicable Causes Of Loss Form as shown in the Declarations.

**C. LIMITS OF INSURANCE**

1. The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.
2. The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$5,000, unless a higher limit is shown in the Declarations, per sign in any one occurrence.
3. The amounts of insurance stated in the following Additional Coverages apply in accordance with

the terms of such coverages and are in addition to the Limit(s) of Insurance shown in the Declarations for any other coverage, unless otherwise indicated:

- a. Fire Department Service Charge;
  - b. Pollutant Clean-up And Removal;
  - c. Electronic Data;
  - d. Fire Extinguisher Systems Recharge Expense;
  - e. Arson Reward;
  - f. Theft Reward; and
  - g. Rekeying of Locks.
4. Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of Insurance.
5. **Your Business Personal Property Limit - Seasonal Increase**
- a. Subject to Paragraph 5.b. below, the Limit of Insurance for Your Business Personal Property is automatically increased by:
    - (1) The percentage shown in the Declarations for Your Business Personal Property - Seasonal Increase; or
    - (2) 25%, if no percentage is shown in the Declarations for Your Business Personal Property - Seasonal Increase to provide for seasonal variances.
  - b. The increase described above in Paragraph 5.a., will apply only if the Limit of Insurance shown for Your Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
    - (1) The 12 months immediately preceding the date loss or damage occurs; or
    - (2) The period of time you have been in business as of the date the loss or damage occurs.

**D. DEDUCTIBLE**

The applicable Deductible shown in the Declarations will apply unless otherwise stated by endorsement.

In any one occurrence of loss or damage (hereinafter referred to as loss), the Deductible will apply as follows:

- 1. We will first reduce the amount of loss if required by the Coinsurance Condition or the Agreed Value Optional Coverage.
  - a. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss.
  - b. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss and

will pay the resulting amount or the Limit of Insurance, whichever is less.

- 2. If Paragraph 1., above does not apply:
  - a. If the amount of loss is less than or equal to the Deductible, we will not pay for that loss.
  - b. If the amount of loss exceeds the Deductible, we will then subtract the Deductible from the loss and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. However, the Deductible will be applied only once per occurrence.

- 3. No Deductible applies to the following Additional Coverages:
  - a. Fire Department Service Charge;
  - b. Fire Extinguisher Systems Recharge Expense;
  - c. Arson Reward;
  - d. Theft Reward; and
  - e. Rekeying of Locks.

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

The following examples assume there is no Coinsurance penalty.

**EXAMPLE #1**

Deductible:	\$ 250
Limit of Insurance - Building #1:	\$60,000
Limit of Insurance - Building #2:	\$80,000
Loss to Building #1:	\$60,100
Loss to Building #2:	\$90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

\$60,100
<u>    250</u>
\$59,850 Loss Payable - Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable:  
\$59,850 + \$80,000 = \$139,850

#### EXAMPLE #2

The Deductible and Limits of Insurance are the same as those in Example #1.

Loss to Building #1: (Exceeds Limit of Insurance plus Deductible)	\$70,000
Loss to Building #2: (Exceeds Limit of Insurance plus Deductible)	\$90,000
Loss Payable – Building #1: (Limit of Insurance)	\$60,000
Loss Payable - Building #2: (Limit of Insurance)	\$80,000
Total amount of loss payable:	\$140,000

#### E. LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

##### 1. Abandonment

There can be no abandonment of any property to us.

##### 2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal 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:

- a. Pay its chosen appraiser; and
- b. 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.

##### 3. Duties In The Event Of Loss Or Damage

- a. 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) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.

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

(8) Cooperate with us in the investigation or settlement of the claim.

- b. 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.

##### 4. Loss Payment

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
  - (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to b. below;
  - (3) Take all or any part of the property at an agreed or appraised value; or

**(4)** Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.

- b.** The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c.** We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d.** We will not pay you more than your financial interest in the Covered Property.
- e.** 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 claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f.** We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g.** 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 of the terms of this Coverage Part and:
  - (1)** We have reached agreement with you on the amount of loss; or
  - (2)** An appraisal award has been made.
- h.** A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of

subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

## **5. Recovered Property**

If either you or we recover any property after loss settlement, that party must give the other prompt notice.

If you recover the property, at your option, you may retain the property. You must then return to us the amount we paid to you for the property less any expenses to repair the Covered Property and expenses incurred to recover the property. You may give us the recovered property in which case we will pay recovery expenses, subject to the Limit of Insurance.

If we recover the property, at your option, we may return the property to you. We will pay any recovery expenses, subject to the Limit of Insurance. We will also pay any expenses to repair the Covered Property, subject to the Limit of Insurance. However, before we return the Covered Property or pay for the repair of the Covered Property, you must first return to us the amount we paid to you for the property.

## **6. Vacancy**

### **a. Description Of Terms**

**(1)** As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in **(1)(a)** and **(1)(b)** below:

**(a)** When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.

**(b)** When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:

- 1)** Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
- 2)** Used by the building owner to conduct customary operations.

- (2) Buildings under construction or renovation are not considered vacant.

**b. Vacancy Provisions**

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
- (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;
  - (c) Building glass breakage;
  - (d) Water damage;
  - (e) Theft; or
  - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in **b.(1)(a)** through **b.(1)(f)** above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

**7. Valuation**

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in **b.**, **c.**, **d.** and **e.** below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
  - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
  - (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
  - d. Glass at the cost of replacement with safety-glazing material if required by law.
  - e. Tenants' Improvements and Betterments at:

- (1) Actual cash value of the lost or damaged property if you make repairs promptly.
- (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
  - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
  - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.
 If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in the procedure.
- (3) Nothing if others pay for repairs or replacement.

**F. ADDITIONAL CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Coinsurance**

If a Coinsurance percentage is shown in the Declarations, the following condition applies:

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and
- (4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the Limit of Insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE #1 (UNDERINSURANCE)**

When: The value of the property is: \$250,000  
 The Coinsurance percentage for it is: 80%  
 The Limit of Insurance for it is: \$100,000  
 The Deductible is: \$ 250  
 The amount of loss is: \$ 40,000

Step (1):  $\$250,000 \times 80\% = \$200,000$   
 (the minimum amount of insurance to meet your Co-insurance requirements)

Step (2):  $\$100,000 \div \$200,000 = .50$

Step (3):  $\$ 40,000 \times .50 = \$20,000$

Step (4):  $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

**EXAMPLE #2 (ADEQUATE INSURANCE)**

When: The value of the property is: \$250,000  
 The Coinsurance percentage for it is: 80%  
 The Limit of Insurance for it is: \$200,000  
 The Deductible is: \$ 250  
 The amount of loss is: \$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ( $\$250,000 \times 80\%$ ). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$39,750 ( $\$40,000$  amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

**EXAMPLE #3**

When: The value of the property is:  
 Building at Location #1: \$ 75,000  
 Building at Location #2: \$100,000  
 Personal Property at Location #2: \$ 75,000  
 \$250,000

The Coinsurance percentage for it is: 90%  
 The Limit of Insurance for Buildings and Personal Property at Locations #1 and #2 is: \$180,000  
 The Deductible is: \$ 1,000  
 The amount of loss is:

Building at Location #2: \$ 30,000  
 Personal Property at Location #2: \$ 20,000  
 \$ 50,000

Step (1):  $\$250,000 \times 90\% = \$225,000$   
 (the minimum amount of insurance to meet your Co-insurance requirements and to avoid the penalty shown below)

Step (2):  $\$180,000 \div \$225,000 = .80$

Step (3):  $\$ 50,000 \times .80 = \$40,000$

Step (4):  $\$ 40,000 - \$1,000 = \$39,000$

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

**2. Mortgageholders**

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
  - (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
  - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.
 All of the terms of this Coverage Part will then apply directly to the mortgageholder.
- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
  - (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
  - (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.
 At our option, we may pay to the mortgageholder the whole principal on the mortgage

plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
- (1) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

## G. OPTIONAL COVERAGES

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

### 1. Agreed Value

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
  - (1) On or after the effective date of this Optional Coverage; and
  - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

### 2. Inflation Guard

- a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
  - (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
  - (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times

- (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

### EXAMPLE

If: The applicable Limit of Insurance is: \$100,000  
 The annual percentage increase is: 8%  
 The number of days since the beginning of the policy year (or last policy change) is: 146  
 The amount of increase is:  
 $\$100,000 \times .08 \times 146 \div 365 = \$3,200$

### 3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.
- b. This Optional Coverage does not apply to:
  - (1) Personal property of others;
  - (2) Contents of a residence;
  - (3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
  - (4) "Stock", unless the Including "Stock" option is shown in the Declarations.
- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.
- d. 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.

With respect to tenants' improvements and betterments, the following also apply:

- (3) If the conditions in **d.(1)** and **d.(2)** above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Loss Condition of this Coverage Form; and
  - (4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.
- e.** We will not pay more for loss or damage on a replacement cost basis than the least of **(1)**, **(2)** or **(3)**, subject to **f.** below:
- (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 actually spent that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost described in **e.(2)** above is limited to the cost which would have been incurred if the building had been rebuilt at the original premises.

- f.** The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

#### **4. Extension Of Replacement Cost To Personal Property Of Others**

- a.** If the Replacement Cost Optional Coverage is shown as applicable in the Declarations, then this Optional Coverage may also be shown as applicable. If the Declarations show this Optional Coverage as applicable, then Paragraph **3.b.(1)** of the Replacement

Cost Optional Coverage is deleted and all other provisions of the Replacement Cost Optional Coverage apply to replacement cost on personal property of others.

- b.** With respect to replacement cost on the personal property of others, the following limitation applies:

If an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance.

#### **H. DEFINITIONS**

- 1.** "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
- 2.** "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 3.** "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.



## BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F., DEFINITIONS.

The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

### A. COVERAGE

#### 1. Business Income

Business Income means the:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described and limited below for one or more of the following options for which a Limit of Insurance is shown in the Declarations.

- (1) Business Income Including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business

Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (a) The portion of the building which you rent, lease or occupy; and
- (b) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

#### 2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at

replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.

- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

**3. Covered Causes Of Loss, Exclusions And Limitations**

See applicable Causes Of Loss Form as shown in the Declarations.

**4. Additional Limitation - Interruption Of Computer Operations**

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.

**5. Additional Coverages**

**a. Civil Authority**

In this Additional Coverage - Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not

more than one mile from the damaged property; and

- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin immediately following the time of the first action of civil authority that prohibits access to the described premises; however, if a waiting period is shown in the Declarations, then after such period following the time of the first action of civil authority that prohibits access to the described premises.

Civil Authority Coverage for Business Income will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
  - (2) When your Civil Authority Coverage for Business Income ends
- whichever is later.

**b. Alterations And New Buildings**

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 1,000 feet of the described premises and:
  - (a) Used in the construction, alterations or additions; or
  - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period

of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

**c. Extended Business Income**

**(1) Business Income Other Than "Rental Value"**

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a)** Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b)** Ends on the earlier of:
  - 1)** The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or
  - 2)** 30 consecutive days after the date determined in **(1)(a)** above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**(2) "Rental Value"**

If the necessary "suspension" of your "operations" produces a "Rental Value" loss payable under this policy, we will pay for the actual loss of "Rental Value" you incur during the period that:

- (a)** Begins on the date property is actually repaired, rebuilt or replaced and tenantability is restored; and
- (b)** Ends on the earlier of:
  - 1)** The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the

"Rental Value" that would have existed if no direct physical loss or damage had occurred; or

- 2)** 30 consecutive days after the date determined in **(2)(a)** above.

However, Extended Business Income does not apply to loss of "Rental Value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "Rental Value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

- (1)** Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.
- (2)** With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
  - (a)** If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
  - (b)** If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations includes Collapse as set forth in that form.
  - (c)** If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Interruption Of Computer Operations.
  - (d)** The Covered Causes of Loss include a computer virus, harmful code or similar instruction

- introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. However, there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage - Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations, subject to the following:
- (a) If at the time of interruption, the computer system is equipped with active virus scanning or anti-virus software, this entire amount is available.
- (b) If at the time of interruption, the computer system is not equipped with active virus scanning or anti-virus software, payment will be limited to \$2,500 for that occurrence.

If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or

incurred in the policy year in which the interruption began.

- (4) This Additional Coverage - Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.

#### 6. Coverage Extension

If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

##### NEWLY ACQUIRED LOCATIONS

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions, if the location you acquire is intended for:
- (1) Similar use as the location described in the Declarations; or
- (2) Use as a warehouse.
- b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
- (1) This policy expires;
- (2) 60 days expire after you acquire or begin to construct the property; or
- (3) You report values to us.
- We will charge you additional premium for values reported from the date you acquire the property.

The Additional Condition, Coinsurance, does not apply to this Extension.

#### B. LIMITS OF INSURANCE

1. The most we will pay for loss in any one occurrence is the applicable Limit of Insurance shown in the Declarations.
2. Payments under the following coverages will not increase the applicable Limit of Insurance:
- a. Alterations And New Buildings;
- b. Civil Authority;
- c. Extra Expense; or
- d. Extended Business Income.
3. The amounts of insurance stated in the following apply in accordance with the terms of those

coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage:

- a. Interruption Of Computer Operations Additional Coverage; and
- b. Newly Acquired Locations Coverage Extension.

### C. LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

#### 1. Appraisal

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal 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 amount of Net Income and operating expense or 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:

- a. Pay its chosen appraiser; and
- b. 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.

#### 2. Duties In The Event Of Loss

- a. You must see that the following are done in the event of loss:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the direct physical 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 direct physical 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) 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.

- (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (7) Cooperate with us in the investigation or settlement of the claim.
  - (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.
  - b. 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.
- #### 3. Loss Determination
- a. The amount of Business Income loss will be determined based on:
    - (1) The Net Income of the business before the direct physical loss or damage occurred;
    - (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
    - (3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and

- (4) Other relevant sources of information, including:
- (a) Your financial records and accounting procedures;
  - (b) Bills, invoices and other vouchers; and
  - (c) Deeds, liens or contracts.
- b. The amount of Extra Expense will be determined based on:
- (1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:
    - (a) The salvage value that remains of any property bought for temporary use during the "period of restoration" once "operations" are resumed; and
    - (b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
  - (2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.
- c. **Resumption Of Operations**  
We will reduce the amount of your:
- (1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
  - (2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

#### 4. Loss Payment

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if you have compiled with all of the terms of this Coverage Part and;

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

- b. An appraisal award has been made.

#### D. ADDITIONAL CONDITION COINSURANCE

If a Coinsurance percentage is shown in the Declarations, the following condition applies in addition to the Common Policy Conditions and the Commercial Property Conditions.

We will not pay the full amount of any Business Income loss if the Limit of Insurance for Business Income is less than:

1. The Coinsurance percentage shown for Business Income in the Declarations; times
2. The sum of:
  - a. The Net Income (Net Profit or Loss before income taxes), and
  - b. Operating expenses, including payroll expenses that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

Instead, we will determine the most we will pay using the following steps:

- Step(1): Multiply the Net Income and operating expense for the 12 months following the inception, or last previous anniversary date, of this policy by the Coinsurance percentage;
- Step(2): Divide the Limit of Insurance for the described premises by the figure determined in Step (1); and
- Step(3): Multiply the total amount of loss by the figure determined in Step (2).

We will pay the amount determined in Step (3) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In determining operating expenses for the purpose of applying the Coinsurance condition, the following expenses, if applicable, shall be deducted from the total of all operating expenses:

- (1) Prepaid freight - outgoing;
- (2) Returns and allowances;
- (3) Discounts;
- (4) Bad debts;
- (5) Collection expenses;

- (6) Cost of raw stock and factory supplies consumed (including transportation charges);
- (7) Cost of merchandise sold (including transportation charges);
- (8) Cost of other supplies consumed (including transportation charges);
- (9) Cost of services purchased from outsiders (not employees) to resell, that do not continue under contract;
- (10) Power, heat and refrigeration expenses that do not continue under contract (if Form CP 15 11 is attached);
- (11) All ordinary payroll expenses or the amount of payroll expense excluded (if Form CP 15 10 is attached); and
- (12) Special deductions for mining properties (royalties unless specifically included in coverage; actual depletion commonly known as unit or cost depletion - not percentage depletion; welfare and retirement fund charges based on tonnage; hired trucks).

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE #1 (UNDERINSURANCE)**

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$400,000  
 The Coinsurance percentage is: 50%  
 The Limit of Insurance is: \$150,000  
 The amount of loss is: \$ 80,000

Step (1):  $\$400,000 \times 50\% = \$200,000$   
 (the minimum amount of insurance to meet your Co-insurance requirements)

Step (2):  $\$150,000 \div \$200,000 = .75$

Step (3):  $\$ 80,000 \times .75 = \$60,000$

We will pay no more than \$60,000. The remaining \$20,000 is not covered.

**EXAMPLE #2 (ADEQUATE INSURANCE)**

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$400,000  
 The Coinsurance percentage is: 50%  
 The Limit of Insurance is: \$200,000  
 The amount of loss is: \$ 80,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ( $\$400,000 \times 50\%$ ).

Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$80,000 (amount of loss).

This condition does not apply to Extra Expense Coverage.

**E. OPTIONAL COVERAGES**

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

**1. Maximum Period Of Indemnity**

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:
  - (1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or
  - (2) The Limit of Insurance shown in the Declarations.

**2. Monthly Limit Of Indemnity**

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:
  - (1) The Limit of Insurance, multiplied by
  - (2) The fraction shown in the Declarations for this Optional Coverage.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE**

When: The Limit of Insurance is: \$120,000  
 The fraction shown in the Declarations for this Optional Coverage is: 1/4  
 The most we will pay for loss in each period of 30 consecutive days is: \$ 30,000  
 (\$120,000 x 1/4 = \$30,000)  
 If, in this example, the actual amount of loss is:

Days 1-30:	\$ 40,000
Days 31-60:	\$ 20,000
Days 61-90:	\$ <u>30,000</u>
	\$ 90,000

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We will pay:	
Days 1-30:	\$ 30,000
Days 31-60:	\$ 20,000
Days 61-90:	\$ <u>30,000</u>
	\$ 80,000

The remaining \$10,000 is not covered.

### 3. Business Income Agreed Value

- a. To activate this Optional Coverage:
  - (1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":
    - (a) During the 12 months prior to the date of the Work Sheet; and
    - (b) Estimated for the 12 months immediately following the inception of this Optional Coverage.
  - (2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:
    - (a) The Coinsurance percentage shown in the Declarations; multiplied by
    - (b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.
- b. The Additional Condition, Coinsurance, is suspended until:
  - (1) 12 months after the effective date of this Optional Coverage; or
  - (2) The expiration date of this policy whichever occurs first.
- c. We will reinstate the Additional Condition, Coinsurance, automatically if you do not submit a new Work Sheet and Agreed Value:
  - (1) Within 12 months of the effective date of this Optional Coverage; or
  - (2) When you request a change in your Business Income Limit of Insurance.
- d. If the Business Income Limit of Insurance is less than the Agreed Value, we will not pay more of any loss than the amount of loss multiplied by:
  - (1) The Business Income Limit of Insurance; divided by
  - (2) The Agreed Value.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

### EXAMPLE

When:	The Limit of Insurance is:	\$ 100,000
	The Agreed Value is:	\$ 200,000
	The amount of loss is:	\$ 80,000

Step (1):  $\$100,000 \div \$200,000 = .50$

Step (2):  $.50 \times \$80,000 = \$40,000$

We will pay \$40,000. The remaining \$40,000 is not covered.

### 4. Extended Period Of Indemnity

Under Paragraph A.5.c., **Extended Business Income**, the number 30 in Subparagraphs (1)(b) and (2)(b) is replaced by the number shown in the Declarations for this Optional Coverage.

### F. DEFINITIONS

1. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
2. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged, unless there is a Coinsurance percentage shown for Business Income in the Declarations.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

3. "Operations" means:
  - a. Your business activities occurring at the described premises; and
  - b. The tenantability of the described premises, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.
4. "Period of restoration" means period of time that:
  - a. Begins:
    - (1) Immediately following the time of direct physical loss or damage; however, if a



waiting period is shown in the Declarations, then after such period following the time of direct physical loss or damage for Business Income Coverage; or

- (2) Immediately following the time of direct physical loss or damage for Extra Expense Coverage

caused by or resulting from any Covered Cause of Loss at the described premises; and

- b. Ends on the earlier of:

- (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

- (2) The date when business is resumed at a new permanent location.

"Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:

- (1) Regulates the construction, use or repair, or requires the tearing down, of any property; or
- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

5. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
6. "Rental Value" means Business Income that consists of:
- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and
- b. Continuing normal operating expenses incurred in connection with that premises, including:
- (1) Payroll; and
- (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.
7. "Suspension" means:
- a. The slowdown or cessation of your business activities; or
- b. That a part or all of the described premises is rendered untenable, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

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## CAUSES OF LOSS - SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS in the Commercial Property Coverage Part.

### A. COVERED CAUSES OF LOSS

When Special is shown in the Declarations, Covered Causes of Loss means Risks Of Direct Physical Loss unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations that follow.

### B. EXCLUSIONS

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

#### a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

#### b. Earth Movement

- (1) Earthquake, including any earth sinking, earth rising or earth shifting related to such event;
- (2) Landslide, including any earth sinking, earth rising or earth shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), earth rising or earth shifting including soil conditions which cause settling, cracking or other disarrangement

of foundations or other parts of realty.

Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

However, if Earth Movement, as described in b.(1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. However, if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

#### c. Governmental Action

Seizure or destruction of property by order of governmental authority.

However, we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

#### d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

However, if nuclear reaction or radiation, or radioactive contamination, results in fire, we

will pay for the loss or damage caused by that fire.

**e. Utility Services**

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply. Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

However, if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss. Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

**f. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:

- (a) Foundations, walls, floors or paved surfaces;
- (b) Basements, whether paved or not; or
- (c) Doors, windows or other openings; or

- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs **g.(1)** through **(5)** is caused by an act of nature or is otherwise caused.

However, if any of the above in Paragraphs **g.(1)** through **(5)**, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

**h. "Fungi", Wet Rot Or Dry Rot**

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot. However, if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

1. When "fungi", wet rot or dry rot results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage - Limited Coverage For "Fungi", Wet Rot Or Dry Rot with respect to loss or damage by a cause of loss other than fire or lightning.

**i. Virus Or Bacteria**

We will not pay for loss or damage caused by or resulting from virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

With respect to any loss or damage subject to this exclusion, such exclusion supersedes any exclusion relating to "pollutants".

Exclusions **B.1.a.** through **B.1.i.** apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:
  - a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
    - (1) Electrical or electronic wire, device, appliance, system or network; or

(2) Device, appliance, system or network utilizing cellular or satellite technology. For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision; or
- (7) The following causes of loss to personal property:
  - (a) Dampness or dryness of atmosphere;
  - (b) Changes in or extremes of temperature; or
  - (c) Marring or scratching.

However, if an excluded cause of loss that is listed in 2.d.(1) through (7) results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or with-

in the flues or passages through which the gases of combustion pass.

- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
  - g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
    - (1) You do your best to maintain heat in the building or structure; or
    - (2) You drain the equipment and shut off the supply if the heat is not maintained.
  - h. Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
    - (1) Acting alone or in collusion with others; or
    - (2) Whether or not occurring during the hours of employment.
- This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.
- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
  - j. Rain, snow, ice or sleet to personal property in the open.
  - k. Collapse, including any of the following conditions of property or any part of the property:
    - (1) An abrupt falling down or caving in;
    - (2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
    - (3) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to (1) or (2) above.

However, if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion, k., does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage - Collapse; or

- (b) To collapse caused by one or more of the following:
  - 1) The "specified causes of loss";
  - 2) Breakage of building glass;
  - 3) Weight of rain that collects on a roof; or
  - 4) Weight of people or personal property.
- I. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". However, if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".  
This exclusion, I., does not apply to damage to glass caused by chemicals applied to the glass.
- m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.
- 3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. However, if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.
  - a. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.
  - b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
  - c. Faulty, inadequate or defective:
    - (1) Planning, zoning, development, surveying, siting;
    - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
    - (3) Materials used in repair, construction, renovation or remodeling; or
    - (4) Maintenance of part or all of any property on or off the described premises.
- 4. **Special Exclusions**  
The following provisions apply only to the specified Coverage Forms.
  - a. **Business Income (And Extra Expense) Coverage Form, Business Income (And Extra Expense) Actual Loss Sustained**

**Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form**

We will not pay for:

- (1) Any loss caused by or resulting from:
  - (a) Damage or destruction of "finished stock"; or
  - (b) The time required to reproduce "finished stock".
 This exclusion does not apply to Extra Expense.
- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- (3) Any increase of loss caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
  - (b) Suspension, lapse or cancellation of any license, lease or contract. However, if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage and the Extended Period Of Indemnity Optional Coverage or any variation of these.
- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".
- (5) Any Extra Expense caused by or resulting from any delay in rebuilding, repairing or replacing the property or resuming "operations" due to an insufficiency of or failure to maintain adequate Limits of Insurance for Building or Business Personal Property.
- (6) Any other consequential loss.
- b. **Leasehold Interest Coverage Form**
  - (1) Paragraph B.1.a., Ordinance Or Law, does not apply to insurance under this Coverage Form.
  - (2) We will not pay for any loss caused by:

- (a) Your canceling the lease;
- (b) The suspension, lapse or cancellation of any license; or
- (c) Any other consequential loss.

**c. Legal Liability Coverage Form**

- (1) The following exclusions do not apply to insurance under this Coverage Form:
- (a) Paragraph **B.1.a.**, Ordinance Or Law;
  - (b) Paragraph **B.1.c.**, Governmental Action;
  - (c) Paragraph **B.1.d.**, Nuclear Hazard;
  - (d) Paragraph **B.1.e.**, Utility Services; and
  - (e) Paragraph **B.1.f.**, War And Military Action.
- (2) The following additional exclusions apply to insurance under this Coverage Form:
- (a) Contractual Liability**  
We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement. However, this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:
- 1) Your assumption of liability was executed prior to the accident; and
  - 2) The building is Covered Property under this Coverage Form.
- (b) Nuclear Hazard**  
We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

**5. Additional Exclusion**

The following provisions apply only to the specified property.

**LOSS OR DAMAGE TO PRODUCTS**

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This ex-

clusion applies to any effect that compromises the form, substance or quality of the product. However, if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**C. LIMITATIONS**

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.
- a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. However, we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
  - b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
  - c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
    - (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
    - (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
  - d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft. However, this limitation does not apply to:
    - (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or
    - (2) Business Income Coverage or Extra Expense Coverage.
  - e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

- f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
    - a. Animals, and then only if they are killed or their destruction is made necessary.
    - b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
      - (1) Glass; or
      - (2) Containers of property held for sale.
    - c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property. However, this limitation does not apply:
      - (1) If the property is located on or within 1,000 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
      - (2) To Business Income Coverage or to Extra Expense Coverage.
  3. The special limit shown for each category, **a.** through **d.**, is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:
    - a. \$2,500 for furs, fur garments and garments trimmed with fur.
    - b. \$5,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$500 or less per item.
    - c. \$2,500 for patterns, dies, molds and forms.
    - d. \$500 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, **C.3.**, does not apply to Business Income Coverage or to Extra Expense Coverage.
  4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. However, we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:

- a. Results in discharge of any substance from an automatic fire protection system; or
  - b. Is directly caused by freezing.
- However, this limitation does not apply to Business Income Coverage or to Extra Expense Coverage.

#### **D. ADDITIONAL COVERAGE - COLLAPSE**

The coverage provided under this Additional Coverage - Collapse applies only to an abrupt collapse as described and limited in **D.1.** through **D.7.**

1. For the purpose of this Additional Coverage - Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following:
  - a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
  - b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
  - c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
  - d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
    - (1) A cause of loss listed in **2.a.** or **2.b.**;
    - (2) One or more of the "specified causes of loss";
    - (3) Breakage of building glass;
    - (4) Weight of people or personal property; or
    - (5) Weight of rain that collects on a roof.
3. This **Additional Coverage - Collapse** does **not** apply to:
  - a. A building or any part of a building that is in danger of falling down or caving in;
  - b. A part of a building that is standing, even if it has separated from another part of the building; or
  - c. A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging,

bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:
  - a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
  - b. Awnings, gutters and downspouts;
  - c. Yard fixtures;
  - d. Outdoor swimming pools;
  - e. Fences;
  - f. Piers, wharves and docks;
  - g. Beach or diving platforms or appurtenances;
  - h. Retaining walls; and
  - i. Walks, roadways and other paved surfaces if an abrupt collapse is caused by a cause of loss listed in **2.a.** through **2.d.**, we will pay for loss or damage to that property only if:
    - (1) Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form; and
    - (2) The property is Covered Property under this Coverage Form.
5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
  - a. The collapse of personal property was caused by a cause of loss listed in **2.a.** through **2.d.**;
  - b. The personal property which collapses is inside a building; and
  - c. The property which collapses is not of a kind listed in **4.**, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph **5.** does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

6. This Additional Coverage - Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
  7. This Additional Coverage - Collapse will not increase the Limits of Insurance provided in this Coverage Part.
  8. The term Covered Cause of Loss includes the Additional Coverage - Collapse as described and limited in **D.1.** through **D.7.**
- E. ADDITIONAL COVERAGE - LIMITED COVERAGE FOR "FUNGI", WET ROT OR DRY ROT**

1. The coverage described in **E.2.** and **E.6.** only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy term and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.
2. We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:
  - a. Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;
  - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and
  - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot are present.
3. The coverage described under **E.2.** of this Limited Coverage is limited to 10% of the building or personal property limit of insurance, whichever is greater, subject to a maximum of \$100,000 and a minimum of \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy term). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than this limit even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy term.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property. If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.



5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage - Collapse.
6. The following, **6.a.** or **6.b.**, applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form.
  - a. If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 45 days. The days need not be consecutive.
  - b. If a covered "suspension" of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), however, such coverage is limited to 45 days. The days need not be consecutive.

#### F. ADDITIONAL COVERAGE EXTENSIONS

##### 1. Property In Transit

This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 1,000 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:
  - (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
  - (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the roadbed.

- (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.

- c. The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations. This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

##### 2. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

##### 3. Glass

- a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

This Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

#### G. DEFINITIONS

1. "Fungi" means any type or form of fungus, including, but not limited to, any mold, mildew, mycotoxins, spores, scents or by-products produced or released by any type or form of fungus.
2. "Specified causes of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
  - a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
    - (1) The cost of filling sinkholes; or
    - (2) Sinking or collapse of land into man-made underground cavities.
  - b. Falling objects does not include loss or damage to:

- (1) Personal property in the open; or
  - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- c. Water damage means accidental discharge or leakage of water or steam as the direct

result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.

# BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section C., DEFINITIONS. The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

## A. COVERAGE

### 1. Business Income

- a. Business Income means the:
  - (1) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
  - (2) Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

- b. We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which ACTUAL LOSS SUSTAINED is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (1) The portion of the building which you rent, lease or occupy; and
- (2) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

- c. We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within the number of months shown in the Declarations after the date of direct physical loss or damage.

### 2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.
- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

We will only pay for Extra Expense that occurs within the number of months shown in the Declarations after the date of direct physical loss or damage.

**3. Covered Causes Of Loss, Exclusions And Limitations**

See applicable Causes Of Loss Form as shown in the Declarations.

**4. Additional Limitation - Interruption Of Computer Operations**

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.

**5. Additional Coverages**

**a. Civil Authority**

In this Additional Coverage - Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin immediately following the time of the first action of civil authority that prohibits access to the described premises; however, if a waiting period is shown in the Declarations, then after such period

following the time of the first action of civil authority that prohibits access to the described premises.

Civil Authority Coverage for Business Income will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
  - (2) When your Civil Authority Coverage for Business Income ends
- whichever is later.

**b. Alterations And New Buildings**

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur, subject to **A.1.** and **2.** above, due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 1,000 feet of the described premises and:
  - (a) Used in the construction, alterations or additions; or
  - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

**c. Extended Business Income**

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (1) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (2) Ends on the earlier of:
  - (a) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income

amount that would have existed if no direct physical loss or damage had occurred; or

- (b) 30 consecutive days after the date determined in (1) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

(1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.

(2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

- (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations includes Collapse as set forth in that form.
- (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Interruption Of Computer Operations.
- (d) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or

destroy any part of the system or disrupt its normal operation. However, there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.

(3) The most we will pay under this Additional Coverage - Interruption Of Computer Operations, for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations, subject to the following:

- (a) If at the time of interruption, the computer system is equipped with active virus scanning or anti-virus software, this entire amount is available.
- (b) If at the time of interruption, the computer system is not equipped with active virus scanning or anti-virus software, payment will be limited to \$2,500 for that occurrence.

If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.

(4) This Additional Coverage - Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.

**6. Coverage Extension**

You may extend the insurance provided by this Coverage Part as follows:

**NEWLY ACQUIRED LOCATIONS**

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions, if the location you acquire is intended for:
  - (1) Similar use as the location described in the Declarations; or
  - (2) Use as a warehouse.
- b. The most we will pay under this extension for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
  - (1) This policy expires;
  - (2) 60 days expire after you acquire or begin to construct the property; or
  - (3) You report values to us.
 We will charge you additional premium for values reported from the date you acquire the property.

**B. LOSS CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Appraisal**

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal 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 amount of Net Income and operating expense or 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:

- a. Pay its chosen appraiser; and
- b. 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.

**2. Duties In The Event Of Loss**

- a. You must see that the following are done in the event of loss:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the direct physical 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 direct physical 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) 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.
  - (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (7) Cooperate with us in the investigation or settlement of the claim.
  - (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.
  - b. 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.
- 3. Loss Determination**
- a. The amount of Business Income loss will be determined based on:
    - (1) The Net Income of the business before the direct physical loss or damage occurred;
    - (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the

Covered Cause of Loss on customers or on other businesses;

(3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and

(4) Other relevant sources of information, including:

(a) Your financial records and accounting procedures;

(b) Bills, invoices and other vouchers; and

(c) Deeds, liens or contracts.

b. The amount of Extra Expense will be determined based on:

(1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:

(a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and

(b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and

(2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

**c. Resumption Of Operations**

We will reduce the amount of your:

(1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.

(2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

**4. Loss Payment**

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

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

b. An appraisal award has been made.

**C. DEFINITIONS**

1. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

2. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

3. "Operations" means your business activities occurring at the described premises.

4. "Period of restoration" means the period of time that:

a. Begins:

(1) Immediately following the time of direct physical loss or damage; however, if a waiting period is shown in the Declarations, then after such period following the time of direct physical loss or damage for Business Income Coverage; or

(2) Immediately following the time of direct physical loss or damage for Extra Expense Coverage

caused by or resulting from any Covered Cause of Loss at the described premises; and

b. Ends on the earlier of:

(1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(2) The date when business is resumed at a new permanent location.

"Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

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

waste. Waste includes materials to be recycled, reconditioned or reclaimed.

6. "Suspension" means:
- a. The slowdown or cessation of your business activities; or
  - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.



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

## ORDINANCE OR LAW COVERAGE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CAUSES OF LOSS - SPECIAL FORM  
 CAUSES OF LOSS - BROAD FORM  
 CAUSES OF LOSS - BASIC FORM

- A.** Each Coverage - Coverage **A**, Coverage **B**, Coverage **C** and Coverage **D** - of Section **E. Coverages** below, is provided under this endorsement only if a Limit of Insurance for that Coverage(s) is shown in the Declarations and then only with respect to the building identified for that Coverage(s) in the Declarations.
- B.** The following provisions do not apply to the extent that they conflict with the coverage provided by this endorsement only:
- 1.** BUILDING AND PERSONAL PROPERTY COVERAGE FORM:
    - a.** **E. LOSS CONDITIONS:**
      - (1) **4. Loss Payment, b.;** and
      - (2) **7. Valuation, b.,** second paragraph; and
    - b.** **G. OPTIONAL COVERAGES, 3. Replacement Cost, f.**
  - 2.** CONDOMINIUM ASSOCIATION COVERAGE FORM:
    - a.** **E. LOSS CONDITIONS:**
      - (1) **4. Loss Payment, b.;** and
      - (2) **8. Valuation, b.,** second paragraph; and
    - b.** **G. OPTIONAL COVERAGES, 3. Replacement Cost, f.**
  - 3.** Section **B. EXCLUSIONS, 1.a.** of CAUSES OF LOSS - SPECIAL, BROAD and BASIC FORMS.

**C. Application Of Coverage(s)**

The Coverage(s) provided by this endorsement apply only if both **C.1.** and **C.2.** are satisfied and are then subject to the qualifications set forth in **C.3.**

- 1.** The ordinance or law:
  - a.** Regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the described premises; and
  - b.** Is in force at the time of loss.

However, coverage under this endorsement applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this endorsement.

- 2. a.** The building sustains direct physical damage that is covered under this policy and such damage results in enforcement of the ordinance or law; or
- b.** The building sustains both direct physical damage that is covered under this policy and direct physical damage that is not covered under this policy, and the building damage in its entirety results in enforcement of the ordinance or law.
- c.** However, if the building sustains direct physical damage that is not covered under this policy, and such damage is the subject of the ordinance or law, then there is no coverage under this endorsement even if the building has also sustained covered direct physical damage.
- 3.** In the situation described in **C.2.b.** above, we will not pay the full amount of loss otherwise payable under the terms of Coverages **A, B, C** and/or **D** of this endorsement. Instead, we will pay a proportion of such loss, meaning the proportion that the covered direct physical damage bears to the total direct physical damage. However, if the covered direct physical damage, alone, would have resulted in enforcement of the ordinance or law, then we will pay the full amount of loss otherwise payable under the terms of Coverages **A, B, C** and/or **D** of this endorsement.
- D.** We will not pay under Coverage **A, B, C** or **D** of this endorsement for:

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1. Enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
2. The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

#### E. Coverages

##### 1. Coverage A - Coverage For Loss To The Undamaged Portion Of The Building

With respect to a covered building that has sustained covered direct physical damage, we will pay under Coverage A for the loss in value of the undamaged portion of the building as a consequence of enforcement of an ordinance or law that requires demolition of undamaged parts of the same building.

Coverage A is included within the Limit of Insurance shown in the Declarations as applicable to the covered building. Coverage A does not increase the Limit of Insurance.

The Coinsurance Additional Condition does not apply to the undamaged portion of the building when the Limit of Insurance shown in the Declarations for Coverage A is less than the applicable building Limit of Insurance shown in the Declarations.

##### 2. Coverage B - Demolition Cost Coverage

With respect to a covered building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of undamaged parts of the same building, as a consequence of enforcement of an ordinance or law that requires Demolition of such undamaged property.

The Coinsurance Additional Condition does not apply to Demolition Cost Coverage.

##### 3. Coverage C - Increased Cost Of Construction Coverage

a. With respect to a covered building that has sustained covered direct physical damage, we will pay the increased cost to:

- (1) Repair or reconstruct damaged portions of that building; and/or
- (2) Reconstruct or remodel undamaged portions of that building, whether or not demolition is required

when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

However:

(1) This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.

(2) We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

The Coinsurance Additional Condition does not apply to Increased Cost of Construction Coverage.

b. When a building is damaged or destroyed and Coverage C applies to that building in accordance with 3.a. above, coverage for the increased cost of construction also applies to repair or reconstruction of the following, subject to the same conditions stated in 3.a.:

(1) The cost of excavations, grading, backfilling and filling;

(2) Foundation of the building;

(3) Pilings; and

(4) Underground pipes, flues and drains.

The items listed in b.(1) through b.(4) above are deleted from Property Not Covered, but only with respect to the coverage described in this Provision, 3.b.

##### 4. Coverage D - Tenant's Improvements and Betterments

With respect to your use interest as tenant in improvements and betterments that have sustained covered direct physical damage, we will pay the increased cost to repair or reconstruct damaged portions of those improvements and betterments when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

The Coinsurance Additional Condition does not apply to Tenant's Improvements and Betterments.

#### F. Loss Payment

1. All following loss payment Provisions, F.2. through F.5., are subject to the apportionment procedures set forth in Section C.3. of this endorsement.
2. When there is a loss in value of an undamaged portion of a building to which Coverage A applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:
  - a. If the Replacement Cost Coverage Option applies and the property is being repaired or replaced, on the same or another premises, we will not pay more than the lesser of:

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- (1) The amount you would actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
  - (2) The Limit of Insurance for Coverage **A** shown in the Declarations as applicable to the covered building.
- b. If the Replacement Cost Coverage Option applies and the property is **not** repaired or replaced, or if the Replacement Cost Coverage Option does **not** apply, we will not pay more than the lesser of:
    - (1) The actual cash value of the building at the time of loss; or
    - (2) The Limit of Insurance for Coverage **A** shown in the Declarations as applicable to the covered building.
3. Loss payment under Coverage **B** - Demolition Cost Coverage will be determined as follows: We will not pay more than the lesser of the following:
    - a. The amount you actually spend to demolish and clear the site of the described premises; or
    - b. The applicable Limit of Insurance shown for Coverage **B** in the Declarations.
  4. Loss payment under Coverage **C** - Increased Cost of Construction Coverage will be determined as follows:
    - a. We will not pay under Coverage **C**:
      - (1) Until the property is actually repaired or replaced, at the same or another premises; and
      - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
    - b. If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay under Coverage **C** is the lesser of:
      - (1) The increased cost of construction at the same premises; or
      - (2) The applicable Limit of Insurance shown for Coverage **C** in the Declarations.
    - c. If the ordinance or law requires relocation to another premises, the most we will pay under Coverage **C** is the lesser of:
      - (1) The increased cost of construction at the new premises; or
      - (2) The applicable Limit of Insurance shown for Coverage **C** in the Declarations.
- (1) The increased cost of construction at the new premises; or
  - (2) The applicable Limit of Insurance shown for Coverage **C** in the Declarations.
5. Loss payment under Coverage **D** - Tenant's Improvements and Betterments will be determined as follows:
    - a. We will not pay under Coverage **D**:
      - (1) Until the property is actually repaired or replaced, at the same or another premises; and
      - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
    - b. If the improvements and betterments are repaired or replaced at the same premises, or if you elect to rebuild the improvements and betterments at another premises, the most we will pay under Coverage **D** is the lesser of:
      - (1) The increased cost of construction at the same premises; or
      - (2) The applicable Limit of Insurance shown for Coverage **D** in the Declarations.
    - c. If the ordinance or law requires relocation to another premises, the most we will pay under Coverage **D** is the lesser of:
      - (1) The increased cost of construction at the new premises; or
      - (2) The applicable Limit of Insurance shown for Coverage **D** in the Declarations.
- G. The terms of this endorsement apply separately to each building to which this endorsement applies.
  - H. Under this endorsement we will not pay for loss due to any ordinance or law that:
    1. You were required to comply with before the loss, even if the building was undamaged; and
    2. You failed to comply with.
  - I. The following definition is added: "Fungi" means any type or form of fungus, including but not limited to, mold, mildew, mycotoxins, spores, scents or by-products produced or released by any type or form of fungus.

All other policy terms and conditions apply.

64037 (1-12)

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

## ILLINOIS ELECTRICAL APPARATUS

For Public Service Light, Power and Traction Property  
(\$1,000 Deductible)

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - BASIC FORM  
CAUSES OF LOSS - BROAD FORM  
CAUSES OF LOSS - SPECIAL FORM  
COMMERCIAL PROPERTY CONDITIONS

**A. Exclusion B.2.a.** is replaced by the following:

We will not pay for loss or damage caused by or resulting from artificially generated electrical or magnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

1. Electrical or electronic wire, device, appliance, system or network; or
2. Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical or magnetic energy includes but is not limited to:

1. Electrical current, including arcing; or
2. Electrical charge produced or conducted by a magnetic field.

However, if fire or explosion results, we will pay for loss or damage by fire, explosion or electricity to electrical apparatus that are Covered Property at the premises where the fire or explosion occurs. The fire must be self-sustained and continue after the electrical current or other energy has been interrupted. Electric arcing and flashovers caused by artificially generated current are not considered fires or explosions.

**B. Deductible** (Applicable only to policies covering direct physical loss or damage). The **DEDUCTIBLE** section in the Coverage Form to which this endorsement applies is replaced by the following with respect to loss or damage to electrical equipment or devices caused by electricity and resulting fire or explosion.

In any one occurrence of loss or damage (hereinafter referred to as loss), the Deductible will apply as follows:

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds \$1,000. We will then pay the amount of loss or damage in excess of \$1,000, up to the applicable Limit of Insurance, after any deduction required by the Coinsurance condition or the Agreed Value Optional Coverage.

This provision does not apply if the Deductible shown in the Declarations is more than \$1,000.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. However, the Deductible will be applied only once per occurrence.

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**C. Other Insurance.** The OTHER INSURANCE Condition is replaced by the following for loss or damage covered by this endorsement:

1. You may have other insurance that covers the premises described in the Declarations against covered loss or damage by fire. If you do, we will pay our share of the loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part covering loss or damage by electricity and resulting fire or explosion bears to the Limits of Insurance of all insurance covering loss or damage by fire or explosion. This provision applies whether or not the other insurance includes the terms of this endorsement.

2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will determine the amount each type of insurance would have paid if it were the only insurance. We will then determine the proportion the amount we would have paid bears to all the amounts all insurance would have paid. We will not pay more than our proportion of the amount of covered loss or damage after first applying the highest deductible to which this and all other types of insurance covering the loss or damage apply.

All other policy terms and conditions apply.

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

## COMMERCIAL PROPERTY CONDITIONS

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

### A. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Part is void in any case of fraud by you as it relates to this Coverage Part at any time. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact 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. 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.

### D. LEGAL ACTION AGAINST US

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

1. There has been full compliance with all of the terms of this Coverage Part; and

2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

### E. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this Coverage Part without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

### F. NO BENEFIT TO BAILEE

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

### G. 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.

### H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

1. We cover loss or damage commencing:

- a. During the policy period shown in the Declarations; and
  - b. Within the coverage territory.
2. The coverage territory is:
- a. The United States of America (including its territories and possessions);
  - b. Puerto Rico; and
  - c. Canada.

**I. 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 neces-

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

This will not restrict your insurance.

55029 (5-17)

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

## **ASBESTOS EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SECTION I - COVERAGES** is amended.

**1. COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is

amended. The following exclusion is added.

This insurance does not apply to:

Any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal, release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

**2. COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions** is amended.

The following exclusion is added.

This insurance does not apply to:

Any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal,

release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

**3. COVERAGE C - MEDICAL PAYMENTS, 2.**

**Exclusions** is amended. The following exclusion is added.

We will not pay expenses for "bodily injury":

For any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal, release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

All other policy terms and conditions apply.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ILLINOIS - COMMUNICABLE DISEASES EXCLUSION

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. The following exclusion is added.

**Communicable Disease**

"Bodily injury" arising out of or resulting from the transmission of:

- (1) Human immunodeficiency virus (HIV);
- (2) Acquired immune deficiency syndrome (AIDS);
- (3) Herpes;
- (4) Any sexually transmitted disease by any insured.

**B. SECTION I - COVERAGES, COVERAGE B - PERSONAL AND ADVERTISING INJURY, 2. Exclusions** is amended. The following exclusion is added.

**Communicable Disease**

Arising out of or resulting from the transmission of:

- (1) Human immunodeficiency virus (HIV);
- (2) Acquired immune deficiency syndrome (AIDS);
- (3) Herpes;
- (4) Any sexually transmitted disease by any insured.

All other policy terms and conditions apply.

55358 (5-17)

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

## ILLINOIS CHANGES - DEFENSE COSTS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SECTION I - COVERAGES** is amended.

**A. COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 1. Insuring Agreement**, Paragraph **a.** is deleted and replaced by the following.

**a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. We may at our discretion investigate any claim or "occurrence" and settle any claim or "suit" that may result.

However,

(1) The amount we will pay for damages is limited as described in Section **III** - Limits of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense costs we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you in writing that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

**B. COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY, 1. Insuring Agreement**, Paragraph **a.** is deleted and replaced by the following.

**a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. We may at our discretion investigate any claim or offense and settle any claim or "suit" that may result.

However,

(1) The amount we will pay for damages is limited as described in Section **III** - Limits Of Insurance; and

(2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense cost we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

All other policy terms and conditions apply.

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

**ILLINOIS CHANGES - DEFENSE COSTS**

This endorsement modifies insurance provided under the following:

LIQUOR LIABILITY COVERAGE FORM

Under **SECTION I - LIQUOR LIABILITY COVERAGE**, the following is added to the Insuring Agreement that sets forth a duty to defend:

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense costs we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you in writing that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

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

**Illinois**

**COMMUNICABLE DISEASES EXCLUSION**

This endorsement modifies insurance provided under the following:

LIQUOR LIABILITY COVERAGE PART.

Under **SECTION I - LIQUOR LIABILITY COVERAGE, 2. Exclusions**, the following exclusion is added:

**Communicable Diseases**

**Bodily injury** arising out of or resulting from the transmission of:

- (1) Human immunodeficiency virus (HIV);
- (2) Acquired immune deficiency syndrome (AIDS);
- (3) Herpes;
- (4) Any sexually transmitted disease

by any **insured**.

55521 (6-11)

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

## **ILLINOIS CHANGES - CIVIL UNION**

This endorsement modifies insurance under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

Wherever it is found, the term spouse is replaced by the following phrase.

Spouse or party to a civil union under Illinois law.

All other policy terms and conditions apply.

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55521 (6-11)

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Page 1 of 1

55885 (5-17)

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

## **AMENDMENT OF GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is agreed:

**SECTION III – LIMITS OF INSURANCE** is amended.

The following provision is added.

Beginning with the effective date of this policy, we will provide twice the General Aggregate Limit (other than Products-Completed Operations), shown in the Declarations.

If this policy is written for more than one 12 month period, the General Aggregate Limit for each 12

month period shall never exceed twice the General Aggregate Limit shown in the Declarations. The General Aggregate Limit applies separately to each 12 month period starting with the beginning of the policy period shown in the Declarations.

All other policy terms and conditions apply.

55885 (5-17)

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Page 1 of 1

COMMERCIAL GENERAL LIABILITY  
55791 (5-17)

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

## ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**A. Cancellation** (Common Policy Conditions) is deleted and replaced by the following.

### **CANCELLATION**

1. The first Named Insured shown in the Declarations may cancel this policy by returning it to us or by notifying us of the date cancellation is to take effect.
2. We may cancel this policy by mailing to you written notice stating the reason for cancellation. If we cancel:
  - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
  - b. For a reason other than nonpayment of premium, we will mail the notice at least:
    - (1) 30 days prior to the effective date of cancellation if the policy has been in effect for 60 days or less.
    - (2) 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.
3. If this policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:
  - a. Nonpayment of premium;
  - b. The policy was obtained through a material misrepresentation;
  - c. Any insured has violated any of the terms and conditions of the policy;
  - d. The risk originally accepted has measurably increased.
  - e. Certification of the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or

f. A determination by the Director of Insurance that the continuation of the policy could place us in violation of the insurance laws of this State.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

**B.** The following is added and supersedes any provision to the contrary.

### **NONRENEWAL**

If we decide not to renew or continue this policy, we will mail you and your agent or broker written notice, stating the reason for nonrenewal, at least 60 days before the end of the policy period. If we offer to renew or continue and you do not accept, this policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this policy will end on the effective date of that insurance.

**C. Mailing Of Notices**

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

**COMMERCIAL GENERAL LIABILITY  
55146 (6-04)**

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

## **UPSET AND OVERSPRAY COVERAGE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is agreed the coverage for "property damage" liability with respect to your operations is extended as follows:

### **1. COVERAGE**

We will pay those sums which you become legally obligated to pay for "property damage" caused directly by immediate, abrupt and accidental:

- a. Upset, overturn or collision of your "mobile equipment" while transporting; or
- b. "Overspray" during your application or dispersal of

"pollutants" which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.

This is not an additional amount of insurance and does not increase the Limits of Insurance stated in the Declarations.

### **2. EXCLUSIONS**

- a. With regard only to the coverage provided by this endorsement, Exclusion **f.** of **Section I - Coverage A - Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

**f. Pollution**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

However, this paragraph does not apply to liability for damages because of covered "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**b. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This coverage does not apply to "overspray" resulting from aerial application or dispersal of "pollutants".

**3. DEDUCTIBLE**

Any deductible provision of the policy which is applicable to Property Damage Liability coverage applies to this coverage extension.

**4. DEFINITIONS**

The following definition applies in addition to those in the policy.

"Overspray" means spray, from a device specifically designed for spray application or dispersal, that goes beyond the entire area of intended application or dispersal.

All other policy terms and conditions apply.

55146 (6-04)

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

# COMMERCIAL GENERAL LIABILITY PLUS COVERAGE

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. **EXTENDED WATERCRAFT LIABILITY SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. Exclusion **g.(2)** is deleted and replaced by the following exclusion.
  - (2) A watercraft you do not own that is:
    - (a) Less than 50 feet long; and
    - (b) Not being used to carry persons or property for a charge;
2. **BROADENED SUPPLEMENTARY PAYMENTS SUPPLEMENTARY PAYMENTS - COVERAGES A AND B, Paragraph 1.d.** is amended. The amount we will pay for the actual loss of earnings is increased from \$250 per day to \$400 per day.
3. **ADDITIONAL PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT**  
 If the endorsement, EXCLUSION - PRODUCTS COMPLETED OPERATIONS HAZARD, CG 21 04, is not attached to this policy, then the following provision is added to **SECTION III - LIMITS OF INSURANCE**.  
 Commencing with the effective date of this policy, we will provide one additional Products-Completed Operations Aggregate Limit, for each annual period, equal to the amount of the Products-Completed Operations Aggregate Limit shown in the Declarations. The maximum Products-Completed Operations Aggregate Limit for any annual period will be no more than two times the original Products-Completed Operations Aggregate Limit.
4. **PERSONAL INJURY EXTENSION**
  - a. If the endorsement EXCLUSION - PERSONAL AND ADVERTISING INJURY, CG 21 28, is attached to this policy, then this provision, **4. PERSONAL INJURY EXTENSION**, does not apply.
  - b. If the endorsement EXCLUSION - PERSONAL AND ADVERTISING INJURY, CG 21 28, is not attached to this policy, then **SECTION V - DEFINITIONS** is amended. Paragraph **14.** "Personal and advertising injury" is deleted and replaced by the following definition.
    14. "Personal and advertising injury" means injury including consequential "bodily injury", arising out of one or more of the following offenses:
      - a. False arrest, detention or imprisonment;
      - b. Malicious prosecution;
      - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
      - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
      - e. Oral or written publication of material, in any manner, that violates a person's right of privacy;
      - f. The use of another's advertising idea in your "advertisement";
      - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement"; or
      - h. Discrimination, humiliation, sexual harassment and any violation of civil rights caused by such discrimination, humiliation or sexual harassment.
5. **BROADENED KNOWLEDGE OF OCCURRENCE SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** is amended. The following condition is added.
  - a. Paragraphs **a.** and **b.** of this condition will not serve to deny any claim for failure to provide us with notice as soon as practicable after an "occurrence" or an offense which may result in a claim:
    - (1) If the notice of a new claim is given to your "employee"; and
    - (2) That "employee" fails to provide us with notice as soon as practicable.
  - b. This exception shall not apply:
    - (1) To you; or



(2) To any officer, director, partner, risk manager or insurance manager of yours.

**6. DAMAGE TO PREMISES RENTED TO YOU**

**a. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended.

(1) The last paragraph is deleted and replaced by the following paragraph.

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or water damage to premises rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **6. DAMAGE TO PREMISES RENTED TO YOU, b. Limits of Insurance.**

(2) The following additional exclusions apply to "property damage" arising out of water damage to premises rented to you or temporarily occupied by you with permission of the owner.

(a) "Property damage" to:

- 1) The interior of the premises caused by or resulting from rain or snow, whether driven by wind or not; or
  - 2) Heating, air conditioning, plumbing or fire protection systems, or other equipment or appliances.
- (b) "Property damage" caused by or resulting from any of the following:
- 1) Mechanical breakdown, including bursting or rupture caused by centrifugal force;
  - 2) Cracking, settling, expansion or shrinking;
  - 3) Smoke or smog;
  - 4) Birds, insects, rodents or other animals;
  - 5) Wear and tear;
  - 6) Corrosion, rust, decay, fungus, deterioration, hidden or latent defect or any quality in property that causes such property to destroy or damage itself; or
  - 7) Water that flows or leaks from any heating, air conditioning, plumbing or fire protection system caused by or resulting from freezing, unless:

- a) You make a reasonable effort to maintain heat in the building or structure; or
- b) You drain the equipment and shut off the water supply if the heat is not maintained.

(c) "Property damage" caused directly or indirectly by any of the following:

- 1) Water that backs up from a drain or sewer;
- 2) Mud flow or mudslide;
- 3) Volcanic eruption, explosion or effusion;
- 4) Any earth movement, such as earthquake, landslide, mine subsidence, earth sinking, earth rising or earth shifting;
- 5) Regardless of the cause, flood, surface water, waves, tides, tidal waves, storm surge, overflow of any body of water, or their spray, all whether wind driven or not; or
- 6) Water under the ground surface pressing on, or seeping or flowing through:
  - a) Walls, foundations, floors or paved surfaces;
  - b) Basements, whether paved or not; or
  - c) Doors, windows or other openings.

(d) "Property damage" for which the insured is obligated to pay as damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of this contract or agreement.

**b. Limits of Insurance**

**SECTION III - LIMITS OF INSURANCE** is amended. Paragraph **6.** is deleted and replaced by the following paragraph.

**6.** The most we will pay under Coverage **A** for damages because of "property damage" to premises rented to you or temporarily occupied by you with permission of the owner arising out of or caused by fire, lightning, explosion, smoke and water damage is the amount shown in the Declarations under Damage to Premises Rented to You.

**c. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance,**

Paragraph **b.** is amended. The word fire is amended to include fire, lightning, explosion, smoke or water damage.

**7. BLANKET ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT**

**a. (1) SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization with whom you have agreed:

(a) In a written contract or agreement, executed prior to loss, to name as an additional insured; or

- (b) In an oral contract or agreement, executed prior to loss, to name as an additional insured only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured.
- (2) This provision applies only with respect to liability for:
- (a) "Bodily injury";
- (b) "Property damage"; or
- (c) "Personal and advertising injury" caused in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- b. With respect to the insurance afforded to an additional insured, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
- c. **SECTION III - LIMITS OF INSURANCE** is amended. The following provision is added for purposes of this endorsement only. The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the lessor, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.
- 8. BLANKET ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**
- a. **SECTION II - WHO IS AN INSURED** is amended. The following provision is added. Any person or organization with whom you have agreed to name as an additional insured:
- (1) In a written contract or agreement, executed prior to loss; or
- (2) In an oral contract or agreement, executed prior to loss, only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured
- but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.
- b. The provision is subject to the following additional exclusions.
- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.
- c. **SECTION III - LIMITS OF INSURANCE** is amended. The following provision is added for purposes of this endorsement only.

The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the manager or lessor of the premises, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.

**9. NEWLY FORMED OR ACQUIRED ORGANIZATIONS**

**SECTION II - WHO IS AN INSURED** is amended. Paragraph 3. is deleted and replaced by the following paragraph.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

**10. BLANKET WAIVER OF SUBROGATION**

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended. The following provision is added to **8. Transfer Of Rights Of Recovery Against Others To Us**.

When you have agreed to waive your right of subrogation in a written contract, executed prior to loss, with any person or organization, we waive any right of recovery we may have against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

All other policy terms and conditions apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# CONDITIONAL EXCLUSION OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART

## A. Applicability Of This Endorsement

1. The provisions of this endorsement will apply if and when one of the following situations occurs:

a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act), terminates; or

b. The Program is renewed, extended or otherwise continued in effect:

(1) With revisions that increase insurers' statutory percentage deductible or decrease the federal government's statutory percentage share in potential terrorism losses above such deductible, or that results in a change in the level or terms or conditions of coverage; and

(2) We are not required by the Program to make terrorism coverage available to you and elect not to do so.

2. When this endorsement becomes applicable in accordance with the terms of A.1.a. or A.1.b., above, it supersedes any terrorism

endorsement already endorsed to this policy that addresses "certified acts of terrorism".

3. If this endorsement does NOT become applicable, then any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism", will remain in effect. However, if the Program is renewed, extended or otherwise continued in effect with revisions that change the level or terms or conditions of coverage, and we are required to offer you the revised coverage or to provide revised coverage to those who previously accepted coverage under the Program, then we will take the appropriate steps in response to the federal requirements.

B. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.

"Terrorism" means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or

- c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

2. When one or both of the following applies:

- a. The effect is to intimidate or coerce a government or the civilian population or any segments thereof, or to disrupt any segment of the economy; or
- b. It appears that the intent is to intimidate or coerce a government or the civilian population, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

C. The following exclusion is added:

**Exclusion Of "Terrorism"**

We will not pay for "bodily injury", "property damage", "personal injury" or "advertising injury" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". All "bodily injury", "property damage", "personal injury" or "advertising injury" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such

injury or damage. This exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination;
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material;
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, regardless of whether this endorsement was in effect during the entirety of that time period or not.

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

## EMPLOYER'S LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. Exclusion **e. Employer's Liability** is deleted and replaced by the following exclusion.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of any insured arising out of and in the course of employment by any insured; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **e.(1)**.

This exclusion applies:

- (1) Whether any insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by any insured under an "insured contract".

**B. SECTION II - WHO IS AN INSURED** is amended. Paragraph **1.** is deleted and replaced by the following paragraph for purposes of this endorsement only.

1. **a.** If you are designated in the Declarations as:
  - (1) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - (2) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - (3) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business.

- (4) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (5) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

**b.** However, with respect to paragraphs **1.a.(1)** through **1.a.(5)**, no person is an insured for "bodily injury" or "personal and advertising injury":

(1) To:

- (a) You and your spouse if the Named Insured is an individual;
- (b) Your members, your partners and their spouses if the Named Insured is a partnership or joint venture;
- (c) Your members if the Named Insured is a Limited Liability Company;
- (d) Your "executive officers" and directors if the Named Insured is other than a partnership, joint venture or limited liability company; or
- (e) Your trustees if the Named Insured is a trust.

- (2) To an "employee" of any insured while in the course of his or her employment or performing duties related to the conduct of any insured's business.

- (3) To any insured's "volunteer workers" while performing duties related to the conduct of any insured's business;

- (4) To the spouse, child, parent, brother or sister of any "employee" or "volunteer worker" as a consequence of Paragraphs **1.b.(2)** or **(3)**.

- (5) For which there is any obligation to share damages with or repay someone

else who must pay damages because of the injury described in Paragraphs **1.b.(1), (2) and (3)**.

**(6)** Arising out of his or her providing or failing to provide professional health care services.

All other policy terms and conditions apply.

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Page 2 of 2

# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured. Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above. However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if



- you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible; or
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**  
"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".  
This exclusion applies even if the claims against any insured allege negligence or other

wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

#### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

#### i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

#### k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

#### l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III** – Limits Of Insurance.

**COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **III** – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

**2. Exclusions**

This insurance does not apply to:

- a. **Knowing Violation Of Rights Of Another**  
"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another

and would inflict "personal and advertising injury".

**b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

**c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

**d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**f. Breach Of Contract**

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

**g. Quality Or Performance Of Goods – Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

**h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**i. Infringement Of Copyright, Patent, Trademark Or Trade Secret**

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

**j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;

- (2) Designing or determining content of web sites for others; or

- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

**k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**p. Recording And Distribution Of Material Or Information In Violation Of Law**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**COVERAGE C – MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations; provided that:
    - (a) The accident takes place in the "coverage territory" and during the policy period;
    - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
    - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers' Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

**f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

**g. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
  - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:
    - (1) Agrees in writing to:
      - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
      - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
      - (c) Notify any other insurer whose coverage is available to the indemnitee; and
      - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
    - (2) Provides us with written authorization to:
      - (a) Obtain records and other information related to the "suit"; and
      - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the

payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.
- (2) "Property damage" to property:
- (a) Owned, occupied or used by;
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
- a. Medical expenses under Coverage **C**;
  - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
- a. Damages under Coverage **A**; and
  - b. Medical expenses under Coverage **C** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

## 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
  - (1) Immediately record the specifics of the claim or "suit" and the date received; and
  - (2) Notify us as soon as practicable.
 You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

## 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

## 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

### a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

### b. Excess Insurance

- (1) This insurance is excess over:
  - (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
    - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
    - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
    - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
    - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
  - (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.
- (2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and



(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in Paragraph a.

above, but is away for a short time on your business; or

- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement. Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or

- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".
13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
16. "Products-completed operations hazard":
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- b. Does not include "bodily injury" or "property damage" arising out of:
- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.
17. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b.** Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- 18.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 19.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 20.** "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**21.** "Your product":

**a.** Means:

- (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a)** You;
  - (b)** Others trading under your name; or
  - (c)** A person or organization whose business or assets you have acquired; and
- (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**b.** Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2)** The providing of or failure to provide warnings or instructions.

**c.** Does not include vending machines or other property rented to or located for the use of others but not sold.

**22.** "Your work":

**a.** Means:

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

**b.** Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

## LIQUOR LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us", and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V - DEFINITIONS**.

### SECTION I - LIQUOR LIABILITY COVERAGE

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "injury" to which this insurance applies if liability for such "injury" is imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "injury" to which this insurance does not apply. We may, at our discretion, investigate any "injury" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS**.

- b. This insurance applies to "injury" only if:
- (1) The "injury" occurs during the policy period in the "coverage territory"; and

- (2) Prior to the policy period, no insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** and no "employee" authorized by you to give or receive notice of an injury or claim, knew that the "injury" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "injury" occurred, then any continuation, change or resumption of such "injury" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Injury" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "injury" or claim, includes any continuation, change or resumption of that "injury" after the end of the policy period.
- d. "Injury" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "injury" or claim:
  - (1) Reports all, or any part, of the "injury" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "injury"; or
  - (3) Becomes aware by any other means that "injury" has occurred or has begun to occur.

#### 2. Exclusions

This insurance does not apply to:

- a. **Expected Or Intended Injury**  
"Injury" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
- b. **Workers' Compensation And Similar Laws**  
Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.
- c. **Employers Liability**  
"Bodily injury" to:
  - (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "injury".

**d. Liquor License Not In Effect**

"Injury" arising out of any alcoholic beverage sold, served or furnished while any required license is not in effect.

**e. Your Product**

"Injury" arising out of "your product". This exclusion does not apply to "injury" for which the insured or the insured's indemnitees may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

**f. Other Insurance**

Any "injury" with respect to which other insurance is afforded, or would be afforded but for the exhaustion of the limits of insurance.

This exclusion does not apply if the other insurance responds to liability for "injury" imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage.

**g. War**

"Injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

- 3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 4. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- 5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- 6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- 7. Expenses incurred by the insured for first aid administered to others at the time of an event to which this insurance applies.

These payments will not reduce the limits of insurance.

**SECTION II - WHO IS AN INSURED**

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- 2. Each of the following is also an insured:
  - a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees"

**SUPPLEMENTARY PAYMENTS**

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- 1. All expenses we incur.
- 2. The cost of bonds to release attachments, but only

is an insured for:

**(1) "Injury":**

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(a)** above; or
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(a)** or **(b)** above.

**(2) "Property damage" to property:**

- (a)** Owned or occupied by; or
- (b)** Rented or loaned to that "employee", any of your other "employees", by any of your partners or members (if you are a partnership or joint venture), or by any of your members (if you are a limited liability company).

**b.** Any person or organization having proper temporary custody of your property if you die, but only:

- (1)** With respect to liability arising out of the maintenance or use of that property; and
- (2)** Until your legal representative has been appointed.

**c.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

**3.** Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a.** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
- b.** Coverage does not apply to "injury" that occurred before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III - LIMITS OF INSURANCE

- 1.** The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a.** Insureds;
  - b.** Claims made or "suits" brought; or
  - c.** Persons or organizations making claims or bringing "suits".
- 2.** The Aggregate Limit is the most we will pay for all "injury" as the result of the selling, serving or furnishing of alcoholic beverages.
- 3.** Subject to the Aggregate Limit, the Each Common Cause Limit is the most we will pay for all "injury" sustained by one or more persons or organizations as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV - LIQUOR LIABILITY CONDITIONS

**1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

**2. Duties In The Event Of Injury, Claim Or Suit**

- a.** You must see to it that we are notified as soon as practicable of an "injury" which may result in a claim. To the extent possible, notice should include:
  - (1)** How, when and where the "injury" took place;
  - (2)** The names and addresses of any injured persons and witnesses; and
  - (3)** The nature and location of any "injury".
- b.** If a claim is made or "suit" is brought against any insured, you must:
  - (1)** Immediately record the specifics of the claim or "suit" and the date received; and
  - (2)** Notify us as soon as practicable. You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c.** You and any other involved insured must:
  - (1)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury" to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary. Our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b. below.

#### b. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### 5. Premium Audit

- a. We will compute all premiums for this Cover-

age Part in accordance with our rules and rates.

- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this coverage part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

### 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V - DEFINITIONS

- 1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.



2. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the "injury" occurs in the course of travel or transportation between any place included in Paragraph **a.** above; or
  - c. All other parts of the world if the "injury" arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above; or
    - (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to.
3. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
4. "Executive Officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
5. "Injury" means damages because of "bodily injury" and "property damage", including damages for care, loss of services or loss of support.
6. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
7. "Property damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it.
8. "Suit" means a civil proceeding in which damages because of "injury" to which this insurance applies are alleged. "Suit" includes:
  - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
9. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
10. "Your product":
  - a. Means:
    - (1) Any goods or products, other than real property manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product", and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.

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

## **ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PRODUCT WITHDRAWAL COVERAGE PART

**A. Cancellation** (Common Policy Conditions) is replaced by the following:

### **Cancellation**

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing to us advance written notice of cancellation.
2. We may cancel this Policy by mailing to you, at your last mailing address known to us, written notice stating the reason for cancellation. Proof of mailing will be sufficient proof of notice. If we cancel:
  - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
  - b. For a reason other than nonpayment of premium, we will mail the notice at least:
    - (1) 30 days prior to the effective date of cancellation if the Policy has been in effect for 60 days or less.
    - (2) 60 days prior to the effective date of cancellation if the Policy has been in effect for more than 60 days.
3. If this Policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:
  - a. Nonpayment of premium;
  - b. The Policy was obtained through a material misrepresentation;
  - c. Any insured has violated any of the terms and conditions of the Policy;
  - d. The risk originally accepted has measurably increased.
  - e. Certification of the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
  - f. A determination by the Director of Insurance that the continuation of the Policy could place us in violation of the insurance laws of this State.
4. Notification of cancellation will also be sent to your broker, if known, or agent of record, if known.
5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
6. If this Policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

- B. The following is added and supersedes any provision to the contrary:

**Nonrenewal**

If we decide not to renew or continue this Policy, we will mail you written notice, stating the reason for nonrenewal, at least 60 days before the end of the policy period. Proof of mailing will be sufficient proof of notice. Notification of nonrenewal will also be

sent to your broker, if known, or agent of record, if known. If we offer to renew or continue and you do not accept, this Policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this Policy will end on the effective date of that insurance.

COMMERCIAL GENERAL LIABILITY  
CG 20 01 04 13

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

## **PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

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

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Exclusion 2.p. of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**B. The following is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information. This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

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

## **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

COMMERCIAL GENERAL LIABILITY  
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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **SILICA OR SILICA-RELATED DUST EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**
- 2. Exclusions**  
This insurance does not apply to:  
**Silica Or Silica-Related Dust**
- "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
  - "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
  - Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**
- 2. Exclusions**  
This insurance does not apply to:  
**Silica Or Silica-Related Dust**
- "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
  - Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
- "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
  - "Silica-related dust" means a mixture or combination of silica and other dust or particles.

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

## EXCLUSION - UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Exclusion 2.g. Aircraft, Auto Or Watercraft under Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**g. Aircraft, Auto Or Watercraft**

**(1) Unmanned Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

**(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use

or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph **g.(2)** does not apply to:

- (a)** A watercraft while ashore on premises you own or rent;
- (b)** A watercraft you do not own that is:
  - (i)** Less than 26 feet long; and
  - (ii)** Not being used to carry persons or property for a charge;
- (c)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e)** "Bodily injury" or "property damage" arising out of:
  - (i)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (ii)** The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

**B. The following exclusion is added to Paragraph 2. Exclusions of Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:



**Unmanned Aircraft**

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- a. The use of another's advertising idea in your "advertisement"; or
  - b. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
- C. The following definition is added to the **Definitions** section:
- "Unmanned aircraft" means an aircraft that is not:
1. Designed;
  2. Manufactured; or
  3. Modified after manufacture;
- to be controlled directly by a person from within or on the aircraft.

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

## **ILLINOIS CHANGES – CIVIL UNION**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
FARM COVERAGE PART  
FARM UMBRELLA LIABILITY POLICY  
LIQUOR LIABILITY COVERAGE PART  
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCT WITHDRAWAL COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY

- A.** The term "spouse" is replaced by the following:  
Spouse or party to a civil union recognized under Illinois law.
- B.** Under the Commercial Auto Coverage Part, the term "family member" is replaced by the following:  
"Family member" means a person related to the:
1. Individual Named Insured by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of such Named Insured's household, including a ward or foster child; or
  2. Individual named in the Schedule by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of the
- individual's household, including a ward or foster child, if the Drive Other Car Coverage – Broadened Coverage For Named Individual Endorsement is attached.
- C.** With respect to coverage for the ownership, maintenance, or use of "covered autos" provided under the Commercial Liability Umbrella Coverage Part, the term "family member" is replaced by the following:  
"Family member" means a person related to you by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of your household, including a ward or foster child.

## **RENTED EQUIPMENT ENDORSEMENT**

It is agreed:

Coverage is provided for contractors equipment rented by the insured person.

We shall pay no more than the limit of insurance shown for Rented Equipment in the Declarations.

All other terms and conditions of the policy apply.

**COINSURANCE CONTRACT**

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**CONTRACTORS EQUIPMENT FORM**

**COVERAGE**

**1. Property Covered**

We cover the property described in the Declarations under Contractors Equipment.

**2. Property Not Covered**

We do not cover:

- a. automobiles or similar vehicles;
- b. plans, blue prints, designs or specifications;
- c. property while stored or operated underground in connection with any mining operations; and
- d. property which has become a permanent part of any structure.

**PERILS WE INSURE AGAINST**

We cover accidental direct physical loss or damage to covered property, except for losses excluded in this form.

**EXCLUSIONS**

We do not cover under this form loss or damage caused directly or indirectly by any of the following, whether or not any other cause or happening contributes concurrently or in any sequence to the loss or damage:

- 1. Seizure or destruction of property by order of governmental authority. We will pay for such acts of destruction taken at the time of a fire to prevent its spread if the fire would be covered under this form.
- 2. Nuclear action meaning nuclear reaction, radiation, radioactive contamination, discharge of a nuclear weapon, however caused and whether controlled or uncontrolled, or any consequence of any of these. We will cover direct loss resulting from fire if caused by any of these, if fire is covered elsewhere in this form.
- 3. War (declared or undeclared), civil war, insurrection, rebellion or revolution.
- 4. Wear and tear; inherent vice; hidden or latent defect; gradual deterioration; mechanical break down; insects, vermin, rodents; or depreciation. We will cover direct loss from fire or explosion which is caused by any of these.
- 5. A process to repair, adjust, service or maintain the property covered. If a fire or explosion results, we will cover the loss caused by the fire or explosion.
- 6. Corrosion, rusting, dampness of atmosphere, or extremes of temperature.
- 7. Misappropriation, secretion, conversion, infidelity or any dishonest act by you or others or the employees or agents of either to whom the covered property may be entrusted. This exclusion does not apply to carriers for hire.
- 8. Artificially generated electrical currents to electrical apparatus. We will cover loss or damage caused directly by ensuing fire or explosion.
- 9. The weight of a load exceeding the registered lifting or supporting capacity of any machine.
- 10. While covered property is being supported or carried on water except loss or damage caused by fire.
- 11. Strikes, lockouts, labor disturbances, riots and civil commotion; or the acts of any person or persons taking part in such occurrences or disorders.

**LIMITS OF LIABILITY**

We shall not be liable for more than the limits shown in the Declarations under Contractors Equipment.

**ADDITIONAL CONDITIONS****Coinsurance Clause**

We will pay no more than the amount of loss or damage multiplied by the ratio of the amount of insurance on the property covered to 100% of its actual cash value or replacement cost, as stated in the Declarations or Schedule, at the time of loss.

**Territory**

This policy applies only within the continental United States and Canada.

**Special Condition**

Each item of property described in the Declarations under Contractors Equipment is deemed to be separately insured.

Under **COMMERCIAL INLAND MARINE CONDITIONS, SPECIAL CONDITIONS**, the condition **VALUATION** is deleted and replaced by the following as it applies to this form only:

**VALUATION**

Loss of or damage to property covered shall be adjusted on the basis of:

1. actual cash value; or
2. replacement cost

as stated in the Declarations or Schedule.

Replacement cost is the value of the covered property based on the cost at the time of loss to repair or replace the covered property with like kind or quality without any deduction for depreciation and subject to the following:

1. Replacement cost valuation will not apply until actual repair or replacement of the damaged or destroyed covered property occurs.
2. If you decide not to repair or replace the damaged or destroyed covered property, we will settle on an actual cash value basis and deduct for depreciation. You may make a claim within 180 days after the loss for any additional payment on a replacement cost basis.

All scheduled items valued on a Replacement Cost basis will automatically change to Actual Cash Value when the age of the item exceeds five years as determined by the original date of manufacture.

## COMMERCIAL INLAND MARINE CONDITIONS

### INSURING AGREEMENT

We agree to provide insurance subject to all the terms of this coverage part. In return, you must pay the premium and comply with all the terms of this policy or coverage part. This insurance applies to loss which occurs during the policy term shown in the Declarations. The coverages provided, the limits of our liability and the premiums are also shown in the Declarations.

### DEFINITIONS

To understand this coverage part, you must understand what we mean when we use these words:

1. You and your mean the insured named in the Declarations.
2. We, us and our mean the Company providing this insurance.

### WHAT TO DO IN CASE OF LOSS

1. **NOTICE** In case of a loss, you must:
  - a. Give us or our agent prompt notice including a description of the property involved (we may request written notice); and
  - b. Give notice to the police when the act that causes the loss is a crime.
2. **YOU MUST PROTECT PROPERTY** You must take all reasonable steps to protect covered property at and after an insured loss to avoid further loss.
  - a. **Payment Of Reasonable Costs** We do pay the reasonable costs incurred by you for necessary repairs or emergency measures performed solely to protect covered property from further damage by a peril insured against if a peril insured against has already caused a loss to covered property. You must keep an accurate record of such costs. Our payment of reasonable costs does not increase the limit of insurance provided for covered property.
  - b. **We Do Not Pay** We do not pay for such repairs or emergency measures performed on property that has not been damaged by a peril insured against.
3. **DAMAGED PROPERTY**
  - a. You must exhibit the damaged and undamaged property as often as we reasonably request and allow us to inspect or take samples of the property.
  - b. Make a list of all damaged and destroyed property, showing in detail quantities, costs, actual cash value and amount of loss claimed.

4. **PROOF OF LOSS** You must send us, within 60 days after our request, a signed, sworn proof of loss. This must include the following information:
  - a. The time, place and circumstances of the loss;
  - b. Other policies of insurance that may cover the loss;
  - c. Your interest and the interests of all others in the property involved, including all mortgages and liens;
  - d. Changes in title of the covered property during the policy period; and
  - e. Estimates, specifications, inventories and other reasonable information that we may require to settle the loss.
5. **EXAMINATION** You must submit to examination under oath in matters connected with the loss as often as we reasonably request and give us sworn statements of the answers. If more than one person is examined, we have the right to examine and receive statements separately and not in the presence of others.
6. **RECORDS**
  - a. You must produce records, including tax returns and bank microfilms of all canceled checks relating to value, loss and expense and permit copies and extracts to be made of them as often as we reasonably request.
  - b. Produce for examination, with permission to copy, all books of account, bills, invoices, receipts and other vouchers as we may reasonably require.
7. **VOLUNTEER PAYMENTS** You must not, except at your own expense, voluntarily make any payments, assume any obligations, pay or offer any rewards, or incur any other expenses except as respects protecting property from further damage.

### SPECIAL CONDITIONS

The following conditions apply unless otherwise stated in a specific coverage form attached to this Commercial Inland Marine policy or this Commercial Inland Marine coverage part.

**ABANDONMENT** You may not abandon the property to us without our written consent.

#### APPRAISAL

If you and we do not agree on the amount of the loss or the value of covered property, either party may demand that these amounts be determined by appraisal.

If either makes a written demand for appraisal, each will select a competent, independent appraiser and notify the other of the appraiser's identity within 20 days of receipt of the written demand. The two appraisers will then select a competent, impartial umpire. If the two appraisers are unable to agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state where the property is located to select an umpire.

The appraisers will then determine and state separately the amount of each loss.

The appraisers will also determine the value of covered property items at the time of the loss, if requested. If the appraisers submit a written report of any agreement to us, the amount agreed upon will be the amount of the loss. If the appraisers fail to agree within a reasonable time, they will submit only their differences to the umpire. Written agreement so itemized and signed by any two of these three, sets the amount of the loss. Each appraiser will be paid by the party selecting that appraiser. Other expenses of the appraisal and the compensation of the umpire will be paid equally by you and us.

**ASSIGNMENT** This provision applies only if the named insured is an individual.

**a. Your Death** - On your death, we cover the following as an insured:

- (1) The person who has custody of your property until a legal representative is qualified and appointed; or
- (2) Your legal representative.

This person or organization is an insured only with respect to property covered by this coverage.

**b. Policy Term Is Not Extended** This coverage does not extend past the policy term shown in the Declarations.

**CONCEALMENT, MISREPRESENTATION OR FRAUD**

This coverage is void as to you and any other insured if, before or after a loss:

- a.** You or any other insured have willfully concealed or misrepresented:
  - (1) A material fact or circumstance that relates to this insurance or the subject thereof; or
  - (2) Your interest herein.
- b.** There has been fraud or false swearing by you or any other insured with regard to a matter that relates to this insurance or the subject thereof.

**COOPERATION** You must cooperate with us in performing all acts required by this policy.

**DEDUCTIBLE** We pay only that part of your loss over the deductible amount shown in the Declarations in any one occurrence.

**INSURABLE INTEREST** We do not cover more than your insurable interest in any property.

**LOSS CLAUSE** Except as shown under **Limited Fungi Coverage**, if provided, the amount of insurance under this policy will not be reduced except for total loss of a scheduled item. Any unearned premium that applies to such item will be refunded.

**NO BENEFIT TO BAILEE** Insurance under this coverage will not directly or indirectly benefit anyone having custody of your property.

**OTHER INSURANCE**

**a. Proportional Share** You may have another policy subject to the same terms as this policy. If you do, we will pay your share of the covered loss. Our share is the proportion that the applicable limit under this policy bears to the limit of all policies covering on the same basis.

**b. Excess Amount** If there is another policy covering the same loss, other than that described above, we pay only for the amount of covered loss in excess of the amount due from that other policy, whether you can collect on it or not. However, we do not pay more than the applicable limit.

**OUR PAYMENT OF LOSS**

**a. Adjustment And Payment Of Loss** We adjust all losses with you. Payment will be made to you unless another loss payee is named in the policy.

**b. Conditions For Payment Of Loss** An insured loss will be payable 30 days after:

- (1) A satisfactory proof of loss is received; and
- (2) The amount of the loss has been established either by written agreement with you or the filing of an appraisal award with us.

**OUR RIGHT TO RECOVER PAYMENT** If we pay for a loss, we may require you to assign to us your right of recovery against others. You must do all that is necessary to secure our rights. We do not pay for a loss if you impair this right to recover. You may waive your right to recover from others in writing before a loss occurs.

**PAIR OR SET** The value of a lost or damaged article that is part of a pair or set is based on a reasonable proportion of the value of the entire pair or set. The loss is not considered a total loss of the pair or set.

**PARTS** The value of a lost or damaged part of an item that consists of several parts when it is complete is based on the value of only the lost or damaged part or the cost to repair or replace it.

**POLICY TERM** We pay for a covered loss that occurs during the policy term.

**RECOVERIES** If we pay you for the loss and lost or damaged property is recovered, or payment is made by those responsible for the loss, the following provisions apply:

- a.** You must notify us promptly if you recover property or receive payment;
- b.** We must notify you promptly if we recover property or receive payment;

- c. Any recovery expenses incurred by either are re-imbursed first;
- d. You may keep the recovered property but you must refund to us the amount of the claim paid or any lesser amount to which we agree; and
- e. If the claim paid is less than the agreed loss because of a deductible or other limiting terms of this policy, any recovery will be prorated between you and us based on our respective interest in the loss.

**RIGHT TO ADJUST LOSS WITH OWNER****a. Adjustment And Payment Of Loss To Property Of**

**Others** Losses to property of others may be adjusted with and paid to:

- (1) You on behalf of the owner; or
- (2) The owner.

**b. We Do Not Have To Pay You If We Pay The**

**Owner** If we pay the owner, we do not have to pay you. We may also choose to defend any suits brought by the owners at our expense.

**SUIT AGAINST US** No one may bring a legal action against us under this coverage unless:

- a. All of the terms of this coverage have been complied with; and
- b. The suit has been brought within two years after you first have knowledge of the loss.

If any applicable law makes this limitation invalid, then suit must begin within the shortest period permitted by law.

**VALUATION** We will not pay more than the least of:

- a. The actual cash value of the damaged property at the time any loss or damage occurs. Actual cash value may include a deduction for depreciation;
- b. The cost to repair or replace the damaged property with like kind or quality; or
- c. The amount of insurance stated for the class of property shown in the Declarations.

**WHEN TWO OR MORE COVERAGES APPLY**

If more than one coverage of this policy insures the same loss, we pay no more than the actual claim, loss or damage sustained.



16381 (7-08)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONDITIONAL EXCLUSION OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

### COMMERCIAL INLAND MARINE COVERAGE PART

#### A. Applicability Of This Endorsement

1. The provisions of this endorsement will apply if and when one of the following situations occurs:
  - a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act), terminates; or
  - b. The Program is renewed, extended or otherwise continued in effect:
    - (1) With revisions that increase insurers' statutory percentage deductible or decrease the federal government's statutory percentage share in potential terrorism losses above such deductible, or that results in a change in the level or terms or conditions of coverage; and
    - (2) We are not required by the Program to make terrorism coverage available to you and elect not to do so.
2. When this endorsement becomes applicable in accordance with the terms of A.1.a. or A.1.b., above, it supersedes any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism".

3. If this endorsement does NOT become applicable, then any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism", will remain in effect. However, if the Program is renewed, extended or otherwise continued in effect with revisions that change the level or terms or conditions of coverage, and we are required to offer you the revised coverage or to provide the revised coverage to those who previously accepted coverage under the Program, then we will take the appropriate steps in response to the federal requirements.

- B. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks. "Terrorism" means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When one or both of the following applies:

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16381 (7-08)

Page 1 of 2

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- a. The effect is to intimidate or coerce a government or the civilian population or any segments thereof, or to disrupt any segment of the economy; or
- b. It appears that the intent is to intimidate or coerce a government or the civilian population, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

C. The following exclusion is added:

**Exclusion Of "Terrorism"**

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination;
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material;
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, regardless of whether this endorsement was in effect during the entirety of that time period or not.

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

# **CONDITIONAL EXCLUSION OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)**

This endorsement modifies insurance provided under the following:

## **COMMERCIAL PROPERTY COVERAGE PART**

### **A. Applicability Of This Endorsement**

**1. The provisions of this endorsement will apply if and when one of the following situations occurs:**

- a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act), terminates; or**
- b. The Program is renewed, extended or otherwise continued in effect:**

**(1) With revisions that increase insurers' statutory percentage deductible or decrease the federal government's statutory percentage share in potential terrorism losses above such deductible, or that results in a change in the level or terms or conditions of coverage; and**

**(2) We are not required by the Program to make terrorism coverage available to you and elect not to do so.**

**2. When this endorsement becomes applicable in accordance with the terms of A.1.a. or A.1.b., above, it supersedes any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism".**

**3. If this endorsement does NOT become applicable, then any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism", will remain in effect. However, if the Program is renewed, extended or otherwise continued in effect with revisions that change the level or terms or conditions of coverage, and we are required to offer you the revised coverage or to provide the revised coverage to those who previously accepted coverage under the Program, then we will take the appropriate steps in response to the federal requirements.**

**B. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.**

"Terrorism" means activities against persons, organizations or property of any nature:

- 1. That involve the following or preparation for the following:**
  - a. Use or threat of force or violence; or**
  - b. Commission or threat of a dangerous act; or**
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and**

2. When one or both of the following applies:
  - a. The effect is to intimidate or coerce a government or the civilian population or any segments thereof, or to disrupt any segment of the economy; or
  - b. It appears that the intent is to intimidate or coerce a government or the civilian population, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

C. The following exclusion is added:

**Exclusion Of "Terrorism"**

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination;

2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material;
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, regardless of whether this endorsement was in effect during the entirety of that time period or not.

**D. Exception To Exclusion Of "Terrorism" For Certain Fire Losses**

If "terrorism" results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage caused by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverage forms or endorsements that apply to those coverage forms or to the Legal Liability Coverage Form.

**CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM  
AND  
IMPORTANT INFORMATION REGARDING TERRORISM RISK  
INSURANCE COVERAGE**

It is agreed:

1. With respect to any one or more certified acts of terrorism, we will not pay any amounts for which we are not responsible because of the application of any provision which results in a cap on our liability for payments for terrorism losses in accordance with the terms of the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).
2. Certified act of terrorism means any act certified by the Secretary of the Treasury, in consultation with:
  - a. the Secretary of Homeland Security; and
  - b. the Attorney General of the United Statesto be an act of terrorism as defined and in accordance with the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).
3. Under the federal Terrorism Risk Act of 2002 (including ensuing Congressional actions pursuant to the Act) a terrorist act may be certified:
  - a. if the aggregate covered commercial property and casualty insurance losses resulting from the terrorist act exceed \$5 million; and
  - b. (1) if the act of terrorism is:
    - a) a violent act; or
    - b) an act that is dangerous to human life, property or infrastructure; and(2) if the act is committed:
    - a) by an individual or individuals as part of an effort to coerce the civilian population of the United States; or
    - b) to influence the policy or affect the conduct of the United States government by coercion.

All other policy terms and conditions apply.

## IMPORTANT INFORMATION REGARDING TERRORISM RISK INSURANCE COVERAGE

The Terrorism Risk Insurance Act of 2002 was signed into law on November 26, 2002. The Act (including ensuing Congressional actions pursuant to the Act) defines an act of terrorism, to mean any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be (i) an act of terrorism; (ii) to be a violent act or an act that is dangerous to human life, property or infrastructure; (iii) to have resulted in damage within the United States or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and (iv) to have been committed by an individual or individuals 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.

Subject to the policy terms and conditions, this policy provides insurance coverage for acts of terrorism as defined in the Act.

Any coverage for certain commercial lines of property and casualty insurance provided by your policy for losses caused by certified acts of terrorism are partially paid by the federal government under a formula established by federal law. Under this formula, the government will reimburse us for 85% of such covered losses that exceed the statutory deductible paid by us. However, beginning January 1, 2016 the share will decrease 1% per calendar year until it equals 80%. **You should also know that in the event aggregate insured losses exceed \$100 billion during any year the Act is in effect, then the federal government and participating United States insurers that have met their insurer deductible shall not be liable for the payment of any portion of that amount of the loss that exceeds \$100 billion. In the event that aggregate insured losses exceed \$100 billion annually, no additional claims will be paid by the federal government or insurers.** This formula is currently effective through December 31, 2020 unless extended.

The premium charge, if any, for this coverage is shown separately on the attached Declarations page. In the event of a certified act of terrorism, future policies also may include a government assessed terrorism loss risk-spreading premium in accordance with the provisions of the Act.

Please contact us if you would like to reject coverage for certified acts of terrorism.

IL 00 03 07 02

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

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

IL 00 03 07 02

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Page 1 of 1

000164

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. EXAMINATIONS OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

### E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.



**F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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

# **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)**

This endorsement modifies insurance provided under the following:

- COMMERCIAL AUTOMOBILE COVERAGE PART
- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- FARM COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- POLLUTION LIABILITY COVERAGE PART
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
- PROFESSIONAL LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART
- UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:
  - A. Under any Liability Coverage, to "bodily injury" or "property damage":
    - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
    - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
  - B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
  - C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
    - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
    - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
    - (3) The "bodily injury" or "property damage" arises out of 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", but if such facility is located

within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

**2.** As used in this endorsement:

"Hazardous properties" include radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";
- (c)** Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" 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";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

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

## ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
FARM COVERAGE PART

**A.** The **Cancellation** Common Policy Condition is replaced by the following:

**Cancellation**

1. The first Named Insured shown in the Declarations may cancel this policy by mailing to us advance written notice of cancellation.
2. If this policy has been in effect for 60 days or less, except as provided in Paragraphs **8.** and **9.** below, we may cancel this policy by mailing written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. If this policy has been in effect for more than 60 days, except as provided in Paragraphs **8.** and **9.** below, we may cancel this policy only for one or more of the following reasons:
  - a. Nonpayment of premium;
  - b. The policy was obtained through a material misrepresentation;
  - c. You have violated any of the terms and conditions of the policy;
  - d. The risk originally accepted has measurably increased;
  - e. Certification to the Director of Insurance of the loss of reinsurance by the insurer which provided coverage to us for all or a substantial part of the underlying risk insured; or
  - f. A determination by the Director that the continuation of the policy could place us in violation of the insurance laws of this State.

If we cancel this policy based on one or more of the above reasons except for nonpayment of premium, we will mail written notice at least 60 days before the effective date of cancellation.

When cancellation is for nonpayment of premium, we will mail written notice at least 10 days before the effective date of cancellation.

4. We will mail our notice to you, together with our reason for cancellation, at your last mailing address known to us. Proof of mailing will be sufficient proof of notice.
5. Notification of cancellation will also be sent to your broker, if known, or agent of record, if known, and to the mortgagee or lienholder listed on the policy.
6. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
7. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
8. **Real Property Other Than Residential Properties Occupied By Four Families Or Less**  
The following applies only if this policy covers real property other than residential property occupied by four families or less:  
If any one or more of the following conditions exists at any building that is Covered Property in this policy, we may cancel this policy by mailing to you written notice of cancellation, by both certified and regular mail, if:
  - a. After a fire loss, permanent repairs to the building have not started within 60 days of satisfactory adjustment of loss, unless the delay is due to a labor dispute or weather conditions.
  - b. The building has been unoccupied 60 or more consecutive days. This does not apply to:

- (1) Seasonal unoccupancy; or
- (2) Buildings under repair, construction or reconstruction, if properly secured against unauthorized entry.
- c. The building has:
  - (1) An outstanding order to vacate;
  - (2) An outstanding demolition order; or
  - (3) Been declared unsafe in accordance with the law.
- d. Heat, water, sewer service or public lighting have not been connected to the building for 30 consecutive days or more.

The policy will terminate 10 days following receipt of the written notice by the named insured(s).

**9. Residential Properties Occupied By Four Families Or Less**

The following applies if this policy covers residential properties occupied by four families or less:

If this policy has been in effect for 60 days, or if this is a renewal policy, we may only cancel this policy for one or more of the following reasons:

- a. Nonpayment of premium;
- b. The policy was obtained by misrepresentation or fraud; or
- c. Any act that measurably increases the risk originally accepted.

If we cancel this policy based on one or more of the above reasons except for nonpayment of premium, we will mail written notice at least 30 days before the effective date of cancellation. When cancellation is for nonpayment of premium, we will mail written notice at least 10 days before the effective date of cancellation.

**10. For insurance provided under the Commercial Property Coverage Part and the Capital Assets Program (Output Policy) Coverage Part, the following applies:**

**Grain in Public Grain Warehouses**

(Not applicable to grain owned by the Commodity Credit Corporation)

The following applies only with respect to grain in public grain warehouses:

The first Named Insured or we may cancel this policy at any time by mailing to:

- a. The other; and
  - b. The Director of the Illinois Department of Agriculture (at its Springfield Office);
- 60 days' written notice of cancellation.

**B. The following is added:**

**Nonrenewal**

1. If we decide not to renew or continue this policy, we will mail you, written notice. Proof of mailing will be sufficient proof of notice.
2. Except as provided in Paragraph 6. below, we will mail you notice of nonrenewal at least 60 days before the end of the policy period.
3. If we offer to renew or continue and you do not accept, this policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.
4. If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this policy will end on the effective date of that insurance.
5. The following provision applies to policies other than those described in Paragraph 6.: Notification of nonrenewal will also be sent to your broker, if known, or agent of record, if known, and the mortgagee or lienholder listed on the policy.
6. The following provision applies only if this policy covers residential properties occupied by four families or less:
  - a. If this policy has been issued to you and in effect with us for five or more years, we may not fail to renew this policy unless:
    - (1) The policy was obtained by misrepresentation or fraud and we mail you notice of nonrenewal at least 30 days before the end of the policy period as provided in 1. above;
    - (2) The risk originally accepted has measurably increased and we mail you notice of nonrenewal at least 30 days before the end of the policy period as provided in 1. above; or
    - (3) You received 60 days' notice of our intent not to renew as provided in 1. above.
  - b. If this policy has been issued to you and in effect with us for less than five years, we may not fail to renew this policy unless you received 30 days' notice as provided in 1. above.
  - c. Notification of nonrenewal will also be sent to your broker, if known, or agent of record, if known, and to the last known mortgagee or lienholder.
  - d. The nonrenewal shall not become effective until at least 30 days from the proof of mailing of notice to you.

# Exhibit E

04-0627-00  
AFINA INSURANCE ADVISORS INC  
1S660 MIDWEST RD STE 300  
OAKBROOK TERRACE IL 60181-4458

# *Auto-Owners* INSURANCE

LIFE • HOME • CAR • BUSINESS

P.O. BOX 30660 • LANSING, MICHIGAN 48909-8160

Owners Insurance Company

12-17-2019

NEW MERIDIAN BANQUETS INC  
MERIDIAN BUILDINGS LLC  
1701 ALGONQUIN RD  
ROLLING MEADOWS IL 60008-4112

**Remember**, you can view your policy, pay your bill or change your paperless options any time online, at [www.auto-owners.com](http://www.auto-owners.com). If you have not already enrolled your policy, you may do so using policy number **154604-07295126-20** and Personal ID Code (PID) **R2P 29A 6P9**.

Your agency's phone number is 630-524-3090.

RE: Policy 154604-07295126-20

Thank you for selecting Auto-Owners Insurance Group to serve your insurance needs! Feel free to contact your independent Auto-Owners agent with questions you may have.

Auto-Owners and its affiliate companies offer a variety of programs, each of which has its own eligibility requirements, coverages and rates. In addition, Auto-Owners also offers many billing options. Please take this opportunity to review your insurance needs with your Auto-Owners agent, and discuss which company, program, and billing option may be most appropriate for you.

Auto-Owners Insurance Company was formed in 1916. The Auto-Owners Insurance Group is comprised of five property and casualty companies and a life insurance company. Our A++ (Superior) rating by A.M. Best Company signifies that we have the financial strength to provide the insurance protection you need.

~ *Serving Our Policyholders and Agents Since 1916* ~

59006 (5-19)

## POLICYHOLDER ASSISTANCE AND INFORMATION

Dear Policyholder:

We are here to serve you and as our policyholder your satisfaction is very important to us. Should you have any questions or a complaint regarding your policy that cannot be resolved by your agent, you may contact our Illinois Branch Office for assistance. Please direct your inquiries to:

Branch Manager  
Auto-Owners Insurance Company  
6715 North Big Hollow Rd.  
Peoria, Illinois 61615  
P.O. Box 3337  
Peoria, Illinois 61612-3337  
Telephone: 309-693-2550

You may contact the Illinois Department of Insurance at any time for further assistance at the following address: Public Services Section, Department of Insurance, 320 West Washington, Springfield, Illinois 62767.

Auto-Owners Insurance Company  
Owners Insurance Company  
Auto-Owners Life Insurance Company



59349 (10-03)

## AVAILABILITY OF TERRORISM RISK INSURANCE COVERAGE

Dear Policyholder:

Our records indicate that you previously rejected our offer to provide coverage for certified acts of terrorism. The enclosed policy does not provide coverage for certified acts of terrorism in accordance with your previous rejection of coverage.

If you would like coverage for certified acts of terrorism, please contact us.

This notice is for informational purposes only.

If you have any questions concerning your policy or this notice, please contact your Auto-Owners agency.

59349 (10-03)

Page 1 of 1

## NOTIFICATION OF POSSIBLE CHANGES IN COVERAGE FOR TERRORISM

Dear Policyholder:

The Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act) will expire on December 31, 2020 unless the Federal government extends the Act. What this means to you is the following:

1. This policy does not provide coverage for certified acts of terrorism, since you have previously declined this coverage.
2. A conditional endorsement entitled, Conditional Exclusion Of Terrorism Involving Nuclear, Biological Or Chemical Terrorism (Relating To Disposition Of Federal Terrorism Risk Insurance Act) is enclosed. This conditional endorsement will only apply if the Act is not extended or if the Act is revised to increase statutory deductibles, decrease the federal government's share in potential losses above the statutory deductibles, change the levels, terms or conditions of coverage and we are no longer required to make terrorism coverage available and elect not to do so. It will not apply if the Act is simply extended.
3. The conditional endorsement will provide coverage for an incident of terrorism pursuant to the terms and conditions of the policy only if the incident does not involve nuclear, biological or chemical material.
4. A premium charge will be made for this coverage after January 1, 2021. It will be prorated for the period beginning January 1, 2021 and ending on the expiration date of this policy term. However, it will only be made if the Terrorism Risk Insurance Act (including ensuing Congressional actions pursuant to the Act) is not extended. Revised Declarations will be mailed to you after January 1, 2021.
5. If the Act is extended without any revision, the enclosed policy will continue to exclude coverage for certified acts of terrorism. The conditional endorsement will not be activated and the changes in coverage or premium referenced above will not apply.
6. If the Act is extended with revisions or is replaced, and we are required or elect to continue to offer coverage for certified acts of terrorism, we may amend this policy in accordance with the provisions of the revised Act or its replacement.

This notice is for informational purposes only.

If you have any questions concerning your policy or this notice, please contact your Auto-Owners agency.

**NOTICE OF CHANGE IN POLICY TERMS  
BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS  
SUSTAINED COVERAGE FORM**

Dear Policyholder,

We currently offer 12 month Business Income and Extra Expense Actual Loss Sustained coverage and we are adding options of 18 and 24 month Business Income and Extra Expense Actual Loss Sustained coverage. Therefore, we have updated Business Income (and Extra Expense) Actual Loss Sustained Coverage form 64014 (2-16) to Business Income (and Extra Expense) Actual Loss Sustained Coverage form 64014 (7-17). This form change results in no change of coverage or premium for your policy.

This notice is for informational purposes only. Your policy contains the specific terms and conditions of the coverage.

If you have any questions regarding your policy or this notice please contact your Auto-Owners Insurance agency.

# ***Tailored Protection Insurance Policy***

***Owners Insurance Company***

In witness whereof, we, the Owners Insurance Company, have caused this policy to be issued and to be duly signed by our President and Secretary.



Secretary



President



INSURANCE COMPANY  
6101 ANACAPRI BLVD., LANSING, MI 48917-3999

**TAILORED PROTECTION POLICY DECLARATIONS**

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012 630-524-3090

Renewal Effective 03-16-2020

**POLICY NUMBER 154604-07295126-20**

INSURED NEW MERIDIAN BANQUETS INC  
MERIDIAN BUILDINGS LLC

Company Use 07-46-IL-1503

ADDRESS 1701 ALGONQUIN RD  
ROLLING MEADOWS IL 60008-4112

Company  
Bill

Policy Term	
12:01 a.m.	12:01 a.m.
to	
03-16-2020	03-16-2021

In consideration of payment of the premium shown below, this policy is renewed. Please attach this Declarations and attachments to your policy. If you have any questions, please consult with your agent.

55039 (11-87)

**COMMON POLICY INFORMATION**

**Business Description:** Banquet Hall

**Entity:** Corporation

**Program:** Restaurant

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PART(S):	PREMIUM
COMMERCIAL PROPERTY COVERAGE	\$11,669.00
COMMERCIAL GENERAL LIABILITY COVERAGE	\$10,827.00
MINIMUM PREMIUM ADJUSTMENT (GL)	\$110.00
LIQUOR LIABILITY COVERAGE (REFER TO COVERAGE PART)	(INCLUDED)
<b>TOTAL</b>	<b>\$22,606.00</b>
<b>PAID IN FULL DISCOUNT</b>	<b>\$2,437.00</b>
<b>TOTAL POLICY PREMIUM IF PAID IN FULL</b>	<b>\$20,169.00</b>
<b>THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.</b>	
The Paid in Full Discount does not apply to fixed fees, statutory charges or minimum premiums.	

Premium shown above for commercial general liability coverage is an advanced premium deposit and may be subject to audit.

Forms that apply to all coverage part(s) shown above (except garage liability, dealer's blanket, commercial automobile, if applicable):  
IL0017 (11-85) 55003 (07-12) 59392 (01-15) 59349 (10-03)

A 02% Cumulative Multi-Policy Discount applies. Supporting policies are marked with an (X):  
Comm Umb(X) Comm Auto( ) WC( ) Life( ) Personal( ) Farm( ).

Countersigned By: \_\_\_\_\_

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

54104 (07-87)

**COMMERCIAL PROPERTY COVERAGE**

55198 (12-10)

**PREMIER PROPERTY PLUS COVERAGE PACKAGE DECLARATION**

The coverages and limits below apply separately to each location or sublocation that sustains a loss to covered property and is designated in the Commercial Property Coverage Declarations. No deductible applies to the below Property Plus Coverages.

COVERAGE	LIMIT
ACCOUNTS RECEIVABLE	\$200,000
BAILEES	\$15,000
	\$10,000 PER ITEM
BUSINESS INCOME & EXTRA EXPENSE W/RENTAL VALUE, INCLUDING NEWLY ACQUIRED LOC-S 0 HOUR WAITING PERIOD	\$150,000
DEBRIS REMOVAL	\$100,000
ELECTRONIC DATA PROCESSING EQUIPMENT	\$100,000
EMPLOYEE DISHONESTY	\$50,000
FINE ARTS, COLLECTIBLES AND MEMORABILIA	\$50,000
	\$10,000 PER ITEM
FIRE DEPARTMENT SERVICE CHARGE	\$25,000
FORGERY AND ALTERATION	\$50,000
MONEY AND SECURITIES INSIDE PREMISES	\$50,000
MONEY AND SECURITIES OUTSIDE PREMISES	\$50,000
NEWLY ACQUIRED BUSINESS PERSONAL PROPERTY	\$500,000 FOR 90 DAYS
NEWLY ACQUIRED OR CONSTRUCTED PROPERTY	\$1,000,000 FOR 90 DAYS
ORDINANCE OR LAW	SEE COMMERCIAL PROPERTY DECLARATIONS
OUTDOOR PROPERTY	\$25,000
TREES, SHRUBS OR PLANTS	\$1,000 PER ITEM
RADIO OR TELEVISION ANTENNAS	\$20,000
PERSONAL EFFECTS AND PROPERTY OF OTHERS	\$50,000
POLLUTANT CLEAN UP AND REMOVAL	\$100,000
PROPERTY IN TRANSIT	\$100,000
PROPERTY OFF PREMISES	\$100,000
REFRIGERATED PRODUCTS	\$25,000
SALESPERSON'S SAMPLES	\$25,000

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

55198 (12-10)

**PREMIER PROPERTY PLUS COVERAGE PACKAGE DECLARATION**

COVERAGE	LIMIT
UTILITY SERVICES FAILURE	\$150,000
VALUABLE PAPERS AND RECORDS ON PREMISES	\$150,000
VALUABLE PAPERS AND RECORDS OFF PREMISES	\$25,000
WATER BACK-UP FROM SEWERS OR DRAINS	\$50,000

## Forms that apply to this coverage part:

64004 (12-10)	54198 (12-10)	54334 (12-10)	64020 (12-10)	54189 (12-10)
54186 (12-10)	54218 (03-13)	54217 (03-13)	54216 (03-13)	54214 (03-13)
54221 (12-10)	54220 (06-00)	54219 (12-10)	54338 (03-13)	54339 (03-13)
64010 (12-10)	64000 (12-10)			

**Coverages Provided**

Insurance at the described premises applies only for coverages for which a limit of insurance is shown.

**LOCATION 0001 - BUILDING 0001****Location:** 1701 Algonquin Rd, Rolling Meadows, IL 60008-4112**Occupied As:** Banquet Hall**Secured Interested Parties:** See Attached Schedule**Rating Information**

Territory: 080

Program: Restaurant

Protection Class: 03

Annual Receipts: \$2,800,000

Specific Rate - Pers Prop: 0.072

County: Cook

Construction: Mas N-C

Class Code: 0544

Specific Rate - Building: 0.024

Class Rate - Bi &amp; Extra Exp: 1.919

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
BUILDING			\$9,929,100		
Causes of Loss					
Basic Group I	100%	\$2,500		0.017	\$1,688.00
Basic Group II	100%	\$2,500		0.038	\$3,773.00
Special	100%	\$2,500		0.019	\$1,887.00
Theft	100%	\$2,500			Included
OPTIONAL COVERAGE					
Inflation Guard Factor Building 1.053					
Replacement Cost					
Property Plus Coverage Package		None	See 55198 (12-10)		\$974.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$142.00



Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
ORDINANCE OR LAW					
Coverage A-Undamaged Portion		\$2,500	Incl in Bldg Limit		Included
Coverage B-Demolition		\$2,500	\$160,000		Included
Coverage C-Increased Cost		\$2,500	\$160,000		Included
PERSONAL PROPERTY			\$1,310,870		
Causes of Loss					
Basic Group I	100%	\$2,500		0.065	\$852.00
Basic Group II	100%	\$2,500		0.045	\$590.00
Special	100%	\$2,500		0.055	\$721.00
Theft	100%	\$2,500			Included
OPTIONAL COVERAGE					
Replacement Cost					
Inflation Guard Factor Personal Property 1.025					
Property Plus Coverage Package		None	See 55198 (12-10)		\$287.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$42.00
ORDINANCE OR LAW					
Coverage D-Tenant's I&B		\$2,500	\$160,000		Included
BI & EXTRA EXP			Actual Loss Sustained		
0 Hour Waiting Period			12 Months		
Causes of Loss					
Special	0%	\$0		0.820	\$540.00
Theft					Excluded
OPTIONAL COVERAGE					
Equipment Breakdown		\$0	See Form 54843		\$9.00

Forms that apply to this building:

54833 (07-08)	54236 (02-12)	IL0003 (07-02)	64037 (01-12)	64042 (12-10)
59352 (01-15)	64224 (01-16)	IL0284 (01-18)	CP0090 (07-88)	64000 (12-10)
64013 (12-10)	64010 (12-10)	64020 (12-10)	64004 (12-10)	54843 (11-17)
64014 (07-17)	64055 (12-10)	IL0415 (10-91)	59392 (01-15)	

**LOCATION 0001 - BUILDING 0002**

**Location:** 1701 Algonquin Rd, Rolling Meadows, IL 60008-4112

**Occupied As:** Street Signs/Poles

**Secured Interested Parties:** None

**Rating Information**

Territory: 080

Program: Restaurant

Protection Class: 03

Spcl Class Rate - Street Lights: 0.095

County: Cook

Construction: N/A

Class Code: 1190

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

COVERAGE	COINSURANCE	DEDUCTIBLE	LIMIT	RATE	PREMIUM
STREET LIGHTS			\$50,000		
Causes of Loss					
Basic Group I	90%	\$2,500		0.041	\$21.00
Basic Group II	90%	\$2,500		0.187	\$94.00
Special	90%	\$2,500		0.050	\$25.00
Theft	90%	\$2,500			Included
OPTIONAL COVERAGE					
Replacement Cost					
Property Plus Coverage Package		None	See 55198 (12-10)		\$21.00
Tier: Premier					
Equipment Breakdown		\$2,500	See Form 54843		\$3.00
ORDINANCE OR LAW					
Coverage A-Undamaged Portion		\$2,500	Incl in Bldg Limit		Included
Coverage B-Demolition		\$2,500	\$160,000		Included
Coverage C-Increased Cost		\$2,500	\$160,000		Included

## Forms that apply to this building:

54833 (07-08)	54236 (02-12)	IL0003 (07-02)	64037 (01-12)	64042 (12-10)
59352 (01-15)	64224 (01-16)	IL0284 (01-18)	CP0090 (07-88)	64000 (12-10)
64010 (12-10)	64020 (12-10)	64004 (12-10)	54843 (11-17)	59392 (01-15)

COMMERCIAL PROPERTY COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59352	EXCLUDED
TERRORISM COVERAGE	
A PREMIUM CHARGE MAY BE MADE EFFECTIVE 01-01-21 SEE FORMS 54833, 59392	
<b>LOCATION 0001</b>	<b>\$11,669.00</b>

**Secured Interested Parties and/or Additional Interested Parties**

Applies to Loc/Bldg(s):

0001/001  
SMALL BUSINESS GROWTH CORP &  
US SMALL BUSINESS ADMIN  
2401 West White Oaks Dr  
Springfield, IL 62704-7423  
Interest: Mortgagee

Applies to Loc/Bldg(s):

0001/001  
SMALL BUSINESS GROWTH CORP &  
US SMALL BUSINESS ADMIN  
2401 West White Oaks Dr  
Springfield, IL 62704-7423  
Interest: Lender's Loss Payable

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

Applies to Loc/Bldg(s):

0001/001  
RICHOH  
C/O INSURANCE SERVICE CENTER  
Po Box 979220  
Miami, FL 33197  
Interest: Loss Payable

55040 (11-87)

**COMMERCIAL GENERAL LIABILITY COVERAGE**

COVERAGE	LIMITS OF INSURANCE
General Aggregate (Other Than Products-Completed Operations)	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal And Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
<b>COMMERCIAL GENERAL LIABILITY PLUS ENDORSEMENT</b>	
Damage to Premises Rented to You (Fire, Lightning, Explosion, Smoke or Water Damage)	\$300,000 Any One Premises
Medical Payments	\$10,000 Any One Person
Expanded Coverage Details See Form:	
Extended Watercraft	
Personal Injury Extension	
Broadened Supplementary Payments	
Broadened Knowledge Of Occurrence	
Additional Products-Completed Operations Aggregate	
Blanket Additional Insured - Lessor of Leased Equipment	
Blanket Additional Insured - Managers or Lessors of Premises	
Newly Formed or Acquired Organizations Extension	
Blanket Waiver of Subrogation	

Twice the "General Aggregate Limit", shown above, is provided at no additional charge for each 12 month period in accordance with form 55885.

**AUDIT TYPE:** Annual Audit

Forms that apply to this coverage:

55405 (07-08)	59351 (01-15)	CG2407 (01-96)	IL0021 (07-02)	IL0017 (11-85)
55146 (06-04)	CG2106 (05-14)	55352 (05-17)	CG0001 (04-13)	55791 (05-17)
55358 (05-17)	IL0147 (09-11)	CG2109 (06-15)	55513 (05-17)	55029 (05-17)
CG2196 (03-05)	55152 (05-17)	CG2147 (12-07)	55885 (05-17)	59392 (01-15)

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

**LOCATION 0001 - BUILDING 0001****Location:** 1701 Algonquin Rd, Rolling Meadows, IL 60008-4112**Territory:** 006**County:** Cook

CLASSIFICATION	CODE	SUBLINE	PREMIUM BASIS	RATE	PREMIUM
Commercial General Liability Plus Endorsement Included At 7.5% Of The Premises Operation Premium	00501	Prem/Op	Prem/Op Prem Included	Included	Included
Restaurants - With Sale Of Alcoholic Beverages That Are Less Than 30% Of Annual Receipts Of The Restaurant - With Table Service	16910	Prem/Op Prod/Comp Op	Gross Sales \$1,788,539 \$1,788,539	Each 1000 5.393 .119	\$9,646.00 \$213.00

**COMMERCIAL GENERAL LIABILITY COVERAGE - LOCATION 0001 SUMMARY**

	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59351	EXCLUDED
TERRORISM COVERAGE	
A PREMIUM CHARGE MAY BE MADE EFFECTIVE 01-01-21 SEE FORMS 55405, 59392	
<b>LOCATION 0001</b>	<b>\$9,859.00</b>

55409 (07-07)

**LIQUOR LIABILITY COVERAGE**

COVERAGE	LIMITS OF INSURANCE
Liquor Liability Aggregate	\$1,000,000
Liquor Liability Each Common Cause	\$1,000,000
Liquor Liability Each Common Cause - Illinois See Form 55414	

**AUDIT TYPE:** Annual Audit

Forms that apply to this coverage:

55405 (07-08)	59351 (01-15)	IL0021 (07-02)	55414 (10-08)	55521 (06-11)
55398 (10-07)	55381 (07-07)	IL0017 (11-85)	CG0033 (12-07)	CG0200 (01-18)
59392 (01-15)				

**LOCATION 0001 - BUILDING 0001****Location:** 1701 Algonquin Rd, Rolling Meadows, IL 60008-4112**Territory:** 006**County:** Cook

CLASSIFICATION	CODE	SUBLINE	PREMIUM BASIS	RATE	PREMIUM
Liquor Liability - Restaurants	58161	Liquor Liab	Gross Sales \$301,803	Each 1000 3.206	\$968.00

Owners Ins. Co.

Issued 12-17-2019

AGENCY AFINA INSURANCE ADVISORS INC  
04-0627-00 MKT TERR 012

Company POLICY NUMBER 154604-07295126-20  
Bill 07-46-IL-1503

INSURED NEW MERIDIAN BANQUETS INC

Term 03-16-2020 to 03-16-2021

LIQUOR LIABILITY COVERAGE - LOCATION 0001 SUMMARY	PREMIUM
TERRORISM - CERTIFIED ACTS SEE FORM: 59351 TERRORISM COVERAGE A PREMIUM CHARGE MAY BE MADE EFFECTIVE 01-01-21 SEE FORMS 55405, 59392	EXCLUDED
<b>LOCATION 0001</b>	<b>\$968.00</b>

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

# PROTECTIVE SAFEGUARDS

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART  
FARM COVERAGE PART

### SCHEDULE\*

Prem. No.	Bldg. No.	Protective Safeguards Symbols Applicable
00001	001	1

### Described any "P-9":

1. The following is added to the:

COMMERCIAL PROPERTY CONDITIONS  
General Conditions in the FARM PROPERTY  
COVERAGE FORM  
General Conditions in the MOBILE AGRICULTURAL  
MACHINERY AND EQUIPMENT COVERAGE  
FORM  
General Conditions in the LIVESTOCK COVERAGE  
FORM

### PROTECTIVE SAFEGUARDS

- a. As a condition of this insurance, you are required to maintain the protective devices or services listed in the Schedule above.
- b. The protective safeguards to which this endorsement applies are identified by the following symbols:

**"P-1" Automatic Sprinkler System**, including related supervisory services.

Automatic Sprinkler System means:

- (1) Any automatic fire protective or extinguishing system, including connected:
  - (a) Sprinklers and discharge nozzles;
  - (b) Ducts, pipes, valves and fittings;
  - (c) Tanks, their component parts and supports; and
  - (d) Pumps and private fire protection mains.
- (2) When supplied from an automatic fire protective system:

(a) Non-automatic fire protective systems; and

(b) Hydrants, standpipes and outlets.

"P-2" **Automatic Fire Alarm**, protecting the entire building, that is:

- (1) Connected to a central station; or
- (2) Reporting to a public or private fire alarm station.

"P-3" **Security Service**, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.

"P-4" **Service Contract** with a privately owned fire department providing fire protection service to the described premises.

"P-9" The protective system described in the Schedule.

2. The following is added to the EXCLUSIONS section of:

CAUSES OF LOSS - BASIC FORM  
 CAUSES OF LOSS - BROAD FORM  
 CAUSES OF LOSS - SPECIAL FORM  
 MORTGAGE HOLDERS' ERRORS AND OMISSIONS COVERAGE FORM  
 STANDARD PROPERTY POLICY  
 FARM PROPERTY COVERAGE FORM  
 MOBILE AGRICULTURAL MACHINERY AND EQUIPMENT COVERAGE FORM  
 LIVESTOCK COVERAGE FORM

We will not pay for loss or damage caused by or resulting from fire if, prior to the fire, you:

- a. Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
- b. Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

If part of an Automatic Sprinkler System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to us will not be necessary if you can restore full protection within 48 hours.

**COMMERCIAL GENERAL LIABILITY  
55414 (10-08)**

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

**ILLINOIS CHANGES - LIQUOR LIABILITY**

This endorsement modifies insurance provided under the following:

**LIQUOR LIABILITY COVERAGE PART**

**SCHEDULE**

	<b>Limits Of Insurance</b>
<b>Each Person Bodily Injury Limit</b>	<b>\$ 70,091.09</b>
<b>Each Person Property Damage Limit</b>	<b>\$ 70,091.09</b>
<b>Loss Of Means Of Support Or Loss Of Society Limit</b>	<b>\$ 85,666.89</b>

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

With respect to "injury" which is subject to the Illinois Liquor Control Act of 1934:

**A.** The Each Common Cause Limit shown in the Declaration is replaced by the limits shown in the Schedule above. The Aggregate Limit shown in the Declaration continues to apply.

**B.** Paragraph **3. of Section III - Limits Of Insurance** is replaced by the following:

**3.** Subject to the Aggregate Limit, the Loss Of Means Of Support Or Loss Of Society Limit is the most we will pay for all loss of means of support or society claimed by one or more persons because of "bodily injury" sustained by any one provider of such support or society as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**C.** The following paragraphs are added to **Section III - Limits Of Insurance**:

**4.** Subject to the Aggregate Limit, the Each Person Bodily Injury Limit is the most we will pay for all "bodily injury" sustained by one person as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**5.** Subject to the Aggregate Limit, the Each Person Property Damage Limit is the most we will pay for all "property damage" sustained by one person or organization as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

**D. Conformity To Statute**

If the limitation provided under Section 235.5/6-21 as published in the Illinois Administrative Code is raised during the policy period, the limits of insurance provided in the Schedule of this endorsement are hereby amended to conform to that statute.



POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 24 07 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****PRODUCTS/COMPLETED OPERATIONS HAZARD  
REDEFINED**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**SCHEDULE****Description of Premises and Operations:**1701 ALGONQUIN RD, ROLLING MEADOWS IL 60008  
BANQUET HALL/RESTAURANT

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products - completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products - completed operations hazard"

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

54186 (12-10)

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

## **WATER BACK-UP FROM SEWERS OR DRAINS**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM  
BUSINESS INCOME AND EXTRA EXPENSE ACTUAL LOSS SUSTAINED COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Subject to the provisions of paragraph **2.** below, under **B. EXCLUSIONS**, **g. Water** subparagraph **(3)** is deleted.
2. Under **C. LIMITATIONS** the following limitation is added:

In any one loss, we will not pay more than the Limit of Insurance shown in the Declarations under WATER BACK-UP FROM SEWERS OR DRAINS for loss of or damage to Covered Property caused by water back-up from sewers or drains. In the event that the amount of loss of or damage to Covered Property does not exceed the Limit of Insurance shown in the Declarations for WATER BACKUP FROM SEWERS OR DRAINS, you may, at your option, apply the remainder of this Limit of Insurance to your actual loss of Business Income or necessary Extra Expense, if any, subject to the terms and conditions of the BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM, or the BUSINESS INCOME AND EXTRA EXPENSE ACTUAL LOSS SUSTAINED COVERAGE FORM.

All other policy terms and conditions apply.

54186 (12-10)

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Page 1 of 1

54198 (12-10)

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

## **DEBRIS REMOVAL**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

Under **A. COVERAGE, 4. Additional Coverages, a. Debris Removal, (4)** is deleted and replaced by the following:

- (4)** We will pay an additional amount, up to the Limit of Insurance shown in the Declarations for DEBRIS REMOVAL, for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:
- (a)** The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

- (b)** The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if **(4)(a)** and/or **(4)(b)** apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus the Limit of Insurance shown in the Declarations for DEBRIS REMOVAL.

All other policy terms and conditions apply.

54198 (12-10)

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Page 1 of 1

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

## **SALESPERSON'S SAMPLES**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Under the **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:  
**Salesperson's Samples**

We will pay for direct physical loss of or damage to samples of merchandise described which are:

- a. Owned by you while in your care, custody or control;
- b. Owned by you and in the care, custody or control of your salesperson and/or agents; or
- c. While in transit, except by parcel post, between your premises and the salesperson and/or agent caused by or resulting from any Covered Cause of Loss.

This coverage does not apply to:

- (1) Jewelry, furs or articles consisting principally of fur;
- (2) Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises;
- (3) Property at or on the premises of your salespersons and/or agents; or
- (4) Merchandise intended for sale, which may be sold and shipped by you to others, or which has been purchased by you from others.

Our payment for any one loss shall not exceed the Limit of Insurance shown in the Declarations for SALESPERSON'S SAMPLES. The Additional Condition, Coinsurance, does not apply to this Additional Coverage.

2. Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage:
- a. Misappropriation, secretion, conversion, infidelity or any dishonest act by you or other or the employees or agents of either to whom the covered property may be entrusted. This exclusion does not apply to carriers for hire.
  - b. Breakage, marring, scratching, tearing or denting, unless caused by: fire or lightning; aircraft; theft and/or attempted theft; earthquake; flood; explosion; malicious damage or collision, derailment or overturn of a transporting conveyance.
  - c. Mysterious or unexplained disappearance or from shortage disclosed by taking inventory.
  - d. Theft from any vehicle, unless at the time of the theft, there is actually in or upon such vehicle your salesperson, representative or a permanent employee, or a person whose sole duty it is to attend the vehicle. This exclusion shall not apply to property in the custody of a common carrier.
3. In addition to the conditions of this policy, the following conditions apply only this Additional Coverage:
- a. **PAIR OR SET**  
In case of loss of or damage to any part of a pair or set, we may:
    - (1) Repair or replace any part of the pair or set to restore it to its value before the loss; or
    - (2) Pay the difference between the actual cash value of the property before and after the loss.
  - b. **PARTS**  
In case of loss or damage to any part of property covered, consisting of several parts when complete, we shall pay only for the value of the part lost or damaged.

All other policy terms and conditions apply.

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

## **BAILEES COVERAGE**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

1. Under **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

**Bailees Coverage**

a. We will pay for direct physical loss or damage to the property of others that:

- (1) Is in your possession or in the possession of any of your employees; or
- (2) Is being transported by you, any of your employees, a public carrier or mail service.

b. We will also cover your actual incurred cost for labor and materials.

c. We do not cover the following properties:

- (1) Property held for storage or for which a storage charge is made. If you do not have instructions from the owner of the goods to store goods held by you, such goods are not considered stored.
- (2) Property while in the possession of any person, company or corporation other than you, your employees, a public carrier or mail service.
- (3) Any land motor vehicle.
- (4) Watercraft.
- (5) Aircraft including objects falling from aircraft.
- (6) Animals, fish, fowl, reptiles or amphibians.
- (7) Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities.
- (8) Contraband or property in the course of illegal transportation or trade.

d. In addition to other policy exclusions, we will not pay for loss or damage caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

- (1) Misappropriation, secretion, conversion, infidelity or any dishonest act by you or others or the employees or agents of either

to whom the covered property may be entrusted. This exclusion does not apply to carriers for hire.

- (2) Delay.
  - (3) Vandalism or malicious mischief.
  - (4) Burglary of property left in your delivery vehicles overnight unless locked and in your building which you occupy.
- e. We will pay no more than the smallest of either:
- (1) The cost to replace damaged property with new property of similar quality and features reduced by the amount of decrease in value because of age, wear, obsolescence or market value applicable to the damaged property immediately prior to the loss; or
  - (2) The Limit of Insurance shown in the Declarations for BAILEES COVERAGE.

This is an additional amount of insurance.

Our payment for loss of or damage to property of others will only be for the account of the owner of the property.

f. No deductible applies to this Additional Coverage.

2. The Additional Condition, Coinsurance does not apply to this Additional Coverage.

All other policy terms and conditions apply.

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

## **REFRIGERATED PRODUCTS**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM  
BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

- Under the BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM, and the CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

### **Refrigerated Products**

Subject to **3. Limits of Insurance** below, we shall pay for loss of or damage to "perishable stock" caused directly by any of the following:

- Mechanical or electrical breakdown of the refrigeration system; or
- The interruption of electrical services to the refrigeration system caused by direct physical damage to the electrical generating or transmission equipment of your "local utility service" caused by or resulting from any Covered Cause of Loss.

You must exercise diligence in inspecting and maintaining refrigeration equipment. If interruption of electrical service or mechanical or electrical breakdown is known, you must use all reasonable means to protect the covered property from further damage.

- Under the BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, and the BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **A. COVERAGE, 5. Additional Coverages**, the following Additional Coverage is added:

### **Refrigerated Products**

Subject to **3. Limits of Insurance** below, we shall pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur because of loss or damage to "perishable stock" caused directly by any of the following:

- Mechanical or electrical breakdown of the refrigeration system; or
- The interruption of electrical services to the refrigeration system caused by direct physical damage to the electrical generating or transmission equipment of your "local utility service" caused by or resulting from any Covered Cause of Loss.

You must exercise diligence in inspecting and maintaining refrigeration equipment. If interruption of electrical service or mechanical or electrical breakdown is known, you must use all reasonable means to protect the covered property from further damage.

### **3. Limits of Insurance**

Under:

- BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM, and CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **C. LIMITS OF INSURANCE**; and
- Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, and the BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **B. LIMITS OF INSURANCE** the following is added:

### **Refrigerated Products**

The most we shall pay for the sum of **1.** and **2.** above in any one loss, is the Limit of Insurance

shown in the Declarations for REFRIGERATED PRODUCTS.

**4. Under the CAUSE OF LOSS - SPECIAL FORM, B.**

**EXCLUSIONS:**

- a.** Exclusion **1.e. Utility Services** is deleted and replaced by the following exclusion for this Additional Coverage only:
- e. Utility Services**  
We shall not pay for loss or damage caused by or resulting from the failure to supply "power supply services" from any regional or national grid.
- b.** Exclusion **2.d.(6)** is deleted and replaced by the following exclusion for this Additional Coverage only:
- (6)** Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, this does not apply to any resulting loss or damage caused by elevator collision or mechanical breakdown of refrigeration systems.

**5. Definitions**

The following definitions apply only to this Additional Coverage:

- a.** "Local utility service" means your billing entity, repair entity or service entity directly providing "power supply services" to the premises described in the Declarations.
- b.** "Perishable stock" means merchandise held in storage or for sale that is refrigerated for preservation and is susceptible to loss or damage if the refrigeration fails.
- c.** "Power supply services" means the following types of property supplying electricity to the described premises that are not located on a described premises and not rented, leased or owned by an insured:
- (1)** Utility generating plants;
  - (2)** Switching stations;
  - (3)** Substations;
  - (4)** Transformers; and
  - (5)** Transmission lines.

All other policy terms and conditions apply.

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

## **VALUABLE PAPERS AND RECORDS (OTHER THAN "ELECTRONIC DATA")**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

With respect to coverage provided under this endorsement only, **A. COVERAGE**, is amended as follows:

1. Under **2. Property Not Covered**, **o.** is deleted and replaced by the following:
  - o.** "Valuable papers and records" except as provided under the Additional Coverage - Valuable Papers and Records (Other Than "Electronic Data").
2. Under **4. Additional Coverages**, the following Additional Coverage is added:

### **Valuable Papers and Records (Other Than "Electronic Data")**

We cover "valuable papers and records" that:

- a.** You own; or
- b.** Are owned by others and are in your care, custody or control.

If duplicates of "valuable papers and records" do not exist, we will pay the cost to research, and replace or restore the lost information.

This Additional Coverage does not apply to:

- a.** "Valuable papers and records" which exist as "electronic data";
- b.** Property held as samples or for delivery after sale;
- c.** Property in storage away from the premises shown in the Declarations; or
- d.** Errors or omissions in processing or copying "valuable papers and records", unless fire or explosion ensues and then only for direct loss caused by such fire or explosion.

The most we will pay under this Additional Coverage in any one occurrence are the Limits of Insurance shown in the Declarations for:

- a.** VALUABLE PAPERS AND RECORDS ON PREMISES; and

- b.** VALUABLE PAPERS AND RECORDS OFF PREMISES.

The Coinsurance Condition does not apply to this Additional Coverage.

Under **E. LOSS CONDITIONS, 7. Valuation** does not apply to this endorsement. The following applies:

Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.

The following additional definitions apply only to this endorsement.

- a.** "Valuable Papers and Records" means inscribed, printed or written:
  - (1)** Documents;
  - (2)** Manuscripts; and
  - (3)** Records including abstracts, books, deeds, drawings, films, maps or mortgages. However, "valuable papers and records" does not mean "money" or "securities".
- b.** "Money" means:
  - (1)** Currency, coins and bank notes in current use and having a face value; and
  - (2)** Travelers checks, register checks and money orders held for sale to the public.
- c.** "Securities" means all negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:



- (1) Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- (2) Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you but does not include "money".

- 3. Under **5. Coverage Extensions, c. Valuable Papers and Records (Other Than "Electronic Data")** is deleted.

All other policy terms and conditions apply.

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Page 2 of 2

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

# **ELECTRONIC DATA PROCESSING EQUIPMENT**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

Under **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:

### **Electronic Data Processing Equipment**

#### **1. Covered Property**

We will pay for:

- a. Direct physical loss of or damage to electronic equipment, component parts of such equipment, "media" and air conditioning equipment necessary for the operation of the electronic equipment:
  - (1) Which you own or which is in your care, custody or control; and
  - (2) While located at the premises described in the Declarations; and
  - (3) Caused by or resulting from any Covered Cause of Loss.

We do not cover "laptop computers".

- b. Your costs to research, replace or restore "electronic data" contained on damaged "media" because such "electronic data" has been destroyed or corrupted.

#### **2. Exclusions**

Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage:

- a. "Electrical disturbance" unless caused by lightning.
- b. Loss or damage caused by:
  - (1) Data processing "media" failure; or
  - (2) Breakdown or malfunction of the data processing equipment and component parts while the "media" is being run through the system. We will cover loss, damage or expense caused directly by ensuing fire or explosion.
- c. Actual work upon, installation or testing of Covered Property. We will cover loss, caused by ensuing fire or explosion.

- d. "Mechanical breakdown". We will cover loss, damage or expense caused directly by lightning or by ensuing fire or explosion.
- e. Faulty construction or error in design of the Covered Property. We will cover loss, damage or expense caused directly by ensuing fire or explosion.
- f. Delay or loss of market.

#### **3. Limit of Insurance**

- a. Our payment for electronic equipment, component parts of such equipment and air conditioning equipment necessary for the operation of such electronic equipment shall not exceed the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.
- b. Our payment for "media" shall not exceed the smallest of the following:
  - (1) The actual cost to repair, replace or reproduce the "media", including your costs to research, replace or restore information;
  - (2) If the "media" is not repaired, replaced or reproduced, the value of blank "media"; or
  - (3) The Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

The Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT is the total limit of our liability for loss or damage to all Covered Property in any one occurrence at one location. With respect to Covered Property you do not own, we will pay no more than the amount for which you are legally liable.

The Additional Condition, Coinsurance, does not apply to this Additional Coverage.

#### **4. Coverage Extensions**

The following extensions apply only to this endorsement:

**a. Property At Newly Acquired Or Temporary Locations:**

You may extend the coverage provided under **1. Covered Property**, above to apply to property:

- (1) At any location you acquire; or
- (2) At any temporary location, other than fairs or exhibitions, you acquire within the territorial limits and intended for similar occupancy or warehousing purposes for the business described in the Declarations.

The most we will pay for loss or damage under this extension is the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

This coverage extension will end when any of the following first occurs:

- (1) 60 days from your acquisition or use of such property;
- (2) On the date values at such locations are reported to us; or
- (3) On the expiration date of the policy.

**b. Newly Acquired Property:**

You may extend the coverage provided under **1. Covered Property**, above to apply to property which you newly acquire, of the same type as the property covered at the described premises.

The most we will pay for loss or damage under this extension is the Limit of Insurance shown in the Declarations for ELECTRONIC DATA PROCESSING EQUIPMENT.

This coverage extension will end when any of the following first occurs:

- (1) 60 days from your acquisition or use of such property;
- (2) On the date values of such property are reported to us; or
- (3) On the expiration date of the policy.

Each of these extensions is additional insurance.

**5. The following Additional Coverages apply only to this endorsement:**

**a. Transportation**

You may apply up to \$10,000, for any one occurrence for loss of or damage to property caused by:

- (1) Fire; lightning; explosion; smoke; riot and civil commotion; and vandalism and malicious mischief;

- (2) The overturning, upset, or collision of the vehicle transporting the insured property, with another vehicle or object other than the road bed; or
- (3) Theft of an entire shipping bale, case or package from a vehicle:

(a) While such property is in a fully enclosed and securely locked body or compartment; and

(b) Theft results from forcible entry, evidenced by visible marks

which occurs during transportation by motor vehicles you own, lease or operate.

We do not cover under this extension property held as samples, held for rental or sale or that you rent to others while in the care, custody or control of salespersons.

**b. Business Income and Extra Expense**

**(1) Business Income**

(a) Subject to the Limit of Insurance provisions of this Additional Coverage, we will pay for the actual loss of Business Income you sustain as a direct result of the necessary "suspension" of your "operations" during the "period of restoration" caused by accidental direct physical loss of or damage to:

- 1) The electronic equipment or "media" covered by this Additional Coverage;
- 2) The building housing the electronic equipment or "media" that prevents access to and use of the electronic equipment or "media"; or
- 3) The air conditioning or electrical systems that are required to operate the electronic equipment, provided such damage or destruction is inside the building or outside within 1,000 feet of the building

caused by the perils insured against and subject to **2. Exclusions**.

(b) We will also pay expenses you incur to reduce the covered loss. We will not pay for expenses:

- 1) You incur to extinguish a fire; or
- 2) That exceed the amount by which the covered loss is reduced.

(c) Business Income means the:

- 1) Net income (Net Profit or Loss before income taxes) that would

have been earned or incurred;  
and

- 2) Continuing normal operating expenses incurred, including payroll.

**(2) Extra Expense**

- (a)** Subject to the Limit of Insurance provisions of this Additional Coverage, we will pay necessary Extra Expense, other than loss of Business Income, you incur to continue "normal" operations of your business following accidental direct physical loss of or damage to:

- 1) The electronic equipment or "media" covered by this Additional Coverage;
- 2) The building housing the electronic equipment or "media" that prevents access to and use of the equipment or "media"; or
- 3) The air conditioning or electrical systems that are required to operate the electronic equipment, provided such damage or destruction is inside the building or outside within 1,000 feet of the building

caused by the perils insured against and subject to **2. Exclusions**.

You must resume normal operation of your business as soon as practical.

- (b)** We will also cover the cost to repair, replace or restore:

- 1) Books of account, abstracts, drawings;
- 2) Card index systems; or
- 3) Other records or data such as film, tape, disks, drum, cell or other magnetic storage or recording "media" for electronic data processing

that have been damaged or destroyed by perils we insure against, if such cost:

- 1) Exceeds the normal cost for such repair, replacement or restoration; and
- 2) Was incurred to reduce loss under this endorsement.

- (c)** Extra Expense means expense incurred:

- 1) To avoid or minimize the "suspension" of business and continue "operations":

- a) At the described premises; or
- b) At replacement premises or at temporary locations, including:
  - i. Relocation expenses; and
  - ii. Costs to equip and operate the replacement or temporary locations.

- 2) To minimize the suspension of business if you cannot continue "operations".

- 3) **a)** To repair or replace any Covered Property; or
- b)** To research, replace or restore the lost information on damaged valuable papers and records

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage.

**(3) Coverage Extension - Civil Authority**

In this Coverage Extension - Civil Authority, the described premises are premises to which this endorsement applies, as shown in the Declarations. When a Covered Cause of Loss causes damage to property other than property at the described premises, you may extend your Business Income and Extra Expense Coverages to apply to the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (a)** Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (b)** The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income and Extra Expense will begin

immediately following the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which coverage began.

**(4) Exclusions**

The following exclusions apply to Business Income and Extra Expense provided by this Additional Coverage only, in addition to those contained in **2. Exclusions** above.

**(a)** We will not be liable for any increase in loss of Business Income or Extra Expense caused by any of the following, whether or not any other cause or happening contributes concurrently or in any sequence to the loss or damage:

- 1) Enforcement of any ordinance or law regulating construction, repair or demolition of buildings or structures;
- 2) Interference at the described premises by strikers or other persons with:
  - a) Rebuilding, repairing or replacing the property; or
  - b) Resumption or continuation of business; or
- 3) The suspension, lapse, or cancellation of any lease, license, contract or order beyond the "period of restoration".

**(b)** We will not cover loss or damage caused directly or indirectly by any of the following, whether or not any other cause or happening contributes concurrently or in any sequence to the loss or damage:

- 1) Theft of any property, which is not an integral part of a building or structure at the time of loss. We will cover direct loss that ensues from a peril not excluded in this policy. We will cover direct loss by pillage and looting which occurs during and at the immediate place of riot or civil commotion.
- 2) Any other consequential or remote loss.

**(5) Limit of Insurance**

**(a) Business Income**

Subject to **(c)** below, we will pay only for loss of your Business

Income that occurs during the "period of restoration", but not exceeding 12 consecutive months after the date of accidental direct physical loss of or damage to Covered Property, resulting from a Covered Cause of Loss.

**(b) Extra Expense**

Subject to **(c)** below, we will pay for necessary Extra Expense during the "period of restoration" starting with the date of damage or destruction. Payments under this coverage shall not be limited by the expiration of the policy.

**(c)** Our total payment for both Business Income and Extra Expense for any one occurrence shall not exceed \$100,000.

**(6) Loss Determination**

**(a)** The amount of Business Income loss will be determined based on:

- 1) The Net Income of the business before the direct physical loss or damage occurred;
- 2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- 3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
- 4) Other relevant sources of information, including:
  - a) Your financial records and accounting procedures;
  - b) Bills, invoices and other vouchers; and
  - c) Deeds, liens or contracts.

**(b)** The amount of Extra Expense will be determined based on:

- 1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct phys-

ical loss or damage had occurred. We will deduct from the total of such expenses:

- a) The salvage value that remains of any property bought for temporary use during the "period of restoration" once "operations" are resumed; and
  - b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
- 2) All necessary expenses that reduce the Business Income loss that otherwise would have been incurred.
- (c) **Resumption Of Operations**  
We will reduce the amount of your:
- 1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
  - 2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- (d) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

**(7) Loss Payment - Business Income and Extra Expense**

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if:

- (a) You have complied with all of the terms of this endorsement; and
- (b) 1) We have reached agreement with you on the amount of loss; or
- 2) An appraisal award has been made.

**6. Definitions**

The following definitions apply only to this Additional Coverage:

- a. "Electrical Disturbance" means electrical or magnetic damage, disturbance or erasure of electronic recordings.
- b. "Laptop Computer" means portable data collectors, notebook (laptop) computers, subnote book computers, palmtop computers, handheld computers and portable or any similar computer. Laptop computer does not mean cellular phone, wireless phone or pager.
- c. "Mechanical Breakdown" means component failure or mechanical malfunction, breakdown or failure.
- d. "Media" means materials on which information is recorded such as film, magnetic tape, paper tape, disks, drums, and cards. Media includes computer software.
- e. "Normal" means the condition that would have existed had no loss occurred.
- f. "Operations" means your business activities occurring at the described premises.
- g. "Period of Restoration" means the period of time that:
  - (1) Begins with the date of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the described premises; and
  - (2) Ends on the date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality.

"Period of Restoration" does not include any increased period required due to the enforcement of any law that:

  - (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (2) Regulates the prevention, control, repair, clean-up or restoration of environmental damage.

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.
- h. "Suspension" means:
  - (1) The slowdown or cessation of your business activities; or
  - (2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

All other policy terms and conditions apply.

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

## **ACCOUNTS RECEIVABLE**

This endorsement modifies insurance under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

1. Under **A. COVERAGE, 4. Additional Coverages**, the following Additional Coverage is added:  
**Accounts Receivable**

We will pay:

- a. All amounts your customers owe you that you cannot collect;
- b. Interest charges on loans you secure to offset impaired receipts until we pay these amounts;
- c. Collection costs in excess of normal; and
- d. Other expenses you reasonably incur to re-establish your records which result from direct physical loss of or damage to your records of accounts receivable:
  - i. caused by or resulting from any Covered Causes Of Loss; and
  - ii. which occurs on the premises described in the Declarations.

Our payment for any one loss shall not exceed the Limit of Insurance shown in the Declarations for ACCOUNTS RECEIVABLE.

2. Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage.
- a. Bookkeeping, accounting or billing errors or omissions.
  - b. Falsification, alteration, concealment or destruction of records done to conceal the wrongful giving, taking or withholding of money, securities or other property. This exclusion applies only to the extent of the wrongful giving, taking or withholding.
  - c. Electrical or magnetic injury, disturbance or erasure of electronic recordings. But we do cover direct loss caused by lightning.
  - d. We will not pay for any loss that relies solely upon an audit of records on an inventory computation to prove its factual existence.
3. In addition to the conditions of this policy, the following conditions apply only to this Additional Coverage:
- a. **Protection of Records of Accounts Receivable**  
For coverage to apply under this Additional Coverage, you must keep all records of accounts receivable in a locked safe or vault when:
    - (1) You are not open for business; or
    - (2) You are not using such records; or
    - (3) Such records are not removed from premises as permitted under the Additional Coverage, **Preservation of Property**.
  - b. The following is added to the Loss Payment Condition:
    - (1) If you cannot accurately establish the accounts receivable outstanding as of the time of loss or damage, the following method will be used:
      - (a) Determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and

- (b) Adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
- (2) The following will be deducted from the total amount of accounts receivable, however that amount is established:
  - (a) The amount of the accounts for which there is no loss or damage;
  - (b) The amount of the accounts that you are able to re-establish or collect;
  - (c) An amount to allow for probable bad debts that you are normally unable to collect; and
  - (d) All unearned interest and service charges.

All other policy terms and conditions apply.

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Page 2 of 2



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

## MONEY AND SECURITIES

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

**A. A. COVERAGE** is amended as follows:

1. Under **2. Property Not Covered**, **a.** is deleted and replaced by the following for this endorsement only:

**a.** Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities.

However, "money" and "securities" are covered as provided by this endorsement.

2. Under **4. Additional Coverages**, the following Additional Coverage is added:

**Money And Securities**

**a. Inside The Premises**

(1) We will pay for loss of "money" and "securities" inside the "premises" or a "banking premises" resulting directly from:

(a) "Theft"; or

(b) Disappearance or destruction.

(2) We will pay for loss from damage to the "premises" or its exterior resulting directly from an actual or attempted "theft" of "money" and "securities" if you are the owner of the "premises" or are liable for damage to it.

(3) We will pay for loss of, and loss from damage to, a locked safe, vault, cash register, cash box or cash drawer located in the "premises" resulting directly from an actual or attempted:

(a) "Theft" of; or

(b) Unlawful entry into those containers.

**b. Outside The Premises**

(1) We will pay for loss of "money" and "securities" outside the "premises" in the care and custody of a "messenger" or an armored motor vehicle company. The loss must result from:

(a) "Theft"; or

(b) Disappearance or destruction.

(2) Any covered "money" and "securities" loss from an armored motor vehicle company, we will pay only for the amount of loss you cannot recover:

(a) Under your contract with the armored motor vehicle company; and

(b) From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

**B. EXCLUSIONS**

1. The Covered Causes Of Loss Form shown in the Declarations as applicable to Property, does not apply to this coverage.

2. We will not pay for loss caused by any of the following:

**a. Accounting Or Arithmetical Errors Or Omissions:** Loss resulting from accounting or arithmetical errors or omissions.

**b. Acts Committed By You, Your Partners Or Your Members:** Loss resulting from any dishonest or criminal act committed by you or any of your partners or members whether acting alone or in collusion with other persons.

**c. Acts Of Employees, Managers, Directors, Trustees Or Representatives:** Loss resulting from any dishonest or criminal act committed by any of your "employees", managers, directors, trustees or authorized representatives:

(1) Acting alone or in collusion with other persons; or

(2) While performing services for you or otherwise.

**d. Exchanges Or Purchases:** Loss resulting from the giving or surrendering of property in any exchange or purchase.

**e. Fire:** Loss from damage to the "premises" resulting from fire, however caused.

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- f. Governmental Action:** Loss resulting from seizure or destruction of property by order of governmental authority.
- g. Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:
- (1) Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, "money" or "securities".
  - (2) Payment of damages of any type for which you are legally liable. However, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - (3) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
- h. Legal Expenses:** Expenses related to any legal action.
- i. Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
- j. War And Military Action:** Loss or damage resulting from:
- (1) War, including undeclared or civil war;
  - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- k. Money Operated Devices:** Loss of property contained in any money operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.
- l. Transfer Or Surrender Of Property:**
- (1) Loss of property after it has been transferred or surrendered to a person or place outside the "premises" or "banking premises":
    - (a) On the basis of unauthorized instructions; or
    - (b) As a result of a threat to do:
      - 1) Bodily harm to any person; or
      - 2) Damage to any property.
  - (2) However, this exclusion does not apply under **A.2.b.** above to loss of covered "money" and "securities" while outside the "premises" in the care and custody of a "messenger" if you:
    - (a) Had no knowledge of any threat at the time the conyenance began; or
    - (b) Had knowledge of a threat at the time the conyenance began, but the loss was not related to the threat.
- m. Vandalism:** Loss from damage to the "premises" or its exterior or to containers of covered "money" and "securities" by vandalism or malicious mischief.
- n. Voluntary Parting Of Title To Or Possession Of Property:** Loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.
- C. LIMIT OF INSURANCE**  
The most we will pay for loss of "money" and "securities" inside the "premises", and outside the "premises" are the Limits of Insurance shown in the Declarations for MONEY AND SECURITIES.
- D. DEDUCTIBLE**  
We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for MONEY AND SECURITIES. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance.
- E. GENERAL CONDITIONS**  
The following Conditions apply in addition to the Common Policy Conditions:
- 1. Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
    - a. Any additional persons become "employees"; or
    - b. You acquire the use and control of any additional "premises" any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
      - a. Give us written notice within 30 days thereafter; and
      - b. Pay us an additional premium.
  - 2. Discovery Period For Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
  - 3. Duties In The Event Of Loss**
    - a. After you discover a loss or a situation that may result in loss of, or loss from damage to, covered "money" or "securities" you must:
      - (1) Notify us as soon as possible.

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- (2) Submit to examination under oath at our request and give us a signed statement of your answers.
- (3) Give us a detailed, sworn proof of loss within 120 days.
- (4) Cooperate with us in the investigation and settlement of any claim.
- b. If you have reason to believe that any loss of or loss from damage to, covered "money" or "securities" involves a violation of law, you must notify the police.
- 4. Joint Insured**
- a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named Insured ceases to be covered, then the next named Insured will become the first named Insured.
- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An "employee" of any Insured is considered to be an "employee" of every Insured.
- d. If this insurance or any of its coverages are canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
- e. We will not pay more for loss sustained by more than one Insured than the amount we should pay if all the loss had been sustained by one Insured.
- 5. Legal Action Against Us:** You may not bring any legal action against us involving loss:
- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you discover the loss.
- 6. Loss Covered Under More Than One Coverage Of This Insurance:** If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:
- a. The actual amount of loss; or
- b. The sum of the limits of insurance applicable to those coverages.
- 7. Loss Sustained During Prior Insurance**
- a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
- (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
- (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
- b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
- (1) This insurance as of its effective date; or
- (2) The prior insurance had it remained in effect.
- 8. Loss Covered Under This Insurance And Prior Insurance Issued By Us Or Any Affiliate:** If any loss is covered:
- a. Partly by this insurance; and
- b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.
- 9. Non-Cumulation Of Limit Of Insurance:** Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.
- 10. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not or more than the Limit of Insurance.
- 11. Ownership Of Property; Interests Covered:** The property covered under this insurance is limited to property:
- a. That you own or hold; or
- b. For which you are legally liable.
- However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.
- 12. Policy Period**
- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss

that you sustain through acts committed or events occurring during the Policy Period.

- 13. Records:** You must keep records of all Covered Property so we can verify the amount of any loss.
- 14. Recoveries**
- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
- (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made; and
  - (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.
- b. Recoveries do not include any recovery:
- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
  - (2) Of original "securities" after duplicates of them have been issued.
- 15. Territory:** This insurance covers only acts committed or events occurring within the United States of America (including its territories and possessions), Puerto Rico and Canada.
- 16. Transfer Of Your Rights Of Recovery Against Others To Us:** You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.
- 17. Valuation - Settlement**
- a. Subject to the Limit of Insurance provision we will pay for:
- (1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:
    - (a) At face value in the "money" issued by that country; or
    - (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.
  - (2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:
    - (a) Pay the value of such "securities" or

replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or

- (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
    - 1) Value of the "securities" at the close of the business on the day the loss was discovered; or
    - 2) Limit of Insurance.
  - (3) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:
    - (a) Actual cash value of the property on the day the loss was discovered;
    - (b) Cost of repairing the property or "premises"; or
    - (c) Cost of replacing the property with property of like kind and quality.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.
  - b. We may, at our option, pay for loss of, or loss from damage to, property other than "money":
    - (1) In the "money" of the country in which the loss occurred; or
    - (2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.
  - c. Any property that we pay for or replace becomes our property.
- F. DEFINITIONS**
1. "Banking Premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.
  2. "Employee" means:
    - a. Any natural person:
      - (1) While in your service (and for 30 days after termination of service);
      - (2) Whom you compensate directly by salary, wages or commissions; and

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- (3) Whom you have the right to direct and control while performing services for you; or
- b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises". However, "employee" does not mean any:
- (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.
3. "Messenger" means you, any of your partners or any "employee" while having care and custody of the property outside the "premises".
4. "Money" means:
- a. Currency, coins and bank notes in current use and having a face value; and
- b. Travelers checks, register checks and money orders held for sale to the public.
5. "Occurrence" means an:
- a. Act or series of related acts involving one or more persons; or
- b. Act or event, or a series of related acts or events not involving any person.
6. "Premises" means the interior of that portion of any building you occupy in conducting your business.
7. "Property Other Than Money And Securities" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form as Property Not Covered.
8. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:
- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you but does not include "money".
9. "Theft" means any act of stealing.
10. "Watchperson" means any person you retain specifically to have care and custody of property inside the "premises" and who has no other duties.

All other policy terms and conditions apply.

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

## **FORGERY OR ALTERATION**

This endorsement adds Crime Coverage to the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

### **A. COVERAGE**

We will pay for loss involving Covered Instruments resulting directly from the Covered Causes of Loss.

1. **Covered Instruments:** Checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in "money" that are:
  - a. Made or drawn by or drawn upon you;
  - b. Made or drawn by one acting as your agent; orthat are purported to have been so made or drawn.
2. **Covered Cause of Loss:** Forgery or alteration of, on or in any Covered Instrument.

### **3. Coverage Extension**

**Legal Expenses:** If you are sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and you have our written consent to defend the suit, we will pay for any reasonably legal expenses that you incur and pay in that defense. The amount we will pay under this extension is in addition to the Limit of Insurance applicable to this insurance.

### **B. EXCLUSIONS**

We will not pay for loss as specified below:

1. **Acts Committed by You or Your Partners:** Loss resulting from any dishonest or criminal act committed by you or any of your partners whether acting alone or in collusion with other persons.
2. **Acts of Employees, Directors, or Trustees:** We will not pay for loss resulting from any dishonest or criminal act committed by any of your "employees", directors, or trustees:
  - a. Whether acting alone or in collusion with other persons; or
  - b. Whether while performing services for you or otherwise.
3. **Governmental Action:** Loss resulting from seizure or destruction or property by order of governmental authority.

4. **Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:
  - a. Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Instruments.
  - b. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - c. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
5. **Legal Expenses:** Expenses related to any legal action.
6. **Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
7. **War and Similar Actions:** Loss resulting from war, whether or not declared, warlike action, insurrection, rebellion or revolution, or any related act or incident.

#### C. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the Limit of Insurance shown in the Declarations for FORGERY AND ALTERATION.

#### D. DEDUCTIBLE

We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for FORGERY AND ALTERATION. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance. This provision does not apply to legal expenses paid under the Coverage Extension.

#### E. GENERAL CONDITIONS

1. **Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
  - a. Any additional persons become "employees"; or
  - b. You acquire the use and control of any additional "premises";any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
  - a. Give us written notice within 30 days thereafter; and
  - b. Pay us an additional premium.
2. **Discovery Period for Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
3. **Duties in the Event of Loss:** After you discover a loss or a situation that may result in loss of, or loss from damage to, Covered Instruments you must:
  - a. Notify us as soon as possible.

- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Give us a detailed, sworn proof of loss within 120 days.
- d. Cooperate with us in the investigation and settlement of any claim.

#### 4. Joint Insured

- a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named Insured ceases to be covered, then the next named Insured will become the first named Insured.
- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
- c. An "employee" of any Insured is considered to be an "employee" of every Insured.
- d. If this insurance or any of its coverages is canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
- e. We will not pay more for loss sustained by more than one Insured than the amount we should pay if all the loss had been sustained by one Insured.

#### 5. Legal Action Against Us: You may not bring any legal action against us involving loss:

- a. Unless you have complied with all the terms of this insurance;
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you discover the loss.

#### 6. Loss Covered Under More Than One Coverage of This Insurance: If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:

- a. The actual amount of loss; or
- b. The sum of the limits of insurance applicable to those coverages.

#### 7. Loss Sustained During Prior Insurance

- a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
  - (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
  - (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
- b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
  - (1) This insurance as of its effective date; or



(2) The prior insurance had it remained in effect.

**8. Loss Covered Under This Insurance and Prior Insurance Issued by Us or Any Affiliate:** If any loss is covered:

- a. Partly by this insurance; and
- b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

**9. Non-Cumulation of Limit of Insurance:** Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

**10. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not or more than the Limit of Insurance.

**11. Ownership of Property; Interests Covered:** The property covered under this insurance is limited to property:

- a. That you own or hold; or
- b. For which you are legally liable.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.

## 12. Policy Period

- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss that you sustain through acts committed or events occurring during the Policy Period.

**13. Records:** You must keep records of all Covered Instruments so we can verify the amount of any loss.

## 14. Recoveries

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
  - (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made;
  - (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.
- b. Recoveries do not include any recovery:
  - (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or

(2) Of original "securities" after duplicates of them have been issued.

**15. Territory:** This insurance covers only acts committed or events occurring within the United States of America, U.S. Virgin Islands, Puerto Rico, Canal Zone or Canada.

**16. Transfer of Your Rights of Recovery Against Others to Us:** You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

### 17. Valuation - Settlement

a. Subject to the Limit of Insurance provision we will pay for:

(1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America;

(a) At face value in the "money" issued by that country; or

(b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

(2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:

(a) Pay the value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities";

(b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

i. Value of the "securities" at the close of the business on the day the loss was discovered; or

ii. Limit of Insurance.

(3) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:

(a) Actual cash value of the property on the day the loss was discovered;

(b) Cost of repairing the property or "premises"; or

(c) Cost of replacing the property with property of like kind and quality.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.

b. We may, at our option, pay for loss of, or loss from damage to, property other than "money:"

(1) In the "money" of the country in which the loss occurred; or

(2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.

c. Any property that we pay for or replace becomes our property.

**18. Facsimile Signatures:** We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.

**19. Proof of Loss:** You must include with your proof of loss any instrument involved in that loss, or if that is not possible, an affidavit setting forth the amount and cause of loss.

## F. DEFINITIONS

1. **"Employee"** means:

a. Any natural person:

(1) While in your service (and for 30 days after termination of service);

(2) Whom you compensate directly by salary, wages or commissions; and

(3) Whom you have the right to direct and control while performing services for you; or

b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises".

But "employee" does not mean any:

(1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.

2. **"Money"** means:

a. Currency, coins and bank notes in current use and having a face value; and

b. Travelers checks, register checks and money orders held for sale to the public.

3. **"Occurrence"** means all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments.

4. **"Property Other Than Money and Securities"** means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form and Property Not Covered.

5. **"Securities"** means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

All other policy terms and conditions apply.

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

## EMPLOYEE DISHONESTY

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

**A. A. COVERAGE** is amended as follows:

We will pay for loss involving Covered Property resulting directly from the Covered Cause of Loss.

1. **Covered Property** for this endorsement means "money", "securities", and "property other than money and securities".
2. **Covered Cause of Loss** means "Employee Dishonesty".
3. **Coverage Extension**  
**Employee Temporarily Outside Coverage Territory:** We will pay for loss caused by any "employee" while temporarily outside the territory specified in **E. GENERAL CONDITIONS, 15. Territory** for a period not more than 90 days. The amount we pay under this Extension is part of, not in addition to, the Limit of Insurance shown in the Declarations for **EMPLOYEE DISHONESTY**.
4. "Money" and "securities" as defined in this endorsement are withdrawn from **2. Property Not Covered**.

**B. EXCLUSIONS**

1. The Covered Causes Of Loss Form shown in the Declarations as applicable to Property, does not apply to this Coverage.
2. We will not pay for loss caused by any of the following:
  - a. **Acts Committed By You, Your Partners Or Your Members:** Loss resulting from any dishonest or criminal act committed by you, any of your partners or members whether acting alone or in collusion with other persons.
  - b. **Governmental Action:** Loss resulting from seizure or destruction of property by order of governmental authority.
  - c. **Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:

- (1) Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Property.
  - (2) Payment of damages of any type for which you are legally liable. However, we will pay compensatory damages arising directly from a loss covered under this insurance.
  - (3) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
- d. **Legal Expenses:** Expenses related to any legal action.
  - e. **Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
  - f. **War And Military Action:**  
 Loss or damage resulting from:
    - (1) War, including undeclared or civil war;
    - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
    - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
  - g. **Employee Canceled Under Prior Insurance:** Loss caused by any "employee" of yours, or predecessor in interest of yours, for whom similar prior insurance has been canceled and not reinstated since the last such cancellation.
  - h. **Inventory Shortages:** Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

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- (1) An inventory computation; or
- (2) A profit and loss computation.

#### C. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the Limit of Insurance shown in the Declarations for EMPLOYEE DISHONESTY.

#### D. DEDUCTIBLE

1. We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations for EMPLOYEE DISHONESTY. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance. This provision does not apply to legal expenses paid under the Coverage Extension.
2. You must:
  - a. Give us notice as soon as possible of any loss of the type insured under this Coverage Form even though it falls entirely within the Deductible Amount.
  - b. Upon our request, give us a statement describing the loss.

#### E. GENERAL CONDITIONS

1. **Consolidation - Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
  - a. Any additional persons become "employees"; or
  - b. You acquire the use and control of any additional "premises"
 any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:
  - a. Give us written notice within 30 days thereafter; and
  - b. Pay us an additional premium.
2. **Discovery Period For Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.
3. **Duties In The Event Of Loss:** After you discover a loss or a situation that may result in loss of, or loss from damage to Covered Property, you must:
  - a. Notify us as soon as possible.
  - b. Submit to examination under oath at our request and give us a signed statement of your answers.
  - c. Give us a detailed, sworn proof of loss within 120 days.
  - d. Cooperate with us in the investigation and settlement of any claim.
4. **Joint Insured**
  - a. If more than one Insured is named in the Declarations, the first named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first named

Insured ceases to be covered, then the next named Insured will become the first named Insured.

- b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.
  - c. An "employee" of any Insured is considered to be an "employee" of every Insured.
  - d. If this insurance or any of its coverages are canceled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
  - e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.
5. **Legal Action Against Us:** You may not bring any legal action against us involving loss:
    - a. Unless you have complied with all the terms of this insurance;
    - b. Until 90 days after you have filed proof of loss with us; and
    - c. Unless brought within 2 years from the date you discover the loss.
  6. **Loss Covered Under More Than One Coverage Of This Insurance:** If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:
    - a. The actual amount of loss; or
    - b. The sum of the limits of insurance applicable to those coverages.
  7. **Loss Sustained During Prior Insurance**
    - a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or the predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:
      - (1) This insurance became effective at the time of cancellation or termination of the prior insurance; and
      - (2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.
    - b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance and is limited to the lesser of the amount recoverable under:
      - (1) This insurance as of its effective date; or
      - (2) The prior insurance had it remained in effect.

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**8. Loss Covered Under This Insurance And Prior Insurance Issued By Us Or Any Affiliate:**

If any loss is covered:

- a. Partly by this insurance; and
  - b. Partly by any prior canceled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest
- the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

**9. Non-Cumulation Of Limit Of Insurance:**

Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

- 10. Other Insurance:**
- This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other insurance or indemnity, but not for more than the Limit of Insurance.

**11. Ownership Of Property; Interests Covered:**

The property covered under this insurance is limited to property:

- a. That you own or hold; or
  - b. For which you are legally liable.
- However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.

**12. Policy Period**

- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss that you sustain through acts committed or events occurring during the Policy Period.

- 13. Records:**
- You must keep records of all Covered Property so we can verify the amount of any loss.

**14. Recoveries**

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:
  - (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
  - (2) Then to us, until we are reimbursed for the settlement made; and

- (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.

**b. Recoveries do not include any recovery:**

- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
- (2) Of original "securities" after duplicates of them have been issued.

- 15. Territory:**
- This insurance covers only acts committed or events occurring within the United States of America (including its territories and possessions), Puerto Rico and Canada.

**16. Transfer Of Your Rights Of Recovery Against Others To Us:**

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

**17. Valuation - Settlement**

- a. Subject to the Limit of Insurance provision we will pay for:
  - (1) Loss of "money" but only up to and including its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:
    - (a) At face value in the "money" issued by that country; or
    - (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.
  - (2) Loss of "securities" but only up to and including their value at the close of business on the day the loss was discovered. We may, at our option:
    - (a) Pay the value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or
    - (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:
      - 1) Value of the "securities" at the close of the business on the day

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the loss was discovered; or

2) Limit of Insurance.

- (3) Loss of, or loss from damage to "property other than money and securities" or loss from damage to the "premises" for not more than the:

- (a) Actual cash value of the property on the day the loss was discovered;  
 (b) Cost of repairing the property or "premises"; or  
 (c) Cost of replacing the property with property of like kind and quality.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.

- b. We may, at our option, pay for loss of, or loss from damage to, property other than "money":
- (1) In the "money" of the country in which the loss occurred; or
- (2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.
- c. Any property that we pay for or replace becomes our property.

**18. Cancellation As To Any Employee:** This insurance is canceled as to any "Employee":

- a. Immediately upon discovery by:
- (1) You; or
- (2) Any of your partners, officers or directors not in collusion with the "employee" of any dishonest act committed by that "employee" whether before or after becoming employed by you.
- b. On the date specified in a notice mailed to you. That date will be at least 30 days after the date of mailing. The notice will be mailed to you at your last mailing address known to us.

**F. DEFINITIONS**

1. "Employee" means:
- a. Any natural person:
- (1) While in your service (and for 30 days after termination of service);
- (2) Whom you compensate directly by salary, wages or commissions; and
- (3) Whom you have the right to direct and control while performing services for you; or

- b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding however, any such person while having care and custody of property outside the "premises". However, "employee" does not mean any:
- (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.

2. "Employee Dishonesty" in paragraph **A.2.** means only dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons, except you or a partner, with the manifest intent to:
- a. Cause you to sustain loss; and also
- b. Obtain financial benefit (other than employee benefits earned in the normal course of employment, including: salaries, commissions, fees, bonuses, promotions, awards, profit sharing or pensions) for:
- (1) The "employee"; or
- (2) Any person or organization intended by the "employee" to receive that benefit.
3. "Money" means:
- a. Currency, coins and bank notes in current use and having a face value; and
- b. Travelers checks, register checks and money orders held for sale to the public.
4. "Occurrence" means all loss caused by, or involving one or more "employees", whether the result of a single act or series of acts.
5. "Property Other Than Money And Securities" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form as Property Not Covered.
6. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:
- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you but does not include "money".

All other policy terms and conditions apply.

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

**ILLINOIS CHANGES**

This endorsement modifies insurance provided under the COMMERCIAL PROPERTY COVERAGE PART.

- A. The following is added to The LEGAL ACTION AGAINST US Condition:  
The two year period for legal action against us is extended by the number of days between the date the proof of loss is filed with us and the date we deny the claim in whole or in part.
- B. If this policy covers:
  - 1. The following in a. and b., then Paragraphs 2. and 3. apply:
    - a. Real property used principally for residential purposes up to and including a four family dwelling; or
    - b. Household or personal property that is usual or incidental to the occupancy of any premises used for residential purposes.
  - 2. The second paragraph of the Appraisal Condition is deleted and replaced by the following:
    - a. Each party will pay its own appraiser and bear the other expenses of the appraisal and umpire equally, except as provided in b. below.
    - b. We will pay your appraiser's fee and the umpire's appraisal fee, if the following conditions exist:
      - (1) You demanded the appraisal; and
      - (2) The full amount of loss, as set by your appraiser, is agreed to by our appraiser or by the umpire.
  - 3. The Concealment, Misrepresentation Or Fraud Condition is replaced by the following:  
CONCEALMENT, MISREPRESENTATION OR FRAUD
    - a. This Coverage Part or Coverage Form is void if you or any insured ("insured") commit fraud or conceal or misrepresent a fact in the process leading to the issuance of this insurance, and such fraud, concealment or misrepresentation is stated in the policy or endorsement or in the written application for this policy and:
      - (1) Was made with actual intent to deceive; or
      - (2) Materially affected either our decision to provide this insurance or the hazard we assumed.
 However, this condition will not serve as a reason to void this Coverage Part or Coverage Form after the Coverage Part or Coverage Form has been in effect for one year or one policy term, whichever is less.
    - b. This Coverage Part or Coverage Form is void if you or any other insured ("insured"), at any time subsequent to the issuance of this insurance, commit fraud or intentionally conceal or misrepresent a material fact relating to:
      - (1) This Coverage Part or Coverage Form;
      - (2) The Covered Property;
      - (3) Your interest in the Covered Property; or
      - (4) A claim under this Coverage Part or Coverage Form.
    - c. Notwithstanding the limitations stated in 3.a. above, we may cancel the Coverage Part or Coverage Form in accordance with the terms of the Cancellation Condition.
- C. For the Commercial Property Coverage Part, the following exclusion and related provisions are added to Paragraph B.2. Exclusions in the Causes of Loss Forms and to any Coverage Form or policy to which a Causes of Loss Form is not attached:
  - 1. We will not pay for loss or damage arising out of any act committed:
    - a. By or at the direction of any insured; and
    - b. With the intent to cause a loss.
  - 2. However, this exclusion will not apply to deny payment to any innocent co-insured who did not cooperate in or contribute to the creation of the loss if:
    - a. The loss arose out of a pattern of criminal domestic violence; and
    - b. The perpetrator of the loss is criminally prosecuted for the act causing the loss.



3. If we pay a claim pursuant to Paragraph C.2., our payment to the insured is limited to that insured's insurable interest in the property less any payments we first made to a mortgagee or other party with a legal secured interest in the property. In no event will we pay more than the Limit of Insurance.
- D. If this policy includes the MOTEL/HOTEL PLUS - CRIME COVERAGE ENDORSEMENT, condition g. Other Insurance is deleted and replaced by the following:
  - g. Other Insurance  
You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this policy. 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 policy bears to the Limits of Insurance of all applicable policies.

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

## UTILITY SERVICES FAILURE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM  
BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

**A. A. COVERAGE** is amended as follows:

- 1. Under BUILDING AND PERSONAL PROPERTY COVERAGE FORM, CONDOMINIUM ASSOCIATION COVERAGE FORM AND CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM, **4. Additional Coverages**, the following is added:

**Utility Services Failure**

We shall pay for loss or damage to Covered Property due to the interruption of utility service(s) to the premises described in the Declarations. The interruption must result from direct physical damage by a Covered Cause of Loss to the property of your "local utility service".

- 2. Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM and BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **5. Additional Coverages**, the following is added:

**Utility Services Failure**

We shall pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to the interruption of utility service(s) to the premises described in the Declarations. The interruption must result from direct physical damage by a Covered Cause of Loss to the property of your "local utility service".

**B. Limits of Insurance**

The most we shall pay for the sum of **A.1.** and **2.** above, in any one loss, is the Limit of Insurance shown in the Declarations for UTILITY SERVICES FAILURE.

**C. Exclusions**

The following exclusions apply only to this endorsement:

**1. Perishable Stock**

We will not pay for loss or damage to "perishable stock".

**2. Power or Other Utility Grid Failure**

Under CAUSES OF LOSS - SPECIAL FORM, **B. EXCLUSIONS**, exclusion **1.e. Utility Services** is deleted and replaced by the following:

**e. Utility Services**

We shall not pay for loss or damage caused by or resulting from the failure to supply "communication supply services", "power supply services" or "water supply services" from any regional or national grid.

**D. Definitions**

- 1. Under BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM, **F. DEFINITIONS**, and BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM, **D. DEFINITIONS**, **4.** "Period of restoration" is deleted and replaced by the following with respect to the coverage provided by this endorsement only:

- 4. "Period of restoration" means period of time that:
  - a. Begins immediately following the time of the interruption of utility service(s) to premises described in the Declarations caused by or resulting from direct physical loss or damage by a Covered Cause of Loss to the property of your "local utility service"; and
  - b. Ends on the date when the interruption of utility service to the premises described in the Declarations is restored. "Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:
    - a. Regulates the construction, use or repair, or requires the tearing down of any property; or
    - b. Regulates the prevention, control, re-

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pair, clean-up or restoration of environmental damage.

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

2. The following definitions apply only to this Additional Coverage:
- a. "Communication Supply Services" meaning property supplying communication services, including telephone, radio, microwave or television services, to the described premises, that are not located on a described premises and not rented, leased or owned by any insured, such as:
    - (1) Communication transmission lines, including optic fiber transmission lines;
    - (2) Coaxial cables; and
    - (3) Microwave radio relays, except satellites.
  - b. "Local Utility Service" means your billing entity, repair entity or service entity directly supplying your "communication supply services", "power supply services" or "water supply services" to the premises described in the Declarations.

- c. "Perishable Stock" means merchandise held in storage or for sale that is refrigerated for preservation and is susceptible to loss or damage if the refrigeration fails.
- d. "Power Supply Services" meaning the following types of property supplying electricity, steam or gas to the described premises, that are not located on a described premises and not rented, leased or owned by any insured:
  - (1) Utility generating plants;
  - (2) Switching stations;
  - (3) Substations;
  - (4) Transformers; and
  - (5) Transmission lines.
- e. "Water Supply Services" mean the following types of property supplying water to the described premises, that are not located on a described premises and not rented, leased or owned by any insured:
  - (1) Pumping stations; and
  - (2) Water mains.

All other policy terms and conditions apply.

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

# FINE ARTS, COLLECTIBLES AND MEMORABILIA

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
CAUSES OF LOSS - SPECIAL FORM

**A. Under A. COVERAGE, 4. Additional Coverages,**  
the following Additional Coverage is added:

**Fine Arts, Collectibles and Memorabilia**

**1. Coverage**

We will pay for direct physical loss or damage to "fine arts", "collectibles" and "memorabilia" that are:

- a. Located at the premises described in the Declarations;
- b. Not held for sale; and
- c. Owned by:
  - (1) You; or
  - (2) If you are:
    - (a) An individual, your spouse.
    - (b) A partnership or a joint venture, your members, your partners and their spouses.
    - (c) A limited liability company, your members.
    - (d) An organization other than a partnership, joint venture or limited liability company, your "executive officers".
    - (e) A trust, your trustees.

**2. Exclusions**

Under **B. EXCLUSIONS** of the CAUSES OF LOSS - SPECIAL FORM, the following exclusions are added to apply only to this Additional Coverage.

- a. An action committed by you or at your direction with the intent to cause loss or damage.
- b. Damage caused by any repairing, restoration or retouching process.
- c. Breakage of art glass windows, statuary, marble, glassware, bric-a-brac, porcelains and similar fragile articles unless caused by:
  - (1) Fire or lightning;
  - (2) Aircraft;

- (3) Theft or attempted theft;
- (4) Earthquake;
- (5) Flood or storm surge;
- (6) Malicious damage; or
- (7) Collision, derailment or overturn of conveyance except as we may state otherwise.
- d. Mysterious disappearance unless the loss is a direct result of forcible entry of which there is visible evidence.
- e. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

**3. Limit Of Insurance**

We will pay no more than the smallest of either:

- a. The cost to replace damaged property with new property of similar quality and features reduced by the amount of decrease in value because of age, wear, obsolescence or market value applicable to the damaged property immediately prior to the loss; or
- b. The limits shown in the Declarations for FINE ARTS, COLLECTIBLES AND MEMORABILIA.

In no event shall our payment for all items in any one loss exceed the limits shown in the Declarations for FINE ARTS, COLLECTIBLES AND MEMORABILIA.

Our payment for loss of or damage to "fine arts", "collectibles", and "memorabilia" will only be for the account of the owner of the property. This is an additional amount of insurance.

**4. Deductible**

No deductible applies to this Additional Coverage.

**5. Conditions**

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

- (1) Repair or replace any part of the pair or set to restore it to its value before the loss; or
  - (2) Pay the difference between the actual cash value of the property before and after the loss.
- b. In case of loss or damage to any part of property covered, consisting of several parts when complete, we shall pay only for the value of the part lost or damaged.
  - c. In the event of loss or damage to property covered, claim payment is subject to the insurable interest of the covered insured.
- B.** Under **F. ADDITIONAL CONDITIONS, Coinsurance**, does not apply to this coverage.
- C.** Under **C. LIMITATIONS** of CAUSES OF LOSS - SPECIAL FORM, paragraph **2.b.** does not apply to this Additional Coverage.
- D.** The following **Definitions** apply to this Additional Coverage only:

1. "Fine arts" mean paintings, etchings, pictures, tapestries, art glass windows and other bona fide works of art of rarity, historical value or artistic merit.
2. "Collectibles" mean objects collected as a hobby, for display or as an investment whose value may appreciate.
3. "Memorabilia" means objects valued for their connection to historical events, culture, entertainment or experiences worthy of remembrance.
4. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

All other policy terms and conditions apply.

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

## **EQUIPMENT BREAKDOWN COVERAGE**

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CAUSES OF LOSS - BASIC FORM  
CAUSES OF LOSS - BROAD FORM  
CAUSES OF LOSS - SPECIAL FORM

1. The BUILDING AND PERSONAL PROPERTY COVERAGE FORM is amended.

a. **A. COVERAGE** is amended. The following coverage is added for purposes of this endorsement only.

We will pay for "Equipment Breakdown" in any one occurrence at any one location where "Equipment Breakdown" is shown in the Declarations. The most we will pay for "Equipment Breakdown" is shown in the Declarations and is subject to the Limits of Insurance section of this endorsement.

b. **A. COVERAGE, 4. Additional Coverages** is amended for purposes of this endorsement only.

(1) Paragraph **d. Pollutant Clean-up And Removal** is deleted and replaced by the following.

**d. Pollutant Clean-up And Removal**

We will pay for the pollutant clean-up, removal, repair or replacement of damaged Covered Property resulting from an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

This coverage does not include contamination of perishable stock by a refrigerant.

(2) Paragraph **e. Electronic Data** is deleted and replaced by the following.

**e. Electronic Data Restoration**

(1) We will pay for your reasonable and necessary cost to research, replace or restore "electronic data" which has been destroyed or corrupted as a result of "Equipment Breakdown". To the extent that "electronic data" is not replaced or restored, the loss

will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

(2) The term "electronic data" has the meaning set forth in the DEFINITIONS section of the BUILDING AND PERSONAL PROPERTY COVERAGE FORM.

(3) The amount we pay is subject to the Limits of Insurance section of this endorsement.

(3) The following **Additional Coverages** are added.

**(a) Expediting Expenses**

We will pay for the expediting expense loss resulting from an "Equipment Breakdown" with respect to your damaged Covered Property. We will pay the "reasonable extra cost" to:

- 1) Make temporary repairs;
  - 2) Expedite permanent repairs; or
  - 3) Expedite permanent replacement.
- "Reasonable extra cost" shall mean "the extra cost of temporary repair and of expediting the repair of such damaged equipment of the insured, including overtime and the extra cost of express or other rapid means of transportation". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(b) Refrigerant Contamination**

We will pay for loss to your Covered Property that is damaged by contamination by a refrigerant used in the refrigerating, cooling or humidity control

equipment at the described premises as a result of an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(c) Spoilage Coverage**

1) We will pay for loss of "perishable goods" caused by spoilage resulting from lack of power, light, heat, steam or refrigeration caused by an "Equipment Breakdown" to types of property covered by this policy, that are:

- a) Located on or within 1,000 feet of your described premises; and
- b) Owned by you, the building owner (if you are a tenant), or owned by a public utility, or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission.

2) However, we will not pay for any physical loss or damage caused by or resulting from any of the causes of loss listed below, unless loss or damage not otherwise excluded results, then we will pay for such resulting damage:

- a) Fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water damage, earth movement; or
- b) Flood, unless an "Equipment Breakdown" ensues.

Our payment will be based upon the actual replacement cost of the "perishable goods" at the time of loss. The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(d) CFC Refrigerants**

We will pay for the "additional costs" to repair or replace Covered Property

because of the use or presence of a refrigerant containing CFC (chlorofluorocarbon) substances.

"Additional costs" mean those in excess of what would have been required to repair or replace Covered Property, had no CFC refrigerant been involved. We will also pay for additional loss as described under Spoilage Coverage or loss of Business Income Coverage provided by this endorsement, caused by the presence of a refrigerant containing CFC substances.

We will pay no more than the least of the following:

- 1) The cost to repair the damaged property and replace any lost CFC refrigerant;
- 2) The cost to repair the damaged property, retrofit the system to accept a non-CFC refrigerant, and charge the system with a non-CFC refrigerant; or
- 3) The cost to replace the system with one using a non-CFC refrigerant.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(e) Computer Equipment**

We will pay for direct physical loss or damage to your computers as a result of an "Equipment Breakdown". The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(f) Business Interruption, Extra Expense, Electronic Data and Service Interruption**

Any insurance provided for Business Income, Extra Expense or Electronic Data is extended to apply to your loss, damage or expense caused by an "Equipment Breakdown" to equipment that is owned by a utility, landlord or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks, data transmission or "cloud computing". The equipment must meet the definition of "Equipment Breakdown" except that it is not Covered Property.

We will pay:

- 1) Your actual loss sustained from a total or partial interruption of business; and
- 2) The reasonable extra expense you sustain to run your business during the interruption, caused solely by an "Equipment Breakdown", including an "Equipment Breakdown" to any transformer, electrical apparatus, or any covered equipment that is:
  - a) Located on or within 1,000 feet of your described premises;
  - b) Owned by you, the building owner (if you are a tenant), or owned by a public utility company; and
  - c) Used to supply electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(g) Temperature Fluctuation**

We will pay for loss of "perishable goods" only caused by or resulting from any condition or event to Covered Property that can be resolved by calibrating, resetting, tightening, adjusting or cleaning.

However, we will not pay for loss of "perishable goods" as a result of resetting the power supply to the Covered Property containing the "perishable goods".

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(h) Unauthorized Instruction**

We will pay for loss or damage to your "computer equipment" caused by an "unauthorized instruction" which results in an "Equipment Breakdown".

"Computer equipment" means Covered Property that is electronic computer or other data processing equipment, including peripherals used in conjunction with such equipment and electronic media and records.

"Unauthorized instruction" means a virus, harmful code or similar instruction

introduced into or enacted on a computer system or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation.

The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(i) Risk Improvement**

If Covered Property suffers direct physical loss or damage caused by an "Equipment Breakdown", we will pay for the insured to improve the "power quality" of the electrical system or equipment at the loss location where the "Equipment Breakdown" occurred. "Power quality" means the conditions that allow electrical systems or equipment to operate as intended by limiting voltage fluctuations and other power influences that would adversely affect the operational performance and/or reduce the reliability or the lifespan of the electrical system.

We will pay the reasonable extra cost to improve "power quality" for the following electrical systems and/or equipment improvements:

- 1) Installation of surge protection devices (SPD's) which are installed at the loss location's line disconnect, load disconnect, or on specific pieces of equipment and that are certified by Underwriter Laboratories (UL) or has an equivalent certification. However SPD's do not include any SPD's which are cord-connected surge strips, direct plug-in SPD's or receptacle SPD's;
- 2) An upgrade and/or replacement of electrical panels, switchgear and/or circuit breakers; or
- 3) Electrical wire and wiring improvements which include installation of flexible conduit, junction boxes and/or ground wiring.

An invoice for implementation of this Additional Coverage must be sent to us within 180 days after the payment of the loss is received.

The amount we pay is subject to the Limits of Insurance section of this endorsement.



**(j) Off-Premises Coverage**

We will pay for loss or damage to Covered Property resulting from a covered "Equipment Breakdown" while temporarily at a premises or location that is not a described premises. The amount we pay is subject to the Limits of Insurance section of this endorsement.

**(4) The following is added to 5. Coverage Extensions.**

**Replacement Cost Coverage**

We will pay you the amount you actually spend to repair or replace your damaged property with new property of like kind, capacity, size and quality, whichever is less except for the following.

If any damaged property is not repaired or replaced, then we will pay only the actual cash value at the time of the "Equipment Breakdown".

**c. B. EXCLUSIONS AND LIMITATIONS** is

amended. The following provision is added for purposes of this endorsement only.

Under Business Interruption, Extra Expense and Service Interruption, we will not pay for:

- (1)** The interruption of business that would not or could not have been carried on if the "Equipment Breakdown" had not occurred;
- (2)** Your failure to use due diligence and dispatch and all reasonable means to resume business at the location(s) shown on the Declarations page; or
- (3)** The part of any loss or expense that is due solely to the suspension, lapse or cancellation of a contract following an "Equipment Breakdown" extending beyond the time business would have resumed if the contract had not lapsed, been suspended or canceled.

**d. C. LIMITS OF INSURANCE** is deleted and replaced by the following for purposes of this endorsement only.

**C. LIMITS OF INSURANCE**

- 1.** The most we will pay for "Equipment Breakdown" for one or more coverages in any one occurrence at any one location is the amount equal to the "total insured value" at each location where "Equipment Breakdown" is shown in the Declarations. This provision does not apply to Paragraph C.4.
- 2.** The limit of insurance for **Pollutant Clean-up And Removal, Electronic Data Restoration, Refrigerant Contamination, Spoilage Coverage,**

**Temperature Fluctuation, Risk Improvement and Off-Premises Coverage** are not additional limits of insurance, but are included in the "total insured value". We will pay the lesser of "total insured value" or:

- a.** For Pollutant Clean-up And Removal, the greater of \$250,000 or the limit shown in the Declarations for Pollutant Clean-up And Removal or the limit shown in an endorsement that is attached to the property form;
  - b.** For Electronic Data Restoration, up to \$100,000 for loss, damage or expense including actual loss of Business Income you sustain and necessary Extra Expense you incur;
  - c.** For Refrigerant Contamination, up to \$750,000 for loss or damage;
  - d.** For Spoilage Coverage, up to \$750,000 for loss or damage;
  - e.** For Temperature Fluctuation, up to \$5,000 for loss including actual loss of Business Income you sustain and necessary Extra Expense you incur;
  - f.** For Risk Improvement, 10% of the loss amount paid, up to a maximum limit of \$10,000; and
  - g.** For Off-Premises Coverage, up to \$25,000 for loss or damage.
- 3.** In no event will we pay more than the "total insured value" for each location where "Equipment Breakdown" is shown in the Declarations.
- 4.** As regards Business Interruption, Extra Expense and Service Interruption, our limit of liability for any one "Equipment Breakdown" is equal to twelve (12) consecutive months of actual loss sustained for a total or partial interruption of your business. The twelve (12) consecutive months begin on the date of the "Equipment Breakdown".

**e. F. ADDITIONAL CONDITIONS** is amended. The following conditions are added for purposes of this endorsement only.

**(1) Suspension**

Whenever Covered Property is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss to that Covered Property for the perils covered by

this endorsement. Coverage can be suspended and possibly reinstated by delivering or mailing a written notice of suspension or coverage reinstatement to:

- (a) Your last known address; or
- (b) The address where the property is located.

If we suspend your insurance, you will get a pro rata refund of premium. However, the suspension will be effective even if we have not yet made or offered a refund.

**(2) Jurisdictional Inspections**

If any Covered Property under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

**(3) Environmental, Safety and Efficiency Improvements**

If Covered Property requires replacement caused by an "Equipment Breakdown", we will pay your additional cost to replace with equipment that is better for the environment, safer, or more efficient than the equipment being replaced.

However, we will not pay more than 150% of what the cost would have been to repair or replace with like kind and quality. This condition does not apply to any property to which Actual Cash Value applies.

**(4) Green Environmental and Efficiency Improvements**

(a) If Covered Property requires repair or replacement caused by an "Equipment Breakdown", we will pay:

- 1) The lesser of the reasonable and necessary additional cost incurred by you to repair or replace physically damaged Covered Property with equipment of like kind and quality which qualifies as "Green". Like kind and quality includes similar size and capacity.
- 2) The additional reasonable and necessary fees incurred by you for an accredited professional certified by a "Green Authority" to participate in the repair or replacement of physically damaged Covered Property as "Green".
- 3) The additional reasonable and necessary cost incurred by you for certification or recertification of the repaired or replaced Covered Property as "Green".

- 4) The additional reasonable and necessary cost incurred by you for "Green" in the removal, disposal or recycling of damaged Covered Property.
- 5) The business interruption (if coverage is provided by the policy to which this endorsement is attached) loss during the additional time required for repair or replacement of Covered Property, consistent with "Green", in the coverage above.

We will not pay more than 150%, up to a maximum limit of \$100,000, of what the cost would have been to repair or replace with equipment of like kind and quality inclusive of fees, costs and any business interruption loss incurred as stated above.

**(b) Green Environmental and Efficiency Improvements** does not cover any of the following.

- 1) Covered Property does not include stock, raw materials, finished goods, "production machinery", merchandise, electronic data processing equipment not used in the functional support of the real property, process water, molds and dies, property in the open, property of others for which you are legally liable, or personal property of others.
- 2) Any loss adjusted on any valuation basis other than a repair or replacement cost basis as per E. LOSS CONDITIONS, 4. Loss Payment.
- 3) Any loss covered under any other section of this policy.
- 4) Any cost incurred because of any law or ordinance with which you were legally obligated to comply with prior to the time of the "Equipment Breakdown".

**(5) Other Insurance Issued By Us**

If this policy provides coverage for Data Processing Equipment Coverages, Electronic Data Processing Equipment, Refrigerated Products or Mechanical Breakdown where two or more of this policy's coverages apply to the same loss or damage, the Coverage of this endorsement shall supersede any coverages provided outside of this Equipment Breakdown Endorsement for the loss or damage that arises out of an "Equipment Breakdown" loss.

This Condition supersedes any similar Condition when provided by us in this policy.

**2. B. EXCLUSIONS** of the CAUSES OF LOSS FORMS is amended.

- a.** CAUSES OF LOSS - BASIC FORM and CAUSES OF LOSS - BROAD FORM are amended. The following exclusions are deleted for purposes of this endorsement only. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire.

Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion.

- b.** CAUSES OF LOSS - SPECIAL FORM is amended. The following exclusions are deleted for purposes of this endorsement only.

- a.** Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;

- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire.

Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- c.** CAUSES OF LOSS - SPECIAL FORM, **C. LIMITATIONS** is amended. The following limitations are deleted for purposes of this endorsement only.

- (1) Steam boilers, steam pipes, steam engines, or steam turbines caused by or resulting from any condition or event inside such equipment. However, we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than any explosion.

**3. DEFINITIONS** is amended.

- a.** CAUSES OF LOSS - SPECIAL FORM, "Specified Causes of Loss" is amended to include "Equipment Breakdown" for purposes of this endorsement only.
- b.** CAUSES OF LOSS - SPECIAL FORM, CAUSES OF LOSS - BASIC FORM and CAUSES OF LOSS - BROAD FORM is amended. The following definitions are added for purposes of this endorsement only.

"Cloud computing" means on-demand network access to a shared pool of computing resources via networks, servers, storage, applications and services provided by an organization with whom

you have a contract with using the following service models: Software as a Service (SaaS), Platform as a Service (PaaS) and Infrastructure as a Service (IaaS) on the following deployment models: public cloud, community cloud, hybrid cloud and private cloud.

"Electronic equipment" means devices which operate using many small electrical parts such as, but not limited to, microchips, transistors or circuits.

"Electronic equipment deficiency" means the quality or condition inside of "electronic equipment" which renders this equipment unexpectedly inoperable and which is operable again once a piece of "electronic equipment" has been replaced.

However, "electronic equipment deficiency" will not include replacement of "electronic equipment" for any condition that could have been resolved without replacement of the "electronic equipment" including but not limited to "computer equipment" maintenance or the reinstallation or incompatibility of software.

"Equipment Breakdown" means:

- (1) Physical loss or damage both originating within:
  - (a) Boilers, fired or unfired pressure vessels, vacuum vessels, and pressure piping, all normally subject to vacuum or internal pressure other than static pressure of contents, excluding:
    - 1) Waste disposal piping;
    - 2) Any piping forming part of a fire protective system;
    - 3) Furnaces; and
    - 4) Any water piping other than:
      - a) Boiler feed water piping between the feed pump and the boiler;
      - b) Boiler condensate return piping; or
      - c) Water piping forming part of a refrigerating or air conditioning system.
  - (b) All mechanical, electrical, "electronic equipment" or fiber optic equipment; and
- (2) Caused by, resulting from, or consisting of:
  - (a) Mechanical breakdown;
  - (b) Electrical or electronic breakdown and "electronic equipment deficiency"; or
  - (c) Rupture, bursting, bulging, implosion, or steam explosion.

(3) However, "Equipment Breakdown" does not mean:  
Physical loss or damage caused by or resulting from any of the following; however, if loss or damage not otherwise excluded results, then we will pay for such resulting damage:

- (a) Wear and tear;
- (b) Rust or other corrosion, decay, deterioration, hidden or latent defect, "fungi", wet rot, dry rot, virus, bacteria or any other quality in property that causes it to damage or destroy itself;
- (c) Smog;
- (d) Settling, cracking, shrinking or expansion;
- (e) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (f) Any accident, loss, damage, cost, claim, or expense, whether preventative, remedial, or otherwise, directly or indirectly arising out of or relating to the recognition, interpretation, calculation, comparison, differentiation, sequencing, or processing of data by any computer system including any hardware, programs or software;
- (g) Scratching or marring; and
- (h) Loss, damage, cost or expense directly caused by, contributed to by, resulting from or arising out of the following causes of loss:
  - 1) Fire, lightning, combustion explosion, windstorm or hail, weight of snow, ice or sleet, falling objects, smoke, aircraft or vehicles, riot or civil commotion, vandalism, sinkhole collapse, volcanic action, leakage from fire extinguishing equipment, water damage, earth movement; or
  - 2) Flood, unless an "Equipment Breakdown" ensues.

"Total insured value" means:

The sum of the limits for the following coverages if shown at the location where "Equipment Breakdown" is shown in the Declarations:

- (1) Building;
- (2) Business Personal Property;
- (3) Stock;
- (4) Personal Property of Others;
- (5) Tenants Improvements and Betterments;
- (6) Improvements and Alterations;

- (7) Furniture;
- (8) Fixtures;
- (9) Machinery and Equipment;
- (10) Personal Property in the Open;
- (11) Legal Liability Real Property;
- (12) Business Income and Extra Expense (when Business Income and Extra Expense - Actual Loss Sustained is shown in the Declarations, Business Income and Extra Expense applies at 25% of the sum of the building and business personal property limits at that location);
- (13) Business Income (Without Extra Expense);
- (14) Extra Expense; and
- (15) Any other property described.

"Green" means products, materials, methods and processes certified by a "Green Authority" that conserve natural resources, reduce energy or water consumption, avoid toxic or other polluting emissions or otherwise minimize environmental impact.

"Green Authority" means an authority on "Green" buildings, products, materials, methods or processes certified and accepted by Leadership in Energy and Environmental Design (LEED®), "Green" Building Initiative Green Globes®, Energy Star Rating System or any other recognized "Green" rating system.

"Perishable goods" means stock preserved and maintained under controlled conditions and susceptible to loss or damage if the controlled conditions change.

"Production machinery" means any machine which processes, forms, shapes or transports raw materials, materials in process, waste materials or finished products.

All other policy terms and conditions apply.

64013 (12-10)

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

## **LIMITATION - SPECIALTY GLASS**

This endorsement modifies insurance provided under the following:

CAUSES OF LOSS - SPECIAL FORM  
CAUSES OF LOSS - BROAD FORM  
CAUSES OF LOSS - BASIC FORM

- A.** Under **LIMITATIONS** in Causes of Loss - Special Form and **LIMITATION** in Causes of Loss - Broad Form and Basic Form, the following limitation is added:  
We will not pay more than \$500 in any one occurrence for direct physical loss of or damage to "specialty glass" at the premises described in the Declarations regardless of the number of panes, plates or similar units of glass. Subject to this aggregate, we will not pay more than \$100 for any one pane, plate, multiple plate insulating unit, jalousie, louver or shutter.

This limitation does not apply to loss or damage by the "specified causes of loss", except vandalism.

- B.** Under **DEFINITIONS**, the following definition is added:  
"Specialty glass" means art glass, etched glass, half tone screens, memorial windows, mosaic art, roto-gravure screens, stained glass or stained glass in leaded sections.

All other policy terms and conditions apply.

64013 (12-10)

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Page 1 of 1

## ILLINOIS CHANGES - ARTIFICIALLY GENERATED ELECTRICAL CURRENT EXCLUSION

This endorsement modifies insurance provided under the following:

### COMMERCIAL PROPERTY COVERAGE PART

**A.** The exclusion set forth in:

- 1. Paragraph **B.2.a.** of the CAUSES OF LOSS - BASIC FORM, the CAUSES OF LOSS - BROAD FORM and the CAUSES OF LOSS - SPECIAL FORM; and
- 2. Paragraph **B.2.b.** of the MORTGAGEHOLDERS ERRORS AND OMISSIONS COVERAGE FORM

is deleted and replaced by the following exclusion: We will not pay for loss or damage caused by or resulting from artificially generated electrical or magnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- 1. Electrical or electronic wire, device, appliance, system or network; or

- 2. Device, appliance, system or network utilizing cellular or satellite technology. For the purpose of this exclusion, electrical or magnetic energy includes but is not limited to:
  - (a) Electrical current, including arcing; or
  - (b) Electrical charge produced or conducted by a magnetic field.

However, if fire results, we will pay for the loss or damage by that fire.

- B.** If Illinois Electrical Apparatus endorsement is included in this policy, **A.** above does not apply to such endorsement.

All other policy terms and conditions apply.

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

## CHANGES - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

### COMMERCIAL PROPERTY COVERAGE PART

**COMMERCIAL PROPERTY CONDITIONS, I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** is amended. The following condition is added.

If the claim paid is less than the agreed loss because of any deductible or other limiting terms, the recovery is

prorated between you and us based on the interest of each in the loss. This condition only applies if we pay for a loss and then payment is made by those responsible for the loss.

All other policy terms and conditions apply

## BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **H. DEFINITIONS**.

The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

### A. COVERAGE

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

#### 1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in Section **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

- a. Building**, meaning the building or structure described in the Declarations, including:
  - (1) Completed additions;
  - (2) Fixtures, including outdoor fixtures;
  - (3) Permanently installed:
    - (a) Machinery; and
    - (b) Equipment;
  - (4) Building glass, meaning glass that is part of the building or structure;
  - (5) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
    - (a) Fire-extinguishing equipment;
    - (b) Outdoor furniture;
    - (c) Floor coverings; and
    - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering; and
  - (6) If not covered by other insurance:
    - (a) Additions under construction, alterations and repairs to the building or structure; and
    - (b) Materials, equipment, supplies and temporary structures, on or within 1,000 feet of the described prem-

ises, used for making additions, alterations or repairs to the building or structure.

- b. Your Business Personal Property** located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property - Separation Of Coverage endorsement:
  - (1) Furniture and fixtures;
  - (2) Machinery and equipment;
  - (3) "Stock";
  - (4) All other personal property owned by you and used in your business;
  - (5) Labor, materials or services furnished or arranged by you on personal property of others;
  - (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
    - (a) Made a part of the building or structure you occupy but do not own; and
    - (b) You acquired or made at your expense but cannot legally remove; and
  - (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property Of Others.
- c. Personal Property Of Others** that is:
  - (1) In your care, custody or control; and



(2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**2. Property Not Covered**

Covered Property does not include:

- a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and in your care, custody or control, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1) The lowest basement floor; or
  - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;
- n. "Electronic data", except as provided under the Additional Coverage - Electronic Data. This Paragraph n. does not apply to your "stock" of prepackaged software;
- o. The cost to replace or restore the information on valuable papers and records, including those which exist as "electronic data". Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valu-

able Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as "electronic data";

- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1) Are licensed for use on public roads; or
  - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or automobiles you manufacture, process or warehouse;
- (b) Vehicles or self-propelled machines, other than automobiles, you hold for sale;
- (c) Rowboats or canoes out of water at the described premises; or
- (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers; or
- q. The following property while outside of buildings:
  - (1) Grain, hay, straw or other crops; or
  - (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

**3. Covered Causes Of Loss**

See applicable Causes Of Loss Form as shown in the Declarations.

**4. Additional Coverages**

**a. Debris Removal**

- (1) Subject to Paragraphs (3) and (4) below, we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Extract "pollutants" from land or water; or
  - (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4) below, the following provisions apply:
  - (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit

of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

(4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

**(5) Examples**

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

The following examples assume that there is no Coinsurance penalty.

**EXAMPLE #1**

Limit of Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$50,000
Amount of Loss Payable:	\$49,500
	(\$50,000 - \$500)
Debris Removal Expense:	\$10,000
Debris Removal Expense Payable:	\$10,000
	(\$10,000 is 20% of \$50,000.)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

**EXAMPLE #2**

Limit of Insurance:	\$90,000
Amount of Deductible:	\$ 500
Amount of Loss:	\$80,000
Amount of Loss Payable:	\$79,500
	(\$80,000 - \$500)
Debris Removal Expense:	\$30,000
Debris Removal Expense Payable	
Basic Amount:	\$10,500
Additional Amount:	\$10,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$30,000 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

**b. Preservation Of Property**

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 45 days, unless a higher number of days are shown in the Declarations, after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 per occurrence, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

**d. Pollutant Clean-up And Removal**

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". However, we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000, unless a higher limit is shown in the Declarations, for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

**e. Electronic Data**

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.
- (2) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage, Electronic Data, subject to the following:
  - (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage, Electronic

Data, is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.

- (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage, Electronic Data, includes Collapse as set forth in that form.
  - (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to coverage provided under this Additional Coverage, Electronic Data.
  - (d) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. However, there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.
- (3) Limit of Insurance
- (a) Annual Aggregate Limit – The most we will pay under this Additional Coverage, Electronic Data, for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations.
  - (b) Per Occurrence Limit - Subject to (a) above, we will pay up to the following amounts in any one occurrence of loss or damage:
    - 1) \$10,000 if the computer system(s) are equipped with active virus scanning or anti-virus software at the time of loss; or

- 2) \$2,500 if the computer system(s) are not equipped with active virus scanning or anti-virus software at the time of loss.

If loss payment for the first occurrence does not exhaust the annual aggregate limit shown in (a) above, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

**f. Fire Extinguisher Systems Recharge Expense**

- (1) We will pay:

- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 1,000 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.

- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$10,000, unless a higher limit is shown in the Declarations, in any one occurrence.

**g. Arson Reward**

- (1) We will pay for information which leads to a conviction for arson in connection with a fire loss to Covered Property insured by this policy.
- (2) The most we will pay per occurrence is \$7,500, unless a higher limit is shown in the Declarations, regardless of the number of persons who provide information.

**h. Theft Reward**

- (1) We will pay for information which leads to a conviction for theft of Covered Property insured by this policy.

- (2) The most we will pay per occurrence is 25% of the amount of covered loss or \$7,500, whichever is less, unless a higher limit is shown in Declarations, regardless of the number of persons who provide information.

**i. Rekeying of Locks**

- (1) If the keys to locks on doors of the building described in the Declarations are a part of a theft loss covered by this policy, we will pay reasonable necessary expenses you incur to rekey locks on doors of the building described in the Declarations.
- (2) The most we will pay per occurrence is \$1,000, unless a higher limit is shown in the Declarations.

**5. Coverage Extensions**

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 1,000 feet of the described premises.

If a coinsurance percentage of 80% or more, or a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

**a. Newly Acquired Or Constructed Property**

**(1) Buildings**

If this policy covers Building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
- 1) Similar use as the building described in the Declarations; or
  - 2) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$500,000, unless a higher limit is shown in the Declarations, at each building.

**(2) Your Business Personal Property**

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:
- 1) Business personal property (other than "stock"), including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;

- 2) Business personal property (other than "stock"), including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or
- 3) Business personal property (other than "stock") that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this Extension is \$250,000, unless a higher limit is shown in the Declarations, at each building.

- (b) This Extension does not apply to:
- 1) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
  - 2) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

**(3) Period Of Coverage**

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 60 days expire after you acquire the property or begin construction of that part of the building that would qualify as covered property, unless a higher number of days are shown in the Declarations; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as covered property.

**b. Personal Effects And Property Of Others**

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This Extension does not apply to loss or damage by theft.

- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher limit is shown in the Declarations, at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**c. Valuable Papers and Records (Other Than "Electronic Data")**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. However, this Extension does not apply to valuable papers and records which exist as "electronic data".

- (2) If the Causes Of Loss - Special Form applies, coverage under this Extension is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.

- (3) If the Causes Of Loss – Broad Form applies, coverage under this Extension includes Collapse as set forth in that form.

- (4) Under this Extension, the most we will pay in any one occurrence to replace or restore the lost information is:

(a) \$10,000 at each described premises; and

(b) \$10,000 while valuable papers and records are away from a described premises

unless higher limit(s) are shown in the Declarations. Such amounts are additional insurance.

- (5) We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

**d. Property Off-premises**

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property, including "stock",

while it is away from the described premises, if it is:

- (a) Temporarily at a location you do not own, lease or operate;
  - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
  - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to Covered Property:
- (a) In or on a vehicle; or
  - (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.
- (3) The most we will pay for loss or damage under this Extension is \$10,000, unless a higher limit is shown in the Declarations.

**e. Outdoor Property**

You may extend the insurance provided by this Coverage Form to apply to your outdoor:

- (1) Fences, trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:
- (a) Fire;
  - (b) Lightning;
  - (c) Explosion;
  - (d) Riot or Civil Commotion; or
  - (e) Aircraft.
- The most we will pay for loss or damage is \$10,000, but not more than \$1,000 for any one tree, shrub or plant, unless higher limits are shown in the Declarations. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.
- (2) Radio and television antennas (including satellite dishes), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:
- (a) Fire;
  - (b) Lightning;
  - (c) Windstorm or Hail;
  - (d) Ice, snow or sleet;
  - (e) Explosion;
  - (f) Riot or Civil Commotion; or

**(g) Aircraft.**

The most we will pay for loss or damage is \$2,000, unless a higher limit is shown in the Declarations. This limit applies to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

**f. Non-owned Detached Trailers**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
- (a) The trailer is used in your business;
  - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
  - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
- (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
  - (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.
- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.
- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

**B. EXCLUSIONS AND LIMITATIONS**

See applicable Causes Of Loss Form as shown in the Declarations.

**C. LIMITS OF INSURANCE**

1. The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.
2. The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$5,000, unless a higher limit is shown in the Declarations, per sign in any one occurrence.
3. The amounts of insurance stated in the following Additional Coverages apply in accordance with

the terms of such coverages and are in addition to the Limit(s) of Insurance shown in the Declarations for any other coverage, unless otherwise indicated:

- a. Fire Department Service Charge;
  - b. Pollutant Clean-up And Removal;
  - c. Electronic Data;
  - d. Fire Extinguisher Systems Recharge Expense;
  - e. Arson Reward;
  - f. Theft Reward; and
  - g. Rekeying of Locks.
4. Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of Insurance.
5. **Your Business Personal Property Limit - Seasonal Increase**
- a. Subject to Paragraph 5.b. below, the Limit of Insurance for Your Business Personal Property is automatically increased by:
    - (1) The percentage shown in the Declarations for Your Business Personal Property - Seasonal Increase; or
    - (2) 25%, if no percentage is shown in the Declarations for Your Business Personal Property - Seasonal Increase to provide for seasonal variances.
  - b. The increase described above in Paragraph 5.a., will apply only if the Limit of Insurance shown for Your Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
    - (1) The 12 months immediately preceding the date loss or damage occurs; or
    - (2) The period of time you have been in business as of the date the loss or damage occurs.

**D. DEDUCTIBLE**

The applicable Deductible shown in the Declarations will apply unless otherwise stated by endorsement.

In any one occurrence of loss or damage (hereinafter referred to as loss), the Deductible will apply as follows:

- 1. We will first reduce the amount of loss if required by the Coinsurance Condition or the Agreed Value Optional Coverage.
  - a. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss.
  - b. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss and

will pay the resulting amount or the Limit of Insurance, whichever is less.

- 2. If Paragraph 1., above does not apply:
    - a. If the amount of loss is less than or equal to the Deductible, we will not pay for that loss.
    - b. If the amount of loss exceeds the Deductible, we will then subtract the Deductible from the loss and will pay the resulting amount or the Limit of Insurance, whichever is less.
- When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. However, the Deductible will be applied only once per occurrence.
- 3. No Deductible applies to the following Additional Coverages:
    - a. Fire Department Service Charge;
    - b. Fire Extinguisher Systems Recharge Expense;
    - c. Arson Reward;
    - d. Theft Reward; and
    - e. Rekeying of Locks.

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

The following examples assume there is no Coinsurance penalty.

**EXAMPLE #1**

Deductible:	\$ 250
Limit of Insurance - Building #1:	\$60,000
Limit of Insurance - Building #2:	\$80,000
Loss to Building #1:	\$60,100
Loss to Building #2:	\$90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

\$60,100
<u>      250</u>
\$59,850 Loss Payable - Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable:  
 \$59,850 + \$80,000 = \$139,850

**EXAMPLE #2**

The Deductible and Limits of Insurance are the same as those in Example #1.

Loss to Building #1: (Exceeds Limit of Insurance plus Deductible)	\$70,000
Loss to Building #2: (Exceeds Limit of Insurance plus Deductible)	\$90,000
Loss Payable – Building #1: (Limit of Insurance)	\$60,000
Loss Payable - Building #2: (Limit of Insurance)	\$80,000
Total amount of loss payable:	\$140,000

**E. LOSS CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Abandonment**

There can be no abandonment of any property to us.

**2. Appraisal**

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal 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:

- a. Pay its chosen appraiser; and
- b. 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.

**3. Duties In The Event Of Loss Or Damage**

- a. 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) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
  - (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) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (8) Cooperate with us in the investigation or settlement of the claim.
- b.** 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.

**4. Loss Payment**

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
  - (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to **b.** below;
  - (3) Take all or any part of the property at an agreed or appraised value; or



**(4)** Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.

- b.** The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c.** We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d.** We will not pay you more than your financial interest in the Covered Property.
- e.** 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 claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f.** We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g.** 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 of the terms of this Coverage Part and:
  - (1)** We have reached agreement with you on the amount of loss; or
  - (2)** An appraisal award has been made.
- h.** A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of

subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

## **5. Recovered Property**

If either you or we recover any property after loss settlement, that party must give the other prompt notice.

If you recover the property, at your option, you may retain the property. You must then return to us the amount we paid to you for the property less any expenses to repair the Covered Property and expenses incurred to recover the property. You may give us the recovered property in which case we will pay recovery expenses, subject to the Limit of Insurance.

If we recover the property, at your option, we may return the property to you. We will pay any recovery expenses, subject to the Limit of Insurance. We will also pay any expenses to repair the Covered Property, subject to the Limit of Insurance. However, before we return the Covered Property or pay for the repair of the Covered Property, you must first return to us the amount we paid to you for the property.

## **6. Vacancy**

### **a. Description Of Terms**

- (1)** As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in **(1)(a)** and **(1)(b)** below:
  - (a)** When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
  - (b)** When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
    - 1)** Rented to a lessee or sub-lessee and used by the lessee or sub-lessee to conduct its customary operations; and/or
    - 2)** Used by the building owner to conduct customary operations.

- (2) Buildings under construction or renovation are not considered vacant.

**b. Vacancy Provisions**

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
  - (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;
  - (c) Building glass breakage;
  - (d) Water damage;
  - (e) Theft; or
  - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in **b.(1)(a)** through **b.(1)(f)** above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

**7. Valuation**

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in **b.**, **c.**, **d.** and **e.** below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
- (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
- (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
- d. Glass at the cost of replacement with safety-glazing material if required by law.
- e. Tenants' Improvements and Betterments at:

- (1) Actual cash value of the lost or damaged property if you make repairs promptly.
- (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
  - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
  - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.
 If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in the procedure.
- (3) Nothing if others pay for repairs or replacement.

**F. ADDITIONAL CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Coinsurance**

If a Coinsurance percentage is shown in the Declarations, the following condition applies:

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and
- (4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the Limit of Insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE #1 (UNDERINSURANCE)**

When: The value of the property is: \$250,000  
 The Coinsurance percentage for it is: 80%  
 The Limit of Insurance for it is: \$100,000  
 The Deductible is: \$ 250  
 The amount of loss is: \$ 40,000

Step (1): \$250,000 x 80% = \$200,000  
 (the minimum amount of insurance to meet your Co-insurance requirements)

Step (2): \$100,000 ÷ \$200,000 = .50

Step (3): \$ 40,000 x .50 = \$20,000

Step (4): \$20,000 - \$250 = \$19,750

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

**EXAMPLE #2 (ADEQUATE INSURANCE)**

When: The value of the property is: \$250,000  
 The Coinsurance percentage for it is: 80%  
 The Limit of Insurance for it is: \$200,000  
 The Deductible is: \$ 250  
 The amount of loss is: \$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 (\$250,000 x 80%). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

**EXAMPLE #3**

When: The value of the property is:  
 Building at Location #1: \$ 75,000  
 Building at Location #2: \$100,000  
 Personal Property at Location #2: \$ 75,000  
 \$250,000

The Coinsurance percentage for it is: 90%  
 The Limit of Insurance for Buildings and Personal Property at Locations #1 and #2 is: \$180,000  
 The Deductible is: \$ 1,000  
 The amount of loss is:

Building at Location #2: \$ 30,000  
 Personal Property at Location #2: \$ 20,000  
 \$ 50,000

Step (1): \$250,000 x 90% = \$225,000  
 (the minimum amount of insurance to meet your Co-insurance requirements and to avoid the penalty shown below)

Step (2): \$180,000 ÷ \$225,000 = .80

Step (3): \$ 50,000 x .80 = \$40,000

Step (4): \$ 40,000 - \$1,000 = \$39,000

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

**2. Mortgageholders**

- a. The term mortgageholder includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
  - (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
  - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Part will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
  - (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
  - (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage

plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
  - (1) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

**G. OPTIONAL COVERAGES**

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

**1. Agreed Value**

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
  - (1) On or after the effective date of this Optional Coverage; and
  - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

**2. Inflation Guard**

- a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
  - (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
  - (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times

- (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE**

If: The applicable Limit of Insurance is: \$100,000  
 The annual percentage increase is: 8%  
 The number of days since the beginning of the policy year (or last policy change) is: 146  
 The amount of increase is:  
 $\$100,000 \times .08 \times 146 \div 365 = \$3,200$

**3. Replacement Cost**

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.
- b. This Optional Coverage does not apply to:
  - (1) Personal property of others;
  - (2) Contents of a residence;
  - (3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
  - (4) "Stock", unless the Including "Stock" option is shown in the Declarations.
 Under the terms of this Replacement Cost Optional Coverage, tenants' improvements and betterments are not considered to be the personal property of others.
- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.
- d. 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.
 With respect to tenants' improvements and betterments, the following also apply:

- (3) If the conditions in **d.(1)** and **d.(2)** above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Loss Condition of this Coverage Form; and
- (4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.
- e. We will not pay more for loss or damage on a replacement cost basis than the least of **(1)**, **(2)** or **(3)**, subject to **f.** below:
- (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 actually spent that is necessary to repair or replace the lost or damaged property.
- If a building is rebuilt at a new premises, the cost described in **e.(2)** above is limited to the cost which would have been incurred if the building had been rebuilt at the original premises.
- f. The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- 4. Extension Of Replacement Cost To Personal Property Of Others**
- a. If the Replacement Cost Optional Coverage is shown as applicable in the Declarations, then this Optional Coverage may also be shown as applicable. If the Declarations show this Optional Coverage as applicable, then Paragraph **3.b.(1)** of the Replacement

Cost Optional Coverage is deleted and all other provisions of the Replacement Cost Optional Coverage apply to replacement cost on personal property of others.

- b. With respect to replacement cost on the personal property of others, the following limitation applies:

If an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance.

#### H. DEFINITIONS

1. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
2. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
3. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

## BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F., DEFINITIONS.

The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

### A. COVERAGE

#### 1. Business Income

Business Income means the:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described and limited below for one or more of the following options for which a Limit of Insurance is shown in the Declarations.

- (1) Business Income Including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business

Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (a) The portion of the building which you rent, lease or occupy; and
- (b) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

#### 2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at

replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.

- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

### 3. Covered Causes Of Loss, Exclusions And Limitations

See applicable Causes Of Loss Form as shown in the Declarations.

### 4. Additional Limitation - Interruption Of Computer Operations

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.

### 5. Additional Coverages

#### a. Civil Authority

In this Additional Coverage - Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not

more than one mile from the damaged property; and

- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin immediately following the time of the first action of civil authority that prohibits access to the described premises; however, if a waiting period is shown in the Declarations, then after such period following the time of the first action of civil authority that prohibits access to the described premises.

Civil Authority Coverage for Business Income will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends

whichever is later.

#### b. Alterations And New Buildings

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 1,000 feet of the described premises and:
- (a) Used in the construction, alterations or additions; or
- (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period

of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

**c. Extended Business Income**

**(1) Business Income Other Than "Rental Value"**

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
  - 1) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or
  - 2) 30 consecutive days after the date determined in (1)(a) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**(2) "Rental Value"**

If the necessary "suspension" of your "operations" produces a "Rental Value" loss payable under this policy, we will pay for the actual loss of "Rental Value" you incur during the period that:

- (a) Begins on the date property is actually repaired, rebuilt or replaced and tenantability is restored; and
- (b) Ends on the earlier of:
  - 1) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the

"Rental Value" that would have existed if no direct physical loss or damage had occurred; or

- 2) 30 consecutive days after the date determined in (2)(a) above.

However, Extended Business Income does not apply to loss of "Rental Value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "Rental Value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.
- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
  - (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
  - (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations includes Collapse as set forth in that form.
  - (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Interruption Of Computer Operations.
  - (d) The Covered Causes of Loss include a computer virus, harmful code or similar instruction



- introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. However, there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage - Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations, subject to the following:
- (a) If at the time of interruption, the computer system is equipped with active virus scanning or anti-virus software, this entire amount is available.
- (b) If at the time of interruption, the computer system is not equipped with active virus scanning or anti-virus software, payment will be limited to \$2,500 for that occurrence.

If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or

incurred in the policy year in which the interruption began.

- (4) This Additional Coverage - Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.

#### 6. Coverage Extension

If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

##### NEWLY ACQUIRED LOCATIONS

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions, if the location you acquire is intended for:
- (1) Similar use as the location described in the Declarations; or
- (2) Use as a warehouse.
- b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
- (1) This policy expires;
- (2) 60 days expire after you acquire or begin to construct the property; or
- (3) You report values to us.
- We will charge you additional premium for values reported from the date you acquire the property.

The Additional Condition, Coinsurance, does not apply to this Extension.

#### B. LIMITS OF INSURANCE

1. The most we will pay for loss in any one occurrence is the applicable Limit of Insurance shown in the Declarations.
2. Payments under the following coverages will not increase the applicable Limit of Insurance:
- a. Alterations And New Buildings;
- b. Civil Authority;
- c. Extra Expense; or
- d. Extended Business Income.
3. The amounts of insurance stated in the following apply in accordance with the terms of those

coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage:

- a. Interruption Of Computer Operations Additional Coverage; and
- b. Newly Acquired Locations Coverage Extension.

### C. LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

#### 1. Appraisal

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal 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 amount of Net Income and operating expense or 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:

- a. Pay its chosen appraiser; and
- b. 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.

#### 2. Duties In The Event Of Loss

- a. You must see that the following are done in the event of loss:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the direct physical 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 direct physical 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) 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.

- (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (7) Cooperate with us in the investigation or settlement of the claim.
- (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.
- b. 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.

#### 3. Loss Determination

- a. The amount of Business Income loss will be determined based on:
  - (1) The Net Income of the business before the direct physical loss or damage occurred;
  - (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
  - (3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and

- (4) Other relevant sources of information, including:
- (a) Your financial records and accounting procedures;
  - (b) Bills, invoices and other vouchers; and
  - (c) Deeds, liens or contracts.
- b. The amount of Extra Expense will be determined based on:
- (1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:
    - (a) The salvage value that remains of any property bought for temporary use during the "period of restoration" once "operations" are resumed; and
    - (b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and
  - (2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.
- c. **Resumption Of Operations**  
We will reduce the amount of your:
- (1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
  - (2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.
- d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

#### 4. Loss Payment

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if you have compiled with all of the terms of this Coverage Part and;

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

- b. An appraisal award has been made.

#### D. ADDITIONAL CONDITION COINSURANCE

If a Coinsurance percentage is shown in the Declarations, the following condition applies in addition to the Common Policy Conditions and the Commercial Property Conditions.

We will not pay the full amount of any Business Income loss if the Limit of Insurance for Business Income is less than:

1. The Coinsurance percentage shown for Business Income in the Declarations; times
2. The sum of:
  - a. The Net Income (Net Profit or Loss before income taxes), and
  - b. Operating expenses, including payroll expenses
 that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

Instead, we will determine the most we will pay using the following steps:

Step(1): Multiply the Net Income and operating expense for the 12 months following the inception, or last previous anniversary date, of this policy by the Coinsurance percentage;

Step(2): Divide the Limit of Insurance for the described premises by the figure determined in Step (1); and

Step(3): Multiply the total amount of loss by the figure determined in Step (2).

We will pay the amount determined in Step (3) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In determining operating expenses for the purpose of applying the Coinsurance condition, the following expenses, if applicable, shall be deducted from the total of all operating expenses:

- (1) Prepaid freight - outgoing;
- (2) Returns and allowances;
- (3) Discounts;
- (4) Bad debts;
- (5) Collection expenses;

- (6) Cost of raw stock and factory supplies consumed (including transportation charges);
- (7) Cost of merchandise sold (including transportation charges);
- (8) Cost of other supplies consumed (including transportation charges);
- (9) Cost of services purchased from outsiders (not employees) to resell, that do not continue under contract;
- (10) Power, heat and refrigeration expenses that do not continue under contract (if Form CP 15 11 is attached);
- (11) All ordinary payroll expenses or the amount of payroll expense excluded (if Form CP 15 10 is attached); and
- (12) Special deductions for mining properties (royalties unless specifically included in coverage; actual depletion commonly known as unit or cost depletion - not percentage depletion; welfare and retirement fund charges based on tonnage; hired trucks).

In the following examples, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE #1 (UNDERINSURANCE)**

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$400,000  
 The Coinsurance percentage is: 50%  
 The Limit of Insurance is: \$150,000  
 The amount of loss is: \$ 80,000

Step (1):  $\$400,000 \times 50\% = \$200,000$   
 (the minimum amount of insurance to meet your Co-insurance requirements)

Step (2):  $\$150,000 \div \$200,000 = .75$

Step (3):  $\$ 80,000 \times .75 = \$60,000$

We will pay no more than \$60,000. The remaining \$20,000 is not covered.

**EXAMPLE #2 (ADEQUATE INSURANCE)**

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been: \$400,000  
 The Coinsurance percentage is: 50%  
 The Limit of Insurance is: \$200,000  
 The amount of loss is: \$ 80,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ( $\$400,000 \times 50\%$ ).

Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$80,000 (amount of loss).

This condition does not apply to Extra Expense Coverage.

**E. OPTIONAL COVERAGES**

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

**1. Maximum Period Of Indemnity**

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:
  - (1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or
  - (2) The Limit of Insurance shown in the Declarations.

**2. Monthly Limit Of Indemnity**

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:
  - (1) The Limit of Insurance, multiplied by
  - (2) The fraction shown in the Declarations for this Optional Coverage.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE**

When: The Limit of Insurance is: \$120,000  
 The fraction shown in the Declarations for this Optional Coverage is: 1/4  
 The most we will pay for loss in each period of 30 consecutive days is: \$ 30,000  
 ( $\$120,000 \times 1/4 = \$30,000$ )  
 If, in this example, the actual amount of loss is:  
 Days 1-30: \$ 40,000  
 Days 31-60: \$ 20,000  
 Days 61-90: \$ 30,000  
 \$ 90,000

We will pay:	
Days 1-30:	\$ 30,000
Days 31-60:	\$ 20,000
Days 61-90:	\$ 30,000
	\$ 80,000

The remaining \$10,000 is not covered.

**3. Business Income Agreed Value**

- a. To activate this Optional Coverage:
  - (1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":
    - (a) During the 12 months prior to the date of the Work Sheet; and
    - (b) Estimated for the 12 months immediately following the inception of this Optional Coverage.
  - (2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:
    - (a) The Coinsurance percentage shown in the Declarations; multiplied by
    - (b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.
- b. The Additional Condition, Coinsurance, is suspended until:
  - (1) 12 months after the effective date of this Optional Coverage; or
  - (2) The expiration date of this policy whichever occurs first.
- c. We will reinstate the Additional Condition, Coinsurance, automatically if you do not submit a new Work Sheet and Agreed Value:
  - (1) Within 12 months of the effective date of this Optional Coverage; or
  - (2) When you request a change in your Business Income Limit of Insurance.
- d. If the Business Income Limit of Insurance is less than the Agreed Value, we will not pay more of any loss than the amount of loss multiplied by:
  - (1) The Business Income Limit of Insurance; divided by
  - (2) The Agreed Value.

In the following example, the figures used are for illustrative purposes only and do not reflect your actual insurance.

**EXAMPLE**

When:	The Limit of Insurance is:	\$ 100,000
	The Agreed Value is:	\$ 200,000
	The amount of loss is:	\$ 80,000

Step (1):  $\$100,000 \div \$200,000 = .50$

Step (2):  $.50 \times \$80,000 = \$40,000$

We will pay \$40,000. The remaining \$40,000 is not covered.

**4. Extended Period Of Indemnity**

Under Paragraph A.5.c., **Extended Business Income**, the number 30 in Subparagraphs (1)(b) and (2)(b) is replaced by the number shown in the Declarations for this Optional Coverage.

**F. DEFINITIONS**

- 1. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.
- 2. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged, unless there is a Coinsurance percentage shown for Business Income in the Declarations.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

- 3. "Operations" means:
  - a. Your business activities occurring at the described premises; and
  - b. The tenantability of the described premises, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.
- 4. "Period of restoration" means period of time that:
  - a. Begins:
    - (1) Immediately following the time of direct physical loss or damage; however, if a

waiting period is shown in the Declarations, then after such period following the time of direct physical loss or damage for Business Income Coverage; or

- (2) Immediately following the time of direct physical loss or damage for Extra Expense Coverage

caused by or resulting from any Covered Cause of Loss at the described premises; and

- b. Ends on the earlier of:

(1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(2) The date when business is resumed at a new permanent location.

"Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down, of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

5. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

6. "Rental Value" means Business Income that consists of:

a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and

b. Continuing normal operating expenses incurred in connection with that premises, including:

(1) Payroll; and

(2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.

7. "Suspension" means:

a. The slowdown or cessation of your business activities; or

b. That a part or all of the described premises is rendered untenable, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

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## CAUSES OF LOSS - SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to DEFINITIONS in the Commercial Property Coverage Part.

### A. COVERED CAUSES OF LOSS

When Special is shown in the Declarations, Covered Causes of Loss means Risks Of Direct Physical Loss unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations that follow.

### B. EXCLUSIONS

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

#### a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

#### b. Earth Movement

- (1) Earthquake, including any earth sinking, earth rising or earth shifting related to such event;
- (2) Landslide, including any earth sinking, earth rising or earth shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), earth rising or earth shifting including soil conditions which cause settling, cracking or other disarrangement

of foundations or other parts of realty.

Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

However, if Earth Movement, as described in b.(1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. However, if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

#### c. Governmental Action

Seizure or destruction of property by order of governmental authority.

However, we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

#### d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

However, if nuclear reaction or radiation, or radioactive contamination, results in fire, we

will pay for the loss or damage caused by that fire.

**e. Utility Services**

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply. Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

However, if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

**f. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:

- (a) Foundations, walls, floors or paved surfaces;
  - (b) Basements, whether paved or not; or
  - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs **g.(1)** through **(5)** is caused by an act of nature or is otherwise caused.

However, if any of the above in Paragraphs **g.(1)** through **(5)**, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

**h. "Fungi", Wet Rot Or Dry Rot**

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot. However, if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

1. When "fungi", wet rot or dry rot results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage - Limited Coverage For "Fungi", Wet Rot Or Dry Rot with respect to loss or damage by a cause of loss other than fire or lightning.

**i. Virus Or Bacteria**

We will not pay for loss or damage caused by or resulting from virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

With respect to any loss or damage subject to this exclusion, such exclusion supersedes any exclusion relating to "pollutants".

Exclusions **B.1.a.** through **B.1.i.** apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:
  - a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:
    - (1) Electrical or electronic wire, device, appliance, system or network; or



**(2)** Device, appliance, system or network utilizing cellular or satellite technology. For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a)** Electrical current, including arcing;
- (b)** Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c)** Pulse of electromagnetic energy; or
- (d)** Electromagnetic waves or microwaves.

However, if fire results, we will pay for the loss or damage caused by that fire.

- b.** Delay, loss of use or loss of market.
- c.** Smoke, vapor or gas from agricultural smudging or industrial operations.
- d.**
  - (1)** Wear and tear;
  - (2)** Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
  - (3)** Smog;
  - (4)** Settling, cracking, shrinking or expansion;
  - (5)** Insects, birds, rodents or other animals;
  - (6)** Mechanical breakdown, including rupture or bursting caused by centrifugal force. However, if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision; or
  - (7)** The following causes of loss to personal property:
    - (a)** Dampness or dryness of atmosphere;
    - (b)** Changes in or extremes of temperature; or
    - (c)** Marring or scratching.

However, if an excluded cause of loss that is listed in **2.d.(1)** through **(7)** results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e.** Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. However, if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or with-

in the flues or passages through which the gases of combustion pass.

- f.** Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g.** Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
  - (1)** You do your best to maintain heat in the building or structure; or
  - (2)** You drain the equipment and shut off the supply if the heat is not maintained.
- h.** Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
  - (1)** Acting alone or in collusion with others; or
  - (2)** Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.
- i.** Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j.** Rain, snow, ice or sleet to personal property in the open.
- k.** Collapse, including any of the following conditions of property or any part of the property:
  - (1)** An abrupt falling down or caving in;
  - (2)** Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
  - (3)** Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to **(1)** or **(2)** above.

However, if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion, **k.**, does not apply:

- (a)** To the extent that coverage is provided under the Additional Coverage - Collapse; or

- (b) To collapse caused by one or more of the following:
  - 1) The "specified causes of loss";
  - 2) Breakage of building glass;
  - 3) Weight of rain that collects on a roof; or
  - 4) Weight of people or personal property.
- I. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". However, if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".  
This exclusion, I., does not apply to damage to glass caused by chemicals applied to the glass.
- m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.
- 3. We will not pay for loss or damage caused by or resulting from any of the following, **3.a.** through **3.c.** However, if an excluded cause of loss that is listed in **3.a.** through **3.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.
  - a. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **1.** above to produce the loss or damage.
  - b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
  - c. Faulty, inadequate or defective:
    - (1) Planning, zoning, development, surveying, siting;
    - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
    - (3) Materials used in repair, construction, renovation or remodeling; or
    - (4) Maintenance of part or all of any property on or off the described premises.
- 4. **Special Exclusions**  
The following provisions apply only to the specified Coverage Forms.
  - a. **Business Income (And Extra Expense) Coverage Form, Business Income (And Extra Expense) Actual Loss Sustained**

**Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form**

We will not pay for:

- (1) Any loss caused by or resulting from:
  - (a) Damage or destruction of "finished stock"; or
  - (b) The time required to reproduce "finished stock".  
This exclusion does not apply to Extra Expense.
- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- (3) Any increase of loss caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
  - (b) Suspension, lapse or cancellation of any license, lease or contract. However, if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage and the Extended Period Of Indemnity Optional Coverage or any variation of these.
- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".
- (5) Any Extra Expense caused by or resulting from any delay in rebuilding, repairing or replacing the property or resuming "operations" due to an insufficiency of or failure to maintain adequate Limits of Insurance for Building or Business Personal Property.
- (6) Any other consequential loss.
- b. **Leasehold Interest Coverage Form**
  - (1) Paragraph **B.1.a.**, Ordinance Or Law, does not apply to insurance under this Coverage Form.
  - (2) We will not pay for any loss caused by:

- (a) Your canceling the lease;
- (b) The suspension, lapse or cancellation of any license; or
- (c) Any other consequential loss.

**c. Legal Liability Coverage Form**

- (1) The following exclusions do not apply to insurance under this Coverage Form:
- (a) Paragraph **B.1.a.**, Ordinance Or Law;
  - (b) Paragraph **B.1.c.**, Governmental Action;
  - (c) Paragraph **B.1.d.**, Nuclear Hazard;
  - (d) Paragraph **B.1.e.**, Utility Services; and
  - (e) Paragraph **B.1.f.**, War And Military Action.
- (2) The following additional exclusions apply to insurance under this Coverage Form:
- (a) Contractual Liability**  
We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement. However, this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:
- 1) Your assumption of liability was executed prior to the accident; and
  - 2) The building is Covered Property under this Coverage Form.
- (b) Nuclear Hazard**  
We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

**5. Additional Exclusion**

The following provisions apply only to the specified property.

**LOSS OR DAMAGE TO PRODUCTS**

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This ex-

clusion applies to any effect that compromises the form, substance or quality of the product. However, if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**C. LIMITATIONS**

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.
- a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. However, we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
  - b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
  - c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
    - (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
    - (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
  - d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft. However, this limitation does not apply to:
    - (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or
    - (2) Business Income Coverage or Extra Expense Coverage.
  - e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

- f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
    - a. Animals, and then only if they are killed or their destruction is made necessary.
    - b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
      - (1) Glass; or
      - (2) Containers of property held for sale.
    - c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property. However, this limitation does not apply:
      - (1) If the property is located on or within 1,000 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
      - (2) To Business Income Coverage or to Extra Expense Coverage.
  3. The special limit shown for each category, **a.** through **d.**, is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:
    - a. \$2,500 for furs, fur garments and garments trimmed with fur.
    - b. \$5,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$500 or less per item.
    - c. \$2,500 for patterns, dies, molds and forms.
    - d. \$500 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, **C.3.**, does not apply to Business Income Coverage or to Extra Expense Coverage.
  4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. However, we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:

- a. Results in discharge of any substance from an automatic fire protection system; or
  - b. Is directly caused by freezing.
- However, this limitation does not apply to Business Income Coverage or to Extra Expense Coverage.

#### **D. ADDITIONAL COVERAGE - COLLAPSE**

The coverage provided under this Additional Coverage - Collapse applies only to an abrupt collapse as described and limited in **D.1.** through **D.7.**

1. For the purpose of this Additional Coverage - Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following:
  - a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
  - b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
  - c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
  - d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
    - (1) A cause of loss listed in **2.a.** or **2.b.**;
    - (2) One or more of the "specified causes of loss";
    - (3) Breakage of building glass;
    - (4) Weight of people or personal property; or
    - (5) Weight of rain that collects on a roof.
3. This **Additional Coverage - Collapse** does **not** apply to:
  - a. A building or any part of a building that is in danger of falling down or caving in;
  - b. A part of a building that is standing, even if it has separated from another part of the building; or
  - c. A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging,

bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:
  - a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
  - b. Awnings, gutters and downspouts;
  - c. Yard fixtures;
  - d. Outdoor swimming pools;
  - e. Fences;
  - f. Piers, wharves and docks;
  - g. Beach or diving platforms or appurtenances;
  - h. Retaining walls; and
  - i. Walks, roadways and other paved surfaces

if an abrupt collapse is caused by a cause of loss listed in **2.a.** through **2.d.**, we will pay for loss or damage to that property only if:

  - (1) Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form; and
  - (2) The property is Covered Property under this Coverage Form.
5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
  - a. The collapse of personal property was caused by a cause of loss listed in **2.a.** through **2.d.**;
  - b. The personal property which collapses is inside a building; and
  - c. The property which collapses is not of a kind listed in **4.**, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph 5. does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

6. This Additional Coverage - Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
  7. This Additional Coverage - Collapse will not increase the Limits of Insurance provided in this Coverage Part.
  8. The term Covered Cause of Loss includes the Additional Coverage - Collapse as described and limited in **D.1.** through **D.7.**
- E. ADDITIONAL COVERAGE - LIMITED COVERAGE FOR "FUNGI", WET ROT OR DRY ROT**

1. The coverage described in **E.2.** and **E.6.** only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy term and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.
2. We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:
  - a. Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;
  - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and
  - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot are present.
3. The coverage described under **E.2.** of this Limited Coverage is limited to 10% of the building or personal property limit of insurance, whichever is greater, subject to a maximum of \$100,000 and a minimum of \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy term). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than this limit even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy term.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property. If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

- 5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage - Collapse.
- 6. The following, **6.a.** or **6.b.**, applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form.
  - a. If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 45 days. The days need not be consecutive.
  - b. If a covered "suspension" of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), however, such coverage is limited to 45 days. The days need not be consecutive.

**F. ADDITIONAL COVERAGE EXTENSIONS**

**1. Property In Transit**

- This Extension applies only to your personal property to which this form applies.
- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 1,000 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
  - b. Loss or damage must be caused by or result from one of the following causes of loss:
    - (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
    - (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the roadbed.

- (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.
- c. The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations. This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

**2. Water Damage, Other Liquids, Powder Or Molten Material Damage**

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

**3. Glass**

- a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

This Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

**G. DEFINITIONS**

- 1. "Fungi" means any type or form of fungus, including, but not limited to, any mold, mildew, mycotoxins, spores, scents or by-products produced or released by any type or form of fungus.
- 2. "Specified causes of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
  - a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
    - (1) The cost of filling sinkholes; or
    - (2) Sinking or collapse of land into man-made underground cavities.
  - b. Falling objects does not include loss or damage to:

- (1) Personal property in the open; or
  - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- c. Water damage means accidental discharge or leakage of water or steam as the direct

result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.

# BUSINESS INCOME (AND EXTRA EXPENSE) ACTUAL LOSS SUSTAINED COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section C., DEFINITIONS. The descriptions in the headings of this Coverage Form and all applicable endorsements are solely for convenience and form no part of the terms and conditions of coverage.

**A. COVERAGE**

**1. Business Income**

- a. Business Income means the:
  - (1) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
  - (2) Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

- b. We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which ACTUAL LOSS SUSTAINED is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 1,000 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (1) The portion of the building which you rent, lease or occupy; and
- (2) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

- c. We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within the number of months shown in the Declarations after the date of direct physical loss or damage.

**2. Extra Expense**

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.
- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

We will only pay for Extra Expense that occurs within the number of months shown in the Declarations after the date of direct physical loss or damage.



### 3. Covered Causes Of Loss, Exclusions And Limitations

See applicable Causes Of Loss Form as shown in the Declarations.

### 4. Additional Limitation - Interruption Of Computer Operations

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under the Additional Coverage - Interruption Of Computer Operations.

### 5. Additional Coverages

#### a. Civil Authority

In this Additional Coverage - Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin immediately following the time of the first action of civil authority that prohibits access to the described premises; however, if a waiting period is shown in the Declarations, then after such period

following the time of the first action of civil authority that prohibits access to the described premises.

Civil Authority Coverage for Business Income will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
  - (2) When your Civil Authority Coverage for Business Income ends
- whichever is later.

#### b. Alterations And New Buildings

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur, subject to **A.1.** and **2.** above, due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 1,000 feet of the described premises and:
  - (a) Used in the construction, alterations or additions; or
  - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

#### c. Extended Business Income

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (1) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (2) Ends on the earlier of:
  - (a) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income

amount that would have existed if no direct physical loss or damage had occurred; or

- (b) 30 consecutive days after the date determined in (1) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

(1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.

(2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

- (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations includes Collapse as set forth in that form.
- (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Interruption Of Computer Operations.
- (d) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or

destroy any part of the system or disrupt its normal operation. However, there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage - Interruption Of Computer Operations, for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved is \$10,000, unless a higher limit is shown in the Declarations, subject to the following:

- (a) If at the time of interruption, the computer system is equipped with active virus scanning or anti-virus software, this entire amount is available.
- (b) If at the time of interruption, the computer system is not equipped with active virus scanning or anti-virus software, payment will be limited to \$2,500 for that occurrence.

If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.

- (4) This Additional Coverage - Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.

**6. Coverage Extension**

You may extend the insurance provided by this Coverage Part as follows:

**NEWLY ACQUIRED LOCATIONS**

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions, if the location you acquire is intended for:
  - (1) Similar use as the location described in the Declarations; or
  - (2) Use as a warehouse.
- b. The most we will pay under this extension for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
  - (1) This policy expires;
  - (2) 60 days expire after you acquire or begin to construct the property; or
  - (3) You report values to us.
 We will charge you additional premium for values reported from the date you acquire the property.

**B. LOSS CONDITIONS**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Appraisal**

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal 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 amount of Net Income and operating expense or 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:

- a. Pay its chosen appraiser; and
- b. 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.

**2. Duties In The Event Of Loss**

- a. You must see that the following are done in the event of loss:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the direct physical 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 direct physical 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) 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.
- (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (7) Cooperate with us in the investigation or settlement of the claim.
- (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.
- b. 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.

**3. Loss Determination**

- a. The amount of Business Income loss will be determined based on:
  - (1) The Net Income of the business before the direct physical loss or damage occurred;
  - (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the

Covered Cause of Loss on customers or on other businesses;

(3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and

(4) Other relevant sources of information, including:

(a) Your financial records and accounting procedures;

(b) Bills, invoices and other vouchers; and

(c) Deeds, liens or contracts.

b. The amount of Extra Expense will be determined based on:

(1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:

(a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and

(b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and

(2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

**c. Resumption Of Operations**

We will reduce the amount of your:

(1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.

(2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

**4. Loss Payment**

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

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

b. An appraisal award has been made.

**C. DEFINITIONS**

1. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

2. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

3. "Operations" means your business activities occurring at the described premises.

4. "Period of restoration" means the period of time that:

a. Begins:

(1) Immediately following the time of direct physical loss or damage; however, if a waiting period is shown in the Declarations, then after such period following the time of direct physical loss or damage for Business Income Coverage; or

(2) Immediately following the time of direct physical loss or damage for Extra Expense Coverage

caused by or resulting from any Covered Cause of Loss at the described premises; and

b. Ends on the earlier of:

(1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(2) The date when business is resumed at a new permanent location.

"Period of restoration" does not mean any increased period required due to the enforcement of any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not shorten or cause the "period of restoration" to terminate.

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

waste. Waste includes materials to be recycled, reconditioned or reclaimed.

6. "Suspension" means:
- a. The slowdown or cessation of your business activities; or
  - b. That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

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

## ORDINANCE OR LAW COVERAGE

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
 CONDOMINIUM ASSOCIATION COVERAGE FORM  
 CAUSES OF LOSS - SPECIAL FORM  
 CAUSES OF LOSS - BROAD FORM  
 CAUSES OF LOSS - BASIC FORM

- A.** Each Coverage - Coverage **A**, Coverage **B**, Coverage **C** and Coverage **D** - of Section **E. Coverages** below, is provided under this endorsement only if a Limit of Insurance for that Coverage(s) is shown in the Declarations and then only with respect to the building identified for that Coverage(s) in the Declarations.
- B.** The following provisions do not apply to the extent that they conflict with the coverage provided by this endorsement only:
  - 1.** BUILDING AND PERSONAL PROPERTY COVERAGE FORM:
    - a.** **E. LOSS CONDITIONS:**
      - (1) **4. Loss Payment, b.;** and
      - (2) **7. Valuation, b.,** second paragraph; and
    - b.** **G. OPTIONAL COVERAGES, 3. Replacement Cost, f.**
  - 2.** CONDOMINIUM ASSOCIATION COVERAGE FORM:
    - a.** **E. LOSS CONDITIONS:**
      - (1) **4. Loss Payment, b.;** and
      - (2) **8. Valuation, b.,** second paragraph; and
    - b.** **G. OPTIONAL COVERAGES, 3. Replacement Cost, f.**
  - 3.** Section **B. EXCLUSIONS, 1.a.** of CAUSES OF LOSS - SPECIAL, BROAD and BASIC FORMS.

**C. Application Of Coverage(s)**

The Coverage(s) provided by this endorsement apply only if both **C.1.** and **C.2.** are satisfied and are then subject to the qualifications set forth in **C.3.**

- 1.** The ordinance or law:
  - a.** Regulates the demolition, construction or repair of buildings, or establishes zoning or land use requirements at the described premises; and
  - b.** Is in force at the time of loss.

However, coverage under this endorsement applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this endorsement.

- 2.**
  - a.** The building sustains direct physical damage that is covered under this policy and such damage results in enforcement of the ordinance or law; or
  - b.** The building sustains both direct physical damage that is covered under this policy and direct physical damage that is not covered under this policy, and the building damage in its entirety results in enforcement of the ordinance or law.
  - c.** However, if the building sustains direct physical damage that is not covered under this policy, and such damage is the subject of the ordinance or law, then there is no coverage under this endorsement even if the building has also sustained covered direct physical damage.
- 3.** In the situation described in **C.2.b.** above, we will not pay the full amount of loss otherwise payable under the terms of Coverages **A, B, C** and/or **D** of this endorsement. Instead, we will pay a proportion of such loss, meaning the proportion that the covered direct physical damage bears to the total direct physical damage. However, if the covered direct physical damage, alone, would have resulted in enforcement of the ordinance or law, then we will pay the full amount of loss otherwise payable under the terms of Coverages **A, B, C** and/or **D** of this endorsement.
- D.** We will not pay under Coverage **A, B, C** or **D** of this endorsement for:

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1. Enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
2. The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.

#### E. Coverages

##### 1. Coverage A - Coverage For Loss To The Undamaged Portion Of The Building

With respect to a covered building that has sustained covered direct physical damage, we will pay under Coverage A for the loss in value of the undamaged portion of the building as a consequence of enforcement of an ordinance or law that requires demolition of undamaged parts of the same building.

Coverage A is included within the Limit of Insurance shown in the Declarations as applicable to the covered building. Coverage A does not increase the Limit of Insurance.

The Coinsurance Additional Condition does not apply to the undamaged portion of the building when the Limit of Insurance shown in the Declarations for Coverage A is less than the applicable building Limit of Insurance shown in the Declarations.

##### 2. Coverage B - Demolition Cost Coverage

With respect to a covered building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of undamaged parts of the same building, as a consequence of enforcement of an ordinance or law that requires Demolition of such undamaged property.

The Coinsurance Additional Condition does not apply to Demolition Cost Coverage.

##### 3. Coverage C - Increased Cost Of Construction Coverage

a. With respect to a covered building that has sustained covered direct physical damage, we will pay the increased cost to:

- (1) Repair or reconstruct damaged portions of that building; and/or
- (2) Reconstruct or remodel undamaged portions of that building, whether or not demolition is required

when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

However:

(1) This coverage applies only if the restored or remodeled property is intended for similar occupancy as the current property, unless such occupancy is not permitted by zoning or land use ordinance or law.

(2) We will not pay for the increased cost of construction if the building is not repaired, reconstructed or remodeled.

The Coinsurance Additional Condition does not apply to Increased Cost of Construction Coverage.

b. When a building is damaged or destroyed and Coverage C applies to that building in accordance with 3.a. above, coverage for the increased cost of construction also applies to repair or reconstruction of the following, subject to the same conditions stated in 3.a.:

- (1) The cost of excavations, grading, backfilling and filling;
- (2) Foundation of the building;
- (3) Pilings; and
- (4) Underground pipes, flues and drains.

The items listed in b.(1) through b.(4) above are deleted from Property Not Covered, but only with respect to the coverage described in this Provision, 3.b.

##### 4. Coverage D - Tenant's Improvements and Betterments

With respect to your use interest as tenant in improvements and betterments that have sustained covered direct physical damage, we will pay the increased cost to repair or reconstruct damaged portions of those improvements and betterments when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law.

The Coinsurance Additional Condition does not apply to Tenant's Improvements and Betterments.

#### F. Loss Payment

1. All following loss payment Provisions, F.2. through F.5., are subject to the apportionment procedures set forth in Section C.3. of this endorsement.
2. When there is a loss in value of an undamaged portion of a building to which Coverage A applies, the loss payment for that building, including damaged and undamaged portions, will be determined as follows:
  - a. If the Replacement Cost Coverage Option applies and the property is being repaired or replaced, on the same or another premises, we will not pay more than the lesser of:

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- (1) The amount you would actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or
  - (2) The Limit of Insurance for Coverage **A** shown in the Declarations as applicable to the covered building.
- b.** If the Replacement Cost Coverage Option applies and the property is **not** repaired or replaced, or if the Replacement Cost Coverage Option does **not** apply, we will not pay more than the lesser of:
- (1) The actual cash value of the building at the time of loss; or
  - (2) The Limit of Insurance for Coverage **A** shown in the Declarations as applicable to the covered building.
- 3.** Loss payment under Coverage **B** - Demolition Cost Coverage will be determined as follows: We will not pay more than the lesser of the following:
- a.** The amount you actually spend to demolish and clear the site of the described premises; or
  - b.** The applicable Limit of Insurance shown for Coverage **B** in the Declarations.
- 4.** Loss payment under Coverage **C** - Increased Cost of Construction Coverage will be determined as follows:
- a.** We will not pay under Coverage **C**:
    - (1) Until the property is actually repaired or replaced, at the same or another premises; and
    - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
  - b.** If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay under Coverage **C** is the lesser of:
    - (1) The increased cost of construction at the same premises; or
    - (2) The applicable Limit of Insurance shown for Coverage **C** in the Declarations.
  - c.** If the ordinance or law requires relocation to another premises, the most we will pay under Coverage **C** is the lesser of:
    - (1) The increased cost of construction at the new premises; or
    - (2) The applicable Limit of Insurance shown for Coverage **C** in the Declarations.
- 5.** Loss payment under Coverage **D** - Tenant's Improvements and Betterments will be determined as follows:
- a.** We will not pay under Coverage **D**:
    - (1) Until the property is actually repaired or replaced, at the same or another premises; and
    - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
  - b.** If the improvements and betterments are repaired or replaced at the same premises, or if you elect to rebuild the improvements and betterments at another premises, the most we will pay under Coverage **D** is the lesser of:
    - (1) The increased cost of construction at the same premises; or
    - (2) The applicable Limit of Insurance shown for Coverage **D** in the Declarations.
  - c.** If the ordinance or law requires relocation to another premises, the most we will pay under Coverage **D** is the lesser of:
    - (1) The increased cost of construction at the new premises; or
    - (2) The applicable Limit of Insurance shown for Coverage **D** in the Declarations.
- G.** The terms of this endorsement apply separately to each building to which this endorsement applies.
- H.** Under this endorsement we will not pay for loss due to any ordinance or law that:
- 1.** You were required to comply with before the loss, even if the building was undamaged; and
  - 2.** You failed to comply with.
- I.** The following definition is added:  
"Fungi" means any type or form of fungus, including but not limited to, mold, mildew, mycotoxins, spores, scents or by-products produced or released by any type or form of fungus.

All other policy terms and conditions apply.



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

# ILLINOIS ELECTRICAL APPARATUS

For Public Service Light, Power and Traction Property  
(\$1,000 Deductible)

This endorsement modifies insurance provided under the following:

- BUILDING AND PERSONAL PROPERTY COVERAGE FORM
- CONDOMINIUM ASSOCIATION COVERAGE FORM
- CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
- CAUSES OF LOSS - BASIC FORM
- CAUSES OF LOSS - BROAD FORM
- CAUSES OF LOSS - SPECIAL FORM
- COMMERCIAL PROPERTY CONDITIONS

**A. Exclusion B.2.a.** is replaced by the following:

We will not pay for loss or damage caused by or resulting from artificially generated electrical or magnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

1. Electrical or electronic wire, device, appliance, system or network; or
2. Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical or magnetic energy includes but is not limited to:

1. Electrical current, including arcing; or
2. Electrical charge produced or conducted by a magnetic field.

However, if fire or explosion results, we will pay for loss or damage by fire, explosion or electricity to electrical apparatus that are Covered Property at the premises where the fire or explosion occurs. The fire must be self-sustained and continue after the electrical current or other energy has been interrupted. Electric arcing and flashovers caused by artificially generated current are not considered fires or explosions.

**B. Deductible** (Applicable only to policies covering direct physical loss or damage). The **DEDUCTIBLE** section in the Coverage Form to which this endorsement applies is replaced by the following with respect to loss or damage to electrical equipment or devices caused by electricity and resulting fire or explosion.

In any one occurrence of loss or damage (hereinafter referred to as loss), the Deductible will apply as follows:

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds \$1,000. We will then pay the amount of loss or damage in excess of \$1,000, up to the applicable Limit of Insurance, after any deduction required by the Coinsurance condition or the Agreed Value Optional Coverage.

This provision does not apply if the Deductible shown in the Declarations is more than \$1,000.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. However, the Deductible will be applied only once per occurrence.

**C. Other Insurance.** The OTHER INSURANCE Condition is replaced by the following for loss or damage covered by this endorsement:

1. You may have other insurance that covers the premises described in the Declarations against covered loss or damage by fire. If you do, we will pay our share of the loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part covering loss or damage by electricity and resulting fire or explosion bears to the Limits of Insurance of all insurance covering loss or damage by fire or explosion. This provision applies whether or not the other insurance includes the terms of this endorsement.

2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will determine the amount each type of insurance would have paid if it were the only insurance. We will then determine the proportion the amount we would have paid bears to all the amounts all insurance would have paid. We will not pay more than our proportion of the amount of covered loss or damage after first applying the highest deductible to which this and all other types of insurance covering the loss or damage apply.

All other policy terms and conditions apply.

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

## LOSS PAYABLE PROVISIONS

This endorsement modifies insurance provided under the following:

- BUILDING AND PERSONAL PROPERTY COVERAGE FORM
- BUILDERS' RISK COVERAGE FORM
- CONDOMINIUM ASSOCIATION COVERAGE FORM
- CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
- COMMERCIAL PROPERTY CONDITIONS

### SCHEDULE

<b>Premises Number:</b>		<b>Building Number:</b>		<b>Applicable Clause (Enter A., B., C., or D.):</b>	
<b>Description Of Property:</b>					
<b>Loss Payee Name:</b>					
<b>Loss Payee Address:</b>					
<b>Premises Number:</b>		<b>Building Number:</b>		<b>Applicable Clause (Enter A., B., C., or D.):</b>	
<b>Description Of Property:</b>					
<b>Loss Payee Name:</b>					
<b>Loss Payee Address:</b>					
<b>Premises Number:</b>		<b>Building Number:</b>		<b>Applicable Clause (Enter A., B., C., or D.):</b>	
<b>Description Of Property:</b>					
<b>Loss Payee Name:</b>					
<b>Loss Payee Address:</b>					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

Nothing in this endorsement increases the applicable Limit of Insurance. We will not pay any Loss Payee more than their financial interest in the Covered property, and we will not pay more than the applicable Limit of Insurance on the Covered Property.

The following is added to the **Loss Payment** Loss Condition, as indicated in the Schedule or in the Declarations:

**A. Loss Payable Clause**

For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:

1. Adjust losses with you; and
2. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

**B. Lender's Loss Payable Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee, whose interest in Covered Property is established by such written instruments as:

- a. Warehouse receipts;
- b. A contract for deed;
- c. Bills of lading;
- d. Financing statements; or
- e. Mortgages, deeds of trust, or security agreements.

2. For Covered Property in which both you and a Loss Payee have an insurable interest:

- a. We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
- b. The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property.

c. If we deny your claim because of your acts or because you have failed to comply with the terms of the Coverage Part, the Loss Payee will still have the right to receive loss payment if the Loss Payee:

- (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
- (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.

All of the terms of this Coverage Part will then apply directly to the Loss Payee.

- d. If we pay the Loss Payee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
  - (1) The Loss Payee's rights will be transferred to us to the extent of the amount we pay; and
  - (2) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, we may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.

3. If we cancel this policy, we will give written notice to the Loss Payee at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
4. If we elect not to renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration date of this policy.

**C. Contract Of Sale Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is a person or organization you have entered a contract with for the sale of Covered Property.
2. For Covered Property in which both you and the Loss Payee have an insurable interest we will:
  - a. Adjust losses with you; and
  - b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
3. The following is added to the **OTHER INSURANCE** Condition:  
For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

**D. Building Owner Loss Payable Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is the owner of the described building, in which you are a tenant.
2. We will adjust losses to the described building with the Loss Payee. Any loss payment made to the Loss Payee will satisfy your claims against us for the owner's property.
3. We will adjust losses to tenant's improvements and betterments with you, unless the lease provides otherwise.

All other policy terms and conditions apply.

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

## **COMMERCIAL PROPERTY CONDITIONS**

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

### **A. CONCEALMENT, MISREPRESENTATION OR FRAUD**

This Coverage Part is void in any case of fraud by you as it relates to this Coverage Part at any time. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact 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. 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.

### **D. LEGAL ACTION AGAINST US**

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

1. There has been full compliance with all of the terms of this Coverage Part; and

2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

### **E. LIBERALIZATION**

If we adopt any revision that would broaden the coverage under this Coverage Part without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

### **F. NO BENEFIT TO BAILEE**

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

### **G. 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.

### **H. POLICY PERIOD, COVERAGE TERRITORY**

Under this Coverage Part:

1. We cover loss or damage commencing:

- a. During the policy period shown in the Declarations; and
  - b. Within the coverage territory.
2. The coverage territory is:
- a. The United States of America (including its territories and possessions);
  - b. Puerto Rico; and
  - c. Canada.

**I. 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 neces-

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

This will not restrict your insurance.

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

## **ASBESTOS EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SECTION I - COVERAGES** is amended.

**1. COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is

amended. The following exclusion is added.

This insurance does not apply to:

Any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal, release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

**2. COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions** is amended.

The following exclusion is added.

This insurance does not apply to:

Any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal,

release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

**3. COVERAGE C - MEDICAL PAYMENTS, 2.**

**Exclusions** is amended. The following exclusion is added.

We will not pay expenses for "bodily injury":

For any claim, "suit", action or proceeding against any insured arising out of the discharge, dispersal, release, escape or inhalation of any asbestos-related particles, dust, irritants, contaminants, "pollutants", toxic elements or materials.

All other policy terms and conditions apply.

55152 (5-17)

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

## **ILLINOIS - COMMUNICABLE DISEASES EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. The following exclusion is added.

#### **Communicable Disease**

"Bodily injury" arising out of or resulting from the transmission of:

- (1)** Human immunodeficiency virus (HIV);
- (2)** Acquired immune deficiency syndrome (AIDS);
- (3)** Herpes;
- (4)** Any sexually transmitted disease by any insured.

**B. SECTION I - COVERAGES, COVERAGE B - PERSONAL AND ADVERTISING INJURY, 2. Exclusions** is amended. The following exclusion is added.

#### **Communicable Disease**

Arising out of or resulting from the transmission of:

- (1)** Human immunodeficiency virus (HIV);
- (2)** Acquired immune deficiency syndrome (AIDS);
- (3)** Herpes;
- (4)** Any sexually transmitted disease by any insured.

All other policy terms and conditions apply.



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

## **ILLINOIS CHANGES - DEFENSE COSTS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SECTION I - COVERAGES** is amended.

**A. COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 1. Insuring Agreement,** Paragraph **a.** is deleted and replaced by the following.

**a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. We may at our discretion investigate any claim or "occurrence" and settle any claim or "suit" that may result. However,

- (1)** The amount we will pay for damages is limited as described in Section **III** - Limits of Insurance; and
- (2)** Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense costs we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you in writing that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

**B. COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY, 1. Insuring Agreement,** Paragraph **a.** is deleted and replaced by the following.

**a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. We may at our discretion investigate any claim or offense and settle any claim or "suit" that may result. However,

- (1)** The amount we will pay for damages is limited as described in Section **III** - Limits Of Insurance; and
- (2)** Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense cost we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

All other policy terms and conditions apply.

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

**ILLINOIS CHANGES - DEFENSE COSTS**

This endorsement modifies insurance provided under the following:

LIQUOR LIABILITY COVERAGE FORM

Under **SECTION I - LIQUOR LIABILITY COVERAGE**, the following is added to the Insuring Agreement that sets forth a duty to defend:

If we initially defend an insured or pay for an insured's defense but later determine that the claim(s) is (are) not covered under this insurance, we will have the right to reimbursement for the defense costs we have incurred.

The right to reimbursement for the defense costs under this provision will apply to defense costs we have incurred after we notify you in writing that there may not be coverage, and that we are reserving our rights to terminate the defense and seek reimbursement for defense costs.

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

**Illinois**

**COMMUNICABLE DISEASES EXCLUSION**

This endorsement modifies insurance provided under the following:

LIQUOR LIABILITY COVERAGE PART.

Under **SECTION I - LIQUOR LIABILITY COVERAGE, 2. Exclusions**, the following exclusion is added:

**Communicable Diseases**

**Bodily injury** arising out of or resulting from the transmission of:

- (1) Human immunodeficiency virus (HIV);
- (2) Acquired immune deficiency syndrome (AIDS);
- (3) Herpes;
- (4) Any sexually transmitted disease

by any **insured**.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**ILLINOIS CHANGES - CIVIL UNION**

This endorsement modifies insurance under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

Wherever it is found, the term spouse is replaced by the following phrase.

Spouse or party to a civil union under Illinois law.

All other policy terms and conditions apply.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**AMENDMENT OF GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is agreed:

**SECTION III – LIMITS OF INSURANCE** is amended.  
 The following provision is added.  
 Beginning with the effective date of this policy, we will provide twice the General Aggregate Limit (other than Products-Completed Operations), shown in the Declarations.  
 If this policy is written for more than one 12 month period, the General Aggregate Limit for each 12

month period shall never exceed twice the General Aggregate Limit shown in the Declarations. The General Aggregate Limit applies separately to each 12 month period starting with the beginning of the policy period shown in the Declarations.

All other policy terms and conditions apply.

COMMERCIAL GENERAL LIABILITY  
55791 (5-17)

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

## ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**A. Cancellation** (Common Policy Conditions) is deleted and replaced by the following.

### **CANCELLATION**

1. The first Named Insured shown in the Declarations may cancel this policy by returning it to us or by notifying us of the date cancellation is to take effect.
2. We may cancel this policy by mailing to you written notice stating the reason for cancellation. If we cancel:
  - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
  - b. For a reason other than nonpayment of premium, we will mail the notice at least:
    - (1) 30 days prior to the effective date of cancellation if the policy has been in effect for 60 days or less.
    - (2) 60 days prior to the effective date of cancellation if the policy has been in effect for more than 60 days.
3. If this policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:
  - a. Nonpayment of premium;
  - b. The policy was obtained through a material misrepresentation;
  - c. Any insured has violated any of the terms and conditions of the policy;
  - d. The risk originally accepted has measurably increased.
  - e. Certification of the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or

f. A determination by the Director of Insurance that the continuation of the policy could place us in violation of the insurance laws of this State.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

**B.** The following is added and supersedes any provision to the contrary.

### **NONRENEWAL**

If we decide not to renew or continue this policy, we will mail you and your agent or broker written notice, stating the reason for nonrenewal, at least 60 days before the end of the policy period. If we offer to renew or continue and you do not accept, this policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this policy will end on the effective date of that insurance.

**C. Mailing Of Notices**

We will mail cancellation and nonrenewal notices to you, and the agent or broker, at the last addresses known to us. Proof of mailing will be sufficient proof of notice.

**COMMERCIAL GENERAL LIABILITY  
55146 (6-04)**

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

## **UPSET AND OVERSPRAY COVERAGE**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is agreed the coverage for "property damage" liability with respect to your operations is extended as follows:

### **1. COVERAGE**

We will pay those sums which you become legally obligated to pay for "property damage" caused directly by immediate, abrupt and accidental:

- a. Upset, overturn or collision of your "mobile equipment" while transporting; or
- b. "Overspray" during your application or dispersal of

"pollutants" which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.

This is not an additional amount of insurance and does not increase the Limits of Insurance stated in the Declarations.

### **2. EXCLUSIONS**

- a. With regard only to the coverage provided by this endorsement, Exclusion **f.** of **Section I - Coverage A - Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

**f. Pollution**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants".

However, this paragraph does not apply to liability for damages because of covered "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**b. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This coverage does not apply to "overspray" resulting from aerial application or dispersal of "pollutants".

**3. DEDUCTIBLE**

Any deductible provision of the policy which is applicable to Property Damage Liability coverage applies to this coverage extension.

**4. DEFINITIONS**

The following definition applies in addition to those in the policy.

"Overspray" means spray, from a device specifically designed for spray application or dispersal, that goes beyond the entire area of intended application or dispersal.

All other policy terms and conditions apply.

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

# COMMERCIAL GENERAL LIABILITY PLUS COVERAGE

This endorsement modifies insurance provided under the following:

## COMMERCIAL GENERAL LIABILITY COVERAGE PART

**1. EXTENDED WATERCRAFT LIABILITY SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. Exclusion **g.(2)** is deleted and replaced by the following exclusion.

- (2) A watercraft you do not own that is:
  - (a) Less than 50 feet long; and
  - (b) Not being used to carry persons or property for a charge;

**2. BROADENED SUPPLEMENTARY PAYMENTS SUPPLEMENTARY PAYMENTS - COVERAGES A AND B, Paragraph 1.d.** is amended.

The amount we will pay for the actual loss of earnings is increased from \$250 per day to \$400 per day.

**3. ADDITIONAL PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT**  
If the endorsement, EXCLUSION - PRODUCTS COMPLETED OPERATIONS HAZARD, CG 21 04, is not attached to this policy, then the following provision is added to **SECTION III - LIMITS OF INSURANCE.**

Commencing with the effective date of this policy, we will provide one additional Products-Completed Operations Aggregate Limit, for each annual period, equal to the amount of the Products-Completed Operations Aggregate Limit shown in the Declarations. The maximum Products-Completed Operations Aggregate Limit for any annual period will be no more than two times the original Products-Completed Operations Aggregate Limit.

**4. PERSONAL INJURY EXTENSION**

- a. If the endorsement EXCLUSION - PERSONAL AND ADVERTISING INJURY, CG 21 28, is attached to this policy, then this provision, **4. PERSONAL INJURY EXTENSION**, does not apply.
- b. If the endorsement EXCLUSION - PERSONAL AND ADVERTISING INJURY, CG 21 28, is not attached to this policy, then **SECTION V - DEFINITIONS** is amended. Paragraph **14.** "Personal and advertising injury" is deleted and replaced by the following definition.
  - 14.** "Personal and advertising injury" means injury including consequential "bodily injury",

arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication of material, in any manner, that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement";
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement"; or
- h. Discrimination, humiliation, sexual harassment and any violation of civil rights caused by such discrimination, humiliation or sexual harassment.

**5. BROADENED KNOWLEDGE OF OCCURRENCE SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** is amended. The following condition is added.

- a. Paragraphs **a.** and **b.** of this condition will not serve to deny any claim for failure to provide us with notice as soon as practicable after an "occurrence" or an offense which may result in a claim:
  - (1) If the notice of a new claim is given to your "employee"; and
  - (2) That "employee" fails to provide us with notice as soon as practicable.
- b. This exception shall not apply:
  - (1) To you; or

- (2) To any officer, director, partner, risk manager or insurance manager of yours.
- 6. DAMAGE TO PREMISES RENTED TO YOU**
- a. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended.
- (1) The last paragraph is deleted and replaced by the following paragraph.  
Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or water damage to premises rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **6. DAMAGE TO PREMISES RENTED TO YOU, b. Limits of Insurance.**
- (2) The following additional exclusions apply to "property damage" arising out of water damage to premises rented to you or temporarily occupied by you with permission of the owner.
- (a) "Property damage" to:
- 1) The interior of the premises caused by or resulting from rain or snow, whether driven by wind or not; or
  - 2) Heating, air conditioning, plumbing or fire protection systems, or other equipment or appliances.
- (b) "Property damage" caused by or resulting from any of the following:
- 1) Mechanical breakdown, including bursting or rupture caused by centrifugal force;
  - 2) Cracking, settling, expansion or shrinking;
  - 3) Smoke or smog;
  - 4) Birds, insects, rodents or other animals;
  - 5) Wear and tear;
  - 6) Corrosion, rust, decay, fungus, deterioration, hidden or latent defect or any quality in property that causes such property to destroy or damage itself; or
  - 7) Water that flows or leaks from any heating, air conditioning, plumbing or fire protection system caused by or resulting from freezing, unless:
    - a) You make a reasonable effort to maintain heat in the building or structure; or
    - b) You drain the equipment and shut off the water supply if the heat is not maintained.
- (c) "Property damage" caused directly or indirectly by any of the following:
- 1) Water that backs up from a drain or sewer;
  - 2) Mud flow or mudslide;
  - 3) Volcanic eruption, explosion or effusion;
  - 4) Any earth movement, such as earthquake, landslide, mine subsidence, earth sinking, earth rising or earth shifting;
  - 5) Regardless of the cause, flood, surface water, waves, tides, tidal waves, storm surge, overflow of any body of water, or their spray, all whether wind driven or not; or
  - 6) Water under the ground surface pressing on, or seeping or flowing through:
    - a) Walls, foundations, floors or paved surfaces;
    - b) Basements, whether paved or not; or
    - c) Doors, windows or other openings.
- (d) "Property damage" for which the insured is obligated to pay as damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of this contract or agreement.
- b. Limits of Insurance**
- SECTION III - LIMITS OF INSURANCE** is amended. Paragraph **6.** is deleted and replaced by the following paragraph.
- 6.** The most we will pay under Coverage **A** for damages because of "property damage" to premises rented to you or temporarily occupied by you with permission of the owner arising out of or caused by fire, lightning, explosion, smoke and water damage is the amount shown in the Declarations under Damage to Premises Rented to You.
- c. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance,** Paragraph **b.** is amended. The word fire is amended to include fire, lightning, explosion, smoke or water damage.
- 7. BLANKET ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT**
- a. (1) SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization with whom you have agreed:
- (a) In a written contract or agreement, executed prior to loss, to name as an additional insured; or



- (b) In an oral contract or agreement, executed prior to loss, to name as an additional insured only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured.
- (2) This provision applies only with respect to liability for:
- (a) "Bodily injury";
- (b) "Property damage"; or
- (c) "Personal and advertising injury" caused in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
- b. With respect to the insurance afforded to an additional insured, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
- c. **SECTION III - LIMITS OF INSURANCE** is amended. The following provision is added for purposes of this endorsement only. The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the lessor, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.
- 8. BLANKET ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**
- a. **SECTION II - WHO IS AN INSURED** is amended. The following provision is added. Any person or organization with whom you have agreed to name as an additional insured:
- (1) In a written contract or agreement, executed prior to loss; or
- (2) In an oral contract or agreement, executed prior to loss, only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured
- but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.
- b. The provision is subject to the following additional exclusions.
- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.
- c. **SECTION III - LIMITS OF INSURANCE** is amended. The following provision is added for purposes of this endorsement only.

The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the manager or lessor of the premises, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.

**9. NEWLY FORMED OR ACQUIRED ORGANIZATIONS**

**SECTION II - WHO IS AN INSURED** is amended. Paragraph 3. is deleted and replaced by the following paragraph.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

**10. BLANKET WAIVER OF SUBROGATION**

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended. The following provision is added to **8. Transfer Of Rights Of Recovery Against Others To Us**.

When you have agreed to waive your right of subrogation in a written contract, executed prior to loss, with any person or organization, we waive any right of recovery we may have against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

All other policy terms and conditions apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# CONDITIONAL EXCLUSION OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART

## A. Applicability Of This Endorsement

1. The provisions of this endorsement will apply if and when one of the following situations occurs:

a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act), terminates; or

b. The Program is renewed, extended or otherwise continued in effect:

(1) With revisions that increase insurers' statutory percentage deductible or decrease the federal government's statutory percentage share in potential terrorism losses above such deductible, or that results in a change in the level or terms or conditions of coverage; and

(2) We are not required by the Program to make terrorism coverage available to you and elect not to do so.

2. When this endorsement becomes applicable in accordance with the terms of A.1.a. or A.1.b., above, it supersedes any terrorism

endorsement already endorsed to this policy that addresses "certified acts of terrorism".

3. If this endorsement does NOT become applicable, then any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism", will remain in effect. However, if the Program is renewed, extended or otherwise continued in effect with revisions that change the level or terms or conditions of coverage, and we are required to offer you the revised coverage or to provide revised coverage to those who previously accepted coverage under the Program, then we will take the appropriate steps in response to the federal requirements.

B. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.

"Terrorism" means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
  - a. Use or threat of force or violence; or
  - b. Commission or threat of a dangerous act; or

- c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

2. When one or both of the following applies:

- a. The effect is to intimidate or coerce a government or the civilian population or any segments thereof, or to disrupt any segment of the economy; or
- b. It appears that the intent is to intimidate or coerce a government or the civilian population, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

C. The following exclusion is added:

**Exclusion Of "Terrorism"**

We will not pay for "bodily injury", "property damage", "personal injury" or "advertising injury" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". All "bodily injury", "property damage", "personal injury" or "advertising injury" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such

injury or damage. This exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination;
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material;
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, regardless of whether this endorsement was in effect during the entirety of that time period or not.

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

## **EMPLOYER'S LIABILITY EXCLUSION**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**A. SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is amended. Exclusion **e. Employer's Liability** is deleted and replaced by the following exclusion.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of any insured arising out of and in the course of employment by any insured; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **e.(1)**.

This exclusion applies:

- (1) Whether any insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by any insured under an "insured contract".

**B. SECTION II - WHO IS AN INSURED** is amended. Paragraph **1.** is deleted and replaced by the following paragraph for purposes of this endorsement only.

- 1. a.** If you are designated in the Declarations as:
  - (1) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - (2) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - (3) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business.

- (4) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- (5) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

**b.** However, with respect to paragraphs **1.a.(1)** through **1.a.(5)**, no person is an insured for "bodily injury" or "personal and advertising injury":

- (1) To:
  - (a) You and your spouse if the Named Insured is an individual;
  - (b) Your members, your partners and their spouses if the Named Insured is a partnership or joint venture;
  - (c) Your members if the Named Insured is a Limited Liability Company;
  - (d) Your "executive officers" and directors if the Named Insured is other than a partnership, joint venture or limited liability company; or
  - (e) Your trustees if the Named Insured is a trust.
- (2) To an "employee" of any insured while in the course of his or her employment or performing duties related to the conduct of any insured's business.
- (3) To any insured's "volunteer workers" while performing duties related to the conduct of any insured's business;
- (4) To the spouse, child, parent, brother or sister of any "employee" or "volunteer worker" as a consequence of Paragraphs **1.b.(2)** or **(3)**.
- (5) For which there is any obligation to share damages with or repay someone

else who must pay damages because of the injury described in Paragraphs **1.b.(1), (2) and (3)**.

**(6)** Arising out of his or her providing or failing to provide professional health care services.

All other policy terms and conditions apply.

55513 (5-17)

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Page 2 of 2

# COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured. Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured.

This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above. However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or
  - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
    - (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
    - (ii) "Bodily injury" or "property damage" for which you may be held liable, if

- you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible; or
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.
- g. Aircraft, Auto Or Watercraft**  
"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".  
This exclusion applies even if the claims against any insured allege negligence or other



wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

#### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

#### i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

#### k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

#### l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

(3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

(4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

**COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY****1. Insuring Agreement**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

**2. Exclusions**

This insurance does not apply to:

a. **Knowing Violation Of Rights Of Another**  
"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another

and would inflict "personal and advertising injury".

**b. Material Published With Knowledge Of Falsity**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

**c. Material Published Prior To Policy Period**

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

**d. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**f. Breach Of Contract**

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

**g. Quality Or Performance Of Goods – Failure To Conform To Statements**

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

**h. Wrong Description Of Prices**

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

**i. Infringement Of Copyright, Patent, Trademark Or Trade Secret**

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

**j. Insureds In Media And Internet Type Businesses**

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;

- (2) Designing or determining content of web sites for others; or

- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

**k. Electronic Chatrooms Or Bulletin Boards**

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

- p. Recording And Distribution Of Material Or Information In Violation Of Law**  
"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:
  - (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
  - (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
  - (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
  - (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**COVERAGE C – MEDICAL PAYMENTS**

**1. Insuring Agreement**

- a.** We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations; provided that:
    - (a) The accident takes place in the "coverage territory" and during the policy period;
    - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
    - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b.** We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
  - (1) First aid administered at the time of an accident;
  - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

- a. Any Insured**  
To any insured, except "volunteer workers".

- b. Hired Person**  
To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. Injury On Normally Occupied Premises**  
To a person injured on that part of premises you own or rent that the person normally occupies.
- d. Workers' Compensation And Similar Laws**  
To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. Athletics Activities**  
To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.
- f. Products-Completed Operations Hazard**  
Included within the "products-completed operations hazard".
- g. Coverage A Exclusions**  
Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

- 1.** We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
    - a.** All expenses we incur.
    - b.** Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
    - c.** The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
    - d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
    - e.** All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
    - f.** Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
    - g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
  - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
  - f. The indemnitee:
    - (1) Agrees in writing to:
      - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
      - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
      - (c) Notify any other insurer whose coverage is available to the indemnitee; and
      - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
    - (2) Provides us with written authorization to:
      - (a) Obtain records and other information related to the "suit"; and
      - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the

payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
  - a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.
- (2) "Property damage" to property:
- (a) Owned, occupied or used by;
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by; you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
- a. Medical expenses under Coverage **C**;
  - b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage **B**.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
- a. Damages under Coverage **A**; and
  - b. Medical expenses under Coverage **C** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

#### 1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

## 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
  - (1) Immediately record the specifics of the claim or "suit" and the date received; and
  - (2) Notify us as soon as practicable. You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

## 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

## 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

### a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

### b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
  - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
  - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

- (2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
  - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

**SECTION V – DEFINITIONS**

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
  - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
  - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in Paragraph a.



above, but is away for a short time on your business; or

- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
  6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
  7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
  8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
    - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
    - b. You have failed to fulfill the terms of a contract or agreement;
 

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.
  9. "Insured contract" means:
    - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
    - b. A sidetrack agreement;
    - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
    - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
    - e. An elevator maintenance agreement;
    - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement. Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
  11. "Loading or unloading" means the handling of property:
    - a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
    - b. While it is in or on an aircraft, watercraft or "auto"; or
    - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
  12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
    - a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
    - b. Vehicles maintained for use solely on or next to premises you own or rent;
    - c. Vehicles that travel on crawler treads;
    - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
      - (1) Power cranes, shovels, loaders, diggers or drills; or

- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment designed primarily for:
- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".
13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
16. "Products-completed operations hazard":
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- b. Does not include "bodily injury" or "property damage" arising out of:
- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.
17. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

## LIQUOR LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us", and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V - DEFINITIONS**.

### SECTION I - LIQUOR LIABILITY COVERAGE

#### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "injury" to which this insurance applies if liability for such "injury" is imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "injury" to which this insurance does not apply. We may, at our discretion, investigate any "injury" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS**.

- b. This insurance applies to "injury" only if:
- (1) The "injury" occurs during the policy period in the "coverage territory"; and

- (2) Prior to the policy period, no insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** and no "employee" authorized by you to give or receive notice of an injury or claim, knew that the "injury" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "injury" occurred, then any continuation, change or resumption of such "injury" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Injury" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "injury" or claim, includes any continuation, change or resumption of that "injury" after the end of the policy period.
- d. "Injury" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of **SECTION II - WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "injury" or claim:
  - (1) Reports all, or any part, of the "injury" to us or any other insurer;
  - (2) Receives a written or verbal demand or claim for damages because of the "injury"; or
  - (3) Becomes aware by any other means that "injury" has occurred or has begun to occur.

#### 2. Exclusions

This insurance does not apply to:

- a. **Expected Or Intended Injury**  
"Injury" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
- b. **Workers' Compensation And Similar Laws**  
Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.
- c. **Employers Liability**  
"Bodily injury" to:
  - (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the "injury".

**d. Liquor License Not In Effect**

"Injury" arising out of any alcoholic beverage sold, served or furnished while any required license is not in effect.

**e. Your Product**

"Injury" arising out of "your product". This exclusion does not apply to "injury" for which the insured or the insured's indemnitees may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

**f. Other Insurance**

Any "injury" with respect to which other insurance is afforded, or would be afforded but for the exhaustion of the limits of insurance.

This exclusion does not apply if the other insurance responds to liability for "injury" imposed on the insured by reason of the selling, serving or furnishing of any alcoholic beverage.

**g. War**

"Injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**SUPPLEMENTARY PAYMENTS**

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- 1. All expenses we incur.
- 2. The cost of bonds to release attachments, but only

for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

- 3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- 4. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- 5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- 6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- 7. Expenses incurred by the insured for first aid administered to others at the time of an event to which this insurance applies.

These payments will not reduce the limits of insurance.

**SECTION II - WHO IS AN INSURED**

- 1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- 2. Each of the following is also an insured:
  - a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees"

is an insured for:

**(1) "Injury":**

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(a)** above; or
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(a)** or **(b)** above.

**(2) "Property damage" to property:**

- (a)** Owned or occupied by; or
- (b)** Rented or loaned to that "employee", any of your other "employees", by any of your partners or members (if you are a partnership or joint venture), or by any of your members (if you are a limited liability company).

**b.** Any person or organization having proper temporary custody of your property if you die, but only:

- (1)** With respect to liability arising out of the maintenance or use of that property; and
- (2)** Until your legal representative has been appointed.

**c.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

**3.** Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a.** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
- b.** Coverage does not apply to "injury" that occurred before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### SECTION III - LIMITS OF INSURANCE

- 1.** The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a.** Insureds;
  - b.** Claims made or "suits" brought; or
  - c.** Persons or organizations making claims or bringing "suits".
- 2.** The Aggregate Limit is the most we will pay for all "injury" as the result of the selling, serving or furnishing of alcoholic beverages.
- 3.** Subject to the Aggregate Limit, the Each Common Cause Limit is the most we will pay for all "injury" sustained by one or more persons or organizations as the result of the selling, serving or furnishing of any alcoholic beverage to any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### SECTION IV - LIQUOR LIABILITY CONDITIONS

**1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

**2. Duties In The Event Of Injury, Claim Or Suit**

- a.** You must see to it that we are notified as soon as practicable of an "injury" which may result in a claim. To the extent possible, notice should include:
  - (1)** How, when and where the "injury" took place;
  - (2)** The names and addresses of any injured persons and witnesses; and
  - (3)** The nature and location of any "injury".
- b.** If a claim is made or "suit" is brought against any insured, you must:
  - (1)** Immediately record the specifics of the claim or "suit" and the date received; and
  - (2)** Notify us as soon as practicable. You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c.** You and any other involved insured must:
  - (1)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

- (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury" to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary. Our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in b. below.

#### b. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

### 5. Premium Audit

- a. We will compute all premiums for this Cover-

age Part in accordance with our rules and rates.

- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

### 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

### 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this coverage part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

### 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

### 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

## SECTION V - DEFINITIONS

- 1. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

2. "Coverage territory" means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the "injury" occurs in the course of travel or transportation between any place included in Paragraph a. above; or
  - c. All other parts of the world if the "injury" arises out of:
    - (1) Goods or products made or sold by you in the territory described in Paragraph a. above; or
    - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
3. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
4. "Executive Officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
5. "Injury" means damages because of "bodily injury" and "property damage", including damages for care, loss of services or loss of support.
6. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
7. "Property damage" means:
  - a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it.
8. "Suit" means a civil proceeding in which damages because of "injury" to which this insurance applies are alleged. "Suit" includes:
  - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
9. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
10. "Your product":
  - a. Means:
    - (1) Any goods or products, other than real property manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product", and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.



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

## **ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PRODUCT WITHDRAWAL COVERAGE PART

**A. Cancellation** (Common Policy Conditions) is replaced by the following:

### **Cancellation**

1. The first Named Insured shown in the Declarations may cancel this Policy by mailing to us advance written notice of cancellation.
2. We may cancel this Policy by mailing to you, at your last mailing address known to us, written notice stating the reason for cancellation. Proof of mailing will be sufficient proof of notice. If we cancel:
  - a. For nonpayment of premium, we will mail the notice at least 10 days prior to the effective date of cancellation.
  - b. For a reason other than nonpayment of premium, we will mail the notice at least:
    - (1) 30 days prior to the effective date of cancellation if the Policy has been in effect for 60 days or less.
    - (2) 60 days prior to the effective date of cancellation if the Policy has been in effect for more than 60 days.
3. If this Policy has been in effect for more than 60 days, we may cancel only for one or more of the following reasons:

- a. Nonpayment of premium;
  - b. The Policy was obtained through a material misrepresentation;
  - c. Any insured has violated any of the terms and conditions of the Policy;
  - d. The risk originally accepted has measurably increased.
  - e. Certification of the Director of Insurance of the loss of reinsurance by the insurer that provided coverage to us for all or a substantial part of the underlying risk insured; or
  - f. A determination by the Director of Insurance that the continuation of the Policy could place us in violation of the insurance laws of this State.
4. Notification of cancellation will also be sent to your broker, if known, or agent of record, if known.
  5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
  6. If this Policy is cancelled we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund will be less than pro rata. The cancellation will be effective even if we have not offered a refund.

**B.** The following is added and supersedes any provision to the contrary:

**Nonrenewal**

If we decide not to renew or continue this Policy, we will mail you written notice, stating the reason for nonrenewal, at least 60 days before the end of the policy period. Proof of mailing will be sufficient proof of notice. Notification of nonrenewal will also be

sent to your broker, if known, or agent of record, if known. If we offer to renew or continue and you do not accept, this Policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.

If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this Policy will end on the effective date of that insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Exclusion 2.p. of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**B. The following is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information. This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

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

## **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:**

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

## **SILICA OR SILICA-RELATED DUST EXCLUSION**

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**
- 2. Exclusions**  
This insurance does not apply to:  
**Silica Or Silica-Related Dust**
- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
  - b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
  - c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**
- 2. Exclusions**  
This insurance does not apply to:  
**Silica Or Silica-Related Dust**
- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
  - b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.
- C. The following definitions are added to the Definitions Section:**
1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
  2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

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

## EXCLUSION - UNMANNED AIRCRAFT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Exclusion 2.g. Aircraft, Auto Or Watercraft** under **Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**g. Aircraft, Auto Or Watercraft**

**(1) Unmanned Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

**(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use

or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph **g.(2)** does not apply to:

- (a)** A watercraft while ashore on premises you own or rent;
- (b)** A watercraft you do not own that is:
  - (i)** Less than 26 feet long; and
  - (ii)** Not being used to carry persons or property for a charge;
- (c)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e)** "Bodily injury" or "property damage" arising out of:
  - (i)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (ii)** The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

**B. The following exclusion is added to Paragraph 2.**

**Exclusions of Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Unmanned Aircraft**

"Personal and advertising injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- a. The use of another's advertising idea in your "advertisement"; or
  - b. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
- C. The following definition is added to the **Definitions** section:  
"Unmanned aircraft" means an aircraft that is not:
1. Designed;
  2. Manufactured; or
  3. Modified after manufacture;
- to be controlled directly by a person from within or on the aircraft.

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

## **ILLINOIS CHANGES – CIVIL UNION**

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
FARM COVERAGE PART  
FARM UMBRELLA LIABILITY POLICY  
LIQUOR LIABILITY COVERAGE PART  
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCT WITHDRAWAL COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY

- A.** The term "spouse" is replaced by the following:  
Spouse or party to a civil union recognized under Illinois law.
- B.** Under the Commercial Auto Coverage Part, the term "family member" is replaced by the following:  
"Family member" means a person related to the:
1. Individual Named Insured by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of such Named Insured's household, including a ward or foster child; or
  2. Individual named in the Schedule by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of the
- individual's household, including a ward or foster child, if the Drive Other Car Coverage – Broadened Coverage For Named Individual Endorsement is attached.
- C.** With respect to coverage for the ownership, maintenance, or use of "covered autos" provided under the Commercial Liability Umbrella Coverage Part, the term "family member" is replaced by the following:  
"Family member" means a person related to you by blood, adoption, marriage or civil union recognized under Illinois law, who is a resident of your household, including a ward or foster child.



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

# **CONDITIONAL EXCLUSION OF TERRORISM INVOLVING NUCLEAR, BIOLOGICAL OR CHEMICAL TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)**

This endorsement modifies insurance provided under the following:

## **COMMERCIAL PROPERTY COVERAGE PART**

### **A. Applicability Of This Endorsement**

**1. The provisions of this endorsement will apply if and when one of the following situations occurs:**

- a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act), terminates; or**
- b. The Program is renewed, extended or otherwise continued in effect:**

**(1) With revisions that increase insurers' statutory percentage deductible or decrease the federal government's statutory percentage share in potential terrorism losses above such deductible, or that results in a change in the level or terms or conditions of coverage; and**

**(2) We are not required by the Program to make terrorism coverage available to you and elect not to do so.**

**2. When this endorsement becomes applicable in accordance with the terms of A.1.a. or A.1.b., above, it supersedes any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism".**

**3. If this endorsement does NOT become applicable, then any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism", will remain in effect. However, if the Program is renewed, extended or otherwise continued in effect with revisions that change the level or terms or conditions of coverage, and we are required to offer you the revised coverage or to provide the revised coverage to those who previously accepted coverage under the Program, then we will take the appropriate steps in response to the federal requirements.**

**B. The following definition is added and applies under this endorsement wherever the term terrorism is enclosed in quotation marks.**

"Terrorism" means activities against persons, organizations or property of any nature:

- 1. That involve the following or preparation for the following:**
  - a. Use or threat of force or violence; or**
  - b. Commission or threat of a dangerous act; or**
  - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and**

2. When one or both of the following applies:
  - a. The effect is to intimidate or coerce a government or the civilian population or any segments thereof, or to disrupt any segment of the economy; or
  - b. It appears that the intent is to intimidate or coerce a government or the civilian population, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

C. The following exclusion is added:

**Exclusion Of "Terrorism"**

We will not pay for loss or damage caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This exclusion applies only when one or more of the following are attributed to an incident of "terrorism":

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination;

2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material;
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, regardless of whether this endorsement was in effect during the entirety of that time period or not.

**D. Exception To Exclusion Of "Terrorism" For Certain Fire Losses**

If "terrorism" results in fire, we will pay for the loss or damage caused by that fire, subject to all applicable policy provisions including the Limit of Insurance on the affected property. Such coverage for fire applies only to direct loss or damage caused by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense coverage forms or endorsements that apply to those coverage forms or to the Legal Liability Coverage Form.

## EXCLUSION OF CERTIFIED ACTS OF TERRORISM and IMPORTANT INFORMATION REGARDING TERRORISM RISK INSURANCE COVERAGE

It is agreed:

1. The following definition applies:

**Certified act of terrorism** means any act certified by the Secretary of the Treasury, in consultation with:

- a. the Secretary of Homeland Security; and
- b. the Attorney General of the United States

to be an act of terrorism as defined and in accordance with the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).

Under the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act) a terrorist act may be certified:

- a. if the aggregate covered commercial property and casualty insurance losses resulting from the terrorist act exceed \$5 million; and
- b. **(1)** if the act of terrorism is:
  - a) a violent act; or
  - b) an act that is dangerous to human life, property or infrastructure; and**(2)** if the act is committed:
  - a) by an individual or individuals as part of an effort to coerce the civilian population of the United States; or
  - b) to influence the policy or affect the conduct of the United States government by coercion.

2. The following exclusion is added:

We shall not pay:

- a. for any loss caused directly or indirectly by a **certified act of terrorism**, whether or not any other cause or event contributed concurrently or in any sequence to the loss.
- b. sums any insured becomes legally obligated to pay because of or arising out of bodily injury, property damage, personal injury or advertising injury, if covered by this insurance, caused by a **certified act of terrorism**.

All other policy terms and conditions apply.

## **IMPORTANT INFORMATION REGARDING TERRORISM RISK INSURANCE COVERAGE**

The Terrorism Risk Insurance Act of 2002 was signed into law on November 26, 2002. The Act (including ensuing Congressional actions pursuant to the Act) defines an act of terrorism, to mean any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be (i) an act of terrorism; (ii) to be a violent act or an act that is dangerous to human life, property or infrastructure; (iii) to have resulted in damage within the United States or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and (iv) to have been committed by an individual or individuals 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.

At your request, this policy does not provide insurance coverage for certified acts of terrorism as defined in the Act. "Excluded" is shown on the Declarations page under this coverage. In the event of a certified act of terrorism, future policies also may include a government assessed terrorism loss risk-spreading premium in accordance with the provisions of the Act.

**EXCLUSION OF CERTIFIED ACTS OF TERRORISM  
EXCEPTION FOR CERTAIN FIRE LOSSES  
and  
IMPORTANT INFORMATION REGARDING TERRORISM RISK  
INSURANCE COVERAGE**

It is agreed:

1. The following definition applies:

**Certified act of terrorism** means any act certified by the Secretary of the Treasury, in consultation with:

- a. the Secretary of Homeland Security; and
- b. the Attorney General of the United States

to be an act of terrorism as defined and in accordance with the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).

Under the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act) a terrorist act may be certified:

- a. if the aggregate covered commercial property and casualty insurance losses resulting from the terrorist act exceed \$5 million; and
- b. **(1)** if the act of terrorism is:
  - a) a violent act; or
  - b) an act that is dangerous to human life, property or infrastructure; and
- (2)** if the act is committed:
  - a) by an individual or individuals as part of an effort to coerce the civilian population of the United States; or
  - b) to influence the policy or affect the conduct of the United States government by coercion.

2. The following exclusion is added:

We shall not pay:

- a. for loss caused directly or indirectly by a **certified act of terrorism**, whether or not any other cause or event contributed concurrently or in any sequence to the loss. This exclusion shall not apply to direct physical damage caused by fire.
- b. any sums any insured becomes legally obligated to pay because of or arising out of bodily injury, property damage, personal injury or advertising injury, if covered by this insurance, caused by a **certified act of terrorism**.

3. With respect to any one or more **certified acts of terrorism**, we will not pay any amounts for which we are not responsible because of the application of any provision which results in a cap on our liability for payments for terrorism losses in accordance with the terms of the federal Terrorism Risk Insurance Act of 2002 (including ensuing Congressional actions pursuant to the Act).

All other policy terms and conditions apply.

## **IMPORTANT INFORMATION REGARDING TERRORISM RISK INSURANCE COVERAGE**

The Terrorism Risk Insurance Act of 2002 was signed into law on November 26, 2002. The Act (including ensuing Congressional actions pursuant to the Act) defines an act of terrorism, to mean any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States to be (i) an act of terrorism; (ii) to be a violent act or an act that is dangerous to human life, property or infrastructure; (iii) to have resulted in damage within the United States or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and (iv) to have been committed by an individual or individuals 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.

At your request, this policy does not provide insurance coverage for certified acts of terrorism as defined in the Act, except as shown below. "Excluded" is shown on the Declarations page under this coverage. In the event of a certified act of terrorism, future policies also may include a government assessed terrorism loss risk-spreading premium in accordance with the provisions of the Act.

Subject to the terms and conditions of the policy and of this endorsement:

1. if coverage is provided for building(s) and contents located in Arizona, Georgia, Illinois, Iowa, North Carolina or North Dakota, you will have fire coverage for such property following a certified act of terrorism.
2. if coverage is provided for building(s), contents or property covered by an inland marine policy located in Missouri or Wisconsin, you will have fire coverage for such property following a certified act of terrorism.

At this time, we are not imposing an additional premium charge for fire coverage to such property following a certified act of terrorism.

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

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. EXAMINATIONS OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

### E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.



**F. TRANSFER OF YOUR RIGHTS AND DUTIES  
UNDER THIS POLICY**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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

## **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)**

This endorsement modifies insurance provided under the following:

- COMMERCIAL AUTOMOBILE COVERAGE PART
- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- FARM COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- POLLUTION LIABILITY COVERAGE PART
- PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
- PROFESSIONAL LIABILITY COVERAGE PART
- RAILROAD PROTECTIVE LIABILITY COVERAGE PART
- UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:
  - A. Under any Liability Coverage, to "bodily injury" or "property damage":
    - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
    - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
  - B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
  - C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
    - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
    - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
    - (3) The "bodily injury" or "property damage" arises out of 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", but if such facility is located

within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" include radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";
- (c)** Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" 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";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

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

## **ILLINOIS CHANGES - CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
FARM COVERAGE PART

**A.** The **Cancellation** Common Policy Condition is replaced by the following:

**Cancellation**

1. The first Named Insured shown in the Declarations may cancel this policy by mailing to us advance written notice of cancellation.
2. If this policy has been in effect for 60 days or less, except as provided in Paragraphs **8.** and **9.** below, we may cancel this policy by mailing written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. If this policy has been in effect for more than 60 days, except as provided in Paragraphs **8.** and **9.** below, we may cancel this policy only for one or more of the following reasons:
  - a. Nonpayment of premium;
  - b. The policy was obtained through a material misrepresentation;
  - c. You have violated any of the terms and conditions of the policy;
  - d. The risk originally accepted has measurably increased;
  - e. Certification to the Director of Insurance of the loss of reinsurance by the insurer which provided coverage to us for all or a substantial part of the underlying risk insured; or
  - f. A determination by the Director that the continuation of the policy could place us in violation of the insurance laws of this State.

If we cancel this policy based on one or more of the above reasons except for nonpayment of premium, we will mail written notice at least 60 days before the effective date of cancellation.

When cancellation is for nonpayment of premium, we will mail written notice at least 10 days before the effective date of cancellation.

4. We will mail our notice to you, together with our reason for cancellation, at your last mailing address known to us. Proof of mailing will be sufficient proof of notice.
5. Notification of cancellation will also be sent to your broker, if known, or agent of record, if known, and to the mortgagee or lienholder listed on the policy.
6. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
7. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
8. **Real Property Other Than Residential Properties Occupied By Four Families Or Less**  
The following applies only if this policy covers real property other than residential property occupied by four families or less:  
If any one or more of the following conditions exists at any building that is Covered Property in this policy, we may cancel this policy by mailing to you written notice of cancellation, by both certified and regular mail, if:
  - a. After a fire loss, permanent repairs to the building have not started within 60 days of satisfactory adjustment of loss, unless the delay is due to a labor dispute or weather conditions.
  - b. The building has been unoccupied 60 or more consecutive days. This does not apply to:

- (1) Seasonal unoccupancy; or
- (2) Buildings under repair, construction or reconstruction, if properly secured against unauthorized entry.
- c. The building has:
  - (1) An outstanding order to vacate;
  - (2) An outstanding demolition order; or
  - (3) Been declared unsafe in accordance with the law.
- d. Heat, water, sewer service or public lighting have not been connected to the building for 30 consecutive days or more.

The policy will terminate 10 days following receipt of the written notice by the named insured(s).

**9. Residential Properties Occupied By Four Families Or Less**

The following applies if this policy covers residential properties occupied by four families or less:

If this policy has been in effect for 60 days, or if this is a renewal policy, we may only cancel this policy for one or more of the following reasons:

- a. Nonpayment of premium;
- b. The policy was obtained by misrepresentation or fraud; or
- c. Any act that measurably increases the risk originally accepted.

If we cancel this policy based on one or more of the above reasons except for nonpayment of premium, we will mail written notice at least 30 days before the effective date of cancellation.

When cancellation is for nonpayment of premium, we will mail written notice at least 10 days before the effective date of cancellation.

**10. For insurance provided under the Commercial Property Coverage Part and the Capital Assets Program (Output Policy) Coverage Part, the following applies:**

**Grain in Public Grain Warehouses**

(Not applicable to grain owned by the Commodity Credit Corporation)

The following applies only with respect to grain in public grain warehouses:

The first Named Insured or we may cancel this policy at any time by mailing to:

- a. The other; and
  - b. The Director of the Illinois Department of Agriculture (at its Springfield Office);
- 60 days' written notice of cancellation.

**B. The following is added:**

**Nonrenewal**

1. If we decide not to renew or continue this policy, we will mail you, written notice. Proof of mailing will be sufficient proof of notice.
2. Except as provided in Paragraph 6. below, we will mail you notice of nonrenewal at least 60 days before the end of the policy period.
3. If we offer to renew or continue and you do not accept, this policy will terminate at the end of the current policy period. Failure to pay the required renewal or continuation premium when due shall mean that you have not accepted our offer.
4. If we fail to mail proper written notice of nonrenewal and you obtain other insurance, this policy will end on the effective date of that insurance.
5. The following provision applies to policies other than those described in Paragraph 6.: Notification of nonrenewal will also be sent to your broker, if known, or agent of record, if known, and the mortgagee or lienholder listed on the policy.
6. The following provision applies only if this policy covers residential properties occupied by four families or less:
  - a. If this policy has been issued to you and in effect with us for five or more years, we may not fail to renew this policy unless:
    - (1) The policy was obtained by misrepresentation or fraud and we mail you notice of nonrenewal at least 30 days before the end of the policy period as provided in 1. above;
    - (2) The risk originally accepted has measurably increased and we mail you notice of nonrenewal at least 30 days before the end of the policy period as provided in 1. above; or
    - (3) You received 60 days' notice of our intent not to renew as provided in 1. above.
  - b. If this policy has been issued to you and in effect with us for less than five years, we may not fail to renew this policy unless you received 30 days' notice as provided in 1. above.
  - c. Notification of nonrenewal will also be sent to your broker, if known, or agent of record, if known, and to the last known mortgagee or lienholder.
  - d. The nonrenewal shall not become effective until at least 30 days from the proof of mailing of notice to you.

# Exhibit F

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION  
GENERAL CHANCERY SECTION

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JAEWOOK LEE, D/B/A/ EVANSTON  
GRILL, INDIVIDUALLY AND ON BEHALF OF  
THE CLASSES DESCRIBED BELOW,

Plaintiffs,

v.

STATE FARM FIRE & CASUALTY COMPANY,

Defendant.

Case No. 20 CH 4589

Calendar 03

Honorable Allen Walker

**JURY DEMAND**

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**MEMORANDUM OPINION AND ORDER**

This matter comes to be heard on Defendant, State Farm Fire and Casualty Company's, Motion to Dismiss Class Action Complaint Pursuant to 735 ILCS 5/2-615. The Court has reviewed the briefs submitted by the parties, heard their arguments in the matter, and is fully advised in the premises. It is ordered that Defendant's motion is granted with prejudice.

**BACKGROUND**

Plaintiff, Evanston Grill, is an Illinois restaurant, owned and operated by Cook County residents, Hyun Lee, and his father, Jaewook Lee.<sup>1</sup> Defendant, State Farm, is an insurance company licensed in Illinois and engaged in the business of insuring properties throughout the United States, with its principal place of business in Bloomington, Illinois. State Farm issued Policy No. 93-KH-H688-5 to Evanston Grill for the period of August 15, 2019 to August 15, 2020 (the "Policy").

On March 15, 2020, Illinois Governor J.B. Pritzker ("Governor Pritzker") issued Executive Order 2020-07, requiring that all bars, restaurants, and movie theaters close to the public beginning March 16, 2020. Executive Order 2020-07 specifically stated, "the Illinois Department of Public Health recommends Illinois residents avoid group dining in public settings, such as in bars and restaurants, which usually involves prolonged close social contact contrary to recommended practice for social distancing."

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<sup>1</sup> The facts recited herein are derived from Plaintiffs' Complaint and the exhibits attached thereto, and are accepted as true for purposes of Defendant's Motion to Dismiss. *Kedzie & 103rd Currency Exchange v. Hodge*, 156 Ill. 2d. 112, 115 (1993).

On March 20, 2020, Governor Pritzker issued Executive Order 2020-10, which ordered the immediate closure of all “non-essential” businesses in Illinois (Executive Order 2020-07 and 2020-10 are collectively referred to as the “Closure Orders”). The Closure Orders prohibited the public from accessing restaurants, thereby causing Evanston Grill to suspend its operations. Evanston Grill has not been operating since March 16, 2020.

Following the Closure Orders, Evanston Grill submitted a claim to State Farm requesting coverage for its business interruption losses under the “Loss of Income and Extra Expense” Provision of the Policy, identified as CMP-4705.

Section CMP-4705 provided:

**1. Loss of Income**

- a. We will pay for the actual “Loss of Income” you sustain due to the necessary “suspension” of your “operations” during the “period of restoration.” The “suspension” must be caused by accidental direct physical loss to the property at the described premises. The loss must be caused by a Covered Cause of Loss  
...

Section CMP-4705 also included coverage for losses resulting from an action of Civil Authority, and provided:

**4. Civil Authority**

- a. When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual “Loss of Income” you sustain, and necessary “Extra Expense” caused by action of civil authority that prohibits access to the described premises ...

State Farm denied the claim, citing the “Fungi, Virus or Bacteria” Exclusion, which excluded from coverage losses due to “[v]irus, bacteria or other microorganism that induces or is capable of inducing physical distress, illness or disease.” State Farm similarly denied coverage statewide for lost income as a result of the Closure Orders.

On June 17, 2020, Evanston Grill filed a three-count complaint (the “Complaint”) on its behalf and on behalf of a class of similarly situated insureds (hereinafter collectively “Plaintiffs”) for: (1) a declaratory judgment, Count I; (2) breach of contract, Count II; and (3) bad faith denial of insurance under 215 ILCS 5/155.

On August 12, 2020, State Farm (hereinafter “Defendant”) filed a motion to dismiss the Complaint pursuant to 735 ILCS 5/2-615, which is presently before the Court.



## 2-615 MOTION TO DISMISS STANDARD

“The question presented by a section 2-615 motion to dismiss is whether the allegations of the complaint, when viewed in a light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief can be granted.” *Beahringer v. Page*, 204 Ill. 2d 363, 369 (2003). In reviewing the sufficiency of a complaint, a court must “accept as true all well-pleaded facts and all reasonable inferences that may be drawn from those facts.” *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006). “Moreover, Illinois is a fact-pleading jurisdiction.” *Beahringer*, 204 Ill. 2d at 369. As such, a plaintiff “must allege facts that set forth the essential elements of the cause of action” and may not rely on “conclusions of law [or] conclusory allegations not supported by specific facts.” *Visvardis v. Ferleger, P.C.*, 375 Ill. App. 3d 719, 724 (1st Dist. 2007). However, “the plaintiff is not required to set out evidence.” *Chandler v. Illinois Cent. R.R.*, 207 Ill. 2d 331, 348 (2003). Instead, the plaintiff need only allege the ultimate facts to be proved, “not the evidentiary facts tending to prove such ultimate facts.” *Id.* Therefore, “[t]o survive a [section 2-615] motion to dismiss, a complaint must present a legally recognized claim as its basis for recovery, and it must plead sufficient facts which, if proved, would demonstrate a right to relief.” *Derby Meadows Util. Co. v. Inter-Cont’l Real Estate*, 202 Ill. App. 3d 345, 358 (1st Dist. 1990). Further, a court should dismiss a cause of action on the pleadings “only if it is clearly apparent that no set of facts can be proven which will entitle the plaintiff to recovery.” *Chanel v. Topinka*, 212 Ill. 2d 311, 318 (2004). It is within this framework that the Court analyzes Defendant’s motion to dismiss.

## DISCUSSION

### *Count I: Declaratory Judgment*

Count I of Plaintiffs’ Complaint seeks a declaration that: (1) the losses incurred by Plaintiffs as the result of the Closure Orders are covered losses under the Policies; (2) Defendant has not and cannot prove the application of any exclusion or limitation to the coverage for Plaintiffs’ losses alleged herein; (3) Plaintiffs are entitled to coverage for their past and future Business Income loss(es) and Extra Expense resulting from the Closure Orders for the time period set forth in the Policies; (4) Plaintiffs have coverage for any substantially similar Closure Orders in the future that limits or restricts the access to Plaintiffs’ places of business; and (5) any other issue that may arise during the course of litigation that is a proper issue on which to grant declaratory relief. Count II alleges Defendant breached the Policy by failing to pay Plaintiffs’ losses for claims covered by the Policy. Count III alleges that Defendant’s denied coverage in bad faith.

#### *i. Whether Plaintiffs have adequately alleged coverage under the Policy*

Defendant argues that Plaintiffs’ claims are barred by the clear language of the Policy and its Endorsement. To trigger coverage, Defendant asserts that the Policy requires “accidental direct physical loss to” Covered Property. According to Defendant, the Illinois Supreme Court has interpreted “physical” loss to require an alteration in “appearance, shape, color or in other material dimension,” citing *Travelers Ins. Co. v. Eljer Mfg., Inc.*, 197 Ill. 2d 278, 301 (2001). Defendant claims that Plaintiffs’ alleged “suspension of [its] business operations,” “exclusion of customers”

from its restaurant, and “loss of revenue” due to the Closure Orders is an economic loss, not a physical injury to covered property.

Plaintiffs respond that the Policy is an “all-risk” policy, which means that the insurer agrees to cover all risks of loss not specifically excluded by the policy, citing *Board of Educ. v. International Ins. Co.*, 292 Ill. App. 3d 14, 17 (1st Dist. 1997). Because of this, Plaintiffs argue they need only allege a covered loss, rather than prove the exact cause of the loss or disprove any excluded perils in order to establish a prima facie case, citing *Wallis v. Country Mut. Ins. Co.*, 309 Ill. App. 3d 566, 570 (2d Dist. 2000). Plaintiffs contend that they have adequately pled a “direct physical loss” under the Policy, and now the burden shifts to Defendant to prove Plaintiffs’ loss was the result of an excluded risk, citing *Gulino v. Econ. Fire & Cas. Co.*, 971 N.E.2d 522, 527 (1st Dist. 2012).

According to Plaintiffs, “accidental direct physical loss” is not defined in the Policy. When a phrase in an insurance policy is undefined, assert Plaintiffs, courts afford that phrase “its plain and ordinary meaning which can be derived from a dictionary. *Gulino*, 971 N.E.2d at 527. Plaintiffs contend that an average, ordinary, and reasonable person would interpret the meaning of “direct physical loss of ... covered property” to include the sudden inability to use property that was previously usable. Plaintiffs allege that they suffered “physical” loss to their property due to the suspension of their business operations from the Closure Orders. According to Plaintiffs, the “loss” of Plaintiff’s in-restaurant dining areas was undoubtedly “physical” as the dining rooms are composed of square footage and material, physical, tangible objects (like chairs, tables, dispensers, and utensils) that are perceptible to the senses and interactive.

Plaintiffs argue that *Mehl v. The Travelers Home & Marine Ins. Co.*, 2018 U.S. Dist. LEXIS 74552, \*1 (E.D. Mo. 2018) is analogous and persuasive here. Plaintiffs note that in *Mehl*, the court rejected the defendant insurance company’s argument that “actual physical damage” was required to allege “direct physical loss.” Plaintiffs argue that like the court in *Mehl*, this Court should reject Defendant’s argument that the Closure Orders did not actually cause damage to the property because Defendants’ did not define “physical loss” and “point to no language in the policy that would lead a reasonable insured to believe that actual physical damage is required for coverage.” *Id.*

Last, Plaintiffs argue that Defendant’s complete dependence upon *Travelers Ins. Co. v. Eljer Mfg., Inc.*, 197 Ill. 2d 278 (2001) is erroneous because that case interpreted the term “property damage” rather than a “physical loss.” Plaintiffs note that “damage” is a far narrower term than “loss”, arguing that loss is defined as “[a]n undesirable outcome of a risk; the disappearance or diminution of value, usually in an unexpected or relatively unpredictable way [;] ... [and] [t]he failure to maintain possession of a thing.” Conversely, “damage” is defined as “loss or harm resulting from injury to person, property, or reputation,” citing Merriam-Webster’s Online Dictionary.

In construing an insurance contract, regular contract interpretation principles apply. The objective of the court is to ascertain the intent of the parties, construing the policy as a whole, with due regard to the risk undertaken, the subject matter of the policy and the purposes of the entire contract. *Outboard Marine Corp. v. Liberty Mutual Ins. Co.*, 154 Ill. 2d 90 (1992). If words in the

policy are unambiguous, the court must afford them their ordinary meaning. *Id.* But if words are susceptible to more than one reasonable interpretation, they are ambiguous, and the insurance policy should be construed in favor of the insured and against the insurer who drafted the policy. *Id.* The determination of whether a term is ambiguous depends on how an ordinary person would understand it, not how a legally trained mind understands it. *USF&G v. Specialty Coatings*, 180 Ill. App. 3d 378 (1989).

At the outset, the Court notes that Plaintiffs cite numerous cases from other jurisdictions in their Response brief, including the *Mehl* case cited above, that address similar issues asserted in the instant case. These cases, while not binding, “are persuasive authority and entitled to respect.” *Kostal v. Pinkus Dermatopathology Laboratory, P.C.*, 357 Ill. App. 3d 381(2005). However, “Illinois courts do not look to the law of other states when there is relevant Illinois case law available.” *In re Estate of Walsh*, 2012 IL App (2d) 110938, ¶ 45. Moreover, the Court finds that Plaintiffs misstate the holding in *Mehl*. The *Mehl* court concluded that since “direct physical loss” was not defined in the policy, there was nothing in the policy “that would lead a reasonable insured to believe that actual physical damage was required for coverage.” *Mehl*, 2018 U.S. Dist. LEXIS 74552 at \* 2. The court noted, however, that the policy did define “property damage” as “physical injury to, damage of, or loss of use of tangible property,” and therefore determined that the policy explicitly provided coverage for “loss of use.” *Id.* Unlike *Mehl*, the Policy at issue in this case does not explicitly provide for “loss of use” coverage.

Notably, Plaintiffs concede in their Response brief that coverage under the Policy requires direct physical loss “to” Covered Property, but then proceed to argue that a reasonable person would interpret direct physical loss “of” covered property to include the inability to use property that was previously usable. In fact, the cases that Plaintiffs cite in support of this assertion interpret direct physical loss “of,” not “to” property. The Court notes that there is a difference between direct physical loss *of* property and physical loss *to* property, which, as Defendant notes above, Illinois courts have defined as alteration in the physical condition of the property.

While Plaintiffs argue that Defendant’s reliance on *Travelers* is misguided because the Illinois Supreme Court interpreted “property damage” rather than “physical loss,” the Court finds that is simply not the case. The insurance policy in *Travelers* defined the term “property damage” as “*physical injury to* tangible property which occurs during the policy period.” 197 Ill. 2d 278 at 289 (Emphasis added). At issue was whether the installation of a faulty plumbing system in a residential building constituted “physical injury to tangible property,” given that system allegedly reduced the value of the building once it was installed. *Id.* at 299. The insurance company argued that the claimed reduction in value was an intangible economic loss, not covered under the Policy. *Id.* The Illinois Supreme Court concluded that “to the average, ordinary person, tangible property suffers a ‘physical injury’ when the property is altered in appearance, shape, color or in other material dimension. Conversely, to the average mind, tangible property does not experience ‘physical injury’ if that property suffers intangible damage, such as diminution in value...” *Id.* at 301-302.

Likewise, in this instance, the Court finds that Plaintiffs’ alleged economic losses do not constitute “accidental direct physical loss to” Covered Property. Plaintiffs allege that due to the Closure Orders, they suffered “a substantial a loss of revenue in excess of \$100,000 in the month

of April 2020” alone. Compl. at 18. The lost revenue, however, is an economic loss. Plaintiffs fail to allege that their restaurant suffered an “alteration in appearance, shape, color or other material dimension” as a result of the Closure Orders. Even if the Court granted Plaintiffs leave to amend the Complaint, Plaintiffs would not be able to establish that the Closure Orders resulted in “physical” loss to their property.

ii. *Whether Plaintiffs’ claims are barred by an exclusion under the Policy*

Having determined that Plaintiffs failed to satisfy their burden of establishing coverage under the Policy, the Court’s inquiry need not proceed any further. However, as outlined below, the Court finds that even if Plaintiffs had met their initial burden, their claims would not succeed under the Virus Exclusion of the Policy.

a. *Virus Exclusion*

Defendant contends that Plaintiffs’ claims are barred by the Policy’s Virus Exclusion, which bars coverage for “any loss which would not have occurred in the absence of ... [a] virus.” Policy at 5-6 ¶ 1, j (2). Defendant asserts that under Illinois law, “[a]n insurer has the right to limit coverage on a policy, and where an insurer has done so, a court must give effect to the plain language of the limitation, absent a conflict with the law.” *Phusion Projects, Inc. v. Selective Ins. Co.*, 2015 IL App (1st) 150172, ¶ 38. Here, Defendant insists that the presence or suspected presence of a virus does not constitute “accidental direct physical loss to” Covered Property under the terms of the Policy.

Defendant argues that the Virus Exclusion is unambiguous, and that Illinois courts evaluating comparable policy exclusions have found the provisions unambiguous and applied their plain meaning, citing *DeVore v. Am. Family Mut. Ins. Co.*, 383 Ill. App. 3d 266, 269 (2d Dist. 2008). Further, Defendant contends that Plaintiffs attempt to avoid the unambiguous language of the contract by alleging its loss “was not caused by the presence of COVID-19 on its premises,” but rather “from the Closure Orders.” Compl. ¶ 38. However, Defendant notes that the COVID-19 virus is plainly at the root of these orders, especially since each of the Closure Orders cited by Plaintiffs state they were issued in response to COVID-19. Put simply, asserts Defendant, if there were no COVID-19 virus, there would be no government orders to prevent its spread.

Plaintiffs respond that for the purposes of reviewing the instant 2-615 motion, the Court must accept as true that its losses were not caused by a Virus “on the insured premises.” Plaintiffs contend that its losses arise from the *Closure Orders*, not a virus, and that a virus would not have caused the suspension of Plaintiffs’ operations unless that virus spread throughout the property and/or required decontamination, which Plaintiffs’ claim was contemplated under the Virus Exclusion. Plaintiffs contend that the Virus Exclusion clearly does not apply here, since Plaintiffs do not allege that any virus is present on its property.

Defendant replies that Plaintiffs do not dispute that under Illinois law “[a]n insurer has the right to limit coverage on a policy, and where an insurer has done so, a court must give effect to the plain language of the limitation, absent a conflict with the law.” *Phusion Projects, Inc. v.*

*Selective Ins. Co.*, 2015 IL App (1st) 150172, ¶ 47.<sup>2</sup> Defendant notes that the Policy unambiguously excludes loss caused by virus, and specifically states that this includes *all losses* that “would not have occurred in the absence of the excluded event” (virus). “Defendant maintains that Plaintiffs’ alleged loss “would not have occurred in the absence of” a “virus” and is thus barred by the Virus Exclusion.

The Illinois Supreme Court has long held that the burden rests with an insured to establish that their claim is covered under its policy. *Wells v. State Farm Fire & Cas. Co.*, 2021 IL App (5th) 190460, ¶ 25. Once the insured has demonstrated coverage, the burden shifts to the insurer to prove that a limitation or exclusion applies. *Id.*

The plain language of the Policy states:

#### **SECTION I – EXCLUSIONS**

1. We do not insure under any coverage for *any loss which would not have occurred in the absence of one or more of the following excluded events*. We do not insure for such loss *regardless of*: (a) the cause of the excluded event; or (b) other causes of the loss; or (c) whether other causes acted concurrently or in any sequence with the excluded event to produce the loss; or (d) whether the event occurs suddenly or gradually, involves isolated or widespread damage, arises from natural or external forces, or occurs as a result of any combination of these: ...

#### **J. Fungi, Virus or Bacteria**

... (2) *Virus*, bacteria or other microorganism that induces or is capable of inducing physical distress, illness or disease; ....

While Plaintiffs argue that their losses were a result of the Closure Orders, and not a virus, the Court finds this argument unpersuasive. As Defendant argues above, each of the Closure Orders were entered in response to the COVID-19 virus. If not for COVID-19, the Governor would not have issued the Closure Orders, and Plaintiffs would not have incurred the claimed losses. As such, the Court finds that Defendant has met its burden of establishing an exclusion applies under the Policy. Accordingly, the Court grants Defendant’s motion to dismiss Count I.

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<sup>2</sup> Plaintiffs filed a motion to strike certain portions of Defendant’s Reply. Accordingly, the Court did not consider the following additional cases cited by Defendant in the Reply: *It’s Nice, Inc. v. State Farm Fire and Casualty Co.*, No. 20-L-547 (Ill. Cir. Ct. DuPage County Sept. 29, 2020); *Malaube, LLC v. Greenwich Ins. Co.*, 2020 WL 5051581 (S.D. Fla. Aug. 26, 2020); *Franklin EWC, Inc. v. Hartford Fin. Servs. Grp., Inc.*, No. 20-cv-04434 (N.D. Cal. Sept. 22, 2020); *Turek Enterprises Inc. v. State Farm Mutual Automobile Insurance Co.*, 2020 WL 5258484 (E.D. Mich. Sept. 3, 2020).

*Count II: Breach of Contract*

Count II of Plaintiffs' Complaint alleges Defendant breached the Policy by denying coverage for Plaintiffs' alleged losses. However, having determined that Plaintiffs' claims are not covered under the Policy, the Court finds that Plaintiffs have not and cannot adequately plead a breach of the insurance contract for failing to provide coverage. Thus, the Court grants Defendant's motion to dismiss Count II.

*Count III: Bad Faith*

Defendant argues that in the absence of a breach of the Policy, Plaintiffs' bad faith claim should also be dismissed, citing *Woodard v. Am. Family Mut. Ins. Co.*, 950 F. Supp. 1382, 1394 (N.D. Ill. 1997) (dismissing a claim under section 155 because such a claim "is dependent upon a valid claim for breach of contract"). The Court agrees. As such, the Court grants Defendant's motion to dismiss Count III.

**CONCLUSION**

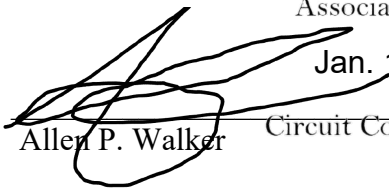
Defendant, State Farm's, Motion to Dismiss Plaintiff's Complaint pursuant to 735 ILCS 5/2-615 is granted with prejudice.

DATE: January 13, 2021

ENTERED:

Allen Price Walker  
Associate Judge

Jan. 13, 2021

  
Allen P. Walker

Circuit Court - 2071

# Exhibit G

**Opinions Denying Relief for Business Interruption Coverage**

- 1) *Manhattan Partners, LLC v. American Guaranty and Liability Insurance Company*, No. 2:20-cv-14342 (Mar. 17, 2021)
- 2) *Bachman's, Inc. v. Florists' Mutual Insurance Company*, No. 0:20-cv-02399 (D.M.N. Mar. 16, 2021)
- 3) *National Coatings & Supplies, Inc. et al v. Valley Forge Insurance Company*, No. 5:20-cv-00275 (E.D. N.C. Mar. 16, 2021)
- 4) *Restaurant Group Management, LLC et al v. Zurich American Insurance Company*, No. 1:20-cv-04782 (N.D. Ga Mar. 16, 2021)
- 5) *Selery Fulfillment, Inc. v. Colony Insurance Company*, No. 4:20-cv-00853 (E.D. Tx. Mar. 15, 2021)
- 6) *DZ Jewelry, LLC v. Certain Underwriters at Lloyds London*, No. 4:20-cv-03606 (S.D. Tx. Mar. 12, 2021)
- 7) *Colby Restaurant Group, Inc. et al v. Utica National Insurance Group et al*, No. 1:20-cv-05927 (D.N.J. Mar. 12, 2021)
- 8) *Indiana Repertory Theatre Inc. v Cincinnati Casualty Company*, No. 49D01-2004-PL-013137 (Ind. Sup. Ct. Mar. 12, 2021)
- 9) *Lemontree Academy LLC v. Utica Mutual Insurance Co*, No. 3:20-cv-00126 (M.D. Ga. Mar. 11, 2021)
- 10) *Arash Emami, M.D., P.C., Inc. v. CNA and Transportation Insurance Company*, No. 2:20-cv-18792 (D.N.J. Mar. 11, 2021)
- 11) *Body Physics v. Nationwide Ins. Co.*, No. 20-9231, 2021 U.S. Dist. LEXIS 44738 (D.N.J. Mar. 10, 2021)
- 12) *J&H Lanmark, Inc. v. Twin City Fire Ins. Co.*, No. 5:20-cv-333, 2021 U.S. Dist. LEXIS 448999 (E.D. Ky. Mar. 10, 2021)
- 13) *Skillets LLC v. Colony Ins. Co.*, No. 3:20-cv-00678, 2021 U.S. Dist. LEXIS 45452 (E.D. Va. Mar. 10, 2021)
- 14) *Kamakura LLC v. Greater New York Mut. Ins. Co.*, No. 1:20-cv-11350 (D. Mass. Mar. 9, 2021) (slip op.)
- 15) *MHG Hotels v. EMC Risk Servs., LLC*, No. 1:20-cv-01620 (S.D. Ind. Mar. 8, 2021) (slip op.)



- 16) *Dakota Girls, LLC v. Philadelphia Indem. Ins. Co.*, No. 2:20-cv-02035, 2021 U.S. Dist. LEXIS 42489 (S.D. Ohio Mar. 8, 2021)
- 17) *Food for Thought Caterers Corp. v. Hartford Fin. Servs. Grp.*, No. 1:20-cv-03418, 2021 U.S. Dist. LEXIS 42828 (S.D.N.Y. Mar. 6, 2021)
- 18) *B Street Grill & Bar LLC v. Cincinnati Ins. Co.*, No. CV-20-01326-PHX-SMB, 2021 U.S. Dist. LEXIS 43121 (D. Ariz. Mar. 5, 2021)
- 19) *Legal Sea Foods, LLC v. Strathmore Ins. Co.*, No. 20-10850-NMG, 2021 U.S. Dist. LEXIS 43097 (D. Mass. Mar. 5, 2021)
- 20) *DeMoura v. Continental Cas. Co.*, No. 2:20-cv-02912, 2021 U.S. Dist. LEXIS 42384 (E.D.N.Y. Mar. 5, 2021)
- 21) *Summit Hospitality Grp., Ltd. v. Cincinnati Ins. Co.*, No. 5:20-cv-00254, 2021 U.S. Dist. LEXIS 40613 (E.D.N.C. Mar. 4, 2021)
- 22) *Kingray Inc. v. Truck Ins. Exch.*, No. 5:20-cv-00963, 2021 U.S. Dist. LEXIS 41300 (C.D. Cal. Mar. 4, 2021)
- 23) *AE Mgmt., LLC v. Illinois Union Ins. Co.*, No. 1:20-cv-22925, 2021 U.S. Dist. LEXIS 40230 (S.D. Fla. Mar. 4, 2021)
- 24) *Isaac's at Spring Ridge, LLP v. MMG Ins. Co.*, No. CI-20-03613 (Lancaster Cty., Pa. Mar. 2, 2021)
- 25) *Harvest Moon Distributors, LLC v. Southern Owners Ins. Co.*, No. 6:20-cv-1026 (M.D. Fla. Mar. 1, 2021) (slip op).
- 26) *Gilreath Family & Cosmetic Dentistry, Inc. v. Cincinnati Insurance Company*, No. 1:20-cv-02248-JPB, 2021 U.S. Dist. LEXIS 37150 (N.D. Ga. Mar. 1, 2021)
- 27) *Town Kitchen LLC v. Certain Underwriters at Lloyd's*, No. 1:20-cv-22832-FAM, 2021 U.S. Dist. LEXIS 36191 (S.D. Fla. Feb. 26, 2021)
- 28) *Equity Planning Corporation v. Westfield Insurance Company*, No. 1:20-cv-01204-PAB, 2021 U.S. Dist. LEXIS 36452 (N.D. Ohio Feb. 26, 2021)
- 29) *Nail Nook Inc. v. Hiscox Insurance Company, Inc. et al*, No. CV-20-933244 (Oh. Cir. Ct. Feb. 25, 2021) (slip op.)
- 30) *Egg and I, LLC et al v. U.S. Specialty Insurance Company et al*, No. 2:20-cv-00747 (D. Nev. Feb. 25, 2021) (slip op.)
- 31) *Another Planet Entertainment, LLC v. Vigilant Ins. Co.*, No. 20-cv-07476-VC, 2021 U.S. Dist. LEXIS 35760 (N.D. Cal. Feb. 25, 2021)

- 32) *Mashallah, Inc. v. West Bend Mut. Ins. Co.*, No. 1:20-cv-05472, 2021 U.S. Dist. LEXIS 31816 (N.D. Ill. Feb. 22, 2021)
- 33) *Brunswick Panini's, LLC v. Zurich Am. Ins. Co.*, No. 1:20-cv-1895, 2021 U.S. Dist. LEXIS 31110 (N.D. Ohio Feb. 19, 2021)
- 34) *SAS Int'l, Ltd. v. Gen. Star Indem. Co.*, No. 20-11864, 2021 U.S. Dist. LEXIS 31093 (D. Mass. Feb. 19, 2021)
- 35) *Crescent Plaza Hotel Owner, L.P. v. Zurich Am. Ins. Co.*, No. 20 C 3463, 2021 U.S. Dist. LEXIS 30267 (N.D. Ill. Feb. 18, 2021)
- 36) *Ceres Enterprises, LLC v. Travelers Ins. Co.*, No. 1:20-cv-01925, 2021 U.S. Dist. LEXIS 30637 (N.D. Ohio Feb. 18, 2021)
- 37) *Family Tacos, LLC v. Auto Owners Ins. Co.*, No. 5:20-cv-01922, 2021 U.S. Dist. LEXIS 29774 (N.D. Ohio Feb. 17, 2021)
- 38) *Mikmar, Inc. v. Westfield Ins. Co.*, No. 1:20-cv-01313, 2021 U.S. Dist. LEXIS 29591 (N.D. Ohio Feb. 17, 2021)
- 39) *Torgerson Props. v. Continental Cas. Co.*, No. 20-2184, 2021 U.S. Dist. LEXIS 28928 (D. Minn. Feb. 17, 2021)
- 40) *Café Plaza de Mesilla Inc. v. Continental Cas. Co.*, No. 2:20-cv-00354, 2021 U.S. Dist. LEXIS 29163 (D.N.M. Feb. 16, 2021)
- 41) *Delaware Valley Plumbing Supply, Inc. v. Merchants Mut. Ins. Co.*, No. 1:20-cv-08257, 2021 U.S. Dist. LEXIS 28265 (D.N.J. Feb. 16, 2021)
- 42) *Levy v. Hartford Fin. Servs. Grp.*, No. 4:20-cv-00643, 2021 U.S. Dist. LEXIS 28446 (E.D. Mo. Feb. 16, 2021)
- 43) *Café La Trova LLC v. Aspen Specialty Ins. Co.*, No. 1:20-cv-22055, 2021 U.S. Dist. LEXIS 28227 (S.D. Fla. Feb. 16, 2021)
- 44) *Founder Inst., Inc. v. Hartford Fire Ins. Co.*, No. 5:20-cv-04466, 2021 U.S. Dist. LEXIS 27538 (N.D. Cal. Feb. 12, 2021)
- 45) *Whiskey Flats, Inc. v. AXIS Ins. Co.*, No. 2:20-cv-03451, 2021 U.S. Dist. LEXIS 27137 (E.D. Pa. Feb. 12, 2021)
- 46) *Frosch Holdco, Inc. v. Travelers Indem. Co.*, No. 4:20-cv-01478 (S.D. Tex. Feb. 11, 2021) (slip op.)
- 47) *Fuel Recharge Yourself, Inc. v. AMCO Ins. Co.*, No. 2:20-cv-04477, 2021 U.S. Dist. LEXIS 26173 (E.D. Pa. Feb. 11, 2021)
- 48) *Pure Fitness, LLC v. Twin City Fire Ins. Co.*, No. 2:20-cv-775, 2021 U.S. Dist. LEXIS 26498 (N.D. Ala. Feb. 11, 2021)
- 49) *Dye Salon, LLC v. Chubb Indem. Ins. Co.*, No. 20-cv-11801, 2021 U.S. Dist. LEXIS 25331 (E.D. Mich. Feb. 10, 2021)
- 50) *Stanford Dental PLLC v. The Hanover Ins. Grp., Inc.*, No. 4:20-cv-11384, 2021 U.S. Dist. LEXIS 25333 (E.D. Mich. Feb. 10, 2021)

- 51) *Causeway Automotive, LLC v. Zurich Am. Ins. Co.*, No. 3:20-cv-08393, 2021 U.S. Dist. LEXIS 25325 (D.N.J. Feb. 10, 2021)
- 52) *Eye Care Center of New Jersey v. Twin City Fire Ins.Co.*, No. 2:20-cv-05743, 2021 U.S. Dist. LEXIS 24344 (D.N.J. Feb. 8, 2021)
- 53) *Protégé Rest. Partners LLC v. Sentinel Ins. Co.*, No. 5:20-cv-03674, 2021 U.S. Dist. LEXIS 24835 (N.D. Cal. Feb. 8, 2021)
- 54) *Kahn v. Penn. Nat'l Mut. Ins. Co.*, No. 1:20-cv-00781, 2021 U.S. Dist. LEXIS 23090 (M.D. Pa. Feb. 8, 2021)
- 55) *First Watch Rests., Inc. v. Zurich Am. Ins. Co.*, No. 8:20-cv-02374, 2021 U.S. Dist. LEXIS 21303 (M.D. Fla. Feb. 4, 2021)
- 56) *GHF Am. Corp. v. Continental Cas. Co.*, No. 2020-012782-CA-01 (Miami Dade Cty. Ct. Feb. 4, 2021)
- 57) *Wellness Eatery La Jolla LLC v. Hanover Ins. Grp.*, No. 20-cv-1277, 2021 U.S. Dist. LEXIS 23014 (S.D. Cal. Feb. 3, 2021)
- 58) *Gym Mgmt. Servs., Inc. v. Vantapro Specialty Ins. Co.*, No. 20-9541, 2021 U.S. Dist. LEXIS 22799 (C.D. Cal. Feb. 1, 2021)
- 59) *Phan v. Nationwide Gen. Ins. Co.*, No. 20-7616, 2021 U.S. Dist. LEXIS 20051 (C.D. Cal. Feb. 1, 2021)
- 60) *Eye Specialists of Delaware v. Harleysville Worcester Ins. Co.*, No. 20-cv-006386 (Franklin Cty. Ohio Common Pleas Feb. 1, 2021)
- 61) *The Bend Hotel Dev. Co. v. Cincinnati Ins. Co.*, No. 1:20-cv-04636, 2021 U.S. Dist. LEXIS 15303 (N.D. Ill. Jan. 27, 2021)
- 62) *Rococo Steak, LLC v. Aspen Specialty Ins. Co.*, No. 8:20-cv-02481, 2021 U.S. Dist. LEXIS 15191 (M.D. Fla. Jan. 27, 2021)
- 63) *Frank Van's Auto Tag, LLC v. Selective Ins. Co.*, No. 2:20-cv-02740, 2021 U.S. Dist. LEXIS 15781 (E.D. Pa. Jan. 27, 2021)
- 64) *Redenburg v. Midvale Indem. Co.*, No. 1:20-cv-05818, 2021 U.S. Dist. LEXIS 15434 (S.D.N.Y. Jan. 27, 2021)
- 65) *Colgan v. Sentinel Ins. Co.*, No. 4:20-cv-04780 (N.D. Cal. Jan. 26, 2021) (slip op.)
- 66) *Karmel Davis & Assocs. v. Hartford Fin. Servs. Grp.*, No. 1:20-cv-02181, 2021 U.S. Dist. LEXIS 22896 (N.D. Ga. Jan. 26, 2021)
- 67) *Fink v. Hanover Ins. Grp., Inc.*, No. 4:20-cv-03907 (N.D. Cal. Jan. 25, 2021) (slip op.)
- 68) *TJBC, Inc. v. The Cincinnati Ins. Co.*, No. 3:20-cv-00815, 2021 U.S. Dist. LEXIS 13007 (S.D. Ill. Jan. 25, 2021)
- 69) *Unmasked Mgmt., Inc. v. Century-Nat'l Ins. Co.*, No. 3:20-cv-01129, 2021 U.S. Dist. LEXIS 13372 (S.D. Cal. Jan. 22, 2021)
- 70) *R.T.G. Furniture Corp. v. Aspen Specialty Ins. Co.*, No. 8:20-cv-02323, No. 8:20-cv-02323 (M.D. Fla. Jan. 22, 2021) (slip op.)

- 71) *Pez Seafood DTLA, LLC v. Travelers Indem. Co.*, No. 2:20-cv-04699, 2021 U.S. Dist. LEXIS 11507 (C.D. Cal. Jan. 20, 2021)
- 72) *Riverside Dental of Rockford, Ltd. v. Cincinnati Ins. Co.*, No. 3:20-cv-50284, 2021 U.S. Dist. LEXIS 20826 (N.D. Ill. Jan. 19, 2021)
- 73) *I S.A.N.T., Inc. v. Berkshire Hathaway, Inc.*, No. 2:20-cv-862, 2021 U.S. Dist. LEXIS 8590 (W.D. Pa. Jan. 15, 2021)
- 74) *Webb Dental Assocs. v. Cincinnati Ins. Co.*, No. 1:20-cv-00250 (N.D. Fla. Jan. 15, 2021) (slip op.)
- 75) *Roundin3rd Sports Bar, LLC v. Hartford Ins. Co.*, No. 2:20-cv-05159 (C.D. Cal. Jan. 14, 2021) (slip op.)
- 76) *Part Two LLC v. Owners Ins. Co.*, No. 7:20-cv-01047-LSC, 2021 U.S. Dist. LEXIS 7485 (N.D. Ala. Jan. 14, 2021)
- 77) *TAQ Willow Grove, LLC v. Twin City Fire Ins.*, No. 2:20-cv-03863, 2021 U.S. Dist. LEXIS 7276 (E.D. Pa. Jan. 14, 2021)
- 78) *Ultimate Hearing Solutions II, LLC v. Twin City Fire Ins. Co.*, No. 2:20-cv-02401, 2021 U.S. Dist. LEXIS 7266 (E.D. Pa. Jan. 14, 2021)
- 79) *ATCM Optical, Inc. v. Twin City Fire Ins. Co.*, No. 2:20-cv-04238, 2021 U.S. Dist. LEXIS 7251 (E.D. Pa. Jan. 14, 2021)
- 80) *Clear Hearing Solutions, LLC v. Continental Cas. Co.*, No. 2:20-cv-03454, 2021 U.S. Dist. LEXIS 7273 (E.D. Pa. Jan. 14, 2021)
- 81) *Zagafen Bala, LLC v. Twin City Fire Ins. Co.*, No. 2:20-cv-03033, 2021 U.S. Dist. LEXIS 7255 (E.D. Pa. Jan. 14, 2021)
- 82) *Moody v. The Hartford Fin. Grp., Inc.*, No. 2:20-cv-02856, 2021 U.S. Dist. LEXIS 7264 (E.D. Pa. Jan. 14, 2021)
- 83) *Independence Rest. Grp. v. Certain Underwriters at Lloyd's London*, No. 2:20-cv-02365, 2021 U.S. Dist. LEXIS 7256 (E.D. Pa. Jan. 14, 2021)
- 84) *Carrot Love LLC v. Aspen Specialty Ins. Co.*, No. 1:20-cv-23586, 2021 U.S. Dist. LEXIS 6060 (S.D. Fla. Jan. 13, 2021)
- 85) *Kevin Barry Fine Art Assocs. v. Sentinel Ins. Co.*, No. 3:20-cv-04783, 2021 U.S. Dist. LEXIS 10458 (N.D. Cal. Jan. 13, 2021)
- 86) *O'Brien Sales & Mktg. v. Transp. Ins. Co.*, No. 20-cv-02951, 2021 U.S. Dist. LEXIS 6003 (N.D. Cal. Jan. 12, 2021)
- 87) *BA LAX, LLC v. Hartford Fire Ins. Co.*, No. 2:20-cv-06344 (N.D. Cal. Jan. 12, 2021) (slip op.)
- 88) *Berkseth-Rojas DDS v. Aspen Am. Ins. Co.*, No. 3:20-cv-0948, 2021 U.S. Dist. LEXIS 5242 (N.D. Tex. Jan. 12, 2021)
- 89) *Island Hotel Props. v. Fireman's Fund Ins. Co.*, No. 4:20-cv-10056, 2021 U.S. Dist. LEXIS 5789 (S.D. Fla. Jan. 11, 2021)

- 90) *Mena Catering, Inc. v. Scottsdale Ins. Co.*, No. 1:20-cv-23661, 2021 U.S. Dist. LEXIS 4326 (S.D. Fla. Jan. 8, 2021)
- 91) *Digital Age Mktg. Grp., Inc. v. Sentinel Ins. Co.*, No. 0:20-cv-61577, 2021 U.S. Dist. LEXIS 4835 (S.D. Fla. Jan. 8, 2021)
- 92) *Riverwalk Seafood Grill v. Travelers Cas. Ins. Co.*, No. 1:20-cv-03768, 2021 U.S. Dist. LEXIS 5899 (N.D. Ill. Jan. 7, 2021)
- 93) *Ballas Nails & Spa, LLC v. Travelers Casualty Ins. Co.*, No. 4:20-cv-01155, 2021 U.S. Dist. LEXIS 1101 (E.D. Mo. Jan. 5, 2021)
- 94) *KD Unlimited, Inc. v. Owners Ins. Co.*, No. 1:20-cv-2163-TWT, 2021 U.S. Dist. LEXIS 5926 (N.D. Ga. Jan. 5, 2021)
- 95) *Bluegrass, LLC v. State Auto. Mut. Ins. Co.*, No. 2:20-cv-00414, 2021 U.S. Dist. LEXIS 3088 (S.D. W. Va. Jan. 5, 2021)
- 96) *Edison Kennedy, LLC v. Scottsdale Ins. Co.*, No. 8:20-cv-1416, 2021 U.S. Dist. LEXIS 226 (M.D. Fla. Jan. 4, 2021)
- 97) *Baker v. Oregon Mut. Ins. Co.*, No. 20-cv-05467, 2021 U.S. Dist. LEXIS 506 (N.D. Cal. Jan. 4, 2021)
- 98) *Palmdale Estates, Inc. v. Blackboard Ins. Co.*, No. 20-cv-06158, 2021 U.S. Dist. LEXIS 486 (N.D. Cal. Jan. 4, 2021)
- 99) *Roy H. Johnson, DDS v. The Hartford Fin. Servs. Grp., Inc.*, No. 1:20-cv-02000, 2021 U.S. Dist. LEXIS 3463 (N.D. Ga. Jan. 4, 2021)
- 100) *Drama Camp Prods. v. Mt. Hawley Ins. Co.*, No. 1:20-cv-00266 (S.D. Ala. Dec. 30, 2020) (slip op.)
- 101) *Jonathan Oheb MD Inc. v. Travelers Cas. Ins. Co. of Am.*, No. 2:20-cv-08478 (C.D. Cal. Dec. 30, 2020)
- 102) *Atma Beauty, Inc. v. HDI Global Specialty SE*, No. 1:20-cv-21745, 2020 U.S. Dist. LEXIS 24399 (S.D. Fla. Dec. 30, 2020)
- 103) *Sun Cuisine, LLC v. Certain Underwriters at Lloyd's London*, No. 1:20-cv-21827, 2020 U.S. Dist. LEXIS 242587 (S.D. Fla. Dec. 28, 2020)
- 104) *Karen Trinh DDS v. State Farm Gen. Ins. Co.*, No. 5:20-cv-04265, 2020 U.S. Dist. LEXIS 242885 (N.D. Cal. Dec. 28, 2020)
- 105) *1210 McGavock St. Hosp., LLC v. Admiral Indem. Co.*, No. 3:20-cv-694, 2020 U.S. Dist. LEXIS 241668 (M.D. Tenn. Dec. 23, 2020)
- 106) *VStyles Inc. v. Continental Cas. Co.*, No. RIC 2003415 (Riverside Cty. Cal. Super. Ct. Dec. 23, 2020)
- 107) *Santo's Italian Café LLC v. Acuity Ins. Co.*, No. 1:20-cv-01192, 2020 U.S. Dist. LEXIS 239382 (N.D. Ohio Dec. 21, 2020)
- 108) *LJ New Haven LLC v. Amguard Ins. Co.*, No. 3:20-cv-00751, 2020 U.S. Dist. LEXIS 239513 (D. Conn. Dec. 21, 2020)

- 109) *Mortar & Pestle Corp. v. Atain Spec. Ins. Co.*, No. 3:20-cv-03461, 2020 U.S. Dist. LEXIS 240060 (N.D. Cal. Dec. 21, 2020)
- 110) *LH Dining L.L.C. v. Admiral Indem. Co.*, No. 2:20-cv-01869 (E.D. Pa. Dec. 18, 2020) (slip op.)
- 111) *Emerald Coast Restaurants, Inc. v. Aspen Specialty Ins. Co.*, No. 3:20-cv-05898 (N.D. Fla. Dec. 18, 2020) (slip op.)
- 112) *Prime Time Sports Grill, Inc. v. DTW 1991 Underwriting, Ltd.*, No. 8:20-cv-771-T-36JSS, 2020 U.S. Dist. LEXIS 237338 (M.D. Fla. Dec. 17, 2020)
- 113) *Newchops Restaurant Comcast v. Admiral Indem. Co.*, No. 2:20-cv-01949 (E.D. Pa. Dec. 17, 2020)
- 114) *10012 Holdings, Inc. v. Sentinel Ins. Co.*, No. 20 Civ. 4471, 2020 U.S. Dist. LEXIS 235565 (S.D.N.Y. Dec. 15, 2020)
- 115) *Kirsch v. Aspen Am. Ins. Co.*, No. 20-11930, 2020 U.S. Dist. LEXIS 234220 (E.D. Mich. Dec. 14, 2020)
- 116) *Boulevard Carroll Entm't Grp., Inc. v. Fireman's Fund Ins. Co.*, No. 20-11771, 2020 U.S. Dist. LEXIS 234659 (D.N.J. Dec. 14, 2020)
- 117) *Franklin EWC, Inc. v. Hartford Fin. Servs. Grp., Inc.*, No. 3:20-cv-04434-JSC, 2020 U.S. Dist. LEXIS 234651 (N.D. Cal. Dec. 14, 2020)
- 118) *Terry Black's Barbecue, LLC v. State Auto. Mut. Ins. Co.*, No. 1:20-cv-665, 2020 U.S. Dist. LEXIS 234939 (W.D. Tex. Dec. 14, 2020) (report and recommendation)
- 119) *Catlin Dental, P.A. v. The Cincinnati Indem. Co.*, No. 20-CA-004555 (Lee County, FL Circuit Court Dec. 11, 2020)
- 120) *Al Johnson's Swedish Restaurant & Butik, Inc. v. Society Ins.*, No. 2020cv000052 (Door Cty., Wisconsin Circuit Ct. Dec. 11, 2020)
- 121) *Michael Cetta, Inc. v. Admiral Indem. Co.*, No. 20 Civ. 4612, 2020 U.S. Dist. LEXIS 233419 (S.D.N.Y. Dec. 11, 2020)
- 122) *Healthnow Med. Ctr. v. State Farm Gen. Ins. Co.*, No. 20-cv-04340, 2020 U.S. Dist. LEXIS 232626 (N.D. Cal. Dec. 10, 2020)
- 123) *SA Palm Beach LLC v. Certain Underwriters at Lloyd's London*, No. 9:20-cv-80677-UU (S.D. Fla. Dec. 9, 2020) (slip op.)
- 124) *Robert W. Fountain, Inc. v. Citizens Ins. Co. of Am.*, No. 20-cv-05441-CRB, 2020 U.S. Dist. LEXIS 231629 (N.D. Cal. Dec. 9, 2020)
- 125) *El Novillo Rest. v. Certain Underwriters at Lloyd's, London*, No. 1:20-cv-21525-UU (S.D. Fla. Dec. 7, 2020) (slip op.)
- 126) *Hajer v. Ohio Sec. Ins. Co.*, No. 6:20-cv-00283, 2020 U.S. Dist. LEXIS 229317 (E.D. Tex. Dec. 7, 2020)
- 127) *Palmer Holdings & Invs., Inc. v. Integrity Ins. Co.*, No. 4:20-cv-154-JAJ (S.D. Iowa Dec. 7, 2020) (slip op.)

- 128) *Kessler Dental Assocs., P.C. v. Dentists Ins. Co.*, No. 2:20-cv-03376-JDW, 2020 U.S. Dist. LEXIS 228859 (E.D. Pa. Dec. 7, 2020)
- 129) *4431, Inc. v. Cincinnati Ins. Co.*, No. 5:20-cv-04396, 2020 U.S. Dist. LEXIS 226984 (E.D. Pa. Dec. 3, 2020)
- 130) *Promotional Headwear Int'l v. Cincinnati Ins. Co.*, No. 20-cv-2211-JAR, 2020 U.S. Dist. LEXIS 228093 (D. Kan. Dec. 3, 2020)
- 131) *Zwillo V v. Lexington Ins. Co.*, No. 4:20-cv-00339, 2020 U.S. Dist. LEXIS 230672 (W.D. Mo. Dec. 2, 2020)
- 132) *Toppers Salon & Health Spa, Inc. v. Travelers Prop. Cas. Co. of Am.*, No. 2:20-cv-03342, 2020 U.S. Dist. LEXIS 223356 (E.D. Pa. Nov. 30, 2020)
- 133) *Natty Greene's Brewing Co., LLC v. Travelers Cas. Ins. Co. of Am.*, No. 1:20-cv-437, 2020 U.S. Dist. LEXIS 222712 (M.D.N.C. Nov. 30, 2020)
- 134) *BBMS, LLC v. Continental Cas. Co.*, No. 20-0353-CV-W-BP (W.D. Mo. Nov. 30, 2020) (slip op.)
- 135) *Whiskey River on Vintage, Inc. v. Illinois Cas. Co.*, No. 4:20-cv-185-JAJ (S.D. Iowa Nov. 30, 2020) (slip op.)
- 136) *AFM Mattress Co., LLC v. Motorists Commercial Mut. Ins. Co.*, No. 20 CV 3556, 2020 U.S. Dist. LEXIS 221121 (N.D. Ill. Nov. 25, 2020)
- 137) *Selane Products, Inc. v. Continental Cas. Co.*, No. 2:20-cv-07834 (C.D. Cal. Nov. 24, 2020) (slip op.)
- 138) *Border Chicken AZ LLC v. Nationwide Mut. Ins. Co.*, No. CV-20-00785, 2020 U.S. Dist. LEXIS 217649 (D. Ariz. Nov. 20, 2020)
- 139) *T & E Chicago LLC v. Cincinnati Ins. Co.*, No. 20 C 4001, 2020 U.S. Dist. LEXIS 217090 (N.D. Ill. Nov. 19, 2020)
- 140) *Graspa Consulting, Inc. v. United Nat'l Ins. Co.*, No. 20-23245, 2020 U.S. Dist. LEXIS 215976 (S.D. Fla. Nov. 17, 2020)
- 141) *Chatanooga Prof's Baseball LLC v. Nat'l Cas. Co.*, No. CV-20-01312, 2020 U.S. Dist. LEXIS 212349 (D. Ariz. Nov. 13, 2020)
- 142) *Long Affair Carpet and Rug, Inc. v. Liberty Mut. Ins. Co.*, No. 8:20-cv-01713 (C.D. Cal. Nov. 13, 2020)
- 143) *S. Fla. Ent Assocs. v. Hartford Fire Ins. Co.*, No. 20-23677, 2020 U.S. Dist. LEXIS 213319 (S.D. Fla. Nov. 13, 2020)
- 144) *DAB Dental PLLC v. Main Street Am. Protection Ins. Co.*, No. 20-CA-5504 (Hillsborough Cty. Fla. Cir. Ct. Nov. 10, 2020)
- 145) *Dime Fitness, LLC v. Markel Ins. Co.*, No. 20-CA-5467 (Hillsborough Cty. Fla. Cir. Ct. Nov. 10, 2020)
- 146) *Water Sports Kauai, Inc. v. Fireman's Fund Ins. Co.*, No. 20-cv-03750, 2020 U.S. Dist. LEXIS 209547 (N.D. Cal. Nov. 9, 2020)

- 147) *Goodwill Indus. of Cent. Okla. v. Phila. Indem. Ins. Co.*, No. CV-20-511-R, 2020 U.S. Dist. LEXIS 210408 (W.D. Okla. Nov. 9, 2020)
- 148) *Musso & Frank Grill Co. v. Mitsui Sumitomo Ins. USA, Inc.* (L.A. Cty. Super. Ct. Nov. 9, 2020)
- 149) *Handel v. Allstate Ins. Co.*, No. 20-3198, 2020 U.S. Dist. LEXIS 207892 (E.D. Pa. Nov. 6, 2020)
- 150) *N & S Rest. LLC v. Cumberland Mut. Fire Ins. Co.*, No. 20-0529, 2020 U.S. Dist. LEXIS 206972 (D.N.J. Nov. 5, 2020)
- 151) *Mac Prop. Grp. LLC v. Selective Fire & Cas. Ins. Co.*, Case No L-2629-20, 2020 N.J. Super. Unpub. LEXIS 2244 (N.J. Super. Nov. 5, 2020)
- 152) *Real Hosp., LLC v. Travelers Ins. Co. of Am.*, No. 2:20-cv-00087, 2020 U.S. Dist. LEXIS 208599 (S.D. Mo. Nov. 4, 2020)
- 153) *Uncork & Create LLC v. Cincinnati Ins. Co.*, No. 2:20-cv-00401, 2020 U.S. Dist. LEXIS 204152 (S.D. W. Va. Nov. 2, 2020)
- 154) *Nahmad v. Hartford Cas. Ins. Co.*, No. 1:20-cv-22833, 2020 U.S. Dist. LEXIS 203838, at \*15-23 (SD Fla. Nov. 2, 2020)
- 155) *FAFB v. Blackboard Ins. Co.*, No. L 000892-20 (N.J. Super. Ct. Oct. 30, 2020)
- 156) *W. Coast Hotel Mgmt., LLC v. Berkshire Hathaway Guard Ins. Co.*, No. 2:20-cv-05663, 2020 U.S. Dist. LEXIS 201161 (C.D. Cal. Oct. 27, 2020)
- 157) *Vizza Wash, LP v. Nationwide Mut. Ins. Co.*, No 5:20-cv-680, 2020 U.S. Dist. LEXIS 211737 (W.D. Tex. Oct. 26, 2020)
- 158) *Boxed Foods Co. v. Cal. Capital Ins. Co.*, No. 20-cv-04571, 2020 U.S. Dist. LEXIS 198859 (N.D. Cal. Oct. 26, 2020)
- 159) *Founder Institute Inc. v. Hartford Fire Ins. Co.*, No. 20-cv-04466-VC, 2020 U.S. Dist. LEXIS 196732 (N.D. Cal. Oct. 22, 2020)
- 160) *Hillcrest Optical, Inc v Continental Cas Co*, No 1:20-cv-275, 2020 US Dist LEXIS 195273, at \*13-19 (SD Ala, Oct 21, 2020)
- 161) *Travelers Cas. Ins. Co. of Am. v. Geragos & Geragos*, No. 20-3619, 2020 U.S. Dist. LEXIS 196932 (C.D. Cal. Oct 19, 2020)
- 162) *Seifert v. IMT Ins. Co.*, No. 20-1102, 2020 U.S. Dist. LEXIS 192121 (D Minn. Oct. 16, 2020)
- 163) *O'Brien Sales & Marketing, Inc. v. Transportation Ins. Co.*, No. 3:20-cv-02951 (N.D. Cal. Oct. 9, 2020)
- 164) *Harvest Moon Distribs. LLC v. Southern-Owners Ins. Co.*, No. 6:20-cv-1026, 2020 U.S. Dist. LEXIS 189390 (M.D. Fla. Oct. 9, 2020)
- 165) *Vandelay Hosp. Grp. LP v. Cincinnati Ins. Co.*, No. 3:20-cv-1348, 2020 U.S. Dist. LEXIS 185581 (N.D. Tex. Oct. 7, 2020)



- 166) *Henry's Louisiana Grill v. Allied Ins. Co. of Am.*, 2020 U.S. Dist. LEXIS 188353 (N.D. Ga. Oct. 6, 2020)
- 167) *Mark's Engine Co. No. 28 Rest. v. Travelers Indem. Co.*, 2020 U.S. Dist. LEXIS 188463 (C.D. Cal. Oct. 2, 2020)
- 168) *Wilson v Hartford Cas. Co.*, 2020 U.S. Dist. LEXIS 179896, at \*17-19 (E.D. Pa. Sept. 30, 2020)
- 169) *Oral Surgeons, PC v. Cincinnati Ins. Co.*, 2020 U.S. Dist. LEXIS 184772 (S.D. Iowa Sept. 29, 2020)
- 170) *Its Nice Inc. v. State Farm Fire & Cas. Co.*, Case No. 2020L000547 (Dupage Cty. Ill. Cir. Ct. Sept. 29, 2020)
- 171) *Infinity Exhibits v. Certain Underwriters at Lloyd's London*, 2020 U.S. Dist. LEXIS 182497 (M.D. Fla. Sept. 28, 2020)
- 172) *Franklin EWC, Inc. v. Hartford Fin. Servs. Grp., Inc.*, 2020 U.S. Dist. LEXIS 174010 (N.D. Cal. Sept. 22, 2020)
- 173) *Sandy Point Dental PC v. The Cincinnati Ins. Co.*, 2020 U.S. Dist. LEXIS 171979 (N.D. Ill. Sept. 21, 2020)
- 174) *Mudpie, Inc. v. Travelers Cas. Ins. Co.*, 2020 U.S. Dist. LEXIS 168385 (N.D. Cal. Sept. 14, 2020)
- 175) *Pappy's Barber Shops, Inc. v Farmers Grp., Inc.*, 2020 U.S. Dist. LEXIS 166808 (C.D. Cal. Sept. 11, 2020)
- 176) *Plan Check Downtown III, LLC v. AmGuard Ins. Co.*, 2020 U.S. Dist. LEXIS 178059 (C.D. Cal. Sept. 10, 2020)
- 177) *Turek Enters. v. State Farm Mut. Auto Ins. Co.*, No. 20-11655, 2020 U.S. Dist. LEXIS 161198 (E.D. Mich. Sept 3, 2020)
- 178) *10E, LLC v. Travelers Indem. Co.*, 2020 U.S. Dist. LEXIS 165252 (C.D. Cal. Sept. 2, 2020)
- 179) *Mauricio Martinez, DMD, PA v. Allied Ins. Co. of Am.*, 2020 U.S. Dist. LEXIS 165140 (M.D. Fla. Sept. 2, 2020)
- 180) *Malaube, LLC v Greenwich Ins. Co.*, 2020 U.S. Dist. LEXIS 156027 (S.D. Fla. Aug. 26, 2020)
- 181) *Diesel Barbershop, LLC v. State Farm Lloyds*, 2020 U.S. Dist. LEXIS 147276 (W.D. Tex. Aug. 13, 2020)
- 182) *Rose's I, LLC v. Erie Ins. Exch.*, No. 2020 CA 002424, 2020 D.C. Super. LEXIS 10 (D.C. Super. Ct., Aug. 6, 2020)
- 183) *The Inns by the Sea v. Cal. Mut. Ins. Co.*, No. 20CV001274 (Monterey Cty., CA Super. Ct. Aug. 4, 2020)
- 184) *Gavrilides Mgmt Co. v. Mich. Ins. Co.*, No. 20-258-CB-C30 (Ingham Cty., MI Cir. Ct. July 9, 2020)

185) *Social Life Magazine v. Sentinel Ins. Co.*, No. 20 Civ. 3311 (S.D.N.Y. May 14, 2020)

ASHER, KYLE 076799.000122 4824-2700-5917.1 March 11, 2021

# Exhibit H

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

ITS NICE INC

-VS-

STATE FARM FIRE AND CASUALTY CO

2020L000547  
CASE NUMBER

**FILED**

20 Sep 29 PM 01: 07

*Chris Kachirobas*

CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

ORDER

For the reasons stated on the record, Defendant State Farm's 2-615 motion to dismiss is granted, with prejudice, with respect to both Count I and Count II of Plaintiff's complaint.

Submitted by: JUDGE BRYAN CHAPMAN

DuPage Attorney Number:

Attorney for:

Address:

City/State/Zip:

Phone number:

*Bryan Chapman*  
File Date: 09/29/2020

Entered:

JUDGE BRYAN CHAPMAN

Validation ID : DP-09292020-0107-11175

Date: 09/29/2020

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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

IT'S NICE, INC., d/b/a )  
HAROLD'S CHICKEN SHACK #83, an )  
Illinois Corporation, )  
 )  
Plaintiff, )  
 )  
- vs - )  
 )  
STATE FARM FIRE AND CASUALTY )  
CO., )  
 )  
Defendant. )

No. 20 L 547  
2-615 Motion

REPORT OF VIDEOCONFERENCE PROCEEDINGS

had at the hearing of the above-entitled cause, before  
the Honorable BRYAN S. CHAPMAN, DuPage County,  
Illinois, recorded via Zoom and transcribed by  
Kristin M. Barnes, Certified Shorthand Official Court  
Reporter, commencing on the 29th day of September,  
2020.

Kristin M. Barnes, CSR  
Official Court Reporter  
CSR No. 084-004026

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PRESENT:

FRANKLIN LAW GROUP, by  
MR. RYAN ENDSLEY,

appeared on behalf of the Plaintiff;

SUDEKUM, CASSIDY & SHULRUFF, CHTD., by  
MS. FLORENCE M. SCHUMACHER and  
MR. FREDERICK J. SUDEKUM, III,

appeared on behalf of the Defendant.

1 THE COURT: All right. Good morning, Counsel.

2 MR. ENDSLEY: Good morning, your Honor.

3 THE COURT: All right. This is 20 L 547, It's  
4 Nice, Inc. versus State Farm Fire and Casualty.

5 We come on for a 2-615 motion in connection  
6 with It's Nice's claim for coverage under the policy.

7 I've had a chance to read the motion, the  
8 corresponding briefing, and I know there had been some  
9 motions for leave to file supplemental authority. I  
10 have had a chance to look at those motions.

11 I assume both parties are okay with each side  
12 submitting their respective -- their respective briefs  
13 in support of their -- their respective authority in  
14 support of their positions.

15 Is that a fair characterization?

16 MR. ENDSLEY: Yes, your Honor. For It's Nice, at  
17 least.

18 THE COURT: Sure.

19 MS. SCHUMACHER: State Farm as well, your Honor,  
20 there's no objection.

21 THE COURT: All right. Why don't we go ahead and  
22 have the parties state their names for the record.

23 MS. SCHUMACHER: Sure.

24 Florence Schumacher and Rick Sudekum here on

1       behalf of State Farm.

2               THE COURT: Uh-huh.

3               MR. ENDSLEY: Ryan Endsley on behalf of It's Nice,  
4       Inc.

5               THE COURT: Okay. What I'd like to do here, guys,  
6       I have spent considerable time with the -- with the  
7       courtesy copies. I've got my tabs. Like I said, I've  
8       read the authority. I've read the additional authority  
9       submitted.

10              I don't necessarily need a regurgitation of  
11      the positions already taken in the briefs. I feel like  
12      I have adequately familiarized myself with the parties'  
13      positions.

14              I do want to give the parties a chance to  
15      make their record here. I appreciate the issue and  
16      that it's kind of a fastly moving issue through the  
17      courts right now, and, as a result, I want to give the  
18      parties a chance a make their record.

19              That said, I don't necessarily need, you  
20      know, sort of, your Honor, this is how insurance  
21      policies work. I mean, tell me whatever you want to  
22      tell me. I may have a question or two for the parties,  
23      but I'll let you make your record first.

24              State Farm, it's your motion. I'll let you



1 go ahead if there's anything you want to add.

2 MS. SCHUMACHER: Sure, your Honor.

3 I am going to briefly run through our  
4 argument again, trying to sort of work in some of those  
5 cases that have come in more recently.

6 I understand that the court is familiar with  
7 insurance policies in general, so we won't -- hopefully  
8 won't belabor you with too much elementary insurance  
9 law here.

10 Obviously, the plaintiffs know -- or the  
11 court knows that the plaintiff is seeking to recover  
12 for a business interruption loss resulting from the  
13 COVID-19 pandemic and the executive orders.

14 In our view, there are basically two main  
15 barriers to plaintiffs being able to state a cause of  
16 action. The first is the lack of accidental direct  
17 physical loss and the second is the virus exclusion.

18 The way I look at these, your Honor, it's  
19 sort of like -- the lack of accidental direct physical  
20 loss is like a 10-foot hurdle and the virus exclusion  
21 is like a brick wall. So even if the plaintiffs could  
22 plead accidental direct physical loss, which they  
23 can't, they're going to run right into the virus  
24 exclusion and there's not going to be any coverage for

1 that reason either.

2 THE COURT: That was my -- that was the one thing  
3 I wondered a little bit about in reading your briefing,  
4 more the structure of your brief.

5 MS. SCHUMACHER: Right.

6 THE COURT: You led with the virus exclusion, and,  
7 to my mind, there's an insuring agreement here as a  
8 preliminary matter and we only get to the virus  
9 exclusion if the court finds that there is, in fact,  
10 accidental direct physical loss to the property in the  
11 first instance.

12 You would agree with that?

13 MS. SCHUMACHER: I would, your Honor.

14 THE COURT: Okay.

15 MS. SCHUMACHER: You know, the court is  
16 familiar -- it's the trigger of coverage. I mean, just  
17 like in a life insurance policy, until you have the  
18 death of the insured, there's no coverage to begin  
19 with.

20 It's the same for these policies. They're  
21 property policies, so their triggering coverage is  
22 accidental direct physical loss. You know, you can't  
23 just skip this part. It's the trigger of coverage.  
24 It's something that the plaintiff has the burden of

1 proof on.

2 So, in this case, the covered property is the  
3 restaurant property, so the first question is, where is  
4 the accidental direct physical loss pleaded, and our  
5 response, obviously, is that it isn't.

6 So, you know, just looking briefly at the  
7 complaint, you know, they allege that there was no  
8 virus on the property and their accidental direct  
9 physical loss argument is based on loss and use.

10 But, you know, my first point is, it has to  
11 be accidental direct physical loss, and I think it's  
12 undisputed that there was no difference to this  
13 property physically on the day before these executive  
14 orders were issued than there was on the day after, so  
15 physically the property was exactly the same.

16 So where's the loss? Where's the loss  
17 they're arguing? They're saying that loss of use is  
18 sufficient, that they couldn't use the property in the  
19 same way, and that somehow that constitutes accidental  
20 direct physical loss to the property, and we disagree  
21 with that position.

22 So we believe that the Illinois law and all  
23 these cases that have recently come out correctly hold  
24 that loss of use of property without any physical

1 change to that property cannot constitute accidental  
2 direct physical loss.

3 THE COURT: Mr. Endsley, at the risk of stealing  
4 your thunder, I'm going to ask Ms. Schumacher  
5 why don't you go ahead and respond to the western  
6 district of Missouri cases that were cited by It's Nice  
7 where it looks like some district courts in the western  
8 district have found, you know, sort of a lack of  
9 definition in the policy for physical damage or loss  
10 of -- you know, what are the factual distinctions in  
11 those cases, if any --

12 MS. SCHUMACHER: Right, right.

13 THE COURT: -- as to why the court should not find  
14 those cases persuasive here as opposed to some of the  
15 cases you've cited?

16 MS. SCHUMACHER: Sure.

17 So the first thing I would say, the court  
18 says there are courts in the western district of  
19 Missouri. What we actually have is one court -- it's  
20 the same judge in the two cases -- who has gone  
21 essentially the other way on this accidental direct  
22 physical loss question.

23 Those cases are factually distinguishable on  
24 two main grounds. The first is that the plaintiffs in

1 those cases argue that they had virus on the premises.  
2 So the plaintiff in this case has not even alleged that  
3 there was any virus present.

4 The second distinction is in the policy  
5 language. So the trigger of coverage in those  
6 policies, in the Studio 417 and the other case, were --  
7 I think I've got the exact language here -- accidental  
8 direct -- or accidental physical loss or accidental  
9 physical damage.

10 And so the court in Studio 417 felt that it  
11 had to somehow -- you know, focusing on that  
12 disjunctive *or*, the court found that it had to give  
13 separate meaning to physical loss and physical damage.

14 That's not the case in our policy. There's  
15 one trigger of coverage, which is accidental direct  
16 physical loss to property.

17 We also have a virus exclusion, which wasn't  
18 present in those cases, but I know the court is asking  
19 me about physical loss.

20 So I would say the first and the most  
21 important distinguishing factor is, obviously, the  
22 pleading in this case -- I think it's in paragraphs, I  
23 think, 25 and 36 of the complaint where the plaintiffs  
24 specifically deny that they had any virus present on

1 premises.

2 And, again, I would disagree with Studio 417.  
3 I'm not sure even in their presence a virus is enough.  
4 Other courts have disagreed with that opinion as well,  
5 but I think for our purposes in our complaint we have a  
6 complaint that alleges the absence of the virus. And  
7 then, obviously, we have a policy that doesn't have  
8 that *or* in there that the Studio 417 court seemed to  
9 think was determinative.

10 THE COURT: All right. Anything else you want to  
11 add?

12 MS. SCHUMACHER: Just jumping briefly into the  
13 virus exclusion, your Honor, in case we get there, we  
14 have that anti-concurrent causation language which  
15 broadly excludes coverage when a loss would not have  
16 occurred in the absence of a virus.

17 That language, that anti-concurrent causation  
18 language, has been upheld in Illinois. The virus  
19 exclusion clearly applies in this case. There is no  
20 requirement in that policy language that the virus be  
21 physically present on the property, like plaintiff  
22 alleges. They're just adding language to the exclusion  
23 which isn't present. The exclusion needs to be applied  
24 as written. It unambiguously excludes a broad range of

1 losses. Virus is one of them.

2 Oh, the argument about, you know, the  
3 proliferation issue, that somehow those two  
4 subparagraphs of the virus exclusion need to be read  
5 together, that's just not correct. The virus portion  
6 of that exclusion is separate. It says that loss is  
7 excluded, current virus, bacteria, or other  
8 microorganism.

9 So, again, I think it's -- I don't see how it  
10 could possibly be ambiguous: I mean, this -- clearly  
11 we have a too late chain of causation here. The virus  
12 caused the executive orders which caused the loss and  
13 it's excluded under the virus exclusion.

14 THE COURT: Okay. Mr. Endsley, do you want to  
15 respond to anything that's -- do you want to respond  
16 with anything that's not in your brief? Or if there's  
17 a point or two you want to emphasize, I'm happy to give  
18 you a chance to do so.

19 MR. ENDSLEY: Thank you, your Honor.

20 So I just wanted to highlight a couple of  
21 things. In particular, we -- you know, the Studio 417  
22 case, we have the same situation where State Farm  
23 elected not to define physical loss or damage. And, in  
24 this case, while counsel has pointed out that this

1 policy only says physical loss, that's really the  
2 broader of the two. Physical damage is what's probably  
3 more in line with what State Farm's position is, which  
4 is that a physical loss or damage must be a structural  
5 alteration.

6 And the fact is that I think the Illinois  
7 courts have not limited themselves quite so much to  
8 structural physical alteration as State Farm would like  
9 the court to believe. In particular, it's sort of an  
10 all squares are rectangles argument. They cite cases  
11 which are saying, you know, a change in color or shape  
12 or appearance to the property is a physical loss or  
13 damage, which is true, but that's not the only type of  
14 physical loss.

15 And I think sort of looking at the asbestos  
16 cases really sort of points that out, and State Farm's  
17 position really throughout the briefs has been that  
18 Illinois law requires a physical alteration to the  
19 structure, and that's just not really what Illinois  
20 case law actually says.

21 The other thing I'd sort of like to  
22 highlight -- and this impinges a little bit on both the  
23 virus exclusion and the physical loss or damage -- and  
24 that's sort of the nature of an exclusion. And I know



1       that this is, you know, kind of a basic insurance  
2       issue, but the fact is that an exclusion exists to  
3       exclude coverage which would otherwise be present.

4               A virus cannot cause physical alteration to  
5       the building, as far as I'm aware. If there's a way  
6       that it can be done, State Farm certainly hasn't  
7       articulated it. So at least this policy, as written,  
8       clearly seems to contemplate nonphysical alterations  
9       which would otherwise be covered causes of loss.

10              And that's a problem for the policy in a  
11       couple -- for State Farm in a couple of ways in that  
12       State Farm wants to apply the virus exclusion where it  
13       was not present. Even in the absence of a virus  
14       exclusion, if the governor had never closed the  
15       building, It's Nice could never have made a claim  
16       for -- under this policy because the coronavirus  
17       existed somewhere. You know, even if there is  
18       absolutely no virus exclusion in a different policy  
19       like that, there just wasn't anything affecting It's  
20       Nice's property.

21              And separately, with the physical loss or  
22       use, when you're reading the policy, a number of these  
23       exclusions, including, you know, both the virus  
24       exclusion itself as well as the government closure

1 exclusion, really does contemplate under the policy  
2 exclusions for nonphysical, nonstructural altering  
3 causes of loss.

4 And that, to me, reads -- particularly when  
5 State Farm has elected not to define loss or -- you  
6 know, physical loss, that's a problem for them because  
7 the policies seem to exclude things which wouldn't be  
8 covered anyway under State Farm's interpretation, and  
9 yet there they are.

10 Reading the policy as a whole and  
11 constructing the ambiguities in favor of coverage,  
12 certainly at this point dismissal seems premature.

13 THE COURT: Counsel, do you have a response to the  
14 virus exclusion argument that the -- as I understand  
15 counsel's argument, it's that the virus -- if we were  
16 to take State Farm's proffered definition of physical  
17 as understood in insurance contracts, the virus  
18 exclusion would never fit that definition because it's  
19 never going to alter a physical structure.

20 I'm going to go to paragraph 23 of your  
21 motion, page 10, where State Farm says, In cases  
22 interpreting the word *physical* in insurance contracts,  
23 *physical* is widely held to exclude alleged losses that  
24 are intangible or incorporeal, such as detrimental

1 economic impact, unaccompanied by distinct demonstrable  
2 physical alteration of property.

3 So how is the virus exclusion consistent with  
4 that proffered definition of *physical*?

5 MS. SCHUMACHER: Well, my first response, your  
6 Honor, is I'm not sure we should assume that a virus  
7 could never alter a structure. We're not familiar with  
8 every --

9 THE COURT: Fair enough.

10 MS. SCHUMACHER: -- virus in the world, so I think  
11 that the exclusion -- you know, I look at it as sort of  
12 a belt and suspenders approach. I mean, surely I think  
13 this virus is not causing physical damage, but that  
14 certainly doesn't mean that there's no virus that could  
15 ever develop that doesn't cause physical damage and  
16 bodily injury. We don't know that. So I think, in a  
17 sense, that the insurer clearly wanted to exclude this  
18 kind of loss.

19 I think in the event that there is some  
20 unexpected virus that comes up in the future that could  
21 cause physical damage, I think the insurer is well  
22 within its right to, you know, exclude that in the  
23 event that that might happen some day.

24 It's clearly in the policy. The insured was

1       aware of it. It's a broad exclusion. And, again, I  
2       think their whole question is just based on the  
3       assumption that all viruses are going to be like this  
4       virus, and I just don't think that that's the case.

5               THE COURT: Counsel, Mr. Endsley, let me ask you a  
6       question.

7               One of the things, as I've thought about this  
8       case a little bit, I'm worried a little bit or I'm  
9       concerned at least about, were the court to accept your  
10      argument as to loss of use, I'm concerned about a  
11      limiting principle or lack thereof in terms of what is  
12      the underwritten risk here.

13              And there appears to be, to my mind,  
14      different types of coverage available for loss of use,  
15      whether it is, in fact, civil authority when you think  
16      about the cases right after 9/11 around the World Trade  
17      Center. There's a lot of case law coming down in the  
18      southern district of New York in the second circuit  
19      involving business interruption where civil authority  
20      has retail shops shut down but you've got physical  
21      damage to other property, ingress/egress sorts of  
22      issues.

23              Without the loss of use, sort of, well,  
24      there's physical accidental physical loss to property

1 if I can't access it, that strikes me, when I look at  
2 the policy in its entirety, to be potentially a very  
3 different risk than what may have been contemplated  
4 here.

5 Is that a fair concern?

6 MR. ENDSLEY: So I think that is something of a  
7 concern. But to alleviate that a little bit, we're  
8 dealing with a fairly unique set of circumstances and I  
9 think there sort of still is a principle here.

10 If the governor's orders hadn't actually  
11 required closure, if they, you know, had limited how  
12 many patrons you could have in the restaurant or if  
13 the -- you know, the effect of the general governor's  
14 orders to shelter at home had been to reduce income,  
15 you know, if we were talking about loss of income,  
16 that's not a covered cause of loss.

17 And, in fact, I think some of the cases cited  
18 by State Farm sort of indicate what the -- what the  
19 difference is -- and those would be the Anchor  
20 [phonetic] and Keach [phonetic] cases. And,  
21 particularly, those focused on the difference between  
22 when something is actually completely closed down and  
23 when it's merely suffered, you know, a loss of business  
24 income, and there really is a significant difference

1 here.

2 And the other thing I would sort of add, as  
3 far as a policy situation, is I think the tremendous  
4 number of lawsuits we've seen from this is sort of an  
5 indication that a lot of these insureds thought that  
6 this would have been covered, something like this, and  
7 learned only late in the game that it wasn't or at  
8 least the insurance company thought it wasn't.

9 And I'd just sort of articulate again, you  
10 know, the basic principle that ambiguities in the  
11 policy are construed against the drafter. State Farm  
12 was the one who got to say what this policy looked  
13 like, State Farm was the one who got to draft the  
14 language of the policy, and, frankly, had put a lot  
15 more thought into it than any of their insureds.

16 So I think to say that, you know, this wasn't  
17 in the contemplation of the parties, it was at least a  
18 little bit. State Farm has a number of exclusions  
19 which nearly but do not quite apply. They were able to  
20 draft around this.

21 And, frankly, exclusions exist in certain  
22 policies which do address this specific concern. We've  
23 reviewed a couple of them from client -- from potential  
24 clients who wanted coverage and actually saying that if

1       there's a government closure order because of a  
2       pandemic, no coverage.

3               So there are ways for the insurer to protect  
4       themselves from this, but in this case it's the insured  
5       who really had this dropped on them unexpectedly and is  
6       now having to litigate.

7               THE COURT: Well, certainly, obviously, companies  
8       and businesses around the world and certainly the  
9       country and certainly Illinois are faced with a  
10      remarkable predicament through largely no cause of  
11      their own, if at all, as a result of the pandemic.

12              Let me be very clear. I am not -- when I ask  
13      the question about the limiting principle, I am not  
14      suggesting that the court is trying to ascertain the  
15      intent of the parties at this point. I'm simply trying  
16      to ascertain whether or not there's a reasonable  
17      interpretation on the other side.

18              But wouldn't your argument, Mr. Endsley, be a  
19      bit stronger if the definition or if the insuring  
20      agreement language said insure for all accidental  
21      direct physical loss of covered property as opposed to  
22      to?

23              In other words, it's talking about -- I'm  
24      concerned that we're reading direct physical to

1 property. We're kind of just pretending that it  
2 doesn't say what it -- what it clearly says and we're  
3 kind of saying, well, loss of property or loss to  
4 property, same thing, whatever.

5           Wouldn't you have a stronger argument if it  
6 said loss of property?

7           MR. ENDSLEY: In this case, I'm actually not sure  
8 that we would, your Honor.

9           It's Nice still has the property, but the  
10 property suffered a loss of use and that was a loss to  
11 the property. It's Nice hasn't -- you know, the  
12 property isn't gone. It's Nice has, in fact, recently  
13 resumed business operations --

14           THE COURT: So let me ask you a question.

15           If I said, when I think loss to the property,  
16 I think the roof is blown off; okay? That's what I  
17 think of just -- at the very least, at a superficial  
18 level.

19           If you're telling me a closing of the doors  
20 by executive order is a loss to the property, help me  
21 understand why that's the same thing.

22           MR. ENDSLEY: Well, I think you're certainly  
23 correct that, you know, when we think of -- that is  
24 classic losses.



1 THE COURT: That is, to my mind, closer to a loss  
2 of property. It's a functional loss of property, not  
3 to property.

4 MR. ENDSLEY: I guess the best argument I can sort  
5 of think of, just off the spur of the moment, relates  
6 to the fact that the type of property it is is what  
7 affected the loss and that's -- because it's a  
8 restaurant, this was a different type of loss. If this  
9 was just being used as residential housing, there is no  
10 loss to the property.

11 So State Farm insured a particular type of  
12 business and a particular -- that particular type was a  
13 restaurant which was affected, and that impacted this  
14 property. That was a loss to this specific property  
15 rather than a removal.

16 So to some extent, you know, if it said *loss*  
17 *of property*, that, to me, almost suggests that  
18 something -- a little more of the structural alteration  
19 argument State Farm prefers, which is almost that  
20 something was removed from the property or just ceased  
21 to exist on the property -- because it was burned up or  
22 something -- whereas I think *to property* sort of  
23 suggests that it's anything that affects, you know,  
24 that business property. It wasn't just the -- you

1 know, this wasn't just a title policy or something like  
2 that. This was a business coverage policy.

3 THE COURT: It doesn't say anything is physical;  
4 right?

5 MR. ENDSLEY: It does say physical.

6 THE COURT: I mean, it's not any conceivable way  
7 you're unable to use the property in the way you see  
8 fit. It's got to be direct physical loss. And, I  
9 guess, your view is loss of use, there's a physical  
10 displacement; right? That's --

11 MR. ENDSLEY: Yes.

12 THE COURT: -- your position?

13 Okay. Ms. Schumacher, if there's anything  
14 you want to respond to, I'll give you the last word.

15 MS. SCHUMACHER: Sure. There are many things.  
16 I'm going to try to stick to a couple.

17 I think the Turek court actually discussed  
18 that *physical loss* to concept and I think it held that  
19 to implies contact and *physical* implies physical  
20 contact, direct physical loss to property.

21 And I looked in the dictionary. They gave  
22 examples like a right uppercut to the jaw or applying  
23 varnish to a surface. Whatever theory they have about  
24 their loss not being able to use the property, that

1 simply is not physical loss to that property.

2 And I just want to briefly touch on -- the  
3 court is concerned about the breadth of their  
4 interpretation. So the first thing they said is, well,  
5 this is a different situation because the restaurant  
6 was required to be closed.

7 I would point out that in the executive  
8 orders they did not close restaurants. Restaurants  
9 were permitted to stay open for takeout or delivery.  
10 So regardless of whether they chose to close the  
11 restaurant, even under their complaint, they weren't  
12 required to. So this is not a situation where  
13 restaurants were closed.

14 The second and more broad point I would make,  
15 your Honor, is that under their theory of accidental  
16 direct physical loss, let's just say after COVID is  
17 over the restaurant is open until 1:00 a.m. There's an  
18 ordinance that says restaurants have to close at  
19 midnight now. According to their theory, they now have  
20 a loss of income claim because the restaurant has to  
21 close an hour early because, according to them, there  
22 doesn't have to be any physical impact; it just has to  
23 affect the use of their property.

24 So, again, I agree with the court's concern

1     that their interpretation is way too broad and it  
2     brings many more things into coverage than are intended  
3     under a property policy which covers accidental direct  
4     physical loss and then loss of income once that's  
5     happened.   But you just can't skip that step.

6             And I think that's all I have.   I know the  
7     court is familiar with all of this and there was a lot  
8     that was said, but I'd like to keep it as brief as I  
9     can.   So I think unless the court has any additional  
10    questions, I think we've made our point.

11            THE COURT:   I think we -- I just want to make sure  
12    all the parties agree that regardless of the coverage  
13    form under the all risk policy, everyone agrees that  
14    direct physical loss is required; right?

15            MR. ENDSLEY:   Yes.

16            THE COURT:   That phrase, that is an insuring  
17    agreement that attaches to all.   You know, sometimes  
18    these all risk policies, there's all these amendments,  
19    you know, there's the general exclusions and then  
20    there's the exclusions within the broad form coverage  
21    and there's exclusions within that and those don't  
22    apply to the general -- you know, so that was my review  
23    of the policy, that there was no separate insuring  
24    agreement, everything goes back to Section 1 property

1 insuring agreements, direct physical loss requirement.

2 MS. SCHUMACHER: Yes.

3 THE COURT: Okay.

4 MR. ENDSLEY: Yeah, I believe there was a little  
5 bit of confusion that we were maybe trying to get  
6 coverage under the civil -- civil authority provision,  
7 but that was --

8 THE COURT: Well, as I understand your argument,  
9 you'll take coverage wherever you can find it; right?

10 MR. ENDSLEY: Yes, that's correct.

11 And that all relates back to the all risk  
12 direct physical loss.

13 THE COURT: Right. Okay. Very good. Thank you.

14 Okay. The court is in a position to rule on  
15 this today. The question presented by a 2-615 motion  
16 to dismiss is whether sufficient facts are contained in  
17 the pleadings that, if proved, would entitle the  
18 plaintiff to relief. That's Evers versus Edwards  
19 Hospital, 247 Ill. App. 3d 717.

20 A motion to dismiss under Section 615 admits  
21 all well-pleaded facts but does not admit conclusions  
22 of law or conclusions of fact not supported by  
23 allegations of specific fact.

24 Exhibits -- I assume the policy was, in fact,

1 attached to the complaint?

2 MS. SCHUMACHER: It was -- your Honor, it was  
3 either attached or filed by agreement.

4 I have two different cases. One they  
5 attached a partial policy and then --

6 MR. ENDSLEY: Yeah, I --

7 MS. SCHUMACHER: Was yours the partial policy?

8 MR. ENDSLEY: Yeah, I believe it was attached by  
9 agreement.

10 MS. SCHUMACHER: Okay.

11 THE COURT: The court is --

12 MR. ENDSLEY: There was --

13 THE COURT: The parties are asking the court to  
14 consider the policy, right --

15 MR. ENDSLEY: Yes.

16 MS. SCHUMACHER: Yes, your Honor.

17 THE COURT: -- for purposes of this motion?

18 All right. So the policy is an exhibit to  
19 the complaint for purposes of this motion.

20 Exhibits are part of the complaint to which  
21 they are attached and the factual allegations contained  
22 within an exhibit attached to a complaint serve to  
23 negate inconsistent allegations of fact contained  
24 within the body of the complaint.

1 I say that because, in some ways, this  
2 operates almost more like a 12(b)(6) than -- most 615's  
3 are sort of, if you haven't pled this element, you  
4 haven't pled that element, and this operates more sort  
5 of a -- whether or not there is a claim upon which  
6 relief can be granted based on the complaint itself.

7 And, for that reason, I point out simply that  
8 the exhibits to the complaint, which, in this case,  
9 includes the policy, the parties have asked the court  
10 to consider that as well.

11 Okay. Having said all of that, the critical  
12 language here, first, is the direct physical loss  
13 language, and the court finds that direct physical loss  
14 unambiguously requires some form of actual physical  
15 damage to the insured premises to trigger coverage.

16 The words *direct* and *physical*, which modify  
17 the word *loss*, ordinarily connote actual demonstrable  
18 harm of some form to the premises itself rather than  
19 force the closure of the premises for reasons  
20 extraneous to the premises itself or adverse business  
21 consequences that flow from such closure.

22 Defense counsel -- I'm sorry, the insurance  
23 counsel points out here that Illinois courts have not  
24 squarely addressed direct physical loss in this

1 context, but I do want to note in cases interpreting  
2 the word *physical* in insurance contracts, *physical* is  
3 widely held to exclude alleged losses that are  
4 intangible or incorporeal in Illinois, such as  
5 detrimental economic impact unaccompanied by a distinct  
6 demonstrable physical alteration of the property.

7 That's One Place Condo, LLC, versus  
8 Travelers, 2015 Westlaw, Northern District of Illinois,  
9 applying Illinois law.

10 The other case here that, I think, is  
11 particularly useful is, in fact, Judge Gettleman's  
12 decision in the northern district of -- I want to get  
13 this right -- Sandy Point Dental v. Cincinnati  
14 Insurance. This is 2020 Westlaw 5360465 dealing with  
15 very similar facts and similar policy language.

16 In this case, the court finds, just as in  
17 that case, plaintiff simply cannot show any such loss  
18 as a result of either inability to access its own  
19 office or the presence of the virus on its physical  
20 surface, the latter of which here plaintiff fails to  
21 allege in its complaint.

22 I don't think that's in dispute. There's no  
23 argument that the coronavirus was, in fact, on the  
24 surface of the property. The plaintiff has not pled



1 any facts showing physical alteration or structural  
2 degradation of the property, which is required to  
3 trigger coverage under this all risks policy.

4 The court wants to note that in addressing  
5 this insuring agreement argument, this holding is  
6 consistent with other courts that have evaluated  
7 whether the coronavirus causes property damage  
8 warranting insurance coverage.

9 Again, I want to reference 20 L -- I'm sorry,  
10 not 20 L. 2020 Westlaw 5360465. That's Sandy Point  
11 Dental versus Cincinnati Insurance.

12 I want to further note that Social Life  
13 Magazine versus Sentinel Insurance Company, denying a  
14 motion for preliminary injunction because the  
15 coronavirus does not cause direct physical loss;  
16 therefore, no coverage was required. The coronavirus,  
17 quote, damages lungs. It doesn't damage printing  
18 presses, close quote.

19 Diesel Barbershop versus State Farm Lloyds,  
20 2020 Westlaw 4724305, Western District of Texas,  
21 August 13, 2020, granting a motion to dismiss because  
22 the coronavirus did not cause a direct physical loss  
23 and, quote, the loss needs to have been a distinct  
24 demonstrable physical alteration of the property, close

1 quote.

2 I further want to direct the parties'  
3 attention to Gavrilides Management versus Michigan  
4 Insurance Company. This is a state court of Michigan  
5 handing down a decision last month that was cited by  
6 State Farm in this case explaining that direct physical  
7 loss to property requires tangible alteration or damage  
8 that impacts the integrity of the property and  
9 dismissing the case because plaintiff failed to allege  
10 that the coronavirus had any impact to the premises.

11 I want to point out that these are not  
12 controlling cases for purposes of an Illinois state  
13 court; however, the court finds that these cases just  
14 cited are, in fact, consistent with Illinois courts  
15 treating of physical damage under insurance policies.

16 And, of course, there are meaningful  
17 differences at times between first and third party  
18 policies and first and third policy claims; however,  
19 the court finds that there is a consistent line of  
20 reasoning by Illinois courts as far as what physical  
21 damage must mean for purposes of insurance coverage in  
22 this case.

23 In essence, to quote Judge Gettleman in the  
24 Sandy Point Dental Case, plaintiff here seeks coverage

1 for financial losses as a result of closure orders.

2 And I don't think anybody really disagrees with that  
3 here.

4 The coronavirus has not physically altered  
5 the appearance, shape, color, structure, or other  
6 material dimension of the property and, as a result, it  
7 doesn't come within the insuring agreement and, as a  
8 result, plaintiff has failed to plead a direct physical  
9 loss, which is a prerequisite for coverage.

10 However, I do want to point out here that  
11 even if, even if, plaintiff had, in fact, been able to  
12 plead within the insuring agreement -- that this claim  
13 comes within the insuring agreement, the court does  
14 find that the virus exclusion applies.

15 Now, the virus exclusion, which is Exclusion  
16 J under Section 1 of the policy, states as follows --  
17 and there's important, what we'll call, lead-in  
18 language that I want to direct the parties' attention  
19 to. The lead-in language under Section 1 exclusions,  
20 which applies to all coverage forms under this all  
21 risks policy, all coverage forms incorporate Section 1,  
22 the lead-in language states as follows: We do not  
23 insure under any coverage for any loss which would not  
24 have occurred in the absence of one or more of the

1 following excluded events.

2 We do not insure for such loss regardless of,  
3 A, the cause of the excluded event; or, B, other causes  
4 of loss; or, C, whether other causes acted concurrently  
5 or in any sequence with the excluded event to produce  
6 the loss; or, D, whether the event occurred suddenly or  
7 gradually, involves isolated or widespread damage,  
8 arises from natural or external forces, or occurs as a  
9 result of any combination of these, and it begins to  
10 list the exclusions.

11 So the virus exclusion is Exclusion J. The  
12 heading, which does not control, says fungi, virus, or  
13 bacteria. Paragraph 1 states, Growth, proliferation,  
14 spread, or presence of fungi or wet or dry rot or, new  
15 paragraph, 2, Virus, bacteria, or other microorganism  
16 that induces or is capable of inducing physical  
17 distress, illness, and disease.

18 For our purposes, those are the relevant  
19 provisions of the virus exclusion that needs to be  
20 addressed here. First, the court finds that the  
21 growth, proliferation, spread, or presence is not  
22 required for purposes of applying the virus exclusion  
23 because that is in a separate paragraph designed to  
24 address fungus or fungi. There are not just one but

1 two disjunctive *or*'s in between fungus and virus  
2 because it goes fungus -- or states fungus or wet or  
3 dry rot or and then a new paragraph starting with the  
4 word *virus* enumerated as number two.

5 So the court finds that it doesn't have to  
6 establish a growth of a virus, just simply the idea of  
7 a virus, the fact that a virus that is capable of  
8 inducing physical distress, illness, or disease.

9 Even if -- if, in fact, this was some kind of  
10 physical -- accidental physical damage, physical loss  
11 coming within the insuring agreement, the virus  
12 exclusion applies because Subsection C of the lead-in  
13 language says this virus exclusion applies whether  
14 other causes, executive orders, acted concurrently or  
15 in any sequence with the excluded event to produce the  
16 loss.

17 Here, I think everyone would agree absent the  
18 virus, absent the virus, there would be no executive  
19 orders, and so because C says this exclusion would  
20 apply even where the sequence of the ordering with  
21 other causes isn't entirely known or isn't entirely  
22 clear or happens one two or two one, it still applies.

23 Furthermore, whether or not a virus could, in  
24 fact, alter the physical structure, I think that's a

1 much -- that's not entirely clear at all that a virus  
2 could.

3 And that's plaintiff's -- or I'm sorry,  
4 insured's argument is the virus exclusion doesn't make  
5 any sense for a sort of physical alteration requirement  
6 of physical damage -- or a loss of, I should say --  
7 physical loss because a virus would never alter the  
8 physical structure.

9 The court doesn't agree with that. Virus,  
10 bacteria, and microorganisms can exist in, in fact, a  
11 meaningful way, and I think there's a strain of thought  
12 out there that at one time was dominant -- it still may  
13 be true to a certain extent -- that this virus can  
14 exist on surfaces.

15 So even if the loss of use because of  
16 coronavirus could constitute, the virus exclusion would  
17 still apply -- could constitute physical -- accidental  
18 physical loss, direct physical loss, I should say --  
19 the virus exclusion applies.

20 And so for those reasons, the court is going  
21 to grant the motion to dismiss.

22 I want to point out -- or I do want to  
23 address the authority provided by Harold's Chicken --  
24 It's Nice, Inc., d/b/a Harold's Chicken. A couple

1 things, I think, are worth pointing out.

2 One is the State Farm language here -- not  
3 only are those cases from the western district and, as  
4 a result, they're not controlling, the court believes  
5 or is of the opinion that the cases relied upon for its  
6 ruling today are more consistent with Illinois law as  
7 it exists with respect to this issue.

8 Furthermore, the policy language was  
9 different in those western district cases. And that's  
10 not to say that the result would be different if you  
11 had identical language, but I do think that's different  
12 language.

13 And, moreover, and perhaps importantly, the  
14 court was evaluating a 12(b)(6) motion in which the  
15 insureds in that case allege the presence of COVID on  
16 the property. And, to the court's mind, that is a --  
17 that's a meaningful distinction here.

18 And, again, there's no virus exclusion in  
19 that policy that the court would have had to have  
20 considered as well and we don't know what the court  
21 would have done in that case.

22 But I do think, at least for purposes of the  
23 insuring agreement argument, those cases are  
24 distinguishable without regarding -- without, you know,

1       advising as to what the result would be in this court.  
2       But I do think those are different cases and they need  
3       to be treated differently as such.

4               And so, for those reasons, the court is going  
5       to go ahead and grant the motion both with respect to  
6       the insuring agreement argument as well as with respect  
7       to the virus exclusion.

8               I do want to point out, for the record, the  
9       insured does not seem to argue -- kind of seems to have  
10      one foot in and one foot out on civil authority.  
11      They're happy to find civil authority coverage if it  
12      exists, but they're not specifically asking for it.

13              But I want to point out, for the record,  
14      that, as noted above, the policy's civil authority  
15      coverage applies only if there is a covered cause of  
16      loss, meaning direct physical loss, again, going back  
17      to direct physical loss to property other than the  
18      plaintiff's property.

19              Just as the coronavirus did not cause direct  
20      physical loss to plaintiff's property here, the  
21      complaint has not and likely could not allege that the  
22      coronavirus caused direct physical loss to other  
23      property. By the policy's own terms, the civil  
24      authority coverage then does not apply.



1           So with that having been said, I'm granting  
2           the motion. You know, I'm kind of -- do the parties  
3           want a dismissal with prejudice?

4           MS. SCHUMACHER: Your Honor, we are asking for a  
5           dismissal with prejudice, the reason being their claim  
6           is for the loss of income due to the executive orders  
7           which is caused by the virus, and without alleging a  
8           completely different kind of claim, there's no set of  
9           facts that they're going to be able to allege that's  
10          going to avoid that result.

11          The executive orders are full of references  
12          to the virus. The chain of causation is strong. The  
13          virus exclusion is present. And, again, the same thing  
14          with the physical damage issue. There's no claim that  
15          there was any structural alteration to the property.

16          So I think in this case, your Honor, on that  
17          basis, I don't think there's any way they're going to  
18          be able to plead around either of those issues, and so  
19          we are asking for a dismissal with prejudice.

20          THE COURT: Mr. Endsley, any response to that or  
21          are you in agreement that this is time for other minds  
22          to evaluate this claim?

23          MR. ENDSLEY: Yeah, your Honor, that's probably  
24          correct. I don't think we can change the pleading such

1       that -- to get around the issues that you're finding  
2       are insurmountable.

3               THE COURT: I don't disagree. It is a 615, and so  
4       I do want to just at least give the parties the  
5       opportunity to request without -- whether or not I give  
6       that is a different issue, but it sounds like the  
7       parties are of one mind and the court is in agreement  
8       that this dismissal for this type of a 615 motion is  
9       and should be with prejudice, and the court will enter  
10      such an order.

11             MS. SCHUMACHER: Thank you, your Honor.

12             THE COURT: Okay.

13             MR. ENDSLEY: Thank you, your Honor.

14             THE COURT: Thank you, guys. Thank you very much  
15      for your time and energy on this. I want to commend  
16      the parties. I know this is a very interesting issue  
17      under very -- a very unique set of facts.

18             MS. SCHUMACHER: Thank you, your Honor.

19             MR. ENDSLEY: Thank you, your Honor.

20             THE COURT: Thank you.

21                             (Which were all the proceedings had at  
22                             the hearing of the above-entitled  
23                             cause, this date.)  
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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

I, KRISTIN M. BARNES, do hereby certify that  
the foregoing Report of Proceedings, consisting of  
Pages 1 to 39, inclusive, was reported in shorthand by  
me via Zoom videoconferencing, and the said Report of  
Proceedings is a true, correct and complete transcript  
of my shorthand notes so taken at the time and place  
hereinabove set forth.

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Official Court Reporter  
Eighteenth Judicial Circuit of Illinois  
DuPage County  
CSR License No. 084-004026

# Exhibit I

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

Riverside Dental of Rockford, Ltd., )  
)  
Plaintiff, ) Case No. 20 CV 50284  
)  
vs. )  
)  
Cincinnati Insurance Company, ) Judge Philip G. Reinhard  
)  
Defendant. )

**ORDER**

For the reasons stated below, defendant’s motion to dismiss [9] is granted. The complaint is dismissed without prejudice. Any amended complaint shall be filed on or before February 16, 2021.

**STATEMENT-OPINION**

Plaintiff, Riverside Dental of Rockford, Ltd., an Illinois corporation with its principal place of business in Illinois brought this action in state court against defendant, The Cincinnati Insurance Company, an Ohio corporation with its principal place of business in Ohio. Defendant filed notice of removal [1] premised on diversity of citizenship jurisdiction. 28 U.S.C. § 1332(a)(1). The amount in controversy exceeds \$75,000. Jurisdiction is proper. The complaint seeks a declaratory judgment (Count I), alleges breach of contract (Count II), and asks for attorney fees, costs, and an amount in excess of the judgment as allowed by 215 ILCS 5/155 (Count III). Defendant moves to dismiss [9].

Plaintiff is a dental office located in the state of Illinois. Plaintiff purchased a commercial property insurance policy (“Policy”) from defendant. The Policy includes among its forms and endorsements a Building and Personal Property Coverage Form (FM 101 05 16) (“Property Form”) and a Business Income (And Extra Expense) Coverage Form (FA 213 IL 05 16) (“Business Income Form”). Both these forms contain “Civil Authority” additional coverage provisions obligating defendant, under certain conditions, to pay plaintiff for actual loss of “Business Income” and necessary “Extra Expense” “caused by action of civil authority that prohibits access to the ‘premises’.”

In March 2020, the Governor of Illinois, in response to the Covid-19 pandemic, issued executive orders (“Governor’s Orders”) requiring Illinois dental offices to cease providing services identified by the Governor as non-essential. From March 17, 2020 through May 11, 2020, plaintiff was forced by the Governor’s Orders to postpone all work deemed non-essential. Of the services plaintiff provides in its dental practice, those identified by the Governor as non-essential account for approximately 90% of plaintiff’s business. Compliance with the Governor’s Orders caused a substantial loss of income to plaintiff. Plaintiff filed a claim under

the Policy with defendant for its loss of business income caused by complying with the Governor's orders. Defendant denied plaintiff's claim because it determined that coverage was unavailable for the claimed loss.

Plaintiff then brought this action in Illinois state court. Defendant removed the case to this court and now moves to dismiss plaintiff's complaint, as allowed by Federal Rule of Civil Procedure 12(b)(6), for "failure to state a claim upon which relief can be granted." This case presents an interesting and important issue arising from the coronavirus spread worldwide and civil authority actions in response. E.g., Oral Surgeons, P.C. v. The Cincinnati Ins. Co., No. 20 CV 222, 2020 WL 5820552 (S.D. Iowa 9/29/2020); Infinity Exhibits, Inc. v. Certain Underwriters at Lloyd's London, No. 20 CV 1605, 2020 WL 5791583 (M.D. Fla. 9/28/2020); Douglas Berry, Coivd-19—When Civil Authorities Takeover Are You Covered?, IRMI, <https://www.irmi.com/articles/expert-commentary/when-civil-authorities-take-over-are-you-covered>; Julie Steinberg & Leslie Scism, Insurers Face Big Payouts to U.K. Businesses Over Covid Disruptions, Wall Street Journal (Jan.16, 2021), [https://www.wsj.com/articles/insurers-face-big-payouts-to-u-k-businesses-over-covid-disruptions-11610713995?mod=itp\\_wsj&ru=yahoo](https://www.wsj.com/articles/insurers-face-big-payouts-to-u-k-businesses-over-covid-disruptions-11610713995?mod=itp_wsj&ru=yahoo).

"A claim is the aggregate of operative facts which give rise to a right enforceable in the courts." Sojka v. Bovis Lend Lease, Inc., 686 F.3d 394, 399 (7<sup>th</sup> Cir. 2012) (quotation marks and citations omitted). The claim plaintiff is asserting is that defendant had a contractual duty under the Policy's Civil Authority coverage provisions to pay plaintiff's insurance claim for business income loss caused by the Governor's Orders<sup>1</sup>; that defendant breached that duty when it denied plaintiff's claim as not being within the coverage provided by the Policy's Civil Authority coverage provisions; and that this breach of contractual duty damaged plaintiff by depriving it of the benefit of its bargain—receiving payment from defendant to cover the amount of plaintiff's business income loss "caused by action of civil authority" that prohibited access to plaintiff's business premises.

To survive a Rule 12(b)(6) motion to dismiss for failure to state a claim, a complaint must meet the Fed. R. Civ. P. 8(a)(2) requirement that it contain a "short and plain statement of the claim showing that the pleader is entitled to relief." If the complaint (1) describes the claim in sufficient detail to give the defendant fair notice of what the claim is and the grounds upon which it rests and (2) plausibly suggests that the plaintiff has a right to relief above a speculative level, the Rule 8(a)(2) requirement is met. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). On a motion to dismiss, the court must determine whether the complaint contains "enough fact to raise a reasonable expectation that discovery will reveal evidence" to support liability for the alleged wrongdoing. *Id.* at 556. A plaintiff "may plead itself out of court by pleading facts that establish an impenetrable defense." Tamayo v. Blagojevich, 526 F.3d 1074, 1087 (7<sup>th</sup> Cir. 2008).

There is no dispute that the complaint gives defendant fair notice of what the claim is and the grounds upon which it rests. The dispute is whether the complaint plausibly suggests that

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<sup>1</sup> Plaintiff makes clear in its brief that the only claim pled in its complaint concerns defendant's duty to plaintiff under the Civil Authority coverage provisions of the Policy.

plaintiff has a right to relief above the speculative level on that claim. Defendant argues plaintiff has no right to relief on its claim because, as a matter of law, the complaint shows defendant has no contractual duty to pay for any loss plaintiff suffered as a result of plaintiff’s compliance with the Governor’s Orders. The complaint includes a copy of the Policy and the Governor’s Orders as exhibits.

The Policy’s Business Income Form contains the following relevant provisions:

**SECTION A. COVERAGE**

\* \* \*

**1. Business Income**

a. We will pay for the actual loss of “Business Income” you sustain due to the necessary “suspension” of your “operations” during the “period of restoration”. The “suspension” must be caused by direct “loss” to property at “premises” which are described in the Declarations and for which a “Business Income” Limit of Insurance is shown in the Declarations. The “loss” must be caused by or result from a Covered Cause of Loss.

\* \* \*

**3.a. Covered Causes of Loss<sup>2</sup>**

Covered Causes of Loss means direct “loss” unless the “loss” is excluded or limited in this Coverage Part. Dkt # 10-1. p. 27.

**5. Additional Coverages**

The Additional Coverages in Paragraphs 5.a through 5.e are included within and not additional “Business Income” and Extra Expense Limits of Insurance.

\* \* \*

**b. Civil Authority**

When a Covered Cause of Loss causes direct damage to property other than Covered Property at the “premises”, we will pay for the actual loss of “Business Income” you sustain and necessary Extra Expense you sustain caused by action of civil authority that prohibits access to the “premises”, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the

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<sup>2</sup> The Business Income Form incorporates the Property Form’s Covered Causes of Loss provision, paragraph 3.a of which is set forth here.

action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority coverage for “Business Income” will begin immediately after the time of the first action of civil authority that prohibits access to the “premises” and will apply for a period of up to 30 consecutive days from the date on which such coverage began.

Civil Authority coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the “premises” and will end 30 consecutive days after the date of that action; or when your Civil Authority coverage for “Business income” coverage ends, whichever is later.

Dkt # 10-1, p. 116.

\* \* \*

**SECTION F. DEFINITIONS**

1. “Business Income” means the:

- a. Net Income (Net profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses sustained, including payroll.

\* \* \*

6. “Loss” means accidental physical loss or accidental physical damage.

\* \* \*

10. “Premises” means the Locations and Buildings described in the Declarations.

Dkt # 10-1, pp. 122-23.

The Policy’s Property Form contains the following relevant provisions:

**SECTION A. COVERAGE**

\* \* \*

**5. b. (3) Civil Authority**

When a Covered Cause of Loss causes damage to property other than Covered Property at a “premises”, we will pay for the actual loss of “Business Income” and necessary Extra Expense you sustain caused by action of civil authority that prohibits access to the “premises”, provided that both of the following apply:

(a) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage; and

(b) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage or



continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Dkt # 10-1, pp. 40-41.

**SECTION G. DEFINITIONS**

\* \* \*

**13. “Premises means the Locations and Buildings described in the Declarations.”<sup>3</sup>**

Dkt # 10-1, P. 61.

Under Illinois law, the construction of the provisions of an insurance policy is a question of law. Nicor, Inc. v. Associated Electric and Gas Insurance Services, Ltd., 860 N.E. 2d 280, 285 (Ill. 2006). The Illinois Supreme Court sets out the process for construing an insurance contract as follows:

“A court's primary objective is to ascertain and give effect to the intention of the parties whole, taking into account the type of insurance purchased, the nature of the risks involved, and the overall purpose of the contract.

The words of a policy should be accorded their plain and ordinary meaning. Where the provisions of a policy are clear and unambiguous, they will be applied as written unless doing so would violate public policy. That a term is not defined by the policy does not render it ambiguous, nor is a policy term considered ambiguous merely because the parties can suggest creative possibilities for its meaning. Rather, ambiguity exists only if the term is susceptible to more than one reasonable interpretation.

Because insurance contracts are issued under given circumstances, they are not to be interpreted in a factual vacuum. A policy term that appears unambiguous at first blush might not be such when viewed in the context of the particular factual setting in which the policy was issued. Governing legal authority must, of course, be taken into account as well, for a policy term may be considered unambiguous where it has acquired an established legal meaning. Where ambiguity does exist, the policy will be construed strictly against the insurer, who drafted the policy and liberally in favor of coverage for the insured.”

Id. at 286 (citations omitted).

An examination of the Civil Authority coverage provisions set out above shows that for plaintiff to be covered for loss of Business Income and Extra Expense under those provisions, the following conditions must all be met:

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<sup>3</sup> Plaintiff’s dental office is the “premises” under this definition and the identical definition in the Business Income Form set out above.

- (1) a Covered Cause of Loss must have caused damage<sup>4</sup> to property other than Covered Property at plaintiff's dental office;
- (2) a civil authority must have taken action that prohibited access to plaintiff's dental office;
- (3) the civil authority's action must have prohibited access to the area immediately surrounding the damaged property as a result of the damage;
- (4) the civil authority must have taken the action in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage; and
- (5) the action of the civil authority must have caused plaintiff to sustain the actual loss of "Business Income" and/or necessary Extra Expense.

If any one of these conditions is absent, then coverage is unavailable under the Civil Authority coverage provisions. Taking the complaint's allegations as true and its attached exhibits as accurate, condition (2) is absent and, therefore, plaintiff has failed to state a claim for its loss of Business Income and Extra Expense under the Civil Authority coverage provisions of the Policy.<sup>5</sup>

Civil Authority coverage under the Policy depends on an action by a civil authority that "prohibits access" to plaintiff's dental office. The Policy does not define either "access" or "prohibit" so these words are "accorded their plain and ordinary meaning." Nicor, 860 N.E.2d at 286. "Access" is defined as "permission, liberty, or ability to enter, approach, or pass to and from a place or to approach or communicate with a person or thing." Meriam-Webster Dictionary, "Access", <https://www.merriam-webster.com/dictionary/access>. "Prohibit" is defined as "to forbid by authority; "to prevent from doing something." Meriam-Webster Dictionary, "Prohibit", <https://www.merriam-webster.com/dictionary/prohibit>. Does the complaint plausibly suggest that the Governor's Orders forbade or prevented the ability to enter plaintiff's dental office?

Order 2020-10, issued on March 20, 2020, included dental offices in its definition of Health Care and Public Health Operations and allowed individuals to leave their residence to work for or obtain services at dental offices. Dkt # 14-4, p.35. Order 2020-19, issued April 1, 2020, required dental offices to cancel or postpone elective surgeries and procedures. Dkt # 14-4, pp. 48-49. On May 11, 2020, the Illinois Department of Public Health issued guidance allowing dental offices to resume services that previously had been required to be cancelled or postponed. Dkt # 14-4, p. 68.

The Governor's Orders, which are included as exhibits to the complaint, did not forbid or prevent the ability to enter plaintiff's dental office. The Governor's Orders limited the types of services that could be provided at plaintiff's dental office for several weeks. This limitation on services that could be provided caused plaintiff a substantial loss of revenue. But the Civil Authority coverage provisions require the civil authority to prohibit access to the

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<sup>4</sup> "Direct damage" in the Business Income Form's provision.

<sup>5</sup> Because resolution of this issue requires dismissal of the complaint, the court will not discuss the other issues raised by the parties.

premises for an insured's Business Income loss to be recoverable. The complaint's allegations do not allege entry to plaintiff's dental office was prohibited by the Governor's Orders and the text of Governor's Orders attached to the complaint do not contain language prohibiting access to dental offices. On the contrary, the Governor's Orders allow access to dental offices for essential services. Plaintiff's Business Income loss is not covered under the Civil Authority coverage provisions of the policy at issue in this case because the Governor's Orders did not prohibit access to plaintiff's dental office.

Plaintiff argues it has alleged the Governor's Orders "ordered that all non-essential businesses must cease" and that "elective procedures must be cancelled or postponed." Dkt # 12, p. 15. It contends its complaint directly alleged that the Governor's Orders "clearly prohibited access by ordering non-essential business to cease and by ordering people to stay home." *Id.* It argues its complaint "specifically alleges that 'Governor Pritzker's Order restricts access to areas immediately surrounding [plaintiff's] premises; in fact, it restricts access across the entire State.' (Complaint ¶ 22). The Governor ordered all individuals living within the State of Illinois to 'stay at home or place of residence' and further ordered that 'non-essential business and operations must cease.' (Complaint, Ex. B, EO 2020-10). The Complaint alleges that '[plaintiff] was forced by the Shutdown Orders to postpone all work deemed non-essential. This 'non-essential' work accounts for approximately 90% of [plaintiff's] business." *Id.*

However, as noted above, the Governor's Orders do not prohibit access to plaintiff's dental office. Order 2020-10 allowed individuals to work and receive services at dental offices. Order 2020-19 required elective surgeries and procedures to be cancelled or postponed. Emergency procedures were still allowed. Plaintiff alleges approximately 90% of its business was "non-essential" which means approximately 10% of its business was not required to be cancelled or postponed. While the type of services plaintiff could provide to individuals were limited by the Governor's Orders, access to the premises was not prohibited. The Governor's Orders allowed individuals access to the premises to receive and to provide essential services.

Sandy Point Dental, PC v. The Cincinnati Insurance Co., No. 20 CV 2160, 2020 WL 5630465, \* 1 (N.D. Ill. Sept. 21, 2020), is in accord with this analysis. In Sandy Point, the court analyzed a civil authority provision in light of Illinois coronavirus orders. The Sandy Point court addressed a civil authority coverage provision which, for civil authority coverage to be triggered, required that "orders of civil authority must 'prohibit access to the 'premises' due to direct physical 'loss' to the property, other than at the 'premises', caused by or resulting from a Covered Cause of Loss.'" Sandy Point found that "while coronavirus orders have limited plaintiff's operations, no order issued in Illinois prohibits access to plaintiff's premises. Indeed, plaintiff concedes that dental offices were deemed essential businesses for emergency and non-elective work. Consequently, plaintiff has failed to allege that access to its premises was prohibited by government order, and its claim for civil authority coverage fails." *Id.* at \* 3 (citation omitted). Though it also analyzed other policy language, Sandy Point found (like this court finds above) that the failure to allege that access to the premises was prohibited—rather than limited—by government order was enough to preclude the plaintiff's claim for civil authority coverage.

Because there is no coverage under the Civil Authority provisions, there is no claim under 215 ILCS 5/155. See Illinois State Bar Ass'n Mutual Ins. Co. v. Cavenagh, 983 N.E.2d 468, 479 (Ill. App. 2012). “Section 155 allows for ‘an extracontractual remedy’ of attorney fees and costs for an insurer’s ‘unreasonable and vexatious’ refusal to comply with its policy obligations.” Id. However, where the policy does not cover the claim, a section 155 claim is properly dismissed. Id.

Plaintiffs normally should be given leave to amend after dismissal of an initial complaint. Runnion ex rel. Runnion v. Girl Scouts of Greater Chicago, 786 F.3d 510, 518 (7<sup>th</sup> Cir. 2015). If plaintiff wishes to file an amended complaint, it may do so on or before February 16, 2021.

For the foregoing reasons, defendant’s motion to dismiss [9] is granted. The complaint is dismissed without prejudice. Any amended complaint shall be filed on or before February 16, 2021.

DATE: 1/19/2021

ENTER:



United States District Court Judge

Electronic Notices. (LC)

# Exhibit J

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TJBC, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 20-cv-815-DWD
	)	
THE CINCINNATI INSURANCE	)	
COMPANY, INC.,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

DUGAN, District Judge:

On August 27, 2020, Plaintiff TJBC, Inc. filed its Amended Complaint (Doc. 15) against Defendant, The Cincinnati Insurance Company, Inc., seeking relief related to Defendant’s denial of Plaintiff’s insurance claim resulting from alleged business damages sustained during the Covid-19 pandemic. Plaintiff seeks a declaration that Defendant must provide coverage under the relevant insurance policy for losses due to governmental executive orders intended to stop the spread of Covid-19. Plaintiff also asserts claims for breach of contract for failing to provide coverage, damages and attorneys’ fees for vexatious refusal under 215 ILCS 5/15 and consumer fraud under 815 ILCS 505, along with a claim for common law fraud.

Now before the Court is Defendant’s Motion to Dismiss (Doc. 24) and Memorandum in Support (Doc. 25). Defendant moves to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Plaintiff Responded (Doc. 40) and Defendant Replied (Doc. 41). On January 12, 2021, a remote hearing was held via Zoom

on Defendant's Motion to Dismiss (Doc. 24), and Plaintiff's pending Motion for Partial Summary Judgment (Doc. 35). Having reviewed the briefing and arguments in this matter, and for the reasons below, Defendant's Motion to Dismiss (Doc. 24) is **GRANTED**. Accordingly, the Court does not reach the merits of Plaintiff's Motion for Partial Summary Judgment (Doc. 35), which will be **DENIED as moot**.

### **Background**

Plaintiff owns and operates two food and beverage establishments in southern Illinois. Starting in March 2020, Illinois Governor Pritzker issued a series of executive orders designed to curb the spread of the Covid-19 virus. The orders closed "non-essential businesses" to the public and suspended indoor dining at restaurants and bars, although delivery, drive-through, and curbside pick-up options were permitted to continue. The orders left Plaintiff unable to provide indoor dining to its customers for some time. Plaintiff alleges that it was effectively forced to shut down for the duration of the crisis, resulting in substantial loss of revenue. Plaintiff argues that its losses are covered under an insurance policy issued by Defendant for the period of August 6, 2017 to August 6, 2020 (Doc. 1-3)<sup>1</sup>. Plaintiff contends that coverage exists under the policy's general coverage and business income and extra expenses coverage provisions. Plaintiff originally sought coverage under the policy's Crisis Event Coverage (Doc. 15), but

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<sup>1</sup>The relevant Policy was attached as Exhibit 1 to Plaintiff's original complaint (Doc. 1-3) but omitted from Plaintiff's Amended Complaint (Doc. 15). Nevertheless, the Court will still consider the Policy because it is central to the dispute, and both parties do not dispute its accuracy. See *Williamson v. Curran*, 714 F.3d 432, 436 (7th Cir. 2013) (When ruling on a motion to dismiss, the court "may consider, in addition to the allegations set forth in the complaint itself, documents that are attached to the complaint, documents that are central to the complaint and are referred to in it, and information that is properly subject to judicial notice.").

Plaintiff is no longer pursuing this claim. *See Memorandum in Opposition to Defendant's Motion to Dismiss* (Doc. 40, at pp. 3, 12).

The policy's relevant provisions can be found in the Building and Personal Property Coverage Form and the Business Income (and Extra Expense) Coverage Form. The policy's general coverage provision states that Defendant "will pay for direct physical 'loss'<sup>2</sup> to Covered Property at the 'premises' caused by or resulting from any Covered Cause of Loss." (Doc. 1-3, at p. 37). The policy defines Covered Causes of Loss as "RISKS OF DIRECT PHYSICAL LOSS unless the 'loss' is" otherwise excluded or limited (*Id.* at p. 39).

The Business Income coverage states, in relevant part:

We will pay for the actual loss of "Business Income" and "Rental Value" you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical "loss" to property at a "premises" caused by or resulting from any Covered Cause of Loss.

[. . .]

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical "loss" to property at a "premises" which is described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The 'loss' must be caused by or result from a Covered Cause of Loss.

(Doc. 1-3 at pp. 50, 135).

The policy also provides Civil Authority coverage, which provides coverage for an "action of civil authority that prohibits access to the 'premises' due to direct physical

---

<sup>2</sup>"Loss" is defined as "accidental loss or damage." (Doc. 1-3, at pp. 68, 142).



'loss' to property, other than at the 'premises', caused by or resulting from any Covered Cause of Loss. (*Id.* at pp. 51, 136).

### **Legal Standard**

"The purpose of a motion to dismiss is to test the sufficiency of the complaint, not to decide the merits." *Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7th Cir. 1990). To survive dismissal, Plaintiff must state a claim that is 'plausible on its face.'" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Zablocki v. Merchants Credit Guide Co.*, 968 F.3d 620, 623 (7th Cir. 2020). A plausible claim exists "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Court will accept all well-pleaded factual allegations as true and will construe all reasonable inferences in Plaintiff's favor. *Gibson*, 910 F.2d 1510 at 1520-21; *Zablocki*, 968 F.3d at 623. However, the Court need not accept statements of law or unsupported conclusory factual allegations as true. *Zablocki*, 968 F.3d at 623. Further, when plaintiff "relies on a document attached to the complaint, and does not deny its accuracy, the facts communicated by that document control over allegations to the contrary." *Id.*

### **Discussion**

The interpretation of an insurance policy is a matter of state law. *Windridge of Naperville Condominium Assoc. v. Philadelphia Indemnity Ins. Co.*, 932 F.3d 1035, 1039 (7th Cir. 2019). The parties agree that Illinois law controls this dispute. Accordingly, the proper construction of the policy is a question of law, and the Court's primary objective is to ascertain and give effect to the intentions of the parties as expressed in the policy.

*Windridge*, 932 F.3d at 1039 (citing *Hobbs v. Hartford Ins. Co. of the Midwest*, 214 Ill.2d 11 (Ill. 2005)). In ascertaining the meaning of the policy’s language, the Court “must construe the policy as a whole and ‘take into account the type of insurance purchased, the nature of the risks involved, and the overall purpose of the contract.’” *Windridge*, 932 F.3d at 1039 (citing *Travelers Ins. Co. v. Eljer Mfg., Inc.*, 197 Ill. 2d 278 (Ill. 2001)). When the policy language is unambiguous, it will be applied as written, unless it contravenes public policy. *Windridge*, 932 F.3d at 1039; *Founders Ins. Co. v. Munoz*, 237 Ill.2d 424, 490 (Ill. 2010). Policy provisions are not ambiguous solely because the parties disagree about its interpretations; rather an ambiguity exists when the policy language is “subject to more than one reasonable interpretation.” *Windridge*, 932 F.3d at 1039; *Founders*, 237 Ill.2d at 490.

Defendant argues that the Court should dismiss the Amended Complaint because Plaintiff has not, and cannot, allege “direct physical loss” to its property caused by Covid-19 or the Governor’s executive orders. “Direct physical loss” is a prerequisite to coverage under the policy, and its plain and ordinary meaning is central to whether the Amended Complaint survives the Defendant’s Motion to Dismiss. Defendant maintains that this language unambiguously requires some form of actual “tangible, material loss” or a “demonstratable, physical alteration” to the structure of Plaintiff’s property. Defendant reasons that the policy only indemnifies against loss or damage to *property*, and because an infectious disease like Covid-19 only damages *people* it cannot cause the requisite physical or material damage necessary to trigger coverage under the policy. Thus,

because Plaintiff has not alleged that its property structure was physically altered by the Covid-19 virus, coverage is unavailable, and the complaint must be dismissed.

Indeed, Plaintiff's complaint does not allege that there has been any demonstrable physical alteration to its property or that Covid-19 has been on the surfaces of its property<sup>3</sup>. Instead, Plaintiff asserts that the language of the policy is more inclusive so to contemplate losses from any "reduction in usefulness, value or lifespan" of the property. Specifically, Plaintiff contends that "physical loss" does not require a material alteration to the physical structure of the property, but instead also includes coverage for "diminished value or functionality." In sum, Plaintiff argues that the policy language provides coverage for its income losses because the losses resulted from a reduction in the value of Plaintiff's business caused by a tangible and material substance (Covid-19) which can attach to its physical property, regardless of whether that substance can cause damage to the property itself. In support of its position, Plaintiff argues that *Advance Cable Co., LLC v. Cincinnati Ins. Co.*, 788 F.3d 743 (7th Cir. 2015) is controlling and requires a finding that "direct physical loss" includes losses sustained from the diminished value of Plaintiff's business during the time Plaintiff was unable to offer indoor dining to its customers.

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<sup>3</sup> Plaintiff does allege that the "presence of COVID-19 in or around Plaintiff's business prevented it from operating beginning in March 2020." (Doc. 15, at ¶ 11). However, even in construing this factual allegation in Plaintiff's favor, it is not enough to infer that the virus was directly present at Plaintiff's property or on any of its surfaces.

In *Advance Cable*, the Seventh Circuit held that, under Wisconsin law, the phrase “direct physical loss” includes both hail damage that diminished the functionality of the insured’s roof, and hail dents that were only cosmetic. *Advance Cable*, 788 F.3d at 747. The parties acknowledge that the policy language in *Advance Cable* is very similar to the relevant policy language here. However, the factual similarities appear to stop there, particularly in light of the Seventh Circuit’s analysis distinguishing *intangible* damage from *tangible* damage. *Id.* at 746-747. The crux of the *Advance Cable* opinion concerns the question of whether cosmetic damage to a roof, i.e. damage that does not structurally impact the integrity of the roof, is covered as a “direct physical loss.” *Id.* The Seventh Circuit answered in the affirmative, finding that the hailstorm “caused visible indentions to the surface of the roof” and “change[d] the physical characteristics of the roof.” *Id.* at 747. Therefore, the policy’s “direct physical loss” language was satisfied. *Id.* The Court also specifically emphasized that the cosmetic damage at issue in the case was not *intangible* damage, and further illuminated the distinction between *tangible* and *intangible* damage by distinguishing *Crestview Country Club Inc. v. St. Paul Guardian Ins. Co.*, 321 F.Supp.2d 260 (D. Mass. 2004). *Id.* at 746.

In *Crestview*, the Massachusetts district court held that *intangible* changes to the character of an insured’s golf course following damage to a notable ash tree on the course, *did not* trigger insurance coverage as “direct physical loss or damage” despite the ash tree’s replacement being covered under the relevant policy. *Id.* at 746. The Seventh Circuit noted that the *Crestview* case involved a coverage analysis of both *tangible* damage (the ash tree, which was covered), and *intangible* damage (the alteration in the golf

course's character, which was not covered), while the *Advance Cable* case only concerned tangible damage. *Id.* at 747 ("Advance is not asking for coverage of intangible damage."); *in accord*, *Welton Enterprises, Inc. v. Cincinnati Ins. Co.*, 131 F.Supp.3d 827, 834 (W.D. Wis. 2015) (explaining that in *Advance Cable*, the Seventh Circuit explicitly held that the policy's "physical" requirement was satisfied because the denting to the roof changed the physical characteristics of the roof, while also noting that its plaintiff was only seeking coverage for *tangible* damage).

This distinction between *tangible* and *intangible* damage is also vitally important here. Plaintiff alleges that Covid-19 (and the Governor's executive orders) necessarily diminished the functionality of its business because its business model was forcibly altered to prohibit indoor dining, thereby rendering the business less profitable in value. However, nothing in *Advance Cable* suggests that this alteration to the character of Plaintiff's business can be covered as a "direct physical loss" in the absence of some *tangible* damage or loss.

Indeed, in the Seventh Circuit's subsequent opinion, *Windridge of Naperville Condominium Assoc.*, 932 F.3d 1035 (7th Cir. 2019) (applying Illinois law), the Court, relied on its *Advance Cable* opinion to illustrate that the word "physical" (as used in the phrase "direct physical loss") "generally refers to tangible as opposed to intangible damage." *Windridge*, 932 F.3d at 1040. The Court continued:

An alteration in appearance constitutes physical, tangible damage. The Illinois Supreme Court has explained that "the term 'physical injury' unambiguously connotes damage to tangible property causing an alteration in appearance, shape, color or in other material dimension." Similarly, we have acknowledged that "[t]he central meaning of the term

[physical injury] as it is used in everyday English—the image it would conjure up in the mind of a person unschooled in the subtleties of insurance law—is of a harmful change in appearance, shape, composition, or some other physical dimension of the “injured person or thing.”

*Id.* at f.n. 4 (citing *Travelers Insurance Co. v. Eljer Mfg., Inc.*, 197 Ill.2d 278 (Ill. 2001) and *Eljer Mfg., Inc. v. Liberty Mut. Ins. Co.*, 972 F.2d 805, 808-09 (7th Cir. 1992) (Illinois law)); *in accord Cincinnati Ins. Co. v. Taylor-Morley, Inc.*, 556 F.Supp.2d 908, 917 (S.D.Ill. 2008) (citing *Eljer*, 197 Ill.2d at 312) (“We also conclude that under its plain and ordinary meaning, the phrase ‘physical injury’ does not include intangible damage to property, such as economic loss ... [T]he diminution in value ... does not constitute a *physical* injury.”) (emphasis in original).

Accordingly, the Court finds that “direct physical loss” under the parties’ policy unambiguously requires some form of “tangible” loss or damage to the physical dimension of Plaintiff’s property. Mere loss of use or diminishment in value of Plaintiff’s business without underlying tangible damage or loss to the business’ property or structure is not enough to trigger coverage under the policy. This interpretation is consistent with the policy’s construction as a whole, which the Court is required to consider. *See Windridge*, 932 F.3d at 1039. Indeed, to adopt Plaintiff’s interpretation would require the Court to assign peculiar meanings to other provisions in the policy, rendering those provisions needlessly convoluted.

For example, the policy defines “period of restoration” in relevant part as the period of time that “b. Ends on the earlier of: (1) the date when the property at the ‘premises’ should be repaired, rebuilt or replaced . . . or (2) The date when business is

resumed at a new permanent location.” (Doc. 1-3 at pp. 68, 142). Without underlying tangible damage or loss to the insured’s property, no repair, rebuilding, replacement, or permanent location would outwardly be required, rendering this definition unclear at best. *In accord T & E Chicago LLC v. Cincinnati Ins. Co.*, 2020 WL 6801845, at \*1, at \*5 (N.D. Ill. Nov. 19, 2020) (the definition of “period of restoration” necessarily “implies a requirement of loss to property rather than loss of property.”). Such strained construction here, and elsewhere in the policy, would likely offend the rules of construction and interpretation the Court is bound to abide.

This holding is likewise consistent with the decisions of other courts that have evaluated coverage for losses resulting from Covid-19 closure orders under similar policy provisions. *See Bradley Hotel Corp. v. Aspen Specialty Ins. Co.*, -- F.Supp.3d --, 2020 WL 7889047, at \*1 (N.D. Ill. Dec. 22, 2020); *Sandy Point Dental P.C. v. Cincinnati Ins. Co.*, -- F.Supp.3d --, 2020 WL 5630465, at \*1, \*2 (N.D. Ill. Sept. 21, 2020) (collecting cases); *T & E Chicago*, 2020 WL 6801845, at \*1. While some courts have reached different conclusions at this stage in the litigation, the Court finds it unnecessary to clutter this matter further by discussing other jurisdiction’s approaches to different policies and claims. Illinois law provides a straightforward path for interpreting the policy here, and under the policy Plaintiff has failed to allege a “direct physical loss” necessary to trigger coverage.

In sum, because Covid-19 does not cause “tangible” loss or damage to the physical dimension of Plaintiff’s property, and Plaintiff has not alleged that Covid-19 physically altered the appearance, or some material dimension of its property, Plaintiff has failed to allege a “direct physical loss” necessary to trigger coverage under the policy. Plaintiff’s

arguments concerning civil authority coverage likewise fail. The policy's civil authority coverage applies only if there is a Covered Cause of Loss, meaning risks of direct physical loss, to property, other than at the "premises." (Doc. 1-3, at pp. 51, 136). Just as Covid-19 did not cause direct physical loss to Plaintiff's property, the Amended Complaint did not allege that Covid-19 caused direct physical loss to other property. Therefore, by the policy's own terms, the civil authority coverage does not apply. Accordingly, Plaintiff has failed to plead the necessary preconditions to trigger coverage under the policy.

There being no coverage under the policy, the Court must dismiss Plaintiff's claim for declaratory judgment (Count I). Further, because the remaining counts are predicated on an interpretation of Defendant's policy that the Court cannot accept, the Court also dismisses Plaintiff's counts for breach of contract (Count II), vexatious refusal (Count III) common law fraud (Count III [sic]), and consumer fraud (IV).

#### CONCLUSION

For the above-stated reasons, Defendant's Motion to Dismiss (Doc. 24) is **GRANTED**. Plaintiff's Motion for Partial Summary Judgment (Doc. 35) is **DENIED as moot**. Plaintiff's Amended Complaint (Doc. 15) is hereby **DISMISSED**. The Clerk of the Court is directed to enter judgement accordingly and close this case.

**SO ORDERED.**

Dated: January 25, 2021



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DAVID W. DUGAN  
United States District Judge



# Exhibit K

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

GAVRILIDES MANAGEMENT COMPANY  
LLC, GAVRILIDES PROPERTY  
MANAGEMENT LLC, & GAVRILIDES  
MANAGEMENT WILLIAMSTON LLC,

Case No. 20-258-CB

HON. JOYCE DRAGANCHUK

Plaintiffs,

v

MICHIGAN INSURANCE COMPANY,

Defendant.

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hemrich@secretwardle.com

**ORDER GRANTING DEFENDANT MICHIGAN INSURANCE COMPANY'S  
MOTION FOR SUMMARY DISPOSITION**

At a session of said Court, held in the  
City of Mason, County of Ingham,  
State of Michigan, on July 21, 2020

PRESENT: Hon. JOYCE DRAGANCHUK  
CIRCUIT COURT JUDGE

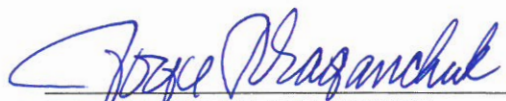
This matter having come before the Court on Defendant Michigan Insurance Company's Motion for Summary Disposition, and the Court having reviewed the briefs from both parties and heard oral argument from both parties in open court, and the Court being otherwise fully advised in the premises:

Defendant Michigan Insurance Company's Motion for Summary Disposition has been GRANTED for the reasons stated from the bench on the record.

SECRET WARDLE

**IT IS SO ORDERED** that the judgment in favor of Defendant is entered as a matter of law pursuant to MCR 2.116(c)(8), and that this matter is dismissed with full prejudice.

This Order resolves the last pending claim and closes the case.

  
\_\_\_\_\_  
Hon. JOYCE DRAGANCHUK  
CIRCUIT COURT JUDGE P-39417

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

\_\_\_\_\_  
GAVRILIDES MANAGEMENT COMPANY,  
Plaintiff,

vs.

File No. 20-258-CB

MICHIGAN INSURANCE COMPANY,  
Defendant.

\_\_\_\_\_/

DEFENDANTS MOTION FOR SUMMARY DISPOSITION  
BEFORE THE HONORABLE JOYCE DRAGANCHUK, CIRCUIT COURT JUDGE  
LANSING, MICHIGAN - WEDNESDAY, JULY 01, 2020

APPEARANCES:

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TABLE OF CONTENTS

WITNESSES PAGE

None .

EXHIBITS

None admitted.

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Lansing, Michigan

Wednesday, July 01, 2020

2:58:57 PM

THE COURT: This is, pardon me if I massacre this, Gavri--, Gavrilides Management Company, et al versus Michigan Insurance Company, docket number 20-258-CB. And this is the time set for Defendant Michigan Insurance Company's Motion for Summary Disposition. And just for the record, could I have your appearances, please?

MR. HEOS: Yes, your Honor. Matthew Heos and Nick Gavrilides is here in the courtroom also with me. He is the owner of the immediate plaintiff company's.

MR EMRICH: Henry Emrich on behalf of Michigan Insurance Company, your Honor and my assistant Cheney Ward.

THE COURT: Okay, thank you. And your motion, Mr. Emrich, if you wish to go ahead.

MR. EMRICH: Thank you, your Honor. I am going to assume that the Court has read all of the pleadings in this case, so I'll try not to belabor some of the points. I think the, the key fact that we need to focus on is that as we've argued is that there's no question here but the policies that insure Mr. Gavrilides properties against, against direct physical loss or damage to the property and contrary, any claim with the policy benefits in question

1 this business income coverage is illusory, the policy in  
2 question here clearly provides that for the business  
3 coverage, the business income coverage to apply and, and  
4 most of the other primary coverages under their policy,  
5 there must be a direct physical loss of or damage to the  
6 insured property in order for it to apply.

7 And I think it's important as we'll discuss  
8 later in our argument depending on what Mr. Heos has to  
9 say, why this is important, we must focus on the fact that  
10 there must be direct physical loss or damage to the  
11 insured property and not direct physical loss of use of or  
12 damage to the property as has been suggested by Mr.  
13 Gavrilides and his attorney in order for the coverage at  
14 issue to apply.

15 While I acknowledge, your Honor, that this is a  
16 somewhat unique, extraordinary if you will, matter to be  
17 filing at this point in the proceedings as our initial  
18 pleading; I think it's important to understand that when  
19 we look at Mr. Gavrilides complaint, it does not contain  
20 one single allegation that this insured property has in  
21 any way been damaged or lost. To the contrary, the  
22 allegations in the complaint affirmatively allege that the  
23 plaintiff business interruption claim is based on the  
24 "Stay at Home" orders of Governor Whitmer. There is no  
25 allegation of any kind that the property in question has

1 in any way been damaged, lost or anything of the sort.

2 Given that this motion has been brought under  
3 2.116(c)(10), plaintiff must produce some evidence to  
4 contradict the uncontroverted facts that have been alleged  
5 not only in the complaint, but in the affidavit submitted  
6 Mr. Gavrilides and in any of the other materials that Mr.  
7 Heos has attached to his response as, as indicated, most  
8 importantly, the affidavit of Mr. Gavrilides that  
9 reiterates the admissions in the complaint that there has  
10 not been any loss of or damage to either of the properties  
11 for which they seek coverage.

12 The insureds property today exists in the very  
13 same condition as it existed the day prior to the  
14 effective date of the "Stay at Home" order. They have not  
15 been lost, they have not been damaged, they have not  
16 required any repairs because of any damage to those  
17 properties. The business operation, its, its operation as  
18 a restaurant today is, is the same as the day prior to the  
19 effective date of the order, albeit with some modifi-  
20 cations that had been required to avoid grouping and to  
21 maintain social distancing in, in a sense improvements to  
22 the real estate. Not repairs, you know, and, and it's  
23 been maintained as a take-out, take-out operation at least  
24 until recently when they resumed the dining operation.  
25 There has been no loss of or damage to either building



1 that has prevented the plaintiff from operating as a  
2 restaurant or entering it for that matter if--, as they  
3 have. If plaintiffs wanted to sell either building today,  
4 they could do so. And while plaintiffs have provided some  
5 speculative evidence about the decreased value of that  
6 property, although, as I read Mr.--, as I read the  
7 materials that Mr. Heos kindly attached to his response,  
8 the fact of the matter is it pointed out in that article  
9 was that while they operation of a commercial property may  
10 get harder, it's not impossible to operate it in the  
11 future under our new normal.

12 Because plaintiffs complaint, the affidavit, the  
13 other information that has been provided to your Honor  
14 provides no evidence of any damage to that property.  
15 Plaintiffs could never prove that either property suffered  
16 any direct physical loss from the imposition of Governor  
17 Whitmer's emergency order. And thus, could never recover  
18 business interruption coverage under this policy based on  
19 the facts that have been presented to the Court. The same  
20 holds true under the business cover, income coverage, if a  
21 civil authority prevents or prohibits access to either  
22 property because of direct physical damage to an adjacent  
23 or nearby property for the very same reason. There has  
24 been no direct physical loss or damage to any adjacent  
25 property that has been alleged, that has been provided to

1 the Court in Mr. Heos response. And frankly, when you look  
2 at the order that they have, that is at issue in this  
3 case, there's nothing there that prevents access to Mr.  
4 Gavrilides properties whatsoever.

5 In summary, your Honor, there are no facts  
6 alleged in the complaint or in any of the materials that  
7 I've looked at, including Mr. Gavrilides affidavit, that  
8 shows there has been direct physical loss of or damage to  
9 the insured property. And for those reasons, your Honor,  
10 we believe that our motion--, for those reasons alone, we  
11 believe our motion for summary disposition should be  
12 granted.

13 I'd just like to make a couple of additional  
14 points before I shut up. I really believe summary  
15 disposition is warranted on this basis alone and I would  
16 turn the Court to the case that we've discussed in our, in  
17 our brief, your Honor, that's referred to Universal  
18 Insurance Production versus Chubb. And that's the decision  
19 of the Eastern District of Michigan involving a claim that  
20 involved insured property. It was damaged by a pervasive  
21 odor that developed in the property as a result of mold  
22 that grew in the property because of some water seepage.  
23 And why that case is important is because it discusses the  
24 Michigan Rules of Contract Interpretation, that still  
25 apply today, policy language is clear and unambiguous on

1 its face, which we believe is clearly the case here that  
2 states that the words and the terms of the policy should  
3 be enforced utilizing plain and commonly understood  
4 meanings.

5 And when I said earlier that that's important  
6 when we talk about what direct physical loss of or damage  
7 to property means, it means we look at those words. We  
8 don't add words such as loss of use, that Mr. Heos and Mr.  
9 Gavrilides have added in order to understand what we're  
10 talking about here. We look at the language in the policy.  
11 Every case that Mr. Heos produced your Honor, says the  
12 very same thing. In Univer--, Universal, like here, the  
13 policy was an 'all-risk' policy that required, like here,  
14 direct physical loss or damage to the insured property in  
15 order to trigger coverage unless that coverage was  
16 excluded.

17 As Universal pointed out, applying a dictionary  
18 meaning of direct and physical as meaning something  
19 immediate or proximate as a premise to something that is  
20 distant or incidental and physical meaning something that  
21 has a material existence meant in the context of a loss  
22 involving a contaminant that, unlike here, per the uncon-  
23 troverted allegations of the complaint and other evidence  
24 produced by plaintiff in response to this motion. That in  
25 order for direct physical loss of the property in this

1 context, the contaminant must actually alter the structure  
2 integrity of the property in order to trigger coverage  
3 under language that is at issue in this case. And it  
4 didn't happen in Universal, as the Court denied coverage  
5 there, granted affirmed summary disposition. And  
6 importantly your Honor, it hasn't even been alleged in  
7 this case. Regardless of any authority to the contrary,  
8 anywhere else in the country, this remains the law in our  
9 courts when interpreting policy terms at issue. There is a  
10 requirement that there be direct physical loss of or  
11 damage to property. And the allegations produced here in  
12 the complaint and the evidence that's been attached have  
13 specifically acknowledged no such contamination and no  
14 such damage to the property as a result of that contami-  
15 nation.

16 As in Universal, your Honor, the mere presence  
17 of odor or even mold was not any evidence of structural or  
18 tangible damage to the insured property. And as such, no  
19 direct physical loss or damage to the property had-, was  
20 occurred. Here, your Honor, we have the very same thing  
21 except that we have not even had any allegations of any  
22 damage to the property caused by this unfortunate, this  
23 horrible virus.

24 Finally, and although we do not believe the  
25 Court even has to get to this point, even if we assume for

1 purposes of this motion that contamination occurred on  
2 each premises and that somehow effected the structural  
3 integrity of either building, again, neither scenario is  
4 alleged. And even if it were, we do not believe under the  
5 circumstances and the science that exists that it would  
6 necessarily constitute direct physical loss over damage to  
7 the property. The buyer's exclusion of the policy, which  
8 clearly and unequivocally states that it applies to all  
9 coverages and endorsement and that the company will not  
10 pay for loss or damages caused by or resulting from any  
11 virus, bacteria or other microorganism that induces or is,  
12 is capable of inducing physical distress, illness or  
13 disease. And Lord knows, that that has certainly been the  
14 case with what's happened with Covid-19 throughout our  
15 country.

16           Clearly, your Honor, that exclusion, again, I  
17 don't believe you even have to get there, but that  
18 exclusion would clearly exclude any claim here even if  
19 plaintiff's could prove direct physical loss of or damage  
20 to the insured property or any nearby property that  
21 resulted in a civil authority issuing an order prohibiting  
22 access to the property. As of eight days ago, your Honor,  
23 they have only been few jurisdictions in this country,  
24 Florida and Pennsylvania, that have discussed and applied  
25 this, a similar exclusion as at issue in this case and in

1 every one of those cases, the Court has enforced that  
2 exclusion as written because it's clear and unambiguous.  
3 Again, your Honor, for all the reasons that we've set  
4 forth here today and the brief that we filed and our  
5 reply, we request that the Court grant our Motion for  
6 Summary Disposition at this time. Thank you.

7 THE COURT: Thank you. Mr. Heos?

8 MR. HEOS: Thank you, your Honor and may it  
9 please the Court. And obviously Mr. Emrich and I have a  
10 different interpretation of direct physical loss of or  
11 damage to covered properties because here the loss comes  
12 from the issue of the executive order restricting use of  
13 property. Physically you cannot use for, for dine-in  
14 services any of the interior of the building for a period  
15 of time. And a complete prohibition isn't contemplated by  
16 the language of the contract, I think a limited  
17 restriction also falls within the coverage. And I think  
18 that if you're gonna accept the defendants argument you  
19 would have to limit the meaning to destruction of the  
20 physical building itself, but we know that the coverage  
21 extends to non-destructive loss, civil authority being  
22 one.

23 I put in example in the brief subterranean  
24 pollution, you can look at asbestos or a computer virus is  
25 something that would occur that there would be no physical

1           destruction to the property itself. The fact of the matter  
2           is that Mr. Gavrilides can't use the covered properties  
3           because of or he's lost rather the use of those properties  
4           because of the order and it looks like that will continue  
5           in some form for a while. So, I think that counsel is  
6           wrong in trying to limit the scope even with the case law  
7           he cited, most of which is persuasive and not binding.  
8           That's number one, Judge.

9                         And as for the virus exclusion itself, the only  
10           case law we have relates to person to person transmission  
11           of a virus at the covered property. And I think that fits  
12           more with what's going on. We see in the news that Harpers  
13           in East Lansing and even the Hotcat in Kalamazoo is making  
14           headlines of people contracting Covid there. But, the  
15           impetus of the order was to protect public health and  
16           welfare, which is the governor's duty. It's not caused by  
17           a virus. It would be the same order as with the damn in  
18           Midland being issued to protect public health and welfare.  
19           It wasn't caused by a flood. It was caused by the  
20           Governor's duty to act and protect the people she's  
21           charged with protecting and I think that's what happening.

22                         Or it's distinguishable from the case and I  
23           think it's Bowler, the case cited regarding the virus. And  
24           I think that if you go further in accepting defendant's  
25           position, then we get into the illusory promise of well if

1 the government issues an order, we're not gonna cover it  
2 because any decision of a government body or group of  
3 people is excluded. And so then, you get into the circle  
4 in the contract where if you're going to buy into counsels  
5 logic, it would make that provision illusory. And for  
6 those reasons, I think that the motion should actually  
7 roll back on the defendants because the language to  
8 support the claim, to the extent that the Court thinks  
9 there's a deficiency in my pleading and is gonna grant  
10 defendants motion, I'd like Leave to Amend the Complaint.  
11 But, I don't think that's the case here. And with that,  
12 I'll leave it, if the Court would like to ask any  
13 questions, I'm happy to take them.

14 THE COURT: I don't have any. Thank you. I'll  
15 give Mr. Emrich rebuttal time.

16 MR. EMRICH: Thank you, your Honor. Your Honor,  
17 what I would say is that when we talk about these cases  
18 that Mr. Heos has mentioned that might provide coverage in  
19 certain situations, I read those cases a little while ago  
20 and I'm kind of tired reading some of these cases about  
21 insurance coverage. But, the point in every one of those  
22 cases is that the condition she referred to actually  
23 caused damage to the property.

24 In this case, there has not been any such  
25 damage. And if we look at what the coverage for business



1           loss or business--, the business income loss that they're  
2           seeking says, it says that if the business, the coverage  
3           would apply if the business operation is suspended  
4           provided the suspension must be caused by the direct  
5           physical loss of or damage to property. In this case, that  
6           hasn't occurred. Nothing prevents Mr. Gavrilides from  
7           using that property. It has been used as such. The fact  
8           that there may be other coverages that may provide some  
9           limited coverage, they're against what Mr. Heos is arguing  
10          because clearly, if those coverages were covered under  
11          this language, then why have a special coverage that  
12          provides certain conditions for its application.

13                        The point is, in each of those civil authority  
14          cases that he talked about, the property actually  
15          sustained damage. Here it didn't sustain damage. As to his  
16          claim in this case, that he wants an opportunity to amend  
17          his complaint if the Court feels compelled to grant my  
18          motion, what is that going to accomplish? He's already  
19          alleged in his complaint and his client has already signed  
20          an affidavit where he no doubt put his hand up and swore  
21          to the contents of that affidavit in which he said there  
22          has been no damage to that property.

23                        We don't create coverage by-, because somebody  
24          thinks they ought to have coverage. But, that, that, that  
25          whole line of cases Roy versus Continental Insurance and

1 some of the other cases in our, in our brief that we  
2 cited, clearly supports the notion that the reasonable  
3 expectation concept doesn't apply in Michigan. It just  
4 doesn't cut it. There is no coverage here, your Honor.  
5 That exclusion is clear. If the Court feels that there may  
6 be or that there may be a situation that would give rise  
7 to, but again, you have to come forward at the time that  
8 you, that you respond to this motion with some evidence  
9 that suggests that. That hasn't happened here. I mean even  
10 when you look at the response that he's filed, he talks  
11 about scenario's that have absolutely no bearing to this  
12 case.

13 And you know, I'll just make one last point,  
14 your Honor, you know, when I was a young Prosecutor, I had  
15 the benefit of being able to argue a number of cases to  
16 juries that required me to prove the defendant's guilt  
17 beyond a reasonable doubt. And in those cases, I was  
18 trained to listen closely to the defendant's argument and  
19 had been the case where the facts were particularly  
20 egregious, a defense attorney would often not even talk  
21 about those facts and talk about the law. And he talked  
22 about how that law was somehow created this reasonable  
23 doubt in hopes of creating some confusion on the part of  
24 one juror who might then find in his clients favor because  
25 reasonable doubt existed. And, and in those cases, I would

1 make sure that when I got up in rebuttal, just as I have  
2 been given the opportunity to here, I would point that out  
3 to the jury and indicate to them that there's a reason for  
4 that. And that's because they didn't want you to talk  
5 about the facts that clearly supported conviction.

6 On the other hand, if it was a case where the  
7 law, you know, or the facts may have been murky, but the  
8 law was clear, the defense attorney would only focus on,  
9 you know, on those facts and not talk about the law. And  
10 again, I point that out to the jury there. But, in this  
11 case, you know, and there were cases back then to, like  
12 our case here that were neither supported by the facts or  
13 the law. Which I believe is clearly the case in this case.  
14 And the defense attorney would get up and argue something  
15 that to the jury that had absolutely nothing to do with  
16 the case in hopes of confusing them. Just like Mr. Heos  
17 has suggested by talking about these asbestos cases or  
18 some of these other cases that have nothing to do with  
19 this.

20 Well in this case, when you look at his  
21 responsive pleading, he talks about an accident situation  
22 that has absolutely no application here. Nothing to do  
23 with this case. While in his argument, he starts out  
24 talking about a discussion of the virus of racism and as  
25 there, as there, we would point out, if we were in front

1 of a jury, just like I'd point out to them and I'm  
2 pointing out to you, it hasn't got anything to do with  
3 this case. Your Honor, the reason for that and the reason  
4 for the topic of that is that he knows that neither the  
5 facts or the law support his claim and nothing he could  
6 file as an amendment would change that.

7 He is hoping to somehow create this little bit  
8 of possibility, some scintilla that some evidence is gonna  
9 pop up that shows that the property has been damaged in  
10 hopes that he could trigger coverage. And as this Court  
11 knows under the cases we've discussed in our brief, that  
12 is not sufficient to deny summary disposition in a case  
13 that clearly warrants it even at this early stage.

14 Thank you your Honor for your patience. Thank  
15 you Mr. Heos, we've never met. I've heard a lot of good  
16 things about you. Mr. Gavrilides, nice to have met you,  
17 very sorry for the situation you're in. It's just crazy  
18 all the way around. And just like having to argue this  
19 case on TV is really just disconcerting for me. But, in  
20 any event, thank you your Honor for your patience.

21 THE COURT: Thank you. You're on Youtube not TV.  
22 But--

23 MR. EMRICH: I meant screen. Yeah, whatever.

24 THE COURT: Right.

25 MR. EMRICH: The screen.

1                   THE COURT: I, I did read the briefs. I studied  
2                   them very carefully and I've listened to the argument of  
3                   counsel today. And taking all the-, that together I, I  
4                   note that the plaintiff speaks of and focuses on arguments  
5                   about access to the property, use of the property and  
6                   definitions of loss and damage. But, the first inquiry has  
7                   to start with a full look, not just isolating some words  
8                   or phrases from the policy. But, a full look at the  
9                   coverage that's provided under the policy.

10                   Coverage is provided for actual loss of business  
11                   income sustained during a suspension of operations. The  
12                   policy goes on to provide the 'suspension must be caused  
13                   by direct physical loss of or damage to property.' And it  
14                   also provides 'the loss or damage must be caused by or  
15                   result from a covered cause of loss. The causes of loss  
16                   special form provides that a covered cause of loss means  
17                   risks of direct physical loss.'

18                   So, whether we're talking about the cause for  
19                   the suspension of the business or the cause for the loss  
20                   or the damage, it is clear from the policy coverage  
21                   provision only direct physical loss is covered. Under  
22                   their common meanings and under federal case law as well,  
23                   that the plaintiff has cited that interprets this standard  
24                   form of insurance, direct physical loss of or damage to  
25                   the property has to be something with material existence.

1           Something that is tangible. Something according to the one  
2           case that the plaintiff has cited from the Eastern  
3           District, that alters the physical integrity of the  
4           property. The complaint here does not allege any physical  
5           loss of or damage to the property. The complaint alleges a  
6           loss of business due to executive orders shutting down the  
7           restaurants for dining, for dining in the restaurant due  
8           to the Covid-19 threat.

9           But, the complaint also states that a no time  
10          has Covid-19 entered the Soup Spoon or the Bistro through  
11          any employee or customer and in fact, states that it has  
12          never been present in either location. So, there simply  
13          are no allegations of direct physical loss of or damage to  
14          either property. The plaintiff seems to make in the  
15          briefing, at least, two arguments about the language in  
16          the coverage provision and what it means.

17          The first argument is that the plaintiff says  
18          coverage applies to "direct physical loss or damage to  
19          property." Even if that were the wording of the coverage  
20          provision, it wouldn't save the plaintiff from the  
21          requirement that the loss or damage must be physical and  
22          the analysis could end right there. But, I have to go on  
23          to say that this is not even the wording of the coverage  
24          provision. Coverage according to the policy applies to a  
25          suspension caused by "direct physical loss of or damage to

1 property." So, I'm not going to get into a detailed  
2 analysis of the rules of grammar. But, common rules of  
3 grammar would apply to make that phrase a short-cut way of  
4 saying "direct physical loss of property or direct  
5 physical damage to property." So, again, the plaintiff  
6 just can't avoid the requirement that there has to be  
7 something that physically alters the integrity of the  
8 property. There has to be some tangible, i.e., physical  
9 damage to the property.

10 Then the plaintiff in the briefing, at least,  
11 seems to make a second argument that and this is not 100%  
12 clear, but, it seems like the plaintiff is saying that the  
13 physical requirement is met because people were physically  
14 restricted from dine-in services. But, that argument is  
15 just simply nonsense. And it comes nowhere close to  
16 meeting the requirement that there's some, there has to be  
17 some physical alteration to or physical damage or tangible  
18 damage to the integrity of the building.

19 So, the next argument that the plaintiff makes  
20 is that the virus and bacteria exclusion is vague and  
21 can't apply here. The plaintiff has not adequately  
22 explained how the term virus is vague. And in fact,  
23 supplies a completely workable, understandable, usable  
24 definition of the word virus. The argument in this regard  
25 really seems to be more that the virus exclusion doesn't

1 apply. And it goes something like this as far as I can  
2 tell, first, a virus can't cause physical loss or damage  
3 to property because virus' harm people, not property.  
4 Second, the damage caused here was really caused by  
5 actions of the civil authority to protect public health.  
6 And then third, therefore, coverage for acts of any  
7 person, group, organization or governmental body applies.  
8 But, that argument bring us right back to the direct  
9 physical loss or damage requirement. Again, going back to  
10 the cause of loss special form B, as in boy, exclusions  
11 provides that acts of government are only covered when  
12 they result in a covered cause of loss. A covered cause  
13 of loss, again, is direct physical loss. So, even if the  
14 virus exclusion did not apply, which the plaintiff has not  
15 supported that it doesn't apply, I only argue that it's  
16 vague, which I reject. But, even if it did not apply, it  
17 could only be coverage for governmental actions that  
18 resulted in direct physical loss or damage.

19 And then, finally, the plaintiff argues that the  
20 policy has a contradiction in it that renders it illusory.  
21 So, the plaintiff says that the policy extends coverage  
22 for governmental acts. But, then, it takes it away in the  
23 causes of loss special form. But, that's simply not true.  
24 Coverage is provided for actual loss of business income  
25 sustained during the suspension of operations. However,



1 according to the coverage provision, the suspension must  
2 be caused by direct physical loss of or damage to  
3 property. And governmental acts are likewise covered if  
4 it results in a covered cause of loss, which is again, a  
5 direct physical loss. There is no granting of coverage  
6 and then excluding the same coverage in the policy. As a  
7 matter of fact, the policy is consistent throughout and  
8 consistent with federal law cited by the plaintiff. It  
9 requires physical loss or damage.

10 There is a virus exclusion even if plaintiff was  
11 alleging, was alleging, even if there were allegations in  
12 the complaint alleging actual physical loss or damage,  
13 which the complaint does not do. But, there is a virus  
14 exclusion that would also apply. And governmental action  
15 that results in direct physical loss is covered. But  
16 again, there is no direct physical loss alleged here.

17 Now, I have to address a little bit this, that  
18 it was brought as a (c)(10) motion. The actually the  
19 defendant hasn't provided any support by way of factual  
20 support, depositions, affidavits, et cetera, for a (c)(10)  
21 motion. So, if the defendant doesn't do that, then the  
22 plaintiff has no burden under Maiden versus Rosewood. So,  
23 there's no shifting burden until the moving party first  
24 does it. But, I don't think it properly is labeled a  
25 (c)(10) motion. I think it's a (c)(8) motion. Because this

1 is the motion that can be decided as a matter of law. Take  
2 all the allegations in the complaint as true and examine  
3 nothing more than the contract upon which the complaint is  
4 based, the policy of insurance and as a matter of law, the  
5 plaintiffs complaint cannot be sustained. And although the  
6 plaintiff has requested a chance to amend without any  
7 indication of how they would do that, there actually is no  
8 factual development that could change the fact that the  
9 complaint is complaining about the loss of access or use  
10 of the premises due to executive orders and the Covid-19  
11 virus crisis. So, there's no factual development that  
12 could possibly change that or amendment to the complaint  
13 that could possibly change that those things do not  
14 constitute the direct physical damage or injury that's  
15 required under the policy as I've outlined.

16 So, for those reasons, I am granting the  
17 Defendant's Motion for Summary Disposition. I'm doing it  
18 under MCR 2.116 (c)(8). And Mr.-

19 MR. EMRICH: Thank you, your Honor.  
20 THE COURT: Mr. Emrich, will you submit an order?  
21 MR. EMRICH: Certainly will, your Honor.  
22 THE COURT: Okay.  
23 MR. EMRICH: Thank you.  
24 THE COURT: Thank you.  
25 MR. HEOS: Thank you very much.



# Exhibit L

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SOJO’S STUDIOS, INC., SOJO’S )  
STUDIOS 2, INC., SOJO’S STUDIOS 3, )  
INC., and SOJO’S STUDIOS 4, INC., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CITIZENS INSURANCE COMPANY OF )  
AMERICA, )  
 )  
Defendant. )

20 C 4780

Judge Charles P. Kocoras

**ORDER**

Before the Court is Defendant Citizens Insurance Company of America (“Citizens”) motion to quash the subpoena for documents served by Plaintiffs upon The Insurance Services Office (“ISO”), a non-party. For the following reasons, the Court grants Citizens’ motion.

**STATEMENT**

In this insurance coverage case, Plaintiffs seek coverage for business interruptions due to COVID-19. At issue in this motion, is a subpoena served on non-party ISO concerning documents related to the insurance policy’s exclusion for “[a]ny virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease” (the “Virus Exclusion”). This Court has now twice granted motions to dismiss because virus exclusions like the one at issue here are “clear,

sweeping, and all-encompassing.” *Riverwalk Seafood Grill Inc. v. Travelers Cas. Ins. Co. of Am.*, 2021 WL 81659, at \*3 (N.D. Ill. 2021) (Kocoras, J.); *accord Mashallah, Inc. et al v. W. Bend Mut. Ins. Co.*, 1:20-cv-05472, Dkt. #28 (N.D. Ill. 2021) (Kocoras, J.).

Instead of moving to dismiss, Citizens filed an answer and now the parties endeavor to litigate on a motion to quash whether Plaintiffs are entitled to discovery on the novel theory of regulatory estoppel. The regulatory estoppel theory was first recognized in New Jersey in *Morton Int'l, Inc. v. Gen. Accident Ins. Co.*, 134 N.J. 1 (1993), *cert. denied*, 512 U.S. 1245 (1994). The basic premise is that insurers cannot say one thing to an insurance regulator and another thing to the insured. *See id.* The Complaint here purports to invoke a regulatory estoppel argument in the following manner: “the inclusion of the Virus Exclusion was procured by fraud and is unenforceable because insurance industry representatives, in order to obtain regulatory approval, falsely stated to state regulators that property insurance policies had not historically been a source of recovery for losses caused by disease-causing agents, including viruses.” Dkt. #1- 1 at ¶ 77.

Citizens now moves to quash largely on the grounds that regulatory estoppel is not a valid legal theory in Illinois and that the single sentence in the Complaint is a thread-bare, conclusory, and boilerplate allegation, which is insufficient as a matter of pleading. Plaintiffs respond that regulatory estoppel is a cognizable theory under *Am. States Ins. Co. v. Koloms*, 177 Ill. 2d 473 (1997). This is a discovery dispute that fully

litigates the merits of a theory in the Complaint, and one must decide one to decide the other. The Court ultimately agrees with Citizens on the dispositive issue about regulatory estoppel, which in turn resolves the motion to quash.

The Court concludes that the standalone regulatory estoppel allegation in Plaintiffs' complaint is insufficient. After all, we have *twice* held that the virus exclusion here is clear, sweeping, and unambiguous. Plaintiffs could therefore only prevail through their purported application of *Koloms*. But the Illinois Supreme Court made clear post-*Koloms* that courts are not required to "examine the relevant insurance industry drafting history" where a provision is unambiguous. *See Travelers Ins. Co. v. Eljer Mfg., Inc.*, 197 Ill. 2d 278, 301 (2001) (cleaned up). This is because Plaintiffs' attempted application of *Koloms* "ignores the well-settled principle that it is unnecessary for this court to consider extrinsic evidence of a policy's purported meaning where the words of the policy are unambiguous." *Ellsworth v. Grinnell Mut. Reinsurance Co.*, 2016 IL App (5th) 150158-U, ¶ 35. Not only have Illinois courts rejected the *Koloms* argument that Plaintiffs are making here, but the Seventh Circuit has also declined to adopt that approach. *See Cincinnati Ins. Co. v. Flanders Elec. Motor Serv., Inc.*, 40 F.3d 146, 153 (7th Cir. 1994). So do we.

Plaintiffs' regulatory estoppel allegation fails for another reason: it alleges fraud, which must be done with particularity. *See Borsellino v. Goldman Sachs Grp., Inc.*, 477 F.3d 502, 507 (7th Cir. 2007). The unadorned and conclusory single sentence relied on by Plaintiffs in no way alleges the "who, what, when, where, and how" of the

supposed fraud. *Id.* (internal quotation omitted). And even were Plaintiffs’ allegation to not explicitly use the term “fraud,” it is unclear to the Court that Plaintiffs’ allegation would not merely be a “[t]hreadbare recital[] . . . supported by mere conclusory statements.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). This principle applies with special force in a more “complex case” like this one where the parties allege concealed fraud, which requires “more detail, both to give the opposing party notice of what the case is all about and to show how, in the plaintiff’s mind at least, the dots should be connected.” *Swanson v. Citibank, N.A.*, 614 F.3d 400, 405 (7th Cir. 2010).

And finally, even in states like New Jersey and Pennsylvania<sup>1</sup> that have explicitly adopted some form of a regulatory estoppel theory, every court this Court could identify has granted the insurer’s motion to dismiss and disallowed discovery. *E.g.*, *Delaware Valley Plumbing Supply, Inc., v. Merchs. Mut. Ins. Co. et al.*, 2021 WL 567994, at \*5 (D.N.J. 2021) (applying New Jersey law); *Humans & Res., LLC v. Firstline Nat’l Ins. Co.*, 2021 WL 75775, at \*9 (E.D. Pa. 2021) (“In reading the foregoing statements, this Court is flatly unable to discern how they are contradictory or contrary to the position which Defendant takes here.”); *Moody v. Hartford Fin. Grp., Inc.*, 2021 WL 135897, at \*10 (E.D. Pa. 2021) (rejecting a regulatory estoppel theory in part because any statements could not be imputed to the insurer); *Brian Handel D.M.D., P.C. v. Allstate*

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<sup>1</sup> “Outside of West Virginia, New Jersey, and Pennsylvania, courts have either rejected the doctrine outright or shied away from it in insurance coverage disputes.” 2 *Env’tl. Ins. Litig.: L. and Prac.* § 18:26 (2020). The “overwhelming majority of state and federal courts” have done so “primarily on the basis that extrinsic evidence is not permitted to vary the terms of a clear and unambiguous pollution exclusion provision.” *Emps Ins. of Wausau v. Duplan Corp.*, 1999 WL 777976, at \*14 (S.D.N.Y. 1999).



*Ins. Co.*, 2020 WL 6545893, at \*4 (E.D. Pa. 2020) (“plaintiff fails to plead any facts to satisfy the second element that defendant currently takes a position contrary to the statements made before the regulatory agencies on behalf of the insurers.”); *Newchops Rest. Comcast LLC v. Admiral Indem. Co.*, 2020 WL 7395153, at \*9 (E.D. Pa. 2020) (granting a motion to dismiss where plaintiffs raised a regulatory estoppel theory and observing that “the insureds seek additional discovery on this issue under a theory of regulatory estoppel” “[w]ithout relying on any facts”); *Kessler Dental Assocs., P.C. v. Dentists Ins. Co.*, 2020 WL 7181057, at \*3 (E.D. Pa. 2020) (similar). We agree with these courts’ approaches.

Having decided the dispositive legal issue that fully underlies the instant motion to quash, the Court finds that striking the regulatory estoppel allegations under Federal Rule of Civil Procedure 12(f) is the preferable route because Plaintiffs’ conclusory allegation is impertinent and immaterial. *See* Fed. R. Civ. P. 12(f)(1) (“The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter . . . on its own”); *Williams v. Jader Fuel Co.*, 944 F.2d 1388, 1399 (7th Cir. 1991) (“Courts have read Rule 12(f) to allow a district court to consider a motion to strike at any point in a case, reasoning that it is considering the issue of its own accord despite the fact that its attention was prompted by an untimely filed motion.”); *United States v. 416.81 Acres of Land*, 514 F.2d 627, 630 n.3 (7th Cir. 1975) (“the prevailing view is that a district court most certainly may expedite proceedings by striking insufficient defenses on its own initiative”). There is simply no doubt as to what

the Virus Exclusion means and Plaintiffs' litigation tactics, however clever, cannot override clear, sweeping, and unambiguous language. Were the Court to instead grant Citizens' motion to quash as a discovery motion, it would effectively be dispositive anyway because the Court would still be rejecting Plaintiffs' entitlement to discovery on this very theory. Deciding this as a motion to strike however has the exact same effect, but also has the added advantage of expediting litigation that would otherwise be comparatively bogged down and protracted. Thus, the Court strikes Plaintiffs' regulatory estoppel allegation.

Having stricken Plaintiffs' regulatory estoppel allegation, the Court grants Citizens' motion to quash in turn. With the allegation stricken, there is no need for discovery as to its merit because no amount of discovery would resurrect Plaintiffs' threadbare, conclusory, and immaterial pleading of a novel and largely discredited legal theory.

In closing, as the Seventh Circuit has observed: "of course, pretrial discovery is a fishing expedition and one can't know what one has caught until one fishes. But [the Federal Rules] allows the fish to object, and when they do so the fisherman has to come up with more than [Plaintiffs have here]." *Nw. Mem'l Hosp. v. Ashcroft*, 362 F.3d 923, 931 (7th Cir. 2004).

### **CONCLUSION**

For the foregoing reasons, the Court strikes the regulatory estoppel allegations from Plaintiffs' Complaint. The Court grants Citizens' motion to quash accordingly.

At bottom, Plaintiffs' threadbare allegation contradict the plain, unambiguous meaning of the Virus Exclusion and cannot stand. It is so ordered.

Dated: 3/4/21

Handwritten signature of Charles P. Kocoras in black ink.

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Charles P. Kocoras  
United States District Judge

# Exhibit M

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

HARVEST MOON  
DISTRIBUTORS, LLC,

Plaintiff,

v.

Case No: 6:20-cv-1026-PGB-DCI

SOUTHERN-OWNERS  
INSURANCE COMPANY,

Defendant.

\_\_\_\_\_ /

**ORDER**

This cause is before the Court on Defendant’s Motion to Dismiss Pursuant to Rule 12(b)(6) (Doc. 41 (the “**Motion**”)) and Plaintiff’s response thereto (Doc. 45 (the “**Response**”)). Upon consideration, the Motion is due to be granted.

**I. BACKGROUND**

Plaintiff Harvest Moon Distributors, LLC, is a wine and beer distributor with a commercial insurance policy (hereinafter, the “**Policy**”) issued by Defendant Southern-Owners Insurance Company. The parties dispute Plaintiff’s entitlement to payments under the Policy for losses attributed to the coronavirus pandemic.

**A. The Policy**

To state a claim for breach of contract under the Policy’s Business and Personal Property Coverage Form, Plaintiff must allege two threshold

requirements: (1) “direct physical loss of or damage to Covered Property” (2) “caused by or resulting from any Covered Cause of Loss.” (Doc. 40-1, p. 120).

The Policy’s “Covered Causes of Loss” section refers to the Causes of Loss Form, which provides that “Covered Causes of Loss means RISKS OF DIRECT PHYSICAL LOSS” unless an exclusion or limitation applies. (*Id.* at p. 37). Because almost any event can pose a “risk” of loss, the Policy’s exclusions and limitations are invaluable in determining what constitutes a Covered Cause of Loss.

The Policy includes three exclusions that are relevant here. First, the Policy does not cover losses or damages caused by “[d]elay, loss of use or loss of market.” (*Id.* at p. 38). Second, the “[a]cts or decisions . . . of any person, group, organization or governmental body” is not a Covered Cause of Loss. (*Id.* at p. 39). Finally, the Policy excludes the “enforcement of any ordinance or law” regulating the “use” of property. (*Id.* at p. 37).

If Plaintiff properly alleges these threshold requirements, then it may also be entitled to payments under the Business Income and Extra Expenses Endorsement. (*Id.* at p. 49). To sufficiently claim business income losses, Plaintiff must comply with the terms of the Endorsement:

**a. Business Income**

Subject to the Limit of Insurance provisions of this endorsement, we will pay for the actual loss of Business Income you sustain due to the necessary suspension of your “operations” during the “period of restoration.”

Business income means the:

- (1) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- (2) Continuing normal operating expenses incurred, including payroll.

(*Id.*). Additionally, the Endorsement covers “necessary Extra Expense[s] . . . incur[red] during the ‘period of restoration.’” (*Id.*). An “Extra Expense” is an expense incurred:

- (1) To avoid or minimize the suspension of business and to continue “operations”:
  - (a) At the described premises or at a “newly acquired location”; or
  - (b) At a replacement premises or at temporary locations, including:
    - 1) Relocation expenses; and
    - 2) Costs to equip and operate the replacement or temporary locations.
- (2) To minimize the suspension of business if you cannot continue “operations”; or
- (3)
  - (a) To repair or replace any property; or
  - (b) To research, replace or restore the lost information on damaged valuable papers and records . . .

(*Id.*). The Endorsement defines “operations” as “business activities occurring at the described premises or at a ‘newly acquired location’” and “period of restoration” as beginning on the date of the direct physical loss or damage and ending on the date when the property “should be repaired, rebuilt or replaced with reasonable speed and similar quality.” (*Id.* at p. 22).

## **B. The Court’s Dismissal of the Original Complaint**

On May 22, 2020, Plaintiff initiated this action in Florida state court, which Defendant later removed to this Court. (Doc. 1). The Complaint alleged that

Plaintiff purchased beer in accordance with its contract with Walt Disney Parks and Resorts US Inc. (“**Disney**”). (Doc. 1-2). On March 15, 2020, before Plaintiff shipped the beer, Disney voluntarily closed to the public due to the pandemic. (*Id.* ¶¶ 33–34, 39). Thereafter, Disney refused to accept the beer or compensate Plaintiff. (*See* Doc. 3, p. 6). Four days after Disney’s voluntary closure, Plaintiff submitted a claim to Defendant for loss of business income, extra expense, inventory, and accounts receivable caused by the pandemic. (Doc. 1-2, ¶ 41). On April 15, 2020, Plaintiff submitted a sworn proof of loss of its product to Defendant, claiming that its beer spoiled while Disney remained closed. (*Id.* ¶ 42). Defendant denied Plaintiff’s claim. (*Id.* ¶ 43). The Complaint requested damages for breach of contract and declaratory judgment that it is entitled to coverage under the Policy. (Doc. 1-2).

Defendant filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), which the Court granted on October 9, 2020. (Docs. 3, 39). In dismissing the Complaint without prejudice, the Court examined the Policy in detail. As is relevant here, the Court determined that Plaintiff’s alleged spoilation of its beer constituted a “physical loss or damage to Covered Property” pursuant to the Policy. (Doc. 39). However, the Court concluded that the Complaint failed to state a claim for coverage because it did not allege a “Covered Cause of Loss.” The Court found that the pandemic is not a “direct” cause of the spoilation of the beer, stating that “COVID-19 itself did not damage Plaintiff’s beer.” (*Id.* at p. 12). It further held that the Policy bars from coverage the actual “direct” cause of the



spoilation of the beer—Disney’s voluntary closure and subsequent refusal of delivery—through the “loss of use” and “acts or decisions by persons, groups, organizations, or government bodies” exclusions. (*Id.*).

The failure to demonstrate “direct physical loss or damage to Covered Property” by a “Covered Cause of Loss” necessarily precluded recovery under the Business Income and Extra Expenses Endorsement. (*See id.* at p. 5). But the Court emphasized another glaring flaw in the Complaint’s request for coverage under the Endorsement: it did not allege that Plaintiff suspended its “operations” or underwent any “period of restoration.” (*Id.* at pp. 7–9).

Plaintiff filed its Amended Complaint on October 23, 2020, again requesting damages for breach of contract and declaratory judgment that it is entitled to coverage under the Policy. (Doc. 40). Defendant filed the instant Motion, and the matter is now ripe for review.

## **II. STANDARD OF REVIEW**

To survive a motion to dismiss made pursuant to Rule 12(b)(6), the complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible on its face when the plaintiff “pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Legal conclusions and recitation of a claim’s elements are properly disregarded, and courts are “not bound to accept as true a legal conclusion couched as a factual

allegation.” *Twombly*, 550 U.S. at 555; *Papasan v. Allain*, 478 U.S. 265, 286 (1986). Courts must also view the complaint in the light most favorable to the plaintiff and must resolve any doubts as to the sufficiency of the complaint in the plaintiff’s favor. *Hunnings v. Texaco, Inc.*, 29 F.3d 1480, 1483 (11th Cir. 1994) (per curiam). In sum, courts must (1) ignore conclusory allegations, bald legal assertions, and formulaic recitations of the elements of a claim; (2) accept well-pled factual allegations as true; and (3) view well-pled allegations in the light most favorable to the plaintiff. *Iqbal*, 556 U.S. at 679.

### III. DISCUSSION

The Court finds that the Motion is due to be dismissed because the Amended Complaint still fails to allege that a “Covered Cause of Loss” resulted in the “physical loss or damage.” It ascribes its losses solely to the pandemic, ignoring the Court’s prior Order dismissing the Complaint without prejudice:

Although the Policy does not explicitly exclude pandemic-related losses, Plaintiff’s loss arose from *Disney’s act* of refusing the beer, not from the pandemic. COVID-19 itself did not damage Plaintiff’s beer. In other words, Plaintiff’s beer would not have been damaged or destroyed but for *Disney’s decision*, making Disney the cause of the alleged spoilation. For example, if Disney had accepted and refrigerated Plaintiff’s beer or otherwise compensated Plaintiff, then Plaintiff would not have suffered any harm, regardless of the existence of the pandemic.

Rather, COVID-19 merely motivated Disney’s decision to voluntarily close and to refuse acceptance of Plaintiff’s beer. But Disney’s motivation for its decisions is irrelevant. The Policy explicitly excludes from coverage such business decisions by persons, groups, or

organizations. The pandemic does not change the terms of the Policy, which the parties bargained for and agreed to. Moreover, the Complaint itself states that Plaintiff experienced “*loss of use*” of its product, which the Policy expressly excludes from coverage. Even construing the coverage terms as broadly as possible and the exclusionary terms as narrowly as possible, the Complaint fails to overcome the Policy’s exclusionary language.

(Doc. 39, p. 12). The Court still cannot conceive of—and Plaintiff still offers no explanation for—how an airborne virus that primarily targets the respiratory system “*directly*” causes the spoilage of beer. This observation alone warrants dismissal of the Amended Complaint.<sup>1</sup>

At most, the pandemic is an *indirect* cause of the spoilage: it induced third-party business decisions and government mandates that had an adverse impact on Plaintiff’s transactions, thereby resulting in a loss of market. For example, the Amended Complaint alleges that “Plaintiff operates as a wine and beer distributor, *supplying its products to certain vendors*, including Walt Disney Parks and Resorts US Inc., Whole Foods and other declared vendors,” and that its stock of wine and beer suffered damage. (Doc. 40, ¶¶ 14, 42) (emphasis added). Plaintiff’s Property Loss Notice<sup>2</sup> describes a container of “unsalable” beer and states, “Legally

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<sup>1</sup> The Court notes that Defendant has provided an abundance of recent case law concerning the meaning of “physical loss or damage.” (Doc. 41, pp. 15–16). However, the Court has already ruled that it is possible for the spoilage of the beer to constitute such “physical” loss for pleading purposes. (See Doc. 39, p. 6).

<sup>2</sup> See *Fin. Sec. Assur., Inc. v. Stephens, Inc.*, 500 F.3d 1276, 1284 (11th Cir. 2007) (“Ordinarily, we do not consider anything beyond the face of the complaint and documents attached thereto when analyzing a motion to dismiss. This court recognizes an exception, however, in cases in which a plaintiff refers to a document in its complaint, the document is central to its claim, its

with alcohol, *Disney* cannot own it until it is delivered. We are not allowed to ‘store’ it for *customers*.” (Doc. 41-2, pp. 3–6) (emphasis added). The Amended Complaint also asserts that on April 1, 2020, *Florida Governor DeSantis’ Executive Order No. 20-91* temporarily limited the businesses able to operate during the pandemic to “essential services.” (Doc. 40, ¶¶ 40, 43) (emphasis added).

Plaintiff attempts to circumvent the application of the “loss of use” and “acts or decisions by persons, groups, organizations, or government bodies” exclusions by removing most references to Disney. But it is still evident from the above allegations and accompanying document that Plaintiff’s beer spoiled because it lacked a buyer.<sup>3</sup> Similarly, Plaintiff’s substitution of the words “loss of use” for phrases such as “cannot be used for its intended purpose” and “caused the property’s inability to function as contemplated” is a difference without distinction. (*Id.* ¶¶ 16–17, 28). Furthermore, the enforcement of Executive Order No. 20-91, which regulated businesses’ operations and, consequently, the “use” of property, is not a “Covered Cause of Loss” under the Policy’s plain language. (Doc.

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contents are not in dispute, and the defendant attaches the document to its motion to dismiss.” (internal citations omitted)); (Doc. 40, ¶¶ 25, 49).

<sup>3</sup> Unlike the original Complaint, which explicitly alleged that Plaintiff’s beer spoiled, the Amended Complaint merely asserts that Plaintiff suffered a loss of “business personal property, such as stock,” without any accompanying facts. (Doc. 40). Such allegations are merely legal conclusions, and, as such, fail to satisfy the “physical loss or damage” element of the claim. *Iqbal*, 556 U.S. at 678. However, cognizant of its duty to read the pleading in the light most favorable to Plaintiff, the Court notes that the same highlighted allegations and the same Property Loss Notice are potentially sufficient to allege a “physical loss or damage” in the form of spoiled beer. Nonetheless, the Amended Complaint is due to be dismissed for failure to satisfy the “direct” cause of loss requirement.

40-1, pp. 37–39). Regardless of Plaintiff’s efforts, the pandemic is too far removed from the spoilage of the beer to constitute a “direct” cause of loss.

Because the Amended Complaint does not allege a “direct” cause of loss, the Court does not need to consider coverage for business income losses. However, the Court notes the insufficiency of Plaintiff’s conclusive allegations that it “has incurred and will incur additional covered expenses,” that the pandemic resulted in a “suspension of its business operations” “until such time that business operations could be restored,” and that “As a result of the pandemic and the suspension of Plaintiff’s business operations at the Plaintiff’s premises, Plaintiff incurred extra necessary business expenses to assist the business until such time that business operations could resume.” (Doc. 40, ¶¶ 16–18). There are no facts regarding the length of the suspension of “operations,” when the suspension occurred, or what activities and expenses were necessary for restoration. The Court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Iqbal*, 556 U.S. at 679; *Twombly*, 550 U.S. at 555; *Papasan*, 478 U.S. at 286.

In sum, “COVID-19” is not a magic word that invokes coverage. The parties bargained for and agreed to the terms of the instant Policy, and the Court enforces those terms. While the Policy does not explicitly exclude coverage for losses caused by a pandemic, Plaintiff fails to elucidate how the virus itself “directly” caused the loss of the beer. Clearly, the market and the government’s responses to the pandemic were the direct causes of Plaintiff’s loss—but the Policy does not cover such causes.

#### IV. CONCLUSION

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Defendant's Motion to Dismiss Pursuant to Rule 12(b)(6) (Doc. 3) is **GRANTED**;
2. The Amended Complaint (Doc. 40) is **DISMISSED WITHOUT PREJUDICE**; and
3. On or before Friday, March 12, 2021, Plaintiff may file a Second Amended Complaint consistent with the directives of this Order, if it believes it can do so in accordance with Rule 11. Failure to timely file a Second Amended Complaint will result in dismissal of this action without further notice.

**DONE AND ORDERED** in Orlando, Florida on March 1, 2021.

  
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PAUL G. BYRON  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Unrepresented Parties