

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

THE FIRE SIDE PUBLIC HOUSE LLC,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

ERIE INSURANCE EXCHANGE,

Defendant.

CIVIL DIVISION – CLASS ACTION

Case No.: _____

**CLASS ACTION COMPLAINT
AND DEMAND FOR JURY**

Filed on behalf of Plaintiff

Counsel of record for this Party:

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THE FIRE SIDE PUBLIC HOUSE,
individually and on behalf of all others
similarly situated,

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ERIE INSURANCE EXCHANGE,

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Case No.: _____

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service
The Allegheny County Bar Association
11th Floor Koppers Bldg.
436 Seventh Avenue,
Pittsburgh, PA 15219
TELEPHONE: 412-261-5555

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Case No.: _____

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AND DEMAND FOR JURY**

CLASS ACTION COMPLAINT

Plaintiff, THE FIRE SIDE PUBLIC HOUSE LLC (“Plaintiff”) files this Class Action Complaint, individually and on behalf of all others similarly situated, against Defendant, ERIE INSURANCE EXCHANGE, alleging as follows:

NATURE OF THE CASE

1. This is a civil class action for declaratory relief and breach of contract arising from Plaintiff’s contracts of insurance with the Defendant.

2. At the direction of local, state, and/or federal authorities, Plaintiff was forced to temporarily suspend its dine-in and bar service at its restaurant beginning on March 16, 2020, causing an interruption to and loss of Plaintiff’s business income. The business was permitted to reopen at 50% capacity beginning on June 5, 2020, only to be ordered to close again on July 10, 2020. Starting on July 24, 2020, operations were permitted to resume, but only at 25% capacity, which continues to date.

3. Plaintiff and the Class purchased and paid for “all-risk” Commercial Property Coverage insurance policies from Defendant, which provide broad property insurance coverage for all non-excluded, lost business income, including the losses asserted here.

4. Plaintiff submitted timely notice of its claim to Defendant, but Defendant has refused to provide the purchased coverage to its insured, and has denied Plaintiff’s claims for benefits under the policy.

5. Defendant has similarly refused to, or will refuse to, honor its obligations under the “all-risk” policy(ies) purchased by Plaintiff and the other members of the putative Class of insureds.

PARTIES

6. Plaintiff THE FIRE SIDE PUBLIC HOUSE LLC is a Pennsylvania limited liability company with its principal place of business in Allegheny County, Pennsylvania. Plaintiff is resident and citizen of Pennsylvania.

7. Defendant ERIE INSURANCE EXCHANGE is a corporation with its principal place of business in Erie, Pennsylvania and is a citizen of Pennsylvania.

JURISDICTION

8. This Court has subject matter jurisdiction over this action pursuant to 42 Pa. Cons. Stat. § 931.

9. The Court has personal jurisdiction over Defendant pursuant to 42 Pa. Cons. Stat. § 5301, because Defendant is incorporated and headquartered in Pennsylvania, and conducts a significant portion of its general business within Pennsylvania.

10. Venue is proper in this Court under Pennsylvania Rules of Civil Procedure 1006 and 2176(b) because the insured property is located in Allegheny County, and Defendant regularly

conducts business in Allegheny County.

FACTUAL BACKGROUND

Plaintiff Purchased “All-Risk” Policies of Property Insurance That Broadly Provide Coverage for Loss of Business Income, Among Other Things

11. Plaintiff purchased a contract of insurance from Defendant, whereby Plaintiff agreed to make payments (in the form of premiums) to Defendant in exchange for Defendant’s promise to indemnify Plaintiff for losses at the Covered Property, including, but not limited to, business income losses.

12. Plaintiff’s contract of insurance with Defendant bears the Policy Number Q971162233 (the “Policy”), which is effective for the period of November 11, 2019 to November 11, 2020 (“Policy Term”). The Policy is attached hereto as **Exhibit A**.

13. Plaintiff paid all premiums owed to Defendant under the Policies, and Defendant accepted all such premiums from Plaintiff.

14. The Policy is a form policy issued by Defendant.

15. The Policy is an “all-risk” policy, which provides the broadest property insurance coverage available.

16. The Policy provides coverage for “direct physical ‘loss’ of or damage to Covered Property . . . caused by or resulting from a peril insured against.” “Covered Property” is defined in the Policy as Plaintiff’s business location located at 6290 Broad Street, Pittsburgh, Pennsylvania 15206.

17. The Policy defines “loss” as “direct and accidental loss of or damage to covered property.”

18. The Policy does not define the phrase “direct physical loss of or damage to”

19. 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. The concepts are separate and distinct and cannot be conflated.

20. Physical loss of, or damage to, property may be reasonably interpreted to occur when a peril insured against threatens or renders property unusable or unsuitable for its intended purpose or unsafe for normal human occupancy and/or continued use.

21. The Policy provides Plaintiff with, *inter alia*, various income protection and extra expense coverages during the Policy Term.

22. Under the Policy, Defendant agrees to pay: **“loss of ‘income’ and/or ‘rental income’ you sustain due to partial or total ‘interruption of business’ resulting directly from ‘loss’ or damage to property on the premises described in the ‘Declarations’ from a peril insured against.”** The premises described in the Declarations is the Covered Property.

23. Additional coverage is provided under the Policy for business income losses resulting from an “action of civil authority” which prohibits access to the Covered Property, related to a “peril insured against” at property other than the Covered Property: **“When a peril insured against causes damage to property other than property at the premises described in the ‘Declarations’, we will pay for the actual loss of ‘income’ and/or ‘rental income’ you sustain . . . caused by action of civil authority that prohibits access to the premises described”**

24. Members of the Class also purchased a policy of insurance from Defendant providing for the same income protection coverage, and using the same form policy provisions.

In Response to COVID-19, Pennsylvania and Other State Governments Issue Sweeping Orders Shutting Down “Non-Essential” Businesses

25. Severe acute respiratory syndrome coronavirus 2 (“COVID-19”) has spread, and continues to spread, rapidly across the United States and has been declared a pandemic by the

World Health Organization. See <https://www.health.harvard.edu/diseases-and-conditions/coronavirus-resource-center> (last accessed July 31, 2020).

26. The global COVID-19 pandemic is exacerbated by the fact that the deadly virus physically infects and stays on surfaces of objects or materials for many days.

27. According to a study published in *The New England Journal of Medicine*, COVID-19 is widely accepted as a cause of real physical loss and damage. It remains stable and transmittable in aerosols for up to three hours, up to four hours on copper, up to 24 hours on cardboard and up to two to three days on plastic and stainless steel. See <https://www.nih.gov/news-events/news-releases/new-coronavirus-stable-hours-surfaces> (last accessed July 31, 2020).

28. Another study, published in the *Journal of Hospital Infection*, found: “Human coronaviruses can remain infectious on inanimate surfaces at room temperature for up to 9 days. At a temperature of 30°C or more the duration of persistence is shorter.” See <https://www.inverse.com/science/coronavirus-4-studies-explain-how-covid-19-sticks-to-surfaces> (last accessed July 31, 2020).

29. On March 6, 2020, the Governor of Pennsylvania declared a “Disaster Emergency” throughout the Commonwealth of Pennsylvania.¹ Thereafter, on March 19, 2020, the Governor of Pennsylvania issued an Executive Order closing all non-essential businesses, including Plaintiff’s business. Specifically, the Executive Order, which became effective immediately upon its issuance, mandated that:

No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public.²

¹ <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

² Governor Wolf, “Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are not Life Sustaining,” (Mar. 19, 2020)

30. On March 23, 2020, the Governor of Pennsylvania issued a Stay at Home Order for all residents of the Commonwealth of Pennsylvania, mandating that residents stay home “except as needed to access, support, or provide life-sustaining business, emergency, or government services.”³

31. Also on March 23, 2020, the Pennsylvania Department of Health issued a Stay at Home Order, directing all individuals residing in the Commonwealth to remain at home.⁴

32. On May 3, 2020, the Governor of Pennsylvania announced the state’s plan to reopen certain counties within the Commonwealth, transitioning such counties to “yellow” by May 15, which allowed low-risk businesses such as Plaintiff’s to open.⁵ Allegheny County, where Plaintiff’s business is located, was transitioned to “yellow” on May 15.

33. On July 8, 2020, the Allegheny County Health Department (the county where Plaintiff’s business is located) issued an order indicated that COVID-19 is a “nuisance that must be abated” and that there was an increase of cases that was attributable to crowded conditions at bars, restaurants, and large gathers where alcohol is served.⁶ The Order prohibited all “indoor dining or alcohol consumption at bars, restaurants, or any other business establishments in

<https://www.governor.pa.gov/wp-content/uploads/2020/03/20200319-TWW-COVID-19-business-closure-order.pdf> (“Executive Order”).

³ Governor Wolf, “Order of the Governor of the Commonwealth of Pennsylvania For Individuals to Stay Home,” (Mar. 23, 2020), <https://www.governor.pa.gov/wp-content/uploads/2020/03/03.23.20-TWW-COVID-19-Stay-at-Home-Order.pdf>.

⁴ <https://www.governor.pa.gov/wp-content/uploads/2020/03/03.23.20-SOH-Stay-at-Home-Order.pdf>

⁵ <https://www.publicsource.org/allegheny-yellow-phase-news/>

⁶ Order of the Director of the Allegheny County Health Department to Help Prevent the Spread of COVID-19, (July 8, 2020), https://www.alleghenycounty.us/uploadedFiles/Allegheny_Home/Health_Department/Resources/COVID-19/Docs/ACHD%20COVID-19%20Control%20Measure%20Order%207-8-2020.pdf

Allegheny County,” limiting the manner of outdoor service, and requiring any outdoor seating to cease by 11:00 p.m.

34. Due to an increase in COVID-19 cases, on July 15, 2020, Governor Wolf issued an Order Directing Targeted Mitigation Measures, reinstating certain restrictions on most businesses.⁷ This Order further mandated that all businesses are required to conduct their operations remotely, “[u]nless not possible.”⁸ There is no expiration date on this Order.

35. The closure of all “non-life-sustaining businesses” evidences an awareness on the part of both state and local governments that COVID-19 causes loss of or damage to property. This is particularly true in places where business is conducted, as the contact and interaction necessarily incident to such businesses causes a heightened risk of the property becoming contaminated.

36. For example, a New York City Executive Order entered on March 16, 2020 specifically acknowledged that: “[COVID-19] physically is causing property loss and damage.” See <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eeo-100.pdf> (last accessed July 31, 2020).

37. Similarly, in a March 16, 2020 proclamation, the City of New Orleans acknowledged COVID-19’s “propensity to attach to surfaces for prolonged periods of time, thereby spreading from surface to person and causing property loss and damage in certain circumstances.” See <https://nola.gov/mayor/executive-orders/emergency-declarations/03162020-mayoral-proclamation-to-promulgate-emergency-orders-during-the-state-of-emergency-due-to-co/> (last accessed May 6, 2020).

⁷ <https://www.governor.pa.gov/wp-content/uploads/2020/07/20200715-TWW-targeted-mitigation-order.pdf>

⁸ *Id.*

38. In upholding the Governor of Pennsylvania’s Proclamation of a state-wide disaster and the Executive Orders mandating the closure of businesses within Pennsylvania, the Pennsylvania Supreme Court noted the significant risk of the spread of the COVID-19 virus, even in locations where the disease has not been detected:

Covid-19 does not spread because the virus is “at” a particular location. Instead it spreads because of person-to-person contact, as it has an incubation period of up to fourteen days and that one in four carriers of the virus are asymptomatic. Respondents’ Brief at 4 (citing Coronavirus Disease 2019, “Symptoms,” CDC, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (last accessed 4/9/2020)). The virus can live on surfaces for up to four days and can remain in the air within confined areas and structures. *Id.* (citing National Institutes of Health, “Study suggests new coronavirus may remain on surfaces for days,” (Mar. 27, 2020) <https://www.nih.gov/news-events/nih-research-matters/study-suggests-new-coronavirus-may-remain-surfaces-days> (last accessed 4/9/2020) and Joshua Rabinowitz and Caroline Bartman, “These Coronavirus Exposures Might be the Most Dangerous,” *The New York Times* (Apr. 1, 2020) <https://www.nytimes.com/2020/04/01/opinion/coronavirus-viral-dose.html>).

Friends of DeVito v. Wolf, 227 A.3d 872, 891 (Pa. 2020).

39. Because the COVID-19 virus can survive on surfaces for up to fourteen days, the Pennsylvania Supreme Court ultimately concluded that “any location . . . where two or more people can congregate is within the disaster area.”

40. Further, the World Health Organization (“WHO”) has indicated that airborne transmission, “particularly in specific indoor locations, such as crowded and inadequately ventilated spaces” poses a significant risk.⁹

41. The CDC has warned that exposure to an individual with COVID-19 for fifteen minutes or more, or close contact within six feet of distance, is enough to justify a personal quarantine.¹⁰

⁹ <https://apnews.com/648feb226473f9841920abd6ffb004c7>

¹⁰ <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

42. Experts believe that “a second wave” of COVID-19 cases will occur in the fall and winter of 2020, coinciding with the flu season. As Dr. Robert Glatter, emergency physician at Lenox Hill Hospital in New York City stated: “[the second wave] will likely be worse than the initial wave we experienced this spring.”¹¹

Plaintiff Submitted A Claim Under Their “All-Risk” Policies, and Defendant Wrongly Fails and Refuses To Honor Its Obligations Respecting Same

43. As a result of the orders governing Plaintiff’s business, Plaintiff’s business closed on March 16, 2020. The business was re-opened on June 5, 2020, but only at 50% capacity, pursuant to ongoing government-ordered restrictions.

44. The business was again ordered to close on July 10, 2020. The business was re-opened on July 24, 2020, but only at 25% capacity, pursuant to ongoing government-ordered restrictions.

45. Plaintiff has incurred, and will continue to incur, among other things, substantial losses of business income and additional expenses covered under the Policy.

46. On April 17, 2020, Plaintiff provided written notice to Defendant of its claim for the interruption to its business.

47. By letter dated April 21, 2020, Defendant has refused to provide coverage for Plaintiff’s claims. The denial letter is attached hereto as **Exhibit B**.

Plaintiff’s Losses Arise From Direct Physical Loss Or Damage

48. Plaintiff’s Covered Property suffered “direct physical loss or damage” due to the Governor of Pennsylvania’s Order, and other local government orders mandating that Plaintiff

¹¹ <https://www.healthline.com/health-news/what-a-covid-19-wave-in-the-fall-could-look-like#Educated-guesses-about-the-future>

discontinue its primary use of the Covered Property. The Pennsylvania Governor's Orders, in and of themselves, constitute a peril insured against within the meaning of the Policies.

49. Alternatively, and to the extent the Orders do not constitute a peril insured against within the meaning of the Policy, the COVID-19 pandemic and the ubiquitous nature of the COVID-19 virus caused a direct physical loss of or damage to Plaintiff's Covered Property. Specifically, the Covered Property has been rendered unusable for its intended purposes because the highly contagious nature of the COVID-19, particularly when people gather inside a building or other closed space for extended periods of time, precludes any meaningful use of the Covered Property.

50. Further, and as an additional basis for coverage under the Policy, the governmental shutdown orders or, alternatively, the ubiquitous nature of the COVID-19 virus, as explained above, caused direct physical loss of or damage to property other than Plaintiff's Covered Property, and such loss or damage resulted in an "action by civil authority" prohibiting access to Plaintiff's Covered Property, within the meaning of the Policy.

CLASS ACTION ALLEGATIONS

51. Plaintiff brings this action individually and as a class action on behalf of the following class (collectively, the "Class"), under Pa. R. Civ. P. 1701, *et. seq.*:

All policy holders who are citizens of the Commonwealth of Pennsylvania who purchased commercial property coverage, including income protection (and extra expense) coverage from Defendant and who have been denied coverage under their policy for lost business income after being ordered by a governmental entity, in response to the COVID-19 pandemic, to shut down or otherwise curtail or limit in any way their business operations.

52. Excluded from the Class are Defendant and its officers, directors, legal representatives, successors, subsidiaries, and assigns. Also excluded from the Class are any

judicial officer presiding over this matter, members of their immediate family, and members of their judicial staff.

53. The members of the Class are so numerous that joinder would be impracticable. Class members are readily identifiable from information and records in Defendant's possession, custody, or control.

54. There is a well-defined community of interest in the common questions of law and fact affecting the Class members. These common legal and factual questions include, but are not limited to:

- a. whether Defendant owed coverage to Plaintiff and the Class;
- b. whether any exclusions to coverage apply;
- c. whether Plaintiff and members of the Class are entitled to damages and, if so, the measure of such damages; and
- d. whether Plaintiff and members of the Class are entitled to equitable, declaratory and/or other relief, and if so, the nature of such relief.

55. Plaintiff's claims are typical of the claims of the absent class members and have a common origin and basis. Plaintiff and absent Class members are all injured by Defendant's refusal to afford the purchased coverage. Plaintiff's claims arise from the same practices and course of conduct giving rise to the claims of the absent Class members and are based on the same legal theories, namely the refusal to provide insurance coverage for the loss. If prosecuted individually, the claims of each Class member would necessarily rely upon the same material facts and legal theories and seek the same relief. Plaintiff's claims arise from the same practices and course of conduct that give rise to the other Class members' claims and are based on the same legal theories.

56. Plaintiff will fully and adequately assert and protect the interests of the absent Class members and have retained Class counsel who are experienced and qualified in prosecuting class action cases similar to this one. Neither Plaintiff nor Plaintiff's attorneys have any interests contrary to or conflicting with the interests of absent Class members.

57. The questions of law and fact common to all Class members predominate over any questions affecting only individual class members.

58. A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit because individual litigation of the absent Class members' claims is economically infeasible and procedurally impracticable. Class members share the same factual and legal issues and litigating the claims together will prevent varying, inconsistent, or contradictory judgments, and will prevent delay and expense to all parties and the court system through litigating multiple trials on the same legal and factual issues. Class treatment will also permit Class members to litigate their claims where it would otherwise be too expensive or inefficient to do so. Plaintiff knows of no difficulties in managing this action that would preclude its maintenance as a class action.

59. Additionally, the prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members that would establish incompatible standards of conduct for Defendant. Such individual actions would create a risk of adjudications that would be dispositive of the interests of other Class members and impair their interests. Defendant, through its uniform conduct, acted or refused to act on grounds generally applicable to the Class as a whole, making declaratory relief appropriate to the Class as a whole.

COUNT I

DECLARATORY RELIEF

60. Plaintiff incorporates by reference each and every allegation set forth above.

61. The Pennsylvania Declaratory Judgment Act, 75 Pa. Cons. Stat. 7531, *et. seq.*, provides that in “Courts of record, within their respective jurisdictions, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.” 42 Pa. Cons. Stat. § 7532.!

62. An actual controversy has arisen between Plaintiff and Defendant as to the rights, duties, responsibilities and obligations of the parties in that Plaintiff contends and Defendant disputes and denies that the Policy provide coverage to Plaintiff for any current and future lost business income, subject to the limit of liability, for the temporary suspension of Plaintiff’s operations.

63. Plaintiff continues to suffer injury and are at risk of future loss as a result of Defendant’s failure to abide by its coverage obligation under the Policy. The July 15, 2020 Executive Order by Governor Wolf in Pennsylvania demonstrates the risk of future loss to Plaintiff. Plaintiff’s business remains limited to serving customers at a 50% capacity, pursuant to ongoing government-ordered restrictions, as the number of COVID-19 cases continues to rise. Furthermore, the mere occurrence of the COVID-19 virus in the United States in 2020 demonstrates the future risk that Plaintiff could suffer property loss as a result of another widespread virus and related government shutdown orders.

64. The Policy provides coverage for “direct physical loss of or damage to” the Covered Property.

65. Plaintiff’s loss of use, loss of access, and loss of functionality of the Covered Property when government orders made it unlawful for Plaintiff to fully access, use, and operate its businesses at the Covered Property, constitute a direct physical loss of the Covered Property under the Policy. Alternatively, the ubiquitous nature of the COVID-19 virus caused direct physical loss or damage to the Covered Property by preventing Plaintiff from using the Covered Property for its intended purpose.

66. Additionally, the government shutdown orders or, alternatively, the ubiquitous nature of the COVID-19 virus, caused direct physical loss or damage to property other than the Covered Property, thereby invoking coverage under the Policy’s “Civil Authority” provision for “actual loss of ‘income’ and/or ‘rental income’ . . . caused by action of civil authority that prohibits access to the premises described.”

67. The Policy constitutes valid and binding agreements obligating the Defendant to indemnify Plaintiff for covered losses. Plaintiff has substantially performed or otherwise satisfied all conditions precedent to bringing this action and obtaining coverage pursuant to the Policy and applicable law, or alternatively, Plaintiff has been excused from performance by Defendant’s acts, representations, conduct, or omissions.

68. Defendant has failed to indemnify Plaintiff for its covered losses.

69. No exclusion to coverage applies.

70. Plaintiff has suffered and continue to suffer covered losses under the Policy.

71. Plaintiff, individually and on behalf of the Class, seeks a Declaratory Judgment that there is coverage for their business interruption losses under the Policy.

COUNT II

BREACH OF CONTRACT

72. Plaintiff incorporates by reference each and every allegation set forth above.

73. Plaintiff and Defendant entered into a contract of insurance; here, the Policy.

74. The Class members entered into substantially identical policies with Defendant.

75. Under the Policy, Defendant agreed to indemnify Plaintiff and the Class for their business losses as a result of covered losses.

76. Plaintiff and the Class members suffered covered losses under the Policy.

77. Plaintiff and the Class members timely submitted notices of claims and satisfied all conditions precedent to receiving the coverage they purchased from Defendant.

78. Defendant breached its contracts with Plaintiff and the Class members by failing and refusing to provide the contracted-for coverage.

79. Defendant's breach of the contracts has caused Plaintiff and the Class to suffer damages in the amount of their unreimbursed business losses or their limits of liability, whichever is lower.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff herein prays as follows, on behalf of itself and all others similarly situated:

1) For a declaration that there is coverage under the Policy for the interruption to Plaintiff's business and the associated business income lost therefrom;

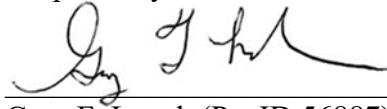
2) For damages, costs and attorney's fees; and

3) For such other relief as the Court may deem proper.

TRIAL BY JURY IS DEMANDED AS TO ALL COUNTS SO TRIABLE.

Date: August 21, 2020

Respectfully submitted,



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Exhibit A



Erie Insurance
Exchange

Member • Erie Insurance Group
100 Erie Ins. Pl. • Erie, PA 16530

Erie Insurance Exchange
Revised

Ultrapack Plus Policy Declarations Renewal Certificate

Mailing Name and Address for Insured:

THE FIRE SIDE PUBLIC HOUSE LLC
LLC
147 SPRUCE VALLEY DR
PITTSBURGH PA 15229-2170



241902061
AA6606

Other Interest:

As Listed Below

Named Insured's Full Name:

The Fire Side Public House LLC

Agent:

AA6816 DAVID S TYSON INSURANCE AGENCY

Policy Period:

11/11/2019 to 11/11/2020 Q971162233

Policy Number:

Agent Address and Phone

DAVID S TYSON INSURANCE AGENCY
4071 HART CT
Suite 302
MURRYSVILLE PA 15668-1909
412-349-0998

Policy begins at 12:01 A.M. standard time on the effective date and ends at 12:01 A.M. standard time on the expiration date. Standard time is determined at the stated address of the named insured.

The insurance applies to those premises described below. This is subject to all applicable terms of the policy and attached forms and endorsements.

Premium Summary

Total Annual Policy Premium:

\$10,845.00

(This is not a bill. Your invoice will follow in a separate mailing.)

Property Protection - As Per Attached Supplemental Declarations
Deductible (Property Protection Only) \$1,000

Policy-Level Coverages

Liability Protection

Limits of Insurance

Commercial General Liability Limits of Insurance

Each Occurrence Limit	\$1,000,000
Damage to Premises Rented to You	\$1,000,000 Any One Premises
Medical Expense limit	\$5,000 Any One Person
Personal & Advertising Injury Limit	\$1,000,000 Any One Person or Organization
General Aggregate Limit	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000



Insured Name: The Fire Side Public House LLC
Policy Number: Q971162233
Policy Period: 11/11/2019 to 11/11/2020

Page 2 of 128

Optional Coverages

Deductible

Amount of Insurance

Policy-Level Optional Coverages:

Property and Inland Marine - Optional Coverages:

Data Breach Response Expenses – Increased Coverage

\$10,000

Terrorism

Included

General Liability - Optional Coverages:

Additional Insured-Managers or Lessors of Premises (CG2011)

Additional Insured-Mortgagee, Assignee, or Receiver (CG2018)

Data Breach Liability

\$10,000

Employment Practices Liability Insurance-Claims Made

\$50,000

Aggregate Limit (Includes Defense Costs)

\$5,000

Deductible Per Loss Amount (Includes Defense Costs)

Retroactive Date

Number of Employees: Full-Time 8 Part-Time 12

If no date is shown for the Retroactive Date, we will consider the EPL Retroactive Date to be the date of organization of the Named Insured. The EPL Retroactive Date will remain the same through all subsequent renewals. No change will be made to the EPL Retroactive Date unless at the sole request of the Insured.

Other Optional Coverages:

Enhancement Endorsement-Restaurants

Insured Name: The Fire Side Public House LLC
Policy Number: Q971162233
Policy Period: 11/11/2019 to 11/11/2020

Page 3 of 128

Supplemental Declarations

Location 1 / Building 1

Address:

6290 BROAD ST
PITTSBURGH PA 15206-4002

County: Allegheny

Occupancy/Operations:

Family Style - American Cuisine - Restaurant

Interest of Named Insured In Such Premises: Tenant/Entire

Coverage	Deductible	Amount of Insurance
Property Protection		
1. Buildings - Replacement Cost	Property Deductible	\$55,500
2. Business Personal Property and Personal Property of Others Replacement Cost Theft Exclusion Applies: No	Property Deductible	\$159,000
3. Income Protection & Extra Expense		Actual Loss Sustained 12 Months
Protective Safeguard Condition: Central Station Fire Alarm System		
Protective Safeguard Condition: Central Station Burglar Alarm System		
Protective Safeguard Condition: Automatic Extinguishing System		
Automatic Adjustment of Building Coverage - 3%		
Automatic Adjustment of Business Personal Property and Personal Property of Others Coverage - 2%		
Property and Inland Marine - Optional Coverages:		
Liquor Liability Endorsement		\$1,000,000 Each Common Cause/
Liquor Receipts - \$450,000		\$2,000,000 Aggregate
Sewer and Drain Backup	\$200	\$25,000

Location/Building-Level Additional Interests

Other Interest - Loss Payee and Additional Insured

Robert F. and Ruth A. Tortorete
6731 ADELPHIA ST
PITTSBURGH PA 15206-1053
Location-1 Building-1

Policy-Level Additional Interests

Additional Insured - Mortgagee, Assignee or Receiver

Specialty Lenders Ltd.
3205 MCKNIGHT EAST DR
PITTSBURGH PA 15237-6423



Insured Name: The Fire Side Public House LLC
Policy Number: Q971162233
Policy Period: 11/11/2019 to 11/11/2020

Page 4 of 128

Schedule of Static Forms

Form Number	Edition Date	Description
/ *		
UPP	01/10 *	ULTRAPACK PLUS POLICY
PK0001	09/18 *	ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART
PKAX	01/10 *	PRODUCTION OR PROCESS MACHINERY - DEDUCTIBLE
PKAY	12/14 *	SEWER AND DRAIN BACK-UP COVERAGE
PKJK	09/18 *	RESTAURANTS ENHANCEMENT ENDORSEMENT
CL0209	11/10 *	IMPORTANT NOTICE - LEAD LIABILITY EXCLUSION
CL0212	11/10 *	IMPORTANT NOTICE - POLICY SERVICE FEES
CL0217	11/10 *	IMPORTANT NOTICE - NO FLOOD COVERAGE
PKGP	01/10 *	AMENDMENT OF MOBILE EQUIPMENT DEFINITION
PKGT	01/10 *	AMENDMENT OF OCCURENCE DEFINITION FOR SUBCONTRACTED WORK
PKRG	01/10 *	PENNSYLVANIA AMENDATORY ENDORSEMENT - LOSS PAYMENT CONDITION
PKRH	01/10 *	PENNSYLVANIA AMENDATORY ENDORSEMENT - CONDITIONS
PK0003	07/16 *	ULTRAPACK PLUS EXTRA LIABILITY COVERAGES
CG0001	04/13 *	COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG0033	04/13 *	LIQUOR LIABILITY COVERAGE FORM
CG0099	11/85 *	CHANGES IN GENERAL LIABILITY FORMS FOR COMMERCIAL PACKAGE POLICIES
CG2011	04/13 *	ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES
CG2018	04/13 *	ADDITIONAL INSURED - MORTGAGEE, ASSIGNEE, OR RECEIVER
CG2147	12/07 *	EMPLOYMENT-RELATED PRACTICES EXCLUSION
CG2167	12/04 *	FUNGI OR BACTERIA EXCLUSION
UFB213	11/12 *	SUBSCRIBER'S AGREEMENT
CG2170	01/15 *	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
CG2196	03/05 *	SILICA OR SILICA-RELATED DUST EXCLUSION
PKGL	12/14 *	PUNITIVE DAMAGES COVERAGE
PKWA	07/14 *	DATA BREACH RESPONSE EXPENSES - INCREASED COVERAGE
PKWB	07/14 *	DATA BREACH LIABILITY COVERAGE
CL0396	01/17 *	IMPORTANT NOTICE - DATA BREACH RESPONSE EXPENSES COVERAGE
CG2106	05/14 *	EXCL-ACCESS OR DISCLOSURE OF CONFIDENT OR PERS INFO AND DATA-RELATED LIAB - WITH LIMIT BOD INJ EXCEP
PKQAPA	12/15 *	PENNSYLVANIA CHANGES TO EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE ENDORSEMENT
UF0168	02/11 *	EPLI POLICYHOLDER LETTER
UF0169	02/11 *	LEGAL ADVICE LINE
PKQA	12/15 *	EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE ENDORSEMENT
CG2109	06/15 *	EXCLUSION - UNMANNED AIRCRAFT
IL0017	11/98 *	COMMON POLICY CONDITIONS
IL0021	09/08 *	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)
IL0910	07/02 *	PENNSYLVANIA NOTICE
IL0952	01/15 *	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
IL985F	01/15 *	DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT
IL0246	09/07 *	PENNSYLVANIA CHANGES - CANCELLATION AND NONRENEWAL
PKMJ	01/10 *	EXCLUSION - LEAD LIABILITY
PKMD	01/10 *	EXCLUSION - ASBESTOS
PKMQ	12/14 *	EXCLUSION - PROFESSIONAL LIABILITY
PKRO	01/10 *	AMENDMENT OF POLICY - TWO OR MORE COVERAGE PARTS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SEWER AND DRAIN BACK-UP COVERAGE

This endorsement modifies insurance provided under the following:

ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART

A. The following is added to Section II - Perils Insured Against - Building(s) - Coverage 1 and Business Personal Property and Personal Property of Others - Coverage 2:

We will cover buildings and business personal property and personal property of others on the premises described in the "Declarations" for the amount of insurance shown

in the "Declarations" for this coverage. "Loss" must be caused by water or sewage which backs up through sewers or drains, or which enters into and overflows or is otherwise discharged from a sewer, drain, sump pump, sump pump well, or any other system designed to remove sub-surface water which is drained from the foundation area.

B. Paragraph A.6.c. of Section III - Exclusions is deleted.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PENNSYLVANIA AMENDATORY ENDORSEMENT – LOSS PAYMENT CONDITION

This endorsement modifies insurance provided under the following:

ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART

The following is added to **Loss Payment** of **Section X - Commercial Property Conditions**:

We must give the insured notice of our intent to repair or replace within 15 working days after we receive your sworn proof of loss.



ERIE INSURANCE GROUP
ULTRAPACK PLUS
CL-0212 (Ed. 11/10)

IMPORTANT NOTICE - POLICY SERVICE FEES

Dear Policyholder:

SERVICE FEES - The following service fees will be applicable to all payment plans.

- **Returned Payment Fee** - A **\$25.00** charge will be applied to your account if your check or other payment is returned unpaid by your financial institution.
- **Late Fee** - A **\$10.00** charge will be applied to your account when a cancellation notice is issued on your policy because of non-payment of premium.
- **Reinstatement Fee** - A **\$25.00** charge will be applied to your account when your policy is reinstated with a lapse in coverage following cancellation of your policy because of non-payment of premium.

If you have any questions concerning this Important Notice, please contact your ERIE Agent.

ERIE INSURANCE
ULTRAPACK PLUS
CL-0209 (Ed. 11/10)

IMPORTANT NOTICE – LEAD LIABILITY EXCLUSION

Your policy contains Lead Liability Exclusion Endorsement PK-MJ, an exclusion involving lead contamination.

Any claims of **bodily injury, personal injury or property damage** from lead contamination occurring during this policy period and future policy periods will not be covered. Your liability insurance does not cover any loss, cost or expense arising from any requests or claims made by a governmental authority that you test for, remove or in any way respond to the effects of lead.

It has become increasingly apparent in recent years that lead poisoning poses a serious threat to children. Studies have shown that even small doses of lead can cause severe poisoning, slowed development, altered behavior, and loss of intelligence. The lead hazard can be reduced by removing the lead from the premises using approved abatement methods.

Again, this policy contains a complete exclusion for liability resulting from lead. Therefore, we recommend you take action to identify and remove any lead hazards that may exist on your premises to protect yourself.

IMPORTANT NOTICE - NO FLOOD COVERAGE

Your basic policy covers losses from many perils. However, it **DOES NOT** provide coverage for flood loss.

Insurance covering flood loss is generally available through the National Flood Insurance Program.

In an effort to serve you, information about flood insurance and the National Flood Insurance Program can be provided by your ERIE Agent.

ERIE INSURANCE
ULTRAPACK PLUS
PK-WA (Ed. 7/14) CL-0388

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DATA BREACH RESPONSE EXPENSES – INCREASED COVERAGE

This endorsement modifies insurance provided under the following:

ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART

The following is added to **Data Breach Response Expenses** of **Section VIII – Extensions of Coverage**:

The \$10,000 amount of insurance for which we will pay under **Extensions of Coverage – Data Breach Response Expenses** is increased by the amount shown in the "Declarations".

The maximum amount of insurance we will pay for any one loss is:

1. The \$10,000 amount of insurance shown in the **ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART** under **Extensions of Coverage – Data Breach Response Expenses**, and
2. The increased amount of insurance shown in the "Declarations".



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. 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".

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.
- 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 "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 Paragraph 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 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. "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 places 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, bylaws 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.

PENNSYLVANIA CHANGES TO EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE

SECTION VI. CONDITIONS, Clause F. Extended Reporting Periods, Paragraph 2.b. is replaced by the following:

- b.** Upon payment of an additional premium of 100% of the full annual premium applicable to this EPL Coverage, a Supplemental Extended Reporting Period of one (1) year immediately following the effective date of cancellation or nonrenewal in which to give to "us" written notice of "claims" first made or "suits" first brought against the "insureds" during said Supplemental Extended Reporting Period for any "wrongful employment acts" occurring before the end of the "EPL coverage period" and are otherwise covered by this EPL Coverage.

To obtain the Supplemental Extended Reporting Period, "you" must request it in writing and pay the additional premium due, within sixty (60) days of the effective date of cancellation or nonrenewal. The additional premium for the Supplemental Extended Reporting Period shall be fully earned at the inception of the Supplemental Extended Reporting Period. If "we" do not receive the written request as required, "you" may not exercise this right at a later date.

This insurance, provided during the Supplemental Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Supplemental Extended Reporting Period becomes effective, whether the other insurance applies as primary, excess, contingent, or any other basis.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF OCCURRENCE DEFINITION FOR SUBCONTRACTED WORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The definition of "occurrence" in **Section V – Definitions** is deleted and replaced by the following:

"Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions. "Property damage" to "your work" will constitute an "occurrence" if all of the following conditions are met:

1. The "property damage" to "your work" is included in the "products-completed operations hazard";
2. The damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor; and
3. The "property damage" is not expected or intended by you or anyone for whom you are legally responsible.

The following is added to "property damage" in **Section V – Definitions**:

- c. "Property damage" does not include any loss, cost or expense to correct any defective, faulty or incorrect work performed by you or by any contractors or subcontractors working directly or indirectly on your behalf.

ALL OTHER PROVISIONS OF THE POLICY APPLY.

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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 1., 2. or 3. 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 Injury 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 or 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 1., 2. or 3. 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
FUNGI OR BACTERIA 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:

Fungi or Bacteria

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising 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, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

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:

Fungi or Bacteria

- a. "Personal and advertising injury" which would not have taken place in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising 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, "fungi" or bacteria, by any insured or by any other person or entity.

C. The following definition is added to Section V - Definitions:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by "fungi".

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. Examination 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

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
 - c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be changed. 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:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

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 and only with respect to that property.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
PENNSYLVANIA CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY 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 writing or giving notice of cancellation.

2. **Cancellation Of Policies In Effect For Less Than 60 Days**

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 30 days before the effective date of cancellation.

3. **Cancellation Of Policies In Effect For 60 Days Or More**

If this policy has been in effect for 60 days or more or if this policy is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a. You have made a material misrepresentation which affects the insurability of the risk. Notice of cancellation will be mailed or delivered at least 15 days before the effective date of cancellation.
- b. You have failed to pay a premium when due, whether the premium is payable directly to us or our agents or indirectly under a premium finance plan or extension of credit.

Notice of cancellation will be mailed at least 15 days before the effective date of cancellation.

- c. A condition, factor or loss experience material to insurability has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy period. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- d. Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease, at the time of cancellation, shall be certified to the Insurance Commissioner as directly affecting in-force policies. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- e. Material failure to comply with policy terms, conditions or contractual duties. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- f. Other reasons that the Insurance Commissioner may approve. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

This policy may also be cancelled from inception upon discovery that the policy was obtained through fraudulent statements, omissions or concealment of facts material to the acceptance of the risk or to the hazard assumed by us.

4. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. Notice of cancellation will state the specific reasons for cancellation.
5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
6. If the policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata and will be returned within 10 business days after the effective date of cancellation. If the first Named Insured cancels, the refund may be less than pro rata and will be returned within 30 days after the effective date of cancellation. The cancellation will be effective even if we have not made or offered a refund.

7. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

B. The following are added and supersede any provisions to the contrary:

1. Nonrenewal

If we decide not to renew this policy, we will mail or deliver written notice of nonrenewal, stating the specific reasons for nonrenewal, to the first Named Insured at least 60 days before the expiration date of the policy.

2. Increase Of Premium

If we increase your renewal premium, we will mail or deliver to the first Named Insured written notice of our intent to increase the premium at least 30 days before the effective date of the premium increase.

Any notice of nonrenewal or renewal premium increase will be mailed or delivered to the first Named Insured's last known address. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

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PENNSYLVANIA NOTICE

An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. Surveys;
2. Consultation or advice; or
3. Inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. If the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. To consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. If any acts or omissions of the Insurance Company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

Instruction to Policy Writers

Attach the Pennsylvania Notice to all new and renewal certificates insuring risks located in Pennsylvania.

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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 sidetrack 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, road-beds, 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DATA BREACH LIABILITY COVERAGE

Various provisions in this coverage form restrict coverage. Read the entire coverage form carefully to determine rights, duties, and what is and is not covered.

Throughout this coverage form 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 VIII – Definitions.

SECTION I – INSURING AGREEMENT

1. "We" will pay those sums that the insured becomes legally obligated to pay as damages because of a "personal data breach" to which this insurance applies. "We" will have the right and duty to defend the insured against any "personal data breach suit" seeking those damages. However, "we" will have no duty to defend the insured against any "personal data breach suit" seeking damages for a "personal data breach" to which this insurance does not apply. "We" may, at "our" discretion, investigate any "personal data breach" and settle any claim or "personal data breach suit" that may result, but:

- a. The amount "we" will pay for damages is limited as described in Section V – Limits of Insurance; and
- b. "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 this Data Breach Liability Coverage.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for in this Data Breach Liability Coverage.

2. This insurance applies to "personal data breach suits" only if:
- a. The "personal data breach" takes place in the "coverage territory";
 - b. "You" report the "personal data breach suit" to "us" as soon as practicable after notice is received by "you"; and
 - c. The "personal data breach suit" arose out of a "personal data breach" covered under "our" Data Breach Expenses Coverage where Notification to Affected Individuals and Services to Affected Individuals were paid for by "us" and provided by service providers approved by "us".

3. A "personal data breach" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section IV – Who Is An Insured receives notice of a "personal data breach" or "personal data breach suit":

- a. Reports all, or any part, of the "personal data breach" to "us" or any other insurer;
- b. Receives a written or verbal demand or claim for damages because of a "personal data breach";
- c. Becomes aware by any other means that a "personal data breach" has occurred or begun to occur; or
- d. All "personal data breach suits" arising out of one "personal data breach" shall be deemed to be made on the date that the first "personal data breach suit" is brought. All "personal data breach suits" asserted in a class action suit will be treated as arising out of a single "personal data breach".

SECTION II – EXCLUSIONS

This insurance does not apply to:

1. "Your" intentional or willful complicity in a "personal data breach".
2. Any criminal; fraudulent; dishonest act, error, or omission; or any intentional or knowing violation of the law by "you".
3. Any "personal data breach" occurring prior to the first inception date of this Data Breach Liability Coverage regardless of when the first "personal data breach" was discovered by "you".
4. Costs to correct any deficiency in "your" systems, procedures, or physical security that may have contributed to a "personal data breach".
5. Any fines or penalties including, but not limited to, fees or surcharges from affected financial institutions.
6. Any costs arising out of criminal investigations or proceedings.
7. Any threat, extortion, or blackmail including, but not limited to, ransom payments and private security assistance.
8. Any virus or other "malicious code" that is or becomes named and recognized by the CERT Coordination Center, McAfee, Secunia, Symantec, or other comparable third party monitors of malicious code activity.



9. "Your" reckless disregard for the security of "personally identifying information" in "your" care, custody, or control.
10. "Your" purposeful off-shoring of the processing, storage, or other use of data containing "personally identifying information" to a jurisdiction outside of the "coverage territory".
11. Seizure or destruction by order of governmental authority.
12. War:
 - a. War including undeclared or civil war;
 - b. 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
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
13. Nuclear reaction or radiation, or radioactive contamination.
14. Any "personal data breach suit" made against "you" by a subsidiary or entity owned whole or in part by "you".
15. Any rendering of, or failure to render any professional services for others.
16. Any property damage directly relating to a "personal data breach".

SECTION III – SUPPLEMENTARY PAYMENTS

"We" will pay, with respect to any claim "we" investigate or settle, or any "personal data breach suit" "we" defend against an insured:

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 for lodging and meals incurred by an insured for deposition appearances and court proceedings (at "our" request to assist "us" in the investigation or defense of the claim or "personal data breach suit", including actual loss of earnings up to \$250 per day because of time off from work).
4. All court costs assessed against an insured in the "personal data breach suit".
5. Prejudgment interest awarded against an 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.

These payments will not reduce the limits of insurance.

SECTION IV – WHO IS AN INSURED

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. "Your" managers are insureds, but only with respect to their duties as "your" managers.
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.
5. A trust, "you" are an insured. "Your" trustees are also insureds, but only with respect to their duties as trustees.

SECTION V – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations for this Data Breach Liability Coverage and the rules below fix the most "we" will pay regardless of the number of:
 - a. Persons insured under this coverage;
 - b. Claims made or "personal data breach suits" brought; or
 - c. Persons or organizations making claims or bringing "personal data breach suits".
2. The Data Breach Liability Coverage Limit of Insurance is the most "we" will pay for the sum of all damages to one or more persons or organizations as a result of all "personal data breaches" occurring during the policy period.

SECTION VI – DEDUCTIBLE

No deductible applies to this Data Breach Liability Coverage.

SECTION VII – CONDITIONS

1. BANKRUPTCY OR INSOLVENCY

Bankruptcy or insolvency of "you" or "your" estate will not relieve "us" of "our" obligations under this Data Breach Liability Coverage.

2. DUE DILIGENCE

"You" agree to use due diligence to prevent and mitigate costs covered under this Data Breach Liability Coverage.

This includes, but is not limited to, complying with reasonable and industry accepted protocols for:

- a. Providing and maintaining appropriate physical security for "your" premises, computer systems, and hard copy files, electronic media, handheld devices, and storage devices;
- b. Providing and maintaining appropriate computer, network, and Internet security;
- c. Maintaining and updating at appropriate intervals backups of computer data;
- d. Protecting transactions, such as processing credit card, debit card, and check payments;
- e. Appropriate disposal of files containing "personally identifying information", including shredding hard copy files and destroying physical media used to store "electronic data";
- f. Providing appropriate security awareness training on "your" physical, electronic, and procedural security measures; and
- g. Providing reasonable and necessary notification monitoring and other services.

3. NO BENEFIT TO BAILEE

No bailee, having custody of "personally identifying information", shall benefit, directly or indirectly, from this insurance.

4. OTHER INSURANCE

If other valid and collectible insurance is available to "you" for a loss "we" cover under this coverage, "our" obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** – Excess Insurance 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 **c.** – Method of Sharing below.

b. Excess Insurance

When this insurance is excess over any other Data Breach Liability coverage, "we" will have no duty under this "Data Breach Liability Coverage to defend "you" against any "personal data breach suit" if any other insurer has a duty to defend "you" against that "personal data breach suit". If no other insurer defends, "we" will undertake to do so, but "we" will be entitled to the insured's rights against all other insurers.

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:

- 1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- 2) The total of all deductible and self-insured amounts under all that other insurance.

"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 for this endorsement.

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. RECORDS

"You" must keep proper records so that "we" can accurately determine the "affected individuals" of a "personal data breach".

6. SETTLEMENTS

With "your" written consent, "we" may settle a "personal data breach suit" in any way "we" consider reasonable. If "you" withhold consent, then "our" liability for damages is limited to what "we" would have paid as of the date of the proposed settlement. "You" assume any further responsibilities and expenses regarding settlement of the "personal data breach suit".

7. YOUR DUTIES AFTER A PERSONAL DATA BREACH

In case of a covered "personal data breach", "you" must perform the following duties:

- a. Give "us" prompt notice of the "personal data breach";
- b. Take all reasonable steps to protect "personally identifying information" remaining in "your" care, custody, or control;
- c. Preserve all evidence of the "personal data breach";
- d. Permit "us" to inspect the property and records proving the "personal data breach";
- e. Produce for examination, with permission to copy, all books of accounts, bills, invoices, receipts, and other vouchers as "we" may reasonably require;



- f. Send "us", within 60 days after the "personal data breach", "your" signed and sworn proof of loss statement which includes:
 - 1) Time and cause of the "personal data breach";
 - 2) Other policies which may cover the "personal data breach";
 - 3) The method of the "personal data breach";
 - 4) The approximate number of "affected individuals" compromised as a result of the "personal data breach";
 - 5) A detailed description of the type and nature of the information that was compromised;
 - 6) Whether or not the information was encrypted and if so, the level of encryption;
 - 7) Whether or not law enforcement has been notified;
 - 8) If available, the states in which the "affected individuals" are domiciled; and
 - 9) If available who received the "personally identifying information" as a result of the "personal data breach";
- g. Cooperate with "us" in "our" investigation of a "personal data breach";
- h. Separately submit to examinations under oath and sign a transcript of the same; and
- i. Agree to help "us" enforce any right of recovery against any party liable for the "personal data breach" under this policy. This will not apply if "you" have waived recovery rights in writing prior to a "personal data breach".

SECTION VIII – DEFINITIONS

- "Affected Individual" means any person who is "your" current, former, or prospective customer, client, member, director, or employee and whose "personally identifying information" is lost, stolen, accidentally released, or accidentally published by a "personal data breach" covered under this endorsement. This definition is subject to the following provisions:
 1. "Affected individual" does not include any business or organization. Only an individual person may be an "affected individual".
 2. An "affected individual" must have a direct relationship with "your" interests as an insured under this policy. The following are examples of individuals who would not meet this requirement:
 - a. If "you" aggregate or sell information about individuals as part of "your" business, the individuals about whom "you" keep such information do not qualify as "affected individuals". However,
- er, specific individuals may qualify as "affected individuals" for another reason, such as being an employee of "yours".
- b. If "you" store, process, transmit, or transport records, the individual whose "personally identifying information" "you" are storing, processing, transmitting, or transporting for another entity do not qualify as "affected individuals". However, specific individuals may qualify as "affected individuals" for another reason, such as being an employee of "yours".
 - c. "You" may have operations, interests, or properties that are not insured under this policy. Individuals who have a relationship with "you" through such other operations, interests, or properties do not qualify as "affected individuals". However, specific individuals may qualify as "affected individuals" for another reason, such as being an employee of "yours".
3. An "affected individual" may reside anywhere in the world but must be a citizen or legal alien of the United States (its territories and possessions), Puerto Rico, or Canada with a valid Social Security Number (SSN) or Social Insurance Number (SIN).
 - "Coverage territory" means the United States (including its territories and possessions), Puerto Rico, and Canada.
 - "Electronic data" means information, facts, or computer programs stored as or on, created or used on, or transmitted to or from 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 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.
 - "Identity theft" means the fraudulent use of "personally identifying information". This includes fraudulently using such information to establish credit accounts, secure loans, enter into contracts, or commit crimes.

"Identity theft" does not include the fraudulent use of a business name, d/b/a, or any other method of identifying a business activity.

 - "Malicious code" means any loss of data that results from a worm, virus, Trojan, BOT, or other piece of computer code, software, spyware, or malware that is used to collect, destroy, alter, retrieve, or affect computer software and/or data on a computer system, network, storage device, Smartphone, or other peripheral device; and on the date the "personal data breach" occurred is named and recognized by the CERT Coordination Center or any other

er industry acceptable third party antivirus, antimalware, or other solution that monitors malicious code activity.

- "Personal data breach" means the loss, theft, accidental release, or accidental publication of "personally identifying information" regarding one or more "affected individuals", if such loss, theft, accidental release, or accidental publication has or could reasonably result in the fraudulent use of such information. This definition is subject to the following provisions:

1. At the time of the loss, theft, accidental release, or accidental publication, the "personally identifying information" must be in "your" direct care, custody, or control.
2. "Personal data breach" does not include the loss, theft, release, or publication of information that is in the care, custody, or control of a third party to whom "you" have directly or indirectly turned over such information for any reason. This includes but is not limited to storage, processing, transmission, or transportation of such information.
3. "Personal data breach" includes disposal or abandonment of "personally identifying information" without appropriate safeguards such as shredding or destruction, subject to the following provisions:
 - a. "Your" failure to use appropriate safeguards must be accidental and not reckless or deliberate; and
 - b. Such disposal or abandonment must take place during the time period for which this Data Breach Liability Coverage is effective.

4. "Personal data breach" includes situations where there is a reasonable cause to suspect that such "personally identifying information" has been lost, stolen, accidentally released, or accidentally published, even if there is no firm proof.

5. All "personal data breaches" that are discovered at the same time or arise from the same cause will be considered one "personal data breach".

- "Personal data breach suit" means written notice or demand for monetary damages for a covered "personal data breach".
- "Personally identifying information" means information that could be used to commit fraud or other illegal activity involving the credit or identity of an "affected individual". This includes but is not limited to social security numbers, driver's license numbers, credit card numbers, bank account information, or any other account numbers correlated with names and addresses.

"Personally identifying information" does not mean or include information that is otherwise available to the public, such as names and addresses with no correlated social security numbers or account numbers.



IMPORTANT NOTICE – DATA BREACH RESPONSE EXPENSES COVERAGE

Dear Ultrapack Plus Customer:

Your Ultrapack Plus Commercial Property Coverage Part includes up to \$10,000 for Data Breach Response Expenses Coverage under Section VIII, Extensions of Coverage.

In addition to this enhancement, we are pleased to offer the following optional endorsements for additional Data Breach and Identity Recovery Coverage protection for a premium. Contact your ERIE Agent to discuss these additional coverage options.

- Data Breach Response Expenses – Increased Coverage
- Data Breach Liability Coverage
- Identity Recovery Coverage – Owners
- Identity Recovery Coverage – Owners and Employees

ERIE Insurance has partnered with CyberScout, a leading provider of data risk management solutions, to support us in providing business owners like you with Data Breach coverages.* As an educational resource, a data security website is available to you. This website provides tips and best practices that will help you protect sensitive information. It also includes information regarding notification laws and regulations, an Incidence Response Plan template, and other resources.

To access the website, visit www.erie.breachresponse.com.

- Click [Sign in now](#)
- User Name: **Erie1** and Password: **Erie1**
(Note: The User Name and Password are case sensitive).
- Complete the online registration process by creating your own Username & Password

If ever you suspect a loss, theft, accidental release or publication of non-public personal information regarding individuals that have a direct relationship with your business, such as customers, clients or employees, call the ERIE Claims Office nearest you. See the reverse side of this notice for a listing of all ERIE Claims Offices and their phone numbers. We're your first line of response when you discover a data breach involving non-public personal information of others.

Thank you again for becoming an ERIE customer. We hope you find our services valuable in helping to protect you and your business.

* Coverage is subject to the terms and limitations of the endorsements you purchased.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RESTAURANTS ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART

ULTRAPACK PLUS COMMERCIAL PROPERTY COVERAGE PART

A. The amount of insurance is increased for these coverages under **Section VIII – B. Extensions of Coverage**:

1. **Check, Credit, Debit or Charge Card Forgery or Alteration** is increased from \$5,000 to \$15,000 for any one "loss".
2. **Counterfeit Money** is increased from \$1,000 to \$11,000 for any one "loss".
3. **Employee Dishonesty** is increased from \$10,000 to \$25,000 for any one "loss".
4. **Income Protection – Off-Premises Utility Properties Failure** is increased from \$25,000 to \$50,000 for any one "loss".
5. The percentage for **Peak Season Coverage - Business Personal Property and Personal Property of Others – Coverage 2** is increased from 25% to 50% to cover "loss" during a peak season.

B. We will pay up to \$250,000 as a Blanket Amount of Insurance which may be applied to any of the following coverages or combination of the following coverages:

1. Under **Section IV – Additional Coverages - Electronic Data Processing Equipment and Electronic Data Coverage**:
 - a. Electronic Data – Expenses for Reproduction or Replacement; or
 - b. Electronic Data Processing Equipment – Computer Virus.
2. Under **Section VIII – B. Extensions of Coverage**:
 - a. Accounts Receivable;
 - b. Business Personal Property and Personal Property of Others - Temporarily Off-Premises;
 - c. Debris Removal;
 - d. Fine Arts;
 - e. Transportation; or
 - f. Valuable Papers and Records.

The Blanket Amount of Insurance is in addition to the amount of insurance provided for these coverages in

Section IV – Additional Coverages and Section VIII – B. Extensions of Coverage.

This Blanket Amount of Insurance may be applied to any one coverage or combination of coverages shown in 1.a. and 1. b. and 2. a. through 2. f.. However, the most we will pay under this endorsement for "loss" or damage resulting from any one occurrence at any premises described in the "Declarations" is \$250,000. The Blanket Amount of Insurance applies separately to each premises described in the "Declarations".

C. Business Personal Property – Food Trucks or Trailers

Paragraph A. Covered Property under Business Personal Property and Personal Property of Others – Coverage 2 is deleted and replaced by the following:

Business Personal Property and Personal Property of Others means:

1. Personal property pertaining to your business, professional or institutional activities, including leased- property for which you are contractually responsible;
2. Personal property of others that is in your care, custody, or control;
3. Labor, materials, or services furnished or arranged by you on personal property of others;
4. Your use interest as a 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;
5. Exterior signs, lights, and clocks which you own or which are in your care, custody, or control and for which you are contractually responsible. Exterior signs, lights, and clocks must be permanently attached to the building on the premises described in the "Declarations" or if unattached to the building, must be permanently mounted on the premises described in the "Declarations";
6. Glass which is in your care, custody, or control and for which you are contractually responsible. The



glass must be part of the building described in the "Declarations", including glass in wall cases.

Our payment for "loss" to glass will also include:

- a. Replacement of building glass with safety glazing materials when made necessary by an ordinance or building code;
- b. Replacement of lettering, ornamentation, or burglar alarm foil;
- c. Repair or replacement of frames;
- d. Installation of temporary coverings; and
- e. Removal of obstructions;

while in or on the described buildings, or in the open, or in a vehicle on the premises described in the "Declarations" or within 1,500 feet thereof, or on your food truck or trailer when anywhere in the coverage territory.

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

D. Merchandise – Deferred Payment is added to **Section I – Coverages under Business Personal Property and Personal Property of Others - Coverage 2:**

We will pay up to \$5,000 to merchandise which you have sold under a conditional sale, trust agreement, or any installment or deferred payment plan after delivery to buyers provided "loss" or damage is caused by a peril insured against.

When a total "loss" to covered property occurs, deferred payments are valued on the amount shown on your books as due from the buyer.

When partial "loss" to covered property occurs and the buyer refuses to continue payment, forcing you to repossess, deferred payments are valued as follows:

1. If the realized value of the repossessed property is greater than or equal to the amount shown on your books, as due from the buyer, we will make no payment; but
2. If the realized value of the repossessed property is less than the amount shown on your books as due from the buyer, we will pay the difference.

When a total or partial "loss" occurs and the buyer continues to pay you, we will make no loss payment.

E. Income Protection – Food Trucks or Trailers

Income Protection – Coverage 3 of Section I – Coverages is deleted and replaced by the following:

A. Income Protection Coverage

Income Protection means loss of "income" and/or "rental income" you sustain due to partial or total "interruption of business" resulting directly from "loss" or dam-

age to property on the premises described in the "Declarations" or to your food truck or trailer when anywhere in the coverage territory from a peril insured against. "Loss" or damage also includes covered property in the open, or in a vehicle, on the premises described in the "Declarations" or within 1,500 feet thereof, or to your food truck or trailer when anywhere in the coverage territory.

If you are a tenant, your premises are the portion of the building described in the "Declarations" which:

1. You rent, lease, or occupy;
2. All routes within the building that service or are used to gain access to the described premises; and
3. The area within 1,500 feet of the premises described in the "Declarations" (with respect to "loss" or damage to covered property in the open or in a vehicle).

You are required to resume normal business operations as promptly as possible and shall use all available means to eliminate any unnecessary delay.

B. Extra Expense Coverage

"Extra expense" coverage is provided at the premises described in the "Declarations" or to your food truck or trailer anywhere in the coverage territory.

"Extra expense" means necessary expenses you incur due to partial or total "interruption of business" resulting directly from "loss" or damage to property on the premises described in the "Declarations" or to your food truck or trailer anywhere in the coverage territory from a peril insured against. "Loss" or damage also includes property in the open, or in a vehicle, on the premises described in the "Declarations" or within 1,500 feet thereof, or to your food truck or trailer when anywhere in the coverage territory.

We will pay necessary actual and necessary "extra expenses" (other than the expense to repair or replace property) sustained by you to:

1. Avoid or minimize the "interruption of business" and to continue your business operations:

- a. At the premises described in the "Declarations"; or

- b. At replacement premises or at temporary locations, including:

- 1) Relocation expenses; and

- 2) Costs to equip and operate the replacement of temporary locations; or

- c. Anywhere in the coverage territory for your food truck or trailer.

2. Minimize the "interruption of business" if you cannot continue your business operations to the extent it reduces the amount of loss that would have been payable under loss of "income" and/or "rental income".

We will not pay any "loss" or damage to your Building(s), Business Personal Property and Personal Property of Others, or food truck or trailer. We also will not pay the cost of research or any other expense to replace or restore your valuable papers and records or "electronic data". We will pay the cost to repair or replace your covered property and the amount to research, replace, or restore the lost information on damaged valuable papers and records or "electronic data" to the extent it reduces the amount of loss that would have been payable under loss of "income" and/or "rental income".

C. Additional Coverages

1. Civil Authority

When a peril insured against causes damage to property other than property at the premises described in the "Declarations", we will pay for the actual loss of "income" and/or "rental income" you sustain and necessary "extra expense" caused by action of civil authority that prohibits access to the premises described in the "Declarations" or access to your food truck or trailer anywhere in the coverage territory 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 premises described in the "Declarations" or your food truck or trailer 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 peril insured against 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 "income" and/or "rental income" will begin 72 hours after the time of the first action of civil authority that prohibits access to the premises described in the "Declarations" or to your food truck or trailer anywhere in the coverage territory and 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 premises described in the "Declarations" or to your food truck or trailer anywhere in the coverage territory and will end:

- a. Four consecutive weeks after the date of that action; or
- b. When your Civil Authority coverage for "income" and/or "rental income" ends;

whichever is later.

2. Full Resumption of Operations

We will also pay your actual loss of "income" and/or "rental income" for an additional 60 days if your "income" and/or "rental income" after operations are resumed is less than your "income" and/or "rental income" before the loss. The additional amount we will pay will start after the later of the following times:

- a. The date on which the liability for **Income Protection - Coverage 3** would terminate if this clause had not been included; or
- b. The date on which repair, replacement, or rebuilding of such part of the damaged or destroyed property described in the "Declarations" or to your food truck or trailer is actually completed.

D. Amount of Insurance

We will pay the actual loss of "income" and/or "rental income" sustained by you.

The "income" and/or "rental income" loss sustained by you shall not exceed:

1. The actual reduction of "income" and/or "rental income" during the "interruption of business"; and
2. The reduction in rents received less charges and expenses which do not necessarily continue during the "interruption of business" or during the period when the tenant cannot inhabit the premises.

We will pay up to \$100 a day, for seven days, after your business is suspended to cover loss of "income" and/or "rental income" sustained by you while you are determining your actual income protection loss. The amount paid will be subtracted from your actual loss of "income" and/or "rental income".

We will pay the actual income protection loss for only such length of time as would be required to resume normal business operations. We will limit the time period to the shorter of the following periods:

1. The time period required to rebuild, repair, or replace such part of the Building or Business Personal Property or food truck or trailer that has been damaged or destroyed as a direct result of an insured peril; or
2. Twelve (12) consecutive months from the date of loss.



Payment of loss of "income" and/or "rental income" is not limited by the end of the policy period.

F. Income Protection – 18 Month Period of Indemnity is added to **Section I – Income Protection – Coverage 3**:

Paragraph **D. Amount of Insurance** under **Income Protection – Coverage 3** of **Section I – Coverages** is deleted and replaced by the following, but only for this coverage:

Amount of Insurance

We will pay the actual loss of "income" or "rental income" sustained by you.

The "income" or "rental income" loss sustained by you shall not exceed:

1. The actual reduction of "income" or "rental income" during the "interruption of business"; and
2. The reduction in rents received less charges and expenses which do not necessarily continue during the "interruption of business" or during the policy when the tenant cannot inhabit the premises.

We will pay up to \$100 a day, for seven days, after your business is suspended to cover loss of "income" or "rental income" sustained by you while you are determining your actual income protection loss. The amount paid will be subtracted from your actual loss of "income" or "rental income".

We will pay the actual income protection loss for only such length of time as would be required to resume normal business operations. We will limit the time period to the shorter of the following periods:

1. The time period required to rebuild, repair, or replace such part of the building or business personal property that has been damaged or destroyed as a direct result of a peril insured against; or
2. Eighteen (18) consecutive months from the date of loss.

Payment of loss of "income" or "rental income" is not limited by the end of the policy period.

G. Tips Is Included As Income under **Section I – Income Protection – Coverage 3**

"Income" of **Section XI – Definitions** is deleted and replaced by the following, but only for this coverage:

"Income" means the sum of net profit or loss before income taxes and necessary continuing operating expenses incurred by the business such as payroll expenses (including tips), taxes, interests, and rents.

H. Fire Extinguisher Recharge – Food Trucks or Trailers

Paragraph **15. Fire Extinguisher Recharge** of **Section VIII – B. Extensions of Coverage** is deleted and replaced by the following:

We will pay expenses incurred to recharge portable fire extinguishers after they are used to fight a fire.

This extension of coverage applies to each building described in the "Declarations" and to each food truck or trailer when extinguisher discharge was made in the coverage territory.

The deductible does not apply to this extension.

I. Computer Fraud Coverage is added to **Section VIII – B. Extensions of Coverage**:

1. We will pay up to \$10,000 for "loss" to "money", "securities", and Business Personal Property and Personal Property of Others resulting directly from any one "occurrence" caused by "computer fraud".
2. Paragraph **B.3.** under **Property Not Covered** of **Section I – Business Personal Property and Personal Property of Others - Coverage 2** does not apply to this coverage.
3. Under Computer Fraud Coverage, we do not cover "loss":
 - a. Caused by any "loss" or that part of any "loss", where the proof of its existence or amount is dependent upon:
 - 1) An inventory computation; or
 - 2) A profit and loss computation;
 - b. Caused by seizure or destruction of property by order of governmental authority;
 - c. Resulting indirectly from any act or "occurrence" covered by "computer fraud" including, but not limited to, "loss" caused by:
 - 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. We will pay compensatory damages arising from a "loss" covered by this policy; or
 - 3) Payment of costs, fees, or other expenses you incur in establishing either the existence or the amount of "loss" under this endorsement; or
 - d. Caused by expenses related to any legal action.

4. **Deductible**

Computer Fraud Coverage - We will pay the amount of "loss" resulting directly from any one "occurrence" in excess of a \$500 deductible.

5. The following is added to **Section X – Commercial Property Conditions**, but only for this coverage:

Discovery Period For Loss

We will pay for a covered "loss" discovered no later than one year from the end of the policy period.

6. The following are added to **Section XI – Definitions**, but only for Computer Fraud Coverage:

"Banking premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.

"Computer fraud" means theft of property following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the premises described in the "Declarations" or "banking premises" to a place outside those premises or to a person (other than a messenger) outside those premises.

"Occurrence" means an:

- a. Act or series of related acts involving one or more persons; or
- b. Act, event, or a series of related acts or events not involving any person.

J. Contract Penalty Coverage is added to **Section VIII - B. Extensions of Coverage**:

We will pay up to \$5,000 for contractual penalties that you are required to pay your customers. These contractual penalties must be a result of any clause in your contract that imposes a penalty for failure to timely deliver your products according to the contract terms. These contractual penalties must result from "loss" or damage to your covered property at the premises described in the "Declarations" by a peril insured against.

K. Cooking Protection Equipment Accidental Leakage Coverage is added to **Section VIII – B. Extensions of Coverage**:

1. We will pay for "loss" caused by cooking protection equipment leakage. Cooking Protection Equipment Accidental Leakage means "loss" caused by accidental leakage or discharge of an "automatic cooking protection system" protecting cooking equipment or the cooking exhaust system.
2. The **Exclusions** in **Section III** do not apply to Cooking Protection Equipment Accidental Leakage

Coverage. The following Exclusions apply only to **Cooking Protection Equipment Accidental Leakage Coverage**:

- a. We do not cover "loss" caused by or resulting from leakage, collapse, or fall of a tank caused by: fire; lightning; windstorm; earthquake; blasting; explosion; rupture or bursting of steam boilers or flywheels; riot or civil commotion; water, except water from within an automatic sprinkler system; or order of any civil authority.
- b. We also do not cover "loss" by leakage:
 - 1) Occurring and resulting from the making of repairs, alterations, or extensions involving a wall or support(s) of a floor or roof, or the installation of or change in an "automatic cooking protection system" at the premises described in the "Declarations" or testing of such system(s); or
 - 2) While the building at the premises described in the "Declarations" is vacant for more than sixty (60) consecutive days.
3. The following is added to **Section XI – Definitions**, but only for Cooking Protection Equipment Accidental Leakage Coverage:

"Automatic cooking protection system" means any automatic fire extinguishing system including sprinklers, discharge nozzles and ducts, pipes, valves, fittings, tanks, pumps, and private fire protection mains, all connected with and forming a part of the system designed and installed for protecting only cooking equipment and cooking exhaust systems.

L. Dishware and Glasses is added to **Section VIII – B. Extensions of Coverage**:

1. We will cover the breakage of dishware and glasses.
2. Paragraph **D. 2. Coverage 2** of **Exclusions** in **Section III** is deleted and replaced by the following but only for Dishes and Glasses Coverage:

By breakage of statuary, marble, bric-a-brac, porcelains and other articles of a fragile or brittle nature, except dishware and glasses. We will cover such "loss" caused by fire; lightning; aircraft; explosion; sonic boom; riot; civil commotion; smoke; vehicles; windstorm; hail; vandalism or malicious mischief; falling objects (the exterior of the building must first sustain damage to roof or walls by falling

objects); sinkhole collapse; volcanic action; weight of ice, snow, or sleet; sprinkler leakage; or water damage.

M. Food Contamination – Business Income and Expense Coverage is added to **Section VIII – B. Extensions of Coverage**:

1. We will pay for your loss or costs incurred, as described below, if the Board of Health or other governmental body requires that your operations be suspended due to discovery of, suspicion of, or exposure to "food contamination" at the premises described in the "Declarations" or on any of your food trucks or trailers when in the coverage territory.

- a. **Income Protection.** We will pay your actual loss of "income" you sustain due to total "interruption of business" until the "interruption of business" is lifted by the Board of Health or other governmental body.

- b. **Extra Expense.** We will pay your costs to clean and sanitize your machinery and equipment as directed by the Board of Health or other governmental body.

- c. **Restoration Expenses.** We will pay your costs to replace your food and goods declared contaminated by the Board of Health or other governmental body.

- d. **Additional Advertising Expenses.** We will pay your extra costs of advertising incurred to restore your reputation including, but not limited to, telephone, radio, television, newspaper, and other media announcements.

- e. **Inoculation Expenses.** We will reimburse your reasonable expenses for inoculation or other medical expenses incurred by you for infected patrons. We will also pay your expenses to provide necessary medical tests and vaccines for infected "employees".

2. The following additional exclusion is added to **Section III – Exclusions**, but only for this coverage:

We do not cover loss caused by fines or penalties of any kind.

3. Paragraph **B.1.b.** of **Exclusions** in **Section III** does not apply to Food Contamination Coverage.

4. Paragraph **B.2.** of **Exclusions** in **Section III** does not apply to Food Contamination Coverage.

5. **Amount of Insurance**

The most we will pay for your loss or costs incurred as a result of "food contamination" for all occurrences is \$25,000 for all coverages described

in paragraphs **J.1.a.** thru **J.1.e.** above of the Food Contamination – Business Income and Expense Coverage. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or costs arising out of all occurrences caused by "food contamination" which takes place in a twelve (12) month period (starting with the beginning of the present annual policy period).

We will only pay up to \$5,000 for your extra costs of advertising covered under paragraph **J.1.d.** above of the Additional Advertising Expenses as a result of a "food contamination" occurrence. This sublimit is part of, and not in addition to, the \$25,000 amount of insurance for Food Contamination – Business Income and Expense Coverage.

6. The following is added to **Section XI – Definitions**, but only for Food Contamination Coverage:

"Food contamination" means a condition in your food which has caused, or is suspected of causing, food poisoning to one or more of your patrons. Such "food contamination" must result from:

- a. Tainted food you purchased;
 - b. Food which has been improperly stored, handled, or prepared by you; or
 - c. A communicable disease transmitted through one or more of your "employees".

N. Boil Water Order – Business Income and Expense Coverage is added to **Section VIII – B. Extensions of Coverage**:

1. We will pay for your loss or costs incurred due to partial or total "interruption of business", as described below, as a result of a "boil-water order" issued by the Board of Health, water authority, or any other governmental body.

- a. **Income Protection.** We will pay your actual loss of "income" you sustain due to a partial or total "interruption of business" until the "boil water order" is lifted by the Board of Health, water authority or other governmental body.

- b. **Extra Expense.** We will pay your costs to clean and sanitize your machinery and equipment as directed by the Board of Health, water authority or other governmental body.

- c. **Restoration Expenses.** We will pay your costs to replace your food and goods declared contaminated by the Board of Health, water authority or other governmental body.

- d. **Additional Advertising Expenses.** We will pay your extra costs of advertising incurred to restore your reputation including, but not lim-

ited to, telephone, radio, television, newspaper, and other media announcements.

- e. **Inoculation Expenses.** We will reimburse your reasonable expenses for inoculation or other medical expenses incurred by you for infected patrons. We will also pay your expenses to provide necessary medical tests and vaccines for infected "employees".

- 2. The following additional exclusion is added to **Section III – Exclusions**, but only for this coverage:

We do not cover loss caused by fines or penalties of any kind.

- 3. Paragraph **B.1.b.** of **Exclusions** in **Section III** does not apply to Boil Water Order Coverage.
- 4. Paragraph **B.2.** of **Exclusions** in **Section III** does not apply to Boil Water Order Coverage.

5. **Amount of Insurance**

The most we will pay for your loss or costs incurred as a result of a "boil-water order" for all occurrences is \$25,000 for all coverages described in paragraphs **J.1.a.** thru **J.1.e.** above of the Boil Water Order – Business Income and Expense Coverage. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or costs arising out of all occurrences caused by "boil-water order" which takes place in a twelve (12) month period (starting with the beginning of the present annual policy period).

We will only pay up to \$5,000 for your extra costs of advertising covered under paragraph **J.1.d.** above of the Additional Advertising Expenses as a result of a "boil-water order" occurrence. This sub-limit is part of, and not in addition to, the \$25,000 amount of insurance for Boil Water Order – Business Income and Expense Coverage.

- 6. The following is added to **Section XI – Definitions**, but only for Boil-Water Order Coverage:

"Boil-water order" means an advisory, notice, order or other communication issued by the Board of Health, water authority, or other governmental body indicating that water at the premises or water that supplies water to your food truck or trailer should be boiled before consumption or use due to contamination or potential contamination.

O. Outdoor Radio, Television Antennas, and Satellite Dishes is added to **Section VIII – B. Extensions of Coverage**:

- 1. We will pay up to \$2,500 for "loss" or damage to outdoor radio and television antennas, satellite dishes, and its lead-in wiring, masts, or towers

caused by windstorm or hail at the premises described in the "Declarations".

- 2. Paragraph **B. 9.** of **Exclusions** in **Section III** is not applicable, but only to the extent coverage is provided in this Extension of Coverage.

P. Sewer And Drain Back-Up Coverage is added to **Section VIII – B. Extensions of Coverage**:

- 1. We will pay up to \$5,000 for any one "loss" to covered property caused by water and sewage that backs up through sewers and drains or which enters into and overflows or is otherwise discharged from a sewer, drain, sump pump, sump pump well, or any other system designed to remove subsurface water which is drained from the foundation area.

- 2. Paragraph **A.6.c.** of **Exclusions** in **Section III** is not applicable but only to the extent coverage is provided in this Extension of Coverage.

3. **Deductible**

We will pay the amount of "loss" to your covered property in any one occurrence which is in excess of \$500 but only for this coverage.

Q. Utility Services - Direct Damage Coverage is added to **Section VIII – B. Extensions of Coverage**:

We will pay up to \$25,000 for "loss" or damage you sustain to covered property on the premises described in the "Declarations" due to an interruption in utility service to the premises described in the "Declarations".

The interruption in utility services must result directly from "loss" to the following property, not on the premises described in the "Declarations", from a peril insured against:

- 1. Communication Supply Service, meaning property supplying communication services, including telephone, radio, microwave, or television services, to the premises described in the "Declarations", such as:
 - a. Communication transmission lines (including fiber optic transmission lines);
 - b. Coaxial cables; and
 - c. Microwave radio relay except satellites.
- 2. Power Supply Services, meaning the following types of property supplying electricity, steam, or gas to the premises described in the "Declarations":
 - a. Utility generating plants;
 - b. Switching stations;
 - c. Substations;
 - d. Transformers; and



e. Transmission lines.

3. Water Supply Services, meaning the following types of property supplying water to the premises described in the "Declarations":

- a. Pumping stations; and
- b. Water mains.

Excluded Property: We will not pay for "loss" or damage to "electronic data" including destruction or corruption of "electronic data".

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Paragraph 7. under **Section III - Limits of Insurance** of the **Commercial General Liability Coverage Form** is replaced by the following:

Subject to **5.** above, the Medical Expense Limit is increased from \$5,000 to \$10,000. This limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

THIS IS A CLAIMS-MADE AND REPORTED COVERAGE ENDORSEMENT.

EMPLOYMENT PRACTICES LIABILITY INSURANCE COVERAGE ENDORSEMENT

Throughout this Coverage Endorsement (hereinafter referred to as "EPL Coverage"), the words "you" and "your" refer to the "named insured(s)" shown in the Declarations and any other person(s) or organization(s) qualifying as a "named insured" under this EPL Coverage. 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 III. WHO IS AN INSURED.

Other words and phrases that appear in "quotations" have special meaning. Refer to SECTION VII. DEFINITIONS.

The terms and conditions of the Cancellation Clause of the General Policy Conditions and any amendment to such terms incorporated by endorsement are hereby incorporated herein and shall apply to coverage as is afforded by this EPL Coverage, unless specifically stated otherwise in an endorsement(s) attached hereto.

SECTION I. WHAT IS COVERED

A. Insuring Agreement

1. "We" shall pay those "losses" arising out of an "insured's" "wrongful employment act" (other than a "third party violation") against "your" "employees", "recognized volunteers" and applicants for employment to which this insurance applies.
2. If coverage for "third party violations" is shown in the Declarations, then "we" shall pay those "losses" arising out of an "insured's" "third party violation".
3. For coverage to apply under this EPL Coverage, the "wrongful employment act" must commence or take place after the Retroactive Date, but before the end of the "EPL coverage period". If no Retroactive Date appears in the Declarations then the Retroactive Date shall be the date of organization of the "named insured". A "claim" or "suit" for a "wrongful employment act" must be first made against "you" during the "EPL coverage period" or any Extended Reporting Periods (if applicable) and reported to "us" pursuant to the terms of this EPL Coverage.
4. A "claim" or "suit" by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:
 - a. When written notice of such "claim" or "suit" is received and recorded by any "insured" or by "us", whichever comes first; or
 - b. When "we" make any settlement in accordance with the terms of this EPL Coverage.

B. Defense

1. "We" have the right and duty to defend and appoint an attorney to defend any "claim" or "suit" brought against any "insured" for a "wrongful employment

act" to which this insurance applies, even if the "claim" or "suit" is groundless or fraudulent.

At the time a "claim" or "suit" is first reported to "us", "you" may request that "we" appoint a defense attorney of "your" choice. "We" will give full consideration to any such request.

2. "We" have the right to investigate and settle any "claim" or "suit" that "we" believe is proper. "You" shall be entitled to consent to such settlement, provided "your" consent is not unreasonably withheld and is provided as soon as practicable.

If "you" refuse to consent to any settlement that "we" recommend and that is acceptable to the claimant, then "our" liability under this EPL Coverage for such "claim" or "suit" shall not exceed the amount for which we could have settled had "your" consent not been withheld at the time of "our" recommendation. "You" shall thereafter negotiate and defend that "claim" or "suit" at "your" own cost and without "our" involvement.

3. "We" shall pay all reasonable costs "we" ask the "insured" to incur while helping "us" investigate or defend a "claim" or "suit". "We", however, will not pay more than \$250 per day for earnings lost by the "insured" because of time taken off from work.
4. "We" shall pay premiums for appeal bonds, or bonds to release property being used to secure a legal obligation, for a covered "suit". "We" shall only pay, however, for bonds valued up to "our" EPL Aggregate Limit of Liability. "We" shall have no obligation to appeal or to obtain these bonds.
5. Payments for "defense costs" are included within the EPL Aggregate Limit of Liability. They are not in addition to the EPL Aggregate Limit of Liability.



"Our" duty to defend or to make payment of any "claim" or "suit" pursuant to Paragraphs 1. through 4. of this Clause B., ends after the EPL Aggregate Limit of Liability has been exhausted by payment of "loss", including "defense costs".

6. "We" shall pay all interest on that amount of any judgment within the EPL Aggregate Limit of Liability:

- a. Which accrues after entry of judgment; and
- b. Before "we" pay, offer to pay, or deposit in court that part of the judgment within the EPL Aggregate Limit of Liability.

These interest payments shall be in addition to and not part of the EPL Aggregate Limit of Liability.

C. Transfer of Control

1. "You" may take over control of any outstanding "claim" or "suit" previously reported to "us", but only if "we", in "our" sole discretion, decide that "you" should, or if a court orders "you" to do so.
2. Notwithstanding Paragraph 1. of this Clause C., in all events, if the EPL Aggregate Limit of Liability is exhausted, "we" will notify "you" of all outstanding "claims" or "suits" and "you" will take over control of the defense. "We" will help transfer control of the "claims" and "suits" to "you".
3. "We" shall take whatever steps are necessary to continue the defense of any outstanding "claim" or "suit" and avoid a default judgment during the transfer of control to "you". If "we" do so, "we" shall not waive or give up any of "our" rights. "You" shall pay all reasonable expenses "we" incur for taking such steps after the EPL Aggregate Limit of Liability is exhausted.

SECTION II. EXCLUSIONS - WHAT IS NOT COVERED

This insurance does not apply to:

A. Criminal Acts

Any liability arising out of any dishonest, fraudulent, criminal, or malicious act by or at the direction of any "insured". However, to the extent that a "claim" or "suit" is otherwise covered under this EPL Coverage "we" will defend a "claim" or "suit" asserting a dishonest, fraudulent, criminal, or malicious act until such time as the "insured" is determined to have committed such dishonest, fraudulent, criminal, or malicious act.

The "wrongful employment act(s)" of an "insured" shall not be imputed to any other "insured" for the purpose of determining the applicability of this Exclusion A..

B. "Property Damage"

Any liability arising out of "property damage".

C. "Bodily Injury"

Any liability arising out of "bodily injury".

D. Worker's Compensation, Social Security and Unemployment, Disability and Retirement Benefits

Any liability arising out of any obligation pursuant to any worker's compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law. This exclusion, however, shall not apply to "loss" arising from a "claim" or "suit" for "retaliation".

E. Contractual Liability

Any liability arising out of any actual or alleged contractual liability of any "insured" under any express contract or agreement. This exclusion, however, shall not apply to any liability the "insured" would have in the absence of such express contract or agreement.

F. ERISA, FLSA, NLRA, WARN, COBRA, and OSHA

Any liability for violation(s) of any of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder, and amendments thereto or any similar federal, state, local or foreign statutory law or common law.

It is acknowledged that "claims" and "suits" for violation(s) of any of the responsibilities, obligations or duties imposed by "similar federal, state, local or foreign statutory law or common law", as such quoted language is used in the immediately-preceding paragraph, include, without limitation, any and all "claims" and "suits" which in whole or in part allege, arise out of, are based upon, are attributable to, or are in any way related to any of the circumstances described in any of the following:

1. The refusal, failure or inability of any "insured(s)" to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);
2. Improper deductions from pay taken by any "insured(s)" from any "employee(s)" or purported "employee(s)"; or
3. Failure to provide or enforce legally required meal or rest break periods.

Notwithstanding the foregoing, this Exclusion F. shall not apply to the extent that a "claim" or "suit" is for "retaliation".

Exhibit B



**Erie
Insurance®**

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April 21, 2020

The Fire Side Public House, LLC
147 Spruce Valley Drive
Pittsburgh, PA 15229-2170

Re: ERIE Claim #A00002557296
ERIE Policy: #Q97-1162233
Date of Loss: 04/17/2020

Dear Fire Side Public House, LLC:

This letter is in reference to the above-captioned claim which was reported to Erie Insurance Exchange (ERIE) on April 17, 2020 seeking coverage under the Ultrapack Policy #Q97-1162233 issued to The Fire Side Public House, LLC.

During our conversation on April 17, 2020, you explained that the restaurant seating area shut down due to COVID-19 government order. We regret to inform you that there is no coverage for your loss of income because there is no direct physical loss to your building or business personal property.

Please reference the Insuring Agreement for Building(s) – Coverage I, Business Personal Property – Coverage II and Income Protection – Coverage III which reads in relevant part:

SECTION I - COVERAGES

INSURING AGREEMENT

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 a peril insured against.

SECTION II – PERILS INSURED AGAINST states:

SECTION II - PERILS INSURED AGAINST

BUILDING(S) - COVERAGE 1

BUSINESS PERSONAL PROPERTY AND PERSONAL PROPERTY OF OTHERS - COVERAGE 2

INCOME PROTECTION - COVERAGE 3

Covered Cause of Loss

This policy insures against direct physical "loss", except "loss" as excluded or limited in this policy.

Business Interruption Coverage

Refer to SECTION I of the policy for what constitutes Covered Property under INCOME PROTECTION – COVERAGE 3. **Income Protection** means loss of "income" and/or "rental income" you sustain due to partial or total "interruption of business" resulting directly from "loss" or damage to property on the premises described in the "Declarations" from a peril insured against. **Extra Expense Coverage** under paragraph B of Coverage 3 also requires a partial or total "interruption of business" resulting directly from "loss" or damage to property on the premises described in the "Declarations" from a peril insured against.

As defined in Section XI of the policy, "Loss" means direct and accidental loss of or damage to covered property. "Interruption of business" means the period of time that your business is partially or totally suspended and it:
1. Begins with the date of direct "loss" to covered property caused by a peril insured against; and 2. Ends on the date when the covered property should be repaired, rebuilt, or replaced with reasonable speed and similar quality.

Income Protection does not apply because there was no partial or total "interruption of business" due to direct physical "loss" or damage to Covered Property on the premises from a peril insured against.

Additional Coverages - Civil Authority

Additional Coverages - Civil Authority under paragraph C of the Income Protection Coverage Section of the policy (SECTION I, Coverage 3) reads:

C. Additional Coverages

1. Civil Authority

When a peril insured against causes damage to property other than property at the premises described in the "Declarations", we will pay for the actual loss of "income" and/or "rental income" you sustain and necessary "extra expense" caused by action of civil authority that prohibits access to the premises described in the "Declarations" 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 premises described in the "Declarations" 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 peril insured against 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 "income" and/or "rental income" will begin 72 hours after the time of the first action of civil authority that prohibits access to the premises described in the "Declarations" and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority coverage does not apply because a Civil Authority did not order that the business be closed due to damage to property within one mile of the premises described in the "Declarations," caused by a peril insured against.

Extension of Coverage – Contingent Business Interruption

The Extension of Coverage for loss of "income" or "rental income" for Contingent Business Interruption under SECTION VIII (B)(5) also requires a partial or total "interruption of business" resulting directly from "loss" or damage to Building(s) or Business Personal Property of "dependent properties" from a peril insured against.

"Dependent property" means premises operated by others whom you depend on in any way for continuation of your normal business operations. The "dependent properties" are:

- a. Contributing Locations which mean those premises you depend on as a source of materials or services that you need for your operations. Services do not include water, communication, power supply, or waste water removal services;
- b. Recipient Locations which mean those premises you depend on as a customer for your products or services;
- c. Manufacturing Locations which mean those premises you depend on to manufacture products for your customers under contract or sale; or
- d. Leader Locations which mean those premises you depend on to attract customers to your business.

"Interruption of business" for contingent business interruption means the period of time that your business is suspended and it:

- a. Begins with the date of direct "loss" or damage to the "dependent property" caused by a peril insured against; and
- b. Ends on the date when the "dependent property" should be repaired, rebuilt, or replaced with reasonable speed and similar quality.

Contingent Business Interruption does not apply because there was no partial or total "interruption of business" directly from "loss" or damage to Buildings or Business Personal Property of "dependent properties" from a peril insured against.

In addition to the discussion above, the following exclusions apply to this loss:

SECTION III - EXCLUSIONS

E. Coverage 3

We do not cover under **Income Protection - Coverage 3**:

1. Increase of loss resulting from ordinance or law regulating construction or repair of buildings.
2. Consequential damages resulting from the breach of contractual obligations.
4. Loss due to delay or loss of market.
6. "Extra expense" caused by the suspension, lapse, or cancellation of any license, lease, or contract beyond the "interruption of business".
7. Increase of loss resulting from ordinance or law regulating the prevention, control, repair, clean-up, or restoration of environmental damage.
8. Income protection specifically insured in whole or in part by this or any other insurance.

Additionally, the following policy provision applies:

The Fire Side Public House, LLC
Page 4
April 21, 2020

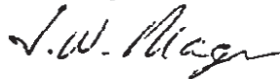
15. SUITS AGAINST US

We may not be sued unless there is full compliance with all the terms of this policy. Suit must be brought within 2 years (Maryland and North Carolina - 3 years) after the "loss" occurs.

Nothing in this letter is intended to waive, alter or restrict any of the terms, conditions or defenses of the policy of insurance in question, all of which are expressly reserved and affirmed.

We regret that we could not assist you in this matter. If you have any questions or concerns regarding this letter, please feel free to contact me at the number listed below.

Sincerely,



Jack W. Maga
Property Adjuster
Pittsburgh Claims Office
(412) 787-6903

/caw

cc: David S. Tyson Insurance Agency
cc: File