

CAUSE NO. CC-20-03276-E

AGNY LLC DBA SUPERCUTS	§	IN THE COUNTY COURT
	§	
	§	
V.	§	AT LAW NO. _____
	§	
NOVA CASUALTY COMPANY	§	
AND GARY ALLEN ROOS	§	DALLAS COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, AGNY LLC dba SUPERCUTS, and files this Original Petition against NOVA CASUALTY COMPANY (“Nova”) and GARY ALLEN ROOS (“Roos”) and in support thereof, would show as follows:

**I.**  
**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends for discovery to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. This case involves complex issues and will require extensive discovery. Therefore, Plaintiff will ask the Court to order that discovery be conducted in accordance with a discovery control plan tailored to the particular circumstances of this suit.

**II.**  
**PARTIES AND SERVICE**

2. Plaintiff is doing business in Dallas County, Texas.

3. Nova is in the business of insurance in the State of Texas. The insurance business done by Nova in Texas includes, but is not limited to, the following:

- The making and issuing of contracts of insurance with the Plaintiff;
- The taking or receiving of application for insurance, including the Plaintiff’s application for insurance;
- The receiving or collection of premiums, commissions, membership fees,

assessments, dues or other consideration for any insurance or any part thereof, including any such consideration or payments from the Plaintiff;

- Systematically maintaining contractual relationships with numerous agents who sell contracts of insurance on its behalf; and
- The issuance or delivery of contracts of insurance to residents of this state or a person authorized to do business in this state, including the Plaintiff.

4. Defendant **Nova Casualty Company** can be served at through its registered agent at the following address: CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. **Service is requested at this time.**

5. Defendant **Gary Allen Roos** is a Texas resident and may be served at his business address at 1310 RR 620 S, Lakeway, Texas 78734-6300 by certified mail, return receipt requested. **Service is requested at this time.**

### **III. JURISDICTION AND VENUE**

6. Venue is appropriate in Dallas County, Texas because all or part of the conduct giving rise to the causes of action was committed in Dallas County, Texas and Plaintiff and Property which are the subject of this suit are located in Dallas County, Texas. Accordingly, venue is proper pursuant to Texas Civil Practice & Remedies Code §15.002.

### **IV. BACKGROUND FACTS**

7. Plaintiff is the owners of an Insurance Policy (hereinafter referred to as "the Policy"). Defendant provided the Plaintiff's business insurance for the business located at 344 W Campbell Road, Suite 344, Richardson, Texas (hereinafter referred to as "the Property"). Nova sold the Policy insuring the Property to Plaintiff. The Declarations pages for the Policy and the policy provided to Plaintiff is attached hereto as Exhibit A. The Policy is an all-risk policy and has been continuously in full force and effect since inception, providing coverage for property,

business personal property, business income, extra expense and additional coverages including Civil Authority.

8. During the terms of said Policy, Plaintiff has sustained and will sustain covered losses during the Covid-19 outbreak and subsequent Dallas County and State of Texas Orders (hereinafter the “Orders”), attached hereto as Exhibits B and C, and Plaintiff reported same to Nova pursuant to the terms of the Policy. Plaintiff asked that Nova cover the cost for business interruption pursuant to the Policy. Nova assigned Gary Allen Roos to adjust the claim and investigate the loss related to business interruption; however, no good faith investigation or adjustment of the claim was done. Instead, Roos and Nova conducted an outcome-oriented investigation of Plaintiff’s claim, including without limitation Roos asking leading questions designed to elicit only facts that would enable Nova to deny Plaintiff’s claim, which it did as per a claim denial letter signed by Roos, attached hereto as Exhibit D. Indeed, many of the questions Roos asked Plaintiff were cross-examination style questions not intended to gather facts, but instead clearly formulated to create a basis for Nova to claim an exclusion applies in order to avoid paying policy benefits owed to Plaintiff. In this way and others, Nova and Roos have mishandled Plaintiff’s claim causing it damages to date and continuing to cause it additional damages.

9. The World Health Organization (“WHO”) identified the disease caused by the 2019 Novel Coronavirus as “COVID-19” on February 11, 2020. On March 11, WHO characterized COVID-19 as a pandemic. WHO saw “alarming levels of spread and severity, and by the alarming levels of inaction.” WHO representatives stated, “[W]e have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus. And we have never before seen a pandemic that can be controlled, at the same time.” The Center for Disease Control (“CDC”) has stated that a “pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges

to infect people and can spread between people sustainably. Because there is little to no pre-existing immunity against the new virus, it spreads worldwide.”

10. Plaintiff is in the hair salon and retail business. On March 21, 2020, Clay Jenkins, Dallas County Judge, issued an executive order closing all businesses unless “exempted” beginning on March 21<sup>st</sup> and ending April 3<sup>rd</sup>. *See* Exhibit B. Plaintiff’s business was not exempt. *Id.* On March 31, 2020, the State of Texas Governor Greg Abbott signed an executive order closing all “non-essential” businesses beginning April 2<sup>nd</sup> through April 30<sup>th</sup> of 2020. *See* Exhibit C. Plaintiff’s business is not considered “essential” by Governor Abbott’s order even though Plaintiff could offer take out service. *Id.* Plaintiff was beginning to lose business income even before March 23, 2020 because of peoples’ fear of Covid-19.

11. The described purposes of the Orders are to protect the “health, safety and welfare” of Dallas County and Texas residents, and to slow the spread of Covid-19 by “minimizing social gatherings” and “minimize in-person contact.” *See* Exhibits B and C. According to the Texas Department of Health and Human Services, Covid-19 has been and continues to be present in Dallas County.

12. Beginning on March 24, 2020, Plaintiff could no longer open and conduct business and was losing all business income. Plaintiff submitted its claims to Nova, and it denied the claim without conducting an investigation. The pandemic and health care crises has resulted in the Plaintiff suffering a direct physical loss to the insured Property, and alternatively damage to the insured Property and suspension of its business that are covered under the Business Income Loss provisions of the Policy. Alternatively, coverage is available under Civil Authority coverage under the Policy.

**A. Coverage for Business Income**

13. Plaintiff’s Policy under “Covered Causes of Loss” insures for “physical loss”



unless the loss is excluded or limited. *See* Exhibit A, pg. 27. Further, Plaintiff's Policy provides coverage for Loss of Business Income and Extra Expense as follows:

"We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss..."

*Id* at pg. 31. Plaintiff suffered lost income when the Orders closed the business, and on information and belief Plaintiff will continue to suffer lost income even after the Orders are lifted due to fear of Covid-19 and/or the threat of its spread. The pandemic, consumer fear, and the stay at home Orders (and extensions and reinstatements thereof) have caused Plaintiff direct physical loss of the Property and loss of business income and are not specifically excluded by the Policy. Plaintiff's business has been transformed by external events, not specifically excluded, from a sustainable, revenue generating operation to the unsatisfactory state of closure and now slowed business. The presence of Covid-19 in Dallas County alone triggers coverage because it renders the Property unsafe or makes it unusable for its intended purpose. Plaintiff's inability to physically operate and physically occupy its Property is a *direct physical loss*.

#### **B. Coverage for Civil Authority**

14. Plaintiff's Policy also provides additional coverage for Civil Authority:

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

(a) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and

(b) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property."

*Id* at pg. 34. The Orders are clearly acts of Civil Authority which have caused Plaintiff loss of business income as described above. The Orders, along with their stated purposes, qualify as a Covered Cause of Loss under the Policy, especially given that there is precedent that holds “physical loss” can occur without actual tangible physical damage to a property. Premises not more than one mile from Plaintiff’s Property have suffered the same direct physical loss as Plaintiff has suffered due to the pandemic. As well, damage is not defined by the Policy and other premises within a mile of Plaintiff’s Property have suffered damage as the term is defined in its common, ordinary meaning.

**C. Nova’s Wrongful Denial**

15. Nova and Roos failed to conduct a reasonable, good faith investigation and adjustment of Plaintiff’s claim. For example, without limitation, Roos made no request to Plaintiff for documents relating to the claim and conducted an outcome-oriented investigation, including asking leading questions designed to elicit only facts that would enable Nova to deny Plaintiff’s claim. Many of the questions Roos asked Plaintiff were cross-examination style questions not intended to gather facts, but instead clearly formulated to create a basis for Nova to claim an exclusion applies in order to avoid paying policy benefits owed to Plaintiff. Moreover, Nova denied Plaintiff’s claim shortly after the claim was presented, and after only one phone call in which Roos asked Plaintiff improper questions, demonstrating that Roos not only did not do but also could not have done a proper or thorough investigation or have any evidence that any exclusions apply. And, indeed, the little evidence Roos did collect actually supports coverage rather than supporting any exclusion.

16. Nova’s denial was based, in part, on a lack of “physical damage” to Plaintiff’s Property. *See Exhibit D*. But the Policy does not require a loss solely caused by physical “damage”

as it also provides coverage for physical “loss.” The Policy does not define “physical loss” and that term has been broadly defined in property policies for decades to include losses that are not actual tangible damage to physical property. At the very least, Plaintiff suffered a direct physical loss of the covered Property as a result of fear and actions taken to limit the impact of the pandemic on the health, safety and welfare of Dallas County citizens, including the stay at home Orders. Further, Plaintiff clearly suffered direct physical loss to Covered Property because it was unable to operate. Nova failed to conduct any investigation and then wrongfully denied the coverage for Civil Authority without considering damage to property other than Plaintiff’s. The Policy does not define “damage” in the property coverage section, and “damage” is broadly defined in its common ordinary meaning. It could have, but did not, so define “physical loss” under the Property coverage portion of the Policy.

17. Nova relies on the exclusion for “Virus or Bacteria” as a basis for denial, but contrary to its assertion, this is not a pandemic exclusion. *See* Exhibit D. Nova ignores the fact that the exclusion applies only where a virus is the fully realized and actual cause of the loss. It does not state that it applies to a loss caused by the need to prevent against the threat of viral transmission or fear of virus. Nova’s denial admits that this claim relates to concern over the spread of the Covid-19 and preventing exposure. *See* Exhibit D. Preventing the threat or risk of the presence or recurring presence of the virus is not specifically excluded under the Policy.

18. The exclusion for virus has no application to Plaintiff’s claim in light of the exclusion’s plain language, and Roos and Nova collected no evidence before denying the claim that would make the exclusion for virus applicable. Alternatively, the exclusion is vague and ambiguous and must be construed in the light most favorable to Plaintiff.

19. Nova failed to give proper, advance notice and disclosure of the Exclusion and is thus barred from reliance upon it.

20. On information and belief, Nova is barred from relying on the Exclusion as a result of regulatory and/or administrative estoppel.

21. Alternatively, the Exclusion as interpreted by Nova is unconscionable and/or contrary to public policy and cannot be enforced as written.

22. Nova made material misrepresentations about Policy provisions, coverage and the law in Texas applying thereto with regard to Plaintiff's Loss of Business Income and Civil Authority additional coverages.

23. Nova considered only its own interests, proceeded only according to its one-sided and self-serving interpretation of the Policy and Roos's one-sided "investigation" of the claim, and attempted to conceal from Plaintiff that Nova made no effort to consider Plaintiff's interests.

24. Nova wrongfully denied Plaintiff's claims for business interruption even though the Policy provides coverage for losses such as those suffered by Plaintiff. Furthermore, by information and belief, Nova engaged its agents to misrepresent Policy provisions and coverage. To date, Nova continues to deny the payment for Plaintiff's loss of business.

## **V.**

### **CAUSES OF ACTION AGAINST NOVA**

#### **A. BREACH OF CONTRACT**

25. Plaintiff re-alleges the foregoing paragraphs.

26. Nova and its agents' conduct constitute a breach of the insurance contracts between it and Plaintiff. Nova's failure and/or refusal, as described above, to pay Plaintiff adequate compensation as it is obligated to do under the terms of the Policy in question pursuant to the additional coverages of Loss of Business Income and Civil Authority, and under the laws of the

State of Texas, constitutes a breach of the insurance contracts with Plaintiff.

27. Nova failed to perform its contractual duty to adequately compensate Plaintiff under the terms of the Policy pursuant to the additional coverages of Loss of Business Income and Civil Authority. Specifically, Nova wrongfully denied coverage and refused to offer the full proceeds of the Policy, although due demand was made for proceeds to be paid in an amount sufficient to cover Plaintiff's business loss, and all conditions precedent to recovery under the Policy have been carried out and accomplished by Plaintiff. Nova's conduct constitutes a breach of the insurance contracts between it and Plaintiff.

28. Plaintiff seeks recovery against Nova of all relief available at law or in equity for the damages caused by Nova's breach of contract.

## **B. NONCOMPLIANCE WITH TEXAS INSURANCE CODE**

### **1. UNFAIR SETTLEMENT PRACTICES**

29. Plaintiff re-alleges the foregoing paragraphs.

30. Texas law is clear that insurance companies and anyone engaged in the business of insurance by investigating and adjusting a claim must conduct a reasonable, full and fair claim investigation. Nova violated Chapter 541 of the Texas Insurance Code, in one or more of the following particulars:

#### **§ 541.061. Misrepresentation of Insurance Policy.**

- Making an untrue statement of material fact;
- Failing to state a material fact necessary to make other statements made not misleading;
- Making a misleading statement; and
- Failing to disclose a material matter of law.

31. As alleged above, Nova misrepresented to Plaintiff that the Policy required actual physical, tangible damage to its Property in order for it to have coverage for Business Income. In

the same letter, Nova also misrepresented that the Civil Authority Additional Coverage in the Policy (along with others) applied only when there was direct physical loss of or damage to Plaintiff's Property, and not properties around Plaintiff's. These statements are not only false, they are incongruous.

32. Plaintiff seeks all recovery available against Nova for its above-described violations of Chapter 541 of the Texas Insurance Code.

## **2. THE PROMPT PAYMENT OF CLAIMS**

33. Plaintiff re-alleges the foregoing paragraphs.

34. Nova's conduct constitutes and will continue to constitute multiple violations of the Texas Insurance Code, Prompt Payment of Claims. All violations made under this article are made actionable by TEX. INS. CODE §542.060.

35. Nova failed to meet its obligations under the Texas Insurance Code regarding timely beginning an investigation of Plaintiff's claim, and requesting all information reasonably necessary to investigate Plaintiff's claim within the statutorily mandated time of receiving notice of Plaintiff's claim. Its conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.055.

36. Further, Nova failed to accept Plaintiff's full and entire claim within the statutorily-mandated time of receiving all necessary information. Its conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.056.

37. Nova failed and will fail to timely pay Plaintiff's claim, and for all of the covered losses due to its wrongful denial of the policy benefits. TEX. INS. CODE §542.057.

38. Nova failed and will fail to meet its obligations under the Texas Insurance Code regarding payment of claim without delay due to its wrongful denial. Its conduct constitutes a

violation of the Texas Insurance Code, Prompt Payment of Claims. TEX. INS. CODE §542.058.

39. Because of Nova's wrongful acts and omissions, Plaintiff was forced to retain the professional services of the attorneys and law firms who are representing it with respect to these causes of action.

40. Plaintiff seeks all recovery available against Nova for its above-described violations of Chapter 542 of the Texas Insurance Code.

**C. BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING**

41. Plaintiff re-alleges the foregoing paragraphs.

42. Nova's conduct constitutes a breach of the common law duty of good faith and fair dealing owed to the insureds pursuant to insurance contracts.

43. From and after the time Plaintiff's loss was presented to Nova, its liability to pay the full claim in accordance with the terms of the Policy was reasonably clear. However, it has refused to pay Plaintiff in full and wrongfully denied the claim, despite there being no basis upon which a reasonable insurance company would have relied to deny the full payment. Nova's conduct constitutes a breach of the common law duty of good faith and fair dealing.

44. Further, Nova's failure, as described above, to adequately and reasonably investigate and evaluate Plaintiff's claim, although, at that time, it knew or should have known by the exercise of reasonable diligence that its liability was reasonably clear, constitutes a breach of the duty of good faith and fair dealing.

45. Plaintiff seeks recovery against Nova of all remedies available at law or in equity for Nova's breach of the duty of good faith and fair dealing.

**VI.**

**CAUSES OF ACTION AGAINST DEFENDANT ROOS**

**A. NONCOMPLIANCE WITH TEXAS INSURANCE CODE**

46. Plaintiff re-alleges the foregoing paragraphs.

47. At all pertinent times, Roos was engaged in the business of insurance as defined by the Texas Insurance Code. The acts and omissions of Roos constitute one or more violations of the Texas Insurance Code. More specifically, Roos has, among other violations, violated the following provisions of the Code:

- a. Insurance Code § 542.003(b)(5).
- b. Insurance Code chapter 541, section 541.060 by, among other things:
  - misrepresenting one or more material facts and/or policy provisions relating to coverage;
  - failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claims with respect to which their liability has become reasonably clear;
  - failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claims under one portion of a policy with respect to which liability has become reasonably clear in order to influence Plaintiff to settle its claims with respect to another portion of the policy;
  - failing to promptly provide a reasonable explanation of the basis in law or fact for the denial of Plaintiff's claims;
  - refusing to affirm or deny coverage within a reasonable time;
  - refusing to conduct a reasonable investigation;
  - ignoring damage known to be covered by the Policy;
  - creating evidence to provide the carrier with a basis to deny coverage; and/or
  - conducting an outcome-oriented investigation in order to provide the carrier with a basis to deny the claim.

38. Nova assigned the loss and the claim to Roos who was at all pertinent times the agent of Nova, through both actual and apparent authority. The acts, representations and omissions



of Roos are attributed to Nova. Roos was tasked with the responsibility of conducting a thorough and reasonable investigation of Plaintiff's loss. Despite the fact that the Texas Insurance Code dictates adjusters must conduct a reasonable investigation and adjustment of a claim, Roos failed to do so and actually set out to conduct an outcome-oriented investigation and adjustment, which has and will result in an inequitable settlement of Plaintiff's claim.

39. Roos pre-textually looked only for ways to avoid coverage rather than first trying to find coverage. Notably, he made no request for documentation and never physically inspected Plaintiff's Property or the properties surrounding Plaintiff's. Instead, he immediately sent Plaintiff a denial letter stating that there is no coverage for Plaintiff's loss after one phone call in which he asked Plaintiff's representative questions, most of which were leading questions, on information and belief, to set up the application of Policy exclusions. Roos also misrepresented the policy coverages to Plaintiff. He misrepresented to Plaintiff that in order to have coverage for Business Income, it had to have sustained actual physical, tangible damage to the Property. However, Plaintiff's Policy covers physical *loss* of the Property, not just physical damage. As well, Roos misrepresented to Plaintiff that because access to the Property were not prohibited due to physical damage to other properties there was no Civil Authority coverage. But the Policy does not require "physical damage" to other properties to trigger coverage. Also, Roos did no investigation whatsoever to make such a determination. He also wholly ignored the state and local Orders. Rather than advising Nova to pay Plaintiff's claim, investigating more with respect to the Orders or even sending a reservation of rights letter, Roos sent Plaintiff a denial letter right after the claim was made, despite the fact the Policy provides coverage for Plaintiff's business loss. As result of Roos's misrepresentations, inadequate and outcome-oriented investigation, Plaintiff has not received any payment for the claim.

40. The foregoing conduct was and is the producing cause(s) of injury and damage to Plaintiff and Plaintiff has suffered damages including, without limitation, actual damages, economic damages, and consequential damages. Roos's conduct caused a failure to effectuate a prompt, reasonable settlement of the claim. Moreover, one or more of the foregoing acts or omissions were committed "knowingly" entitling Plaintiff to seek treble damages pursuant to the Insurance Code.

41. Plaintiff seeks all recovery available against Roos for his above-described violations of Chapters 541 and 542 of the Texas Insurance Code.

**VII.**  
**CAUSES OF ACTION AGAINST ALL DEFENDANTS FOR CIVIL CONSPIRACY**

41. Plaintiff re-alleges the foregoing paragraphs. The Defendants conspired to delay and deny or underpay Plaintiff's claim. Nova assigned Roos to investigate Plaintiff's claim, and the Defendants set out to intentionally conduct an outcome-oriented investigation in order to avoid paying for all of the damages to Plaintiff's Property covered by the Policy. The denial letter misrepresenting coverage, as well as the questions asked of Plaintiff to create a basis for denial via application of various exclusions in the Policy, were either independent acts by Roos in violation of the Insurance Code or a meeting of the minds between Roos and Nova to accomplish violations of the Insurance Code and breach of the duty of good faith and fair dealing – the discovery process will bear out which. The Defendants' conspiracy was a proximate cause of Plaintiff's damages.

**VIII.**  
**KNOWLEDGE**

42. Each of the acts described above, together and singularly, was done "knowingly" by Defendants as that term is used in the Texas Insurance Code and was a producing cause of Plaintiff's damages described herein.

**IX.**  
**DAMAGES**

43. Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the proximate and producing causes of the damages sustained by Plaintiff.

44. For breach of contract, Plaintiff is entitled to regain the benefit of the bargain, which is the amount of the claim, together with attorney's fees.

45. For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefits that should have been paid pursuant to the Policy but for the wrongful denial, court costs, consequential damages not covered by Plaintiff's Policy and attorney's fees. For knowing conduct of the acts described above, Plaintiff asks for three times the actual damages. TEX. INS. CODE §541.152.

46. For noncompliance with the Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of the claim, as well as eighteen (18) percent interest per annum on the amount of such claim as damages, together with attorney's fees. TEX. INS. CODE §542.060.

47. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, and exemplary damages.

48. For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the attorney whose name is subscribed to this pleading. Therefore, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorney in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas.

**X.**  
**ADDITIONAL PLEADINGS**

49. In addition, as to any exclusion, condition, or defense pled by Defendants, Plaintiff would show that:

50. The clear and unambiguous language of the policy provides coverage for business interruption and other losses to the Property caused by losses made the basis of Plaintiff's claims;

51. In the alternative, any other construction of the language of the policy is void as against public policy;

52. Any other construction and its use by the Defendants violate the Texas Insurance Code section 541 et. seq. and is void as against public policy;

53. Any other construction is otherwise void as against public policy, illegal, and violates state law and administrative rule and regulation.

54. In the alternative, should the Court find any ambiguity in the policy, the rules of construction of such policies mandate the construction and interpretation urged by Plaintiff;

55. In the alternative, Defendants are judicially, administratively, or equitably estopped from denying Plaintiff's construction of the policy coverage at issue;

56. In the alternative, to the extent that the wording of such policy does not reflect the true intent of all parties thereto, Plaintiff pleads the doctrine of mutual mistake requiring reformation.

**XI.**  
**REQUEST FOR DISCLOSURES**

57. Pursuant to the Texas Rules of Civil Procedure 194, Plaintiff requests that Defendants provide the information required in a Request for Disclosure.

**XII.**  
**FIRST REQUEST FOR PRODUCTION TO NOVA**

58. Pursuant to the Texas Rules of Civil Procedure 196, Plaintiff requests that Defendant Nova provide the information required:

- 1) Produce the non-privileged portion of Nova's complete claim file for Plaintiff's Property relating to or arising out of Plaintiff's losses for which Nova opened a claim under the Policy.
- 2) Produce all emails and other forms of communication between Nova, its agents, adjusters, employees, or representatives and the agent and adjuster, and/or their agents, adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's Policy and/or Property which are the subject of this suit.
- 3) Underwriting documents and communications, including but not limited to, any and all materials, documents, notations, files, reports, correspondence and/or other communications related to Plaintiff's application/s for coverage, binders, proposals, and the issuance of the policy, including renewals thereof. This request also includes materials, determination and/or method for determining the forms and endorsements to be used in creating the policy. This request also includes information regarding the basis for rating and premium classifications used for Plaintiff. Finally, this request includes any internal communications or guidelines regarding the handling and/or coverage positions of Defendant regarding business interruption and other claims related to the 2019 Novel Coronavirus and/or COVID-19.
- 4) Any and all documents and/or communications from Nova or any parent, subsidiary or affiliated entities to any third-party, including but not limited to insurance agents and brokers, marketing and/or public relations firms, at any time after December 15, 2019, and relating in any way to coverage or exclusions or denials of coverage for civil authority or for business interruption or business income loss and/ or commercial property coverage mentioning or referencing the 2019 Novel Coronavirus, the pandemic, and/or COVID-19.

**XIII.**  
**FIRST REQUEST FOR PRODUCTION TO ROOS**

59. Pursuant to the Texas Rules of Civil Procedure 196, Plaintiff requests that Defendant Roos provide the information required:

- 1) Produce Roos's complete claim or adjusting file for Plaintiff's claim.
- 2) Produce all emails and other forms of communication between Nova, its agents, adjusters, employees, or representatives and Roos and/or his agents, adjusters, representatives or employees relating to, mentioning, concerning or evidencing the claim which is the subject of this suit. This request includes Documents and/or Communications relating to the handling of

business interruption and other claims related to the 2019 Novel Coronavirus and/or COVID-19.

#### **XIV.**

60. WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer herein; that, on final hearing, Plaintiff has judgment against Defendants for an amount, deemed to be just and fair by the jury, which will be a sum within the jurisdictional limits of this Court. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, and subject to amendment (except as otherwise stipulated), Plaintiff pleads that the damages will be less than \$75,000. See attached Exhibit E. Plaintiff further pleads for costs of suit; for interest on the judgment; for pre-judgment interest; and, for such other and further relief, in law or in equity, either general or special, including the non-monetary relief of declaratory judgment against Defendants, to which Plaintiff may be justly entitled.

Respectfully submitted,

/s/ Michael R. Steinmark

Michael Steinmark

State Bar No. 24051384

Bruce W. Steckler

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ATTORNEYS FOR PLAINTIFF

**PLAINTIFF REQUESTS A TRIAL BY JURY**

# **Exhibit A**





## AM BEST CREDIT RATING

CARRIER: NOVA CASUALTY CO

AM BEST RATING: A EXCELLENT

AM Best is a global credit rating agency with a focus on the insurance industry. **This rating is a recognized indicator of an insurer's financial strength and ability to meet ongoing obligations to policyholders.** Lockton Affinity does not perform an independent analysis and therefore cannot guarantee or make any representations in regards to the financial condition of any insurance companies with which we place business.

Visit [ambest.com](http://ambest.com) for more information about AM Best and their rating methodology.

AM Best is not engaged in the offer or sale of any security and does not provide investment advice of any kind. These ratings are not a warranty of an insurer's current or future ability to meet its contractual obligations. Further, all ratings, are provided "as is," without warranty of any kind, express or implied. The rating information is current as of the delivery date of this policy and is subject to change without notice.



## CLAIM REPORTING FOR REGIS FRANCHISEE INSURANCE PROGRAM

For Property, General Liability and Other Liability Claims

Call: 1-866-418-9675

Your BOP policy number is LSR-BP-0035083-1

It is important to report all claims or incidents that may result in a claim as quickly as possible. Your policy contains information about your obligation to report claims within a specific timeframe. If you do not report your claim during this timeframe, it may not be covered.



## IMPORTANT INFORMATION FOR POLICYHOLDERS

### ADDITIONAL INSURED COVERAGE

An additional insured is a person or entity, other than the named insured (you), who is protected by the terms of the policy for specified events or exposures. In general, coverage for an additional insured applies only when injury or damage is caused, at least partially, by acts or omissions of you as the named insured.

In addition to describing the insurance available to you as the named insured, a Certificate of Insurance may also indicate that a certificate holder is an additional insured under the referenced policy. This is informational only. The policy issued to you, the named insured, must include the proper additional insured endorsements for coverage to apply. Review your policy carefully before entering into any agreement that requires you to add another party as an additional insured.

Contact us to add an additional insured to your policy. Note that all requests are subject to approval from the insurance company.

### CERTIFICATES OF INSURANCE

A Certificate of Insurance is issued to provide evidence of insurance only. It is not a contract or an endorsement to the policy. Certificates are simply snapshots of the basic policy coverage and limits. They do not amend, extend or alter the coverage afforded by the policy. The Certificate of Insurance confers no rights upon the certificate holder.

### NOTICE OF CANCELLATION

The standard Certificate of Insurance includes the following statement regarding cancellation notice: *"Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions."*

Most certificate holders, including additional insureds, will not receive a notice of cancellation or notice of nonrenewal of your policy. There are a few exceptions, but only when the proper endorsement is attached to the policy and if the cancellation/non-renewal is initiated by the company. These include:

- Mortgagees (Property Coverage)
- Lender Loss Payees (Property Coverage)
- Additional Insured Lessor (Auto Liability Coverage)

The policy must be specifically endorsed to provide notification of policy cancellation or non-renewal to any other parties. Such requests are subject to prior approval of you as the named insured and the insurance company.

If you have any questions, please contact us at:  
Regis Franchisee Insurance Program  
844-456-0660

## **NOTICE TO POLICYHOLDERS TOTAL LEAD EXCLUSION**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to replace any provisions of your policy (including its endorsements). If there is any conflict between this Notice and the policy (including its endorsements), **the provisions of the policy (including its endorsements) shall prevail.**

This policy contains an exclusion relating to lead. As stated by the exclusion, the policy does not provide coverage for any injury, damage, payment, liability, loss, cost or expense of any kind resulting in whole or in part to lead contamination.

## **NOTICE TO POLICYHOLDERS TOTAL ASBESTOS EXCLUSION**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to replace any provisions of your policy (including its endorsements). If there is any conflict between this Notice and the policy (including its endorsements), **the provisions of the policy (including its endorsements) shall prevail.**

The policy is endorsed with an exclusion relating to asbestos. As stated by the exclusion, the policy does not provide coverage for any actual or alleged injury, damage, payment, liability, loss, cost or expense of any kind resulting in whole or in part from asbestos.

## **POLICYHOLDER NOTICE**

### **SILICA LIMITATION – TEXAS**

The policy contains an exclusion relating to silica. As stated by the exclusion, the policy does not provide any coverage for “bodily injury”, “property damage”, or “personal and advertising injury” arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, “silica” or “silica-related dust”.

No coverage is provided by this notice nor can it be construed to replace any provision of your policy. Please refer to the actual policy for specific terms, conditions, limitations, exclusions that will govern in the event of a loss. In the event of a conflict, the provisions of the policy shall prevail.

## TEXAS – POLICYHOLDER NOTICE

### IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Nova Casualty Company's toll free telephone number for information or to make a complaint at:

1-800-289-3742

You may also write to Nova Casualty Company at:

760 Exchange Street Suite 1020  
Buffalo, New York 14210

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: 1-512-475-1771  
Web: <http://www.tdi.state.tx.us>  
Email: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

### PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the agent or Nova Casualty Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

### ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

### AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de Nova Casualty Company's para informacion o para someter una queja al:

1-800-289-3742

Usted tambien puede escribir a Nova Casualty Company al:

760 Exchange Street Suite 1020  
Buffalo, New York 14210

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: 1-512-475-1771  
Web: <http://www.tdi.state.tx.us>  
Email: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

### DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la Nova Casualty Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

### UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

## **NOTICE TO POLICYHOLDERS PUNITIVE DAMAGES EXCLUSION**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to replace any provisions of your policy (including its endorsements). If there is any conflict between this Notice and the policy (including its endorsements), **the provisions of the policy (including its endorsements) shall prevail.**

This policy contains an exclusion relating to punitive damages. As stated by the exclusion, the policy does not provide coverage for any fines, penalties, punitive, exemplary, vindictive, or other compensatory or non-compensatory damages imposed upon the insured.

## **NOTICE TO POLICYHOLDERS INSURANCE FRAUD**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to be in addition to or replace any provisions of your policy, including its endorsements. If there is any conflict between this Notice and your policy, including its endorsements, the provisions of the policy, including its endorsements shall prevail.

Insurance Fraud...It's a crime that affects all of us. According to the Federal Bureau of Investigation, the total cost of insurance fraud (non-health insurance) is estimated to be more than \$40 billion per year. Over the past few years the number of documented cases of insurance fraud has soared, with costs passed along to policyholders as increased premiums.

We at NOVA Casualty Company are committed to stopping this crime. We have established a Special Investigation Unit to combat insurance fraud and you can help by confidentially providing us with any information about persons who have committed fraud or intend to commit fraud.

Call the toll-free NOVA Casualty Company Fraud Tip-Line at 1-800-799-6980, 24 hours a day, seven days a week.

NOVA Casualty Company  
726 Exchange Street, Suite 1020  
Buffalo, NY 14210-1466

Fraud Tip-Line  
1-800-799-6980



# **Privacy Policy and Producer Compensation Practices Disclosures**

## **Privacy Policy Disclosure**

### **Collection of Information**

We collect personal information so that we may offer quality products and services. This information may include, but is not limited to, name, address, Social Security number, and consumer reports from consumer reporting agencies in connection with your application for insurance or any renewal of insurance. For example, we may access driving records, insurance scores or health information. Our information sources will differ depending on your state and/or the product or service we are providing to you. This information may be collected directly from you and/or from affiliated companies, non-affiliated third parties, consumer reporting agencies, medical providers and third parties such as the Medical Information Bureau.

### **Disclosure of Information**

We may disclose non-public, personal information you provide, as required to conduct our business and as permitted or required by law. We may share information with our insurance company affiliates or with third parties that assist us in processing and servicing your account. We also may share your information with regulatory or law enforcement agencies, reinsurers and others, as permitted or required by law.

Our insurance companies may share information with their affiliates, but will not share information with non-affiliated third parties who would use the information to market products or services to you. We do not share the non-public personal information of customers of our SEC regulated companies or customers who own products of ours which are SEC regulated with affiliated or non-affiliated companies who would use that information to market products or services to you.

Our standards for disclosure apply to all of our current and former customers.

### **Safeguards to Protect Your Personal Information**

We recognize the need to prevent unauthorized access to the information we collect, including that held in an electronic format on our computer systems. We maintain physical, electronic and procedural safeguards intended to protect all non-public, personal information.

### **Internal Access to Information**

Access to personal, nonpublic information is limited to those people who need the information to provide our customers with products or services. These people are expected to protect this information from inappropriate access, disclosure and modification.

### **Consumer Reports**

In some cases, we may obtain a consumer report in connection with an application for insurance. Depending on the type of policy, a consumer report may include information about you or your business, such as:

- character, general reputation, personal characteristics, mode of living;
- credit history, driving record (including records of any operators who will be insured under the policy); and/or
- an appraisal of your dwelling or place of business that may include photos and comments on its general condition.

### **Access to Information**

Upon written request, we will inform you if we have ordered an investigative consumer report. You have the right to make a written request within a reasonable period for information concerning the nature and scope of the report and to be interviewed as part of its preparation. You may obtain a copy of the report from the reporting agency, and under certain circumstances, you may be entitled to a copy at no cost.

You also may review certain information we have about you or your business in our files. To review information we maintain in our files about you or your business, please write to us, providing your complete name, address and policy number(s), and indicating specifically what you would like to see. If you request actual copies of your file, there may be a nominal charge.

We will tell you to whom we have disclosed the information within the two years prior to your request. If there is not a record indicating that the information was provided to another party, we will tell you to whom such information is normally disclosed.

There is information that we cannot share with you. This may include information collected in order to evaluate a claim under an insurance policy, when the possibility of a lawsuit exists. It may also include medical information that we would have to forward to a licensed medical doctor of your choosing so that it may be properly explained.

### **Correction of Information**

If after reviewing your file you believe information is incorrect, please write to the consumer reporting agency or to us, whichever is applicable, explaining your position. The information in question will be investigated. If appropriate, corrections will be made to your file and the parties to whom the incorrect information was disclosed, if any, will be notified. However, if the investigation substantiates the information in the file, you will be notified of the reasons why the file will not be changed. If you are not satisfied with the evaluation, you have the right to place a statement in the file explaining why you believe the information is incorrect. We also will send a copy of your statement to the parties, if any, to whom we previously disclosed the information and include it in any future disclosures.

### **Our Commitment to Privacy**

In the insurance and financial services business, lasting relationships are built upon mutual respect and trust. With that in mind, we will periodically review and revise our privacy policy and procedures to ensure that we remain compliant with all state and federal requirements. If any provision of our privacy policy is found to be non-compliant, then that provision will be modified to reflect the appropriate state or federal requirement. If any modifications are made, all remaining provisions of this privacy policy will remain in effect. For more detailed information about our privacy policy, visit our Web site, located at [www.hanover.com](http://www.hanover.com).

## **Producer Compensation Disclosure**

Our products are sold through independent agents and brokers, often referred to as "Producers". We may pay Producers a fixed commission for placing and renewing business with our company. We may also pay additional commission and other forms of compensation and incentives to Producers who place and maintain their business with us. Details of our Producer compensation practices may be found at [www.hanover.com](http://www.hanover.com).

### **Further Information**

If you have questions about our privacy policy, or if you would like to request information we have on file, please write to us at our Privacy Office, N435, The Hanover Insurance Group, Inc., 440 Lincoln Street, Worcester, MA 01653. Please provide your complete name, address and policy number(s). A copy of our Producer Compensation Disclosure is also available upon written request addressed to the attention of the Corporate Secretary, N435, The Hanover Insurance Group, 440 Lincoln Street, Worcester, MA 01653.

This notice is being provided on behalf of the following Hanover Companies: The Hanover Insurance Group, Inc. - Allmerica Financial Alliance Insurance Company - Allmerica Financial Benefit Insurance Company - Allmerica Plus Insurance Agency, Inc. - Citizens Insurance Company of America - Citizens Insurance Company of Illinois - Citizens Insurance Company of the Midwest - Citizens Insurance Company of Ohio - Citizens Management, Inc. - AIX Ins. Services of California, Inc.- Benchmark Professional Insurance Services, Inc.- Campania Insurance Agency Co. Inc.- Campmed Casualty & Indemnity Co. Inc. - Chaucer Syndicates Limited - Educators Insurance Agency, Inc.- Hanover Specialty Insurance Brokers, Inc. - The Hanover American Insurance Company - The Hanover Insurance Company - The Hanover New Jersey Insurance Company - The Hanover National Insurance Company - Hanover Lloyd's Insurance Company - Massachusetts Bay Insurance Company - Opus Investment Management, Inc. - Professionals Direct Insurance Company - Professionals Direct Insurance Services, Inc. -Professional Underwriters Agency, Inc.- Verlan Fire Insurance Company - Nova Casualty Company - AIX Specialty Insurance Company.

**TEXAS**  
**IMPORTANT NOTICE TO POLICYHOLDERS**

**PERIOD TO FILE A CLAIM OR BRING LEGAL ACTION AGAINST US NOTICE –  
WINDSTORM OR HAIL – CATASTROPHE AREA**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to replace any provisions of your policy (including its endorsements). If there is any conflict between this Notice and the policy (including its endorsements), **the provisions of the policy (including its endorsements) shall prevail.**

Carefully read your policy, including the endorsements attached to your policy.

In accordance with Texas Insurance Code Section 2301.010(f), we are notifying you that:

1. With respect to loss or damage in the State of Texas caused by windstorm or hail in the catastrophe area, as defined by the Texas Insurance Code, any claim must be filed with us not later than one year after the date of the loss or damage that is the subject of the claim, except that a claim may be filed after the first anniversary of the date of the loss or damage for good cause shown by the person filing the claim; and
2. Any legal action brought against us under the policy for loss or damage in the State of Texas caused by windstorm or hail in the catastrophe area, as defined by the Texas Insurance Code, must be brought within the earlier of the following:
  - a. Two years and one day from the date we accept or reject the claim; or
  - b. Three years and one day from the date of the loss or damage that is the subject of the claim.

## **NOTICE TO POLICYHOLDERS U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



**NOVA CASUALTY COMPANY**  
A STOCK INSURANCE COMPANY  
726 EXCHANGE STREET, SUITE 1020 BUFFALO, NY 14210

**BUSINESSOWNERS POLICY  
DECLARATIONS**

**Issue Dated:** 03/23/2020

**Producer** Lockton Affinity, LLC  
PO BOX 410679  
Kansas City, MO 64141-067

**Policy No.:** LSR-BP-0035083-1

**Renewal of:** LSR-BP-0035083-0

**Item 1: Named Insured & Address:**

AGNY LLC  
1104 Cedar Valley Dr  
Irving, TX 75063

**Item 2: Policy Period:** from 05/01/2020 to 05/01/2021 at 12:01 AM standard time at the address  
(Inception date) (Expiration date) of the insured stated above.

**Description of Business:** Retail Establishment

**Item 3: Coverage Forms that form a part of this policy:**

This policy consists of the following Coverage Forms. The premium shown below may be subject to adjustment.

**Coverage Forms/Policies**

See attached Schedule of Forms SP 2174

**Premium**

Terrorism - Certified Acts	\$17.00
TOTAL POLICY PREMIUM	\$1,502.00

In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

Countersigned \_\_\_\_\_ by Pat D. O'Flaherty  
Date \_\_\_\_\_ Authorized Representative

**BUSINESSOWNERS POLICY  
DECLARATIONS**

**Issue Dated:** 03/23/2020

**Policy No.:** LSR-BP-0035083-1

**Effective Date:** 05/01/2020

**SECTION I - PROPERTY COVERAGES AND LIMITS OF INSURANCE**

**Location Property Deductible:** \$1,000  
**Optional Coverages Deductible:** \$500  
**Business Personal Property Seasonal Increase Percentage:** 25%

**LOCATION:**001 **BUILDING:**001 **CONSTRUCTION:**Joisted Masonry  
**ADDRESS:**  
344 W Campbell Rd Ste 344  
Richardson, TX 75080

**Mandatory Coverages**

Personal Property	
Limit	\$160,000
Valuation	Replacement Cost

## PROPERTY COVERAGES AND LIMITS OF LIABILITY

### Additional Coverages applicable to all locations:

Coverage	Limit	Premium
	Debris Removal: \$25,000 each location	Included
	Preservation of Property: In transit or within 120 days of being moved	Included
	Fire Department Service Charge: \$15,000	Included
	Collapse: Included with Limitations	Included
	Water Damage: Included with Limitations	Included
	Business Income and Extra Expense: Actual Loss Sustained up to 12 months after the date of direct physical loss	Included
	Pollutant Cleanup and Removal: Up to \$10,000 at each location	Included
	Money Orders and Counterfeit Papers: \$25,000	Included
	Forgery and Alteration: \$150,000	Included
	Business Income from Dependent Properties: \$10,000	Included
	Building Glass: Included at each location for which building property is insured	Included
	Fire Extinguisher Systems Expense:	
	Recharge Expense: \$15,000	Included
	Clean-up Expenses: \$15,000	Included
	Business Income and Extra Expense: \$15,000	Included
	Electronic Data: \$10,000 any one policy year	Included
	Interruption of Computer Operations: \$10,000 any one policy year	Included
	Ltd. Coverage for Fungi, Wet or Dry Rot: \$15,000	Included
	Arson and Theft Reward: \$25,000	Included
	Sewer Backup Direct Physical Loss: \$50,000 at each described premises any one policy year	Included
	Theft Damage to Buildings for Tenant: Included within the Business Personal Property Limit	Included
	Temporary Relocation of Property: Within 120 days of being moved	Included
	Brands and Labels: Included within the Business Personal Property Limit	Included
	Fine Arts: \$25,000	Included
	Property of Others: \$25,000	Included
	Lost Key Consequential Loss: \$1,000	Included
	Utility Service Interruption: \$100,000 for any Direct Physical Loss	Included
	Utility Service Interruption: \$100,000 for Business Interruption and Extra Expense	Included

### Coverage Extensions applicable to all locations:

Coverage	Limit	Premium
	Buildings at Newly Acquired Premises: 25% of the highest Building Limit, not to exceed \$750,000	Included
	Personal Property at Newly Acquired Premises: 100% of the highest Business Personal Property Limit, not to exceed \$750,000	Included
	Business Income and Extra Expense at Newly Acquired Premises: Actual Loss Sustained up to 30 days after the date of direct physical loss	Included
	Personal Property Off Premises: \$50,000	Included
	Outdoor Property: \$15,000 (\$2,500 any one tree, shrub or plant)	Included
	Personal Effects: \$25,000 at each described premises	Included
	Valuable Papers and Records: \$50,000 at each described premises	Included
	Accounts Receivable: \$50,000 at each described premises	Included
	Other Buildings and Structures: 10% of the Business Personal Property or Building Limit, up to \$50,000	Included
	Claims Expenses: \$10,000	Included

### Optional Coverages applicable to all locations:

Coverage	Limit	Premium
	Outdoor Signs: \$15,000	Included
	Money and Securities Inside the Premises: \$50,000	Included
	Money and Securities Outside the Premises: \$25,000	Included
	Employee Dishonesty: \$150,000	Included

The above mandatory Coverages, Optional Coverages, Additional Coverages and Coverage Extensions are subject to the limits, coverages and limitations as described in the Coverage form made a part of this policy.

**BUSINESSOWNERS POLICY  
DECLARATIONS**

**Issue Dated:** 03/23/2020

**Policy No.:** LSR-BP-0035083-1

**Effective Date:** 05/01/2020

**SECTION II - LIABILITY COVERAGES AND LIMITS OF INSURANCE**

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to Section II - Liability in the Businessowners Coverage Form and any attached endorsements.

<u>Coverage</u>	<u>Limits of Insurance</u>
Each Occurrence	\$1,000,000
General Aggregate (Other then Products/Completed Operations)	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Medical Expenses (Per Person)	\$5,000
Tenant's Liability	\$300,000



**BUSINESSOWNERS POLICY  
DECLARATIONS**

**Issue Dated:** 03/23/2020

**Policy No.:** LSR-BP-0035083-1

**Effective Date:** 05/01/2020

Classification	Class Code	Rate
Location Number:001		
Building Number:001		
Barber Shops	71332	Included



NOVA CASUALTY COMPANY

726 Exchange Street, Suite 1020, Buffalo, NY 14210  
Phone: 716.856.3722 Fax: 716.856.4351

In Witness Whereof, Nova Casualty Company has executed and attested these presents, and where required by law, has caused this Policy to be countersigned by its duly authorized Representative.

A handwritten signature in cursive script, reading "Charles F. Cronin".

---

Charles Frederick Cronin  
Corporate Secretary

A handwritten signature in cursive script, reading "John C. Roche".

---

John C. Roche  
President

**SCHEDULE OF FORMS AND ENDORSEMENTS**

Named Insured AGNY LLC

Effective Date: 05/01/2020

12:01 A.M., Standard Time

Agent Name Lockton Affinity, LLC

Agent No. LAFLLC

<b>NUMBER</b>	<b>TITLE</b>
SP 1 903	01-06 BUSINESSOWNERS POLICY DECLARATIONS
AIL0013	06-13 SIGNATURE PAGE
SP 2 174	07-02 SCHEDULE OF FORMS AND ENDORSEMENTS
BP	01-02 BUSINESSOWNERS MANUSCRIPT ENDORSEMENT
Manuscript Endt	
BP IN 01	07-13 BUSINESSOWNERS COVERAGE FORM INDEX
BP 00 03	07-13 BUSINESSOWNERS COVERAGE FORM
ABP0005	04-09 PUNITIVE DAMAGES EXCLUSION
ABP0007	01-10 BUSINESSOWNERS EXTRA COVERAGE
ABP0012	01-10 UNINTENTIONAL ERRORS AND OMISSIONS
ABP0013	04-09 BLANKET ADDITIONAL INSURED - CERTIFICATE HOLDER
ABP0014	08-15 BLANKET ADDITIONAL INSURED BY WRITTEN CONTRACT
ABP0030	01-10 EQUIPMENT BREAKDOWN COVERAGE
AIL0015	02-11 TRADE OR ECONOMIC SANCTIONS ENDORSEMENT
AIL0033	10-11 TOTAL LEAD EXCLUSION
AIL0035	10-11 TOTAL ASBESTOS EXCLUSION
BP 01 18	11-14 TEXAS CHANGES
BP 02 04	01-06 TEXAS CHANGES - AMENDMENT OF CANCELLATION PROVISIONS OR COVERAGE CHANGE
BP 04 01	01-06 COMPREHENSIVE BUSINESS LIABILITY EXCLUSION (ALL HAZARDS IN CONNECTION WITH DESIGNATED PREMISES OR OPERATIONS)
BP 04 04	01-10 HIRED AUTO AND NON-OWNED AUTO LIABILITY
BP 04 17	01-10 EMPLOYMENT - RELATED PRACTICES EXCLUSION
BP 04 97	01-06 WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US
BP 05 01	07-02 CALCULATION OF PREMIUM
BP 05 15	01-15 DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT
BP 05 17	01-06 EXCLUSION - SILICA OR SILICA-RELATED DUST
BP 05 23	01-15 CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
BP 05 77	01-06 FUNGI OR BACTERIA EXCLUSION (LIABILITY)
BP 08 01	07-13 BARBER SHOPS AND HAIR SALONS PROFESSIONAL LIABILITY
BP 12 03	01-10 LOSS PAYABLE CLAUSES
BP 14 05	07-13 ADDITIONAL INSURED - GRANTOR OF FRANCHISE
BP 15 04	05-14 EXCLUSION - ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY - WITH LIMITED BODILY INJURY EXCEPTION
BP 15 11	12-16 EXCLUSION - UNMANNED AIRCRAFT

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

**FORM NAME: Businessowners Manuscript Endorsement**

The Following Form is Attached to the Policy and Added to the "SP 2 174 07-02 Schedule of Forms and Endorsements" Forming Part of this Policy:

ABP00851211 Notice of Cancellation or Nonrenewal to Designated Person(s) or Organization(s) - Texas

The Schedule of Policy Form ABP00851211 Notice of Cancellation or Nonrenewal to Designated Person(s) or Organization(s) - Texas is Amended to Read:

Name and Mailing Address of Designated Person(s) or Organization(s)	
#	Name Mailing Address
1	Regis Corporation Attn: Risk Management 7201 Metro Blvd, Minneapolis, MN 55439

\_\_\_\_\_  
Authorized Representative Signature

## **BUSINESSOWNERS COVERAGE FORM INDEX**

This index is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy (including endorsements) must be read in its entirety. The features may also be affected by related provisions not referenced at all in the index, or noted elsewhere in it. For instance, an **Exclusion** feature addresses a specific policy exclusion; but restrictions of coverage and exclusions also appear within the areas where coverage, covered causes of loss, etc., are described.

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## **BUSINESSOWNERS 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 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.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

### **SECTION I – PROPERTY**

#### **A. Coverage**

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

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

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
  - (a) Machinery; and
  - (b) Equipment;
- (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a) Fire extinguishing equipment;
- (b) Outdoor furniture;
- (c) Floor coverings; and
- (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a) Additions under construction, alterations and repairs to the buildings or structures;
- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);
- (3) Tenant's 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;
- (4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

## **2. Property Not Covered**

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
  - (1) Money And Securities Optional Coverage; or
  - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
  - (1) Outdoor Property Coverage Extension; or
  - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";

- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or

- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

## **3. Covered Causes Of Loss**

Direct physical loss unless the loss is excluded or limited under Section I – Property.

## **4. Limitations**

- a. We will not pay for loss of or damage to:

- (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
- (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
- (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
- (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
  - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
  - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
  - (b) Changes in or extremes of temperature;
  - (c) Disease;
  - (d) Frost or hail; or
  - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
  - (1) Animals, and then only if they are killed or their destruction is made necessary.
  - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
    - (a) Glass that is part of the exterior or interior of a building or structure;
    - (b) Containers of property held for sale; or
    - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
  - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
  - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
  - (3) \$2,500 for patterns, dies, molds and forms.

## 5. Additional Coverages

### a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
  - (b) Remove debris of property owned by or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
  - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
  - (d) Remove property of others of a type that would not be Covered Property under this policy;
  - (e) Remove deposits of mud or earth from the grounds of the described premises;
  - (f) Extract "pollutants" from land or water; or
  - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
  - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

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

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

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

## (5) Examples

### Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 – \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

### Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 – \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	

Basic Amount	\$ 10,500
Additional Amount	\$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal expense in this example is \$35,500; \$4,500 of the debris removal expense is not covered.

**b. Preservation Of Property**

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

**d. Collapse**

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs **d.(1)** through **d.(7)**.

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
  - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

(b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

(c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

(d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:

- (i) A cause of loss listed in Paragraph **(2)(a)** or **(2)(b)**;
- (ii) One or more of the "specified causes of loss";
- (iii) Breakage of building glass;
- (iv) Weight of people or personal property; or
- (v) Weight of rain that collects on a roof.

(3) This Additional Coverage – Collapse does **not** apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;
- (b) A part of a building that is standing, even if it has separated from another part of the building; or
- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(4) With respect to the following property:

- (a) Awnings;
- (b) Gutters and downspouts;
- (c) Yard fixtures;
- (d) Outdoor swimming pools;
- (e) Piers, wharves and docks;
- (f) Beach or diving platforms or appurtenances;
- (g) Retaining walls; and
- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d), we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5) If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a) The collapse of personal property was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d) of this Additional Coverage;
- (b) The personal property which collapses is inside a building; and
- (c) The property which collapses is not of a kind listed in Paragraph (4), regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8) The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs d.(1) through d.(7).

**e. Water Damage, Other Liquids, Powder Or Molten Material Damage**

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

**f. Business Income**

**(1) Business Income**

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;
- (ii) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

- (b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.
- (c) Business Income means the:
  - (i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and
  - (ii) Continuing normal operating expenses incurred, including payroll.
- (d) Ordinary payroll expenses:
  - (i) Means payroll expenses for all your employees except:
    - i. Officers;
    - ii. Executives;
    - iii. Department Managers;
    - iv. Employees under contract; and
    - v. Additional Exemptions shown in the Declarations as:
      - Job Classifications; or
      - Employees.
  - (ii) Include:
    - i. Payroll;
    - ii. Employee benefits, if directly related to payroll;
    - iii. FICA payments you pay;
    - iv. Union dues you pay; and
    - v. Workers' compensation premiums.

## (2) Extended Business Income

- (a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:
  - (i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and
  - (ii) Ends on the earlier of:
    - i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or
    - ii. 60 consecutive days after the date determined in Paragraph (a)(i) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

- (b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
  - (a) The partial slowdown or complete cessation of your business activities; or
  - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.



#### **g. Extra Expense**

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
  - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
  - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
    - (i) At the described premises; or
    - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
  - (b) To minimize the suspension of business if you cannot continue "operations".

#### **(c) To:**

- (i) Repair or replace any property; or
  - (ii) Research, replace or restore the lost information on damaged "valuable papers and records";  
to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- (a) The partial slowdown or complete cessation of your business activities; or
  - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

#### **h. Pollutant Clean-up And Removal**

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

#### **i. Civil Authority**

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

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

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

#### **j. Money Orders And "Counterfeit Money"**

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

#### **k. Forgery Or Alteration**

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

#### **l. Increased Cost Of Construction**

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

- (3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
  - (a) You were required to comply with before the loss, even when the building was undamaged; and
  - (b) You failed to comply with.
- (5) Under this Additional Coverage, we will not pay for:
  - (a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
  - (b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.
- (6) The most we will pay under this Additional Coverage, for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

- (7) With respect to this Additional Coverage:

- (a) We will not pay for the Increased Cost of Construction:

- (i) Until the property is actually repaired or replaced, at the same or another premises; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

- (b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

- (c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

- (8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

- (9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

#### **m. Business Income From Dependent Properties**

- (1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.

However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
  - (a) Source of materials; or
  - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent property means property owned by others whom you depend on to:
  - (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
  - (b) Accept your products or services;
  - (c) Manufacture your products for delivery to your customers under contract for sale; or
  - (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.
- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which:
  - (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services; or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:
  - (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
  - (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
  - (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

**n. Glass Expenses**

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

**o. Fire Extinguisher Systems Recharge Expense**

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

**p. Electronic Data**

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

**q. Interruption Of Computer Operations**

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.

- (2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:
- (a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.
  - (b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.
  - (c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.
- (3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.
- (5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

**r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot**

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

(a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;

(b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and

(c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period.

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

(6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

## 6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

### a. Newly Acquired Or Constructed Property

#### (1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
  - (i) Similar use as the building described in the Declarations; or
  - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

#### (2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

#### (3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

#### b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.



### c. Outdoor Property

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

### d. Personal Effects

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

### e. Valuable Papers And Records

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.
- (2) This Coverage Extension does not apply to:
  - (a) Property held as samples or for delivery after sale; and
  - (b) Property in storage away from the premises shown in the Declarations.
- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.
- (5) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:
  - (a) Paragraph B.1.c., Governmental Action;
  - (b) Paragraph B.1.d., Nuclear Hazard;
  - (c) Paragraph B.1.f., War And Military Action;

- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.2.m.(2), Errors Or Omissions; and
- (g) Paragraph B.3.

**f. Accounts Receivable**

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:
  - (a) All amounts due from your customers that you are unable to collect;
  - (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
  - (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
  - (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph B. Exclusions in Section I – Property does not apply to this Coverage Extension except for:
  - (a) Paragraph B.1.c., Governmental Action;
  - (b) Paragraph B.1.d., Nuclear Hazard;
  - (c) Paragraph B.1.f., War And Military Action;
  - (d) Paragraph B.2.f., Dishonesty;
  - (e) Paragraph B.2.g., False Pretense;
  - (f) Paragraph B.3.; and
  - (g) Paragraph B.6., Accounts Receivable Exclusion.

**g. Business Personal Property Temporarily In Portable Storage Units**

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.
- (2) The limitation under Paragraph A.4.a.(5) also applies to property in a portable storage unit.
- (3) Coverage under this Extension:
  - (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;
  - (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.
- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.
- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

**B. Exclusions**

- 1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

**a. Ordinance Or Law**

- (1) The enforcement of or compliance with any ordinance or law:
  - (a) Regulating the construction, use or repair of any property; or

- (b) Requiring the tearing down of any property, including the cost of removing its debris.
- (2) This exclusion, Ordinance Or Law, applies whether the loss results from:
  - (a) An ordinance or law that is enforced even if the property has not been damaged; or
  - (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

**b. Earth Movement**

- (1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

With respect to coverage for volcanic action as set forth in 5(a), 5(b) and 5(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

**c. Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

**d. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

**e. Utility Services**

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

**f. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
  - (a) Foundations, walls, floors or paved surfaces;
  - (b) Basements, whether paved or not; or
  - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

**h. Certain Computer-related Losses**

- (1) The failure, malfunction or inadequacy of:
  - (a) Any of the following, whether belonging to any insured or to others:
    - (i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;
    - (ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;
    - (iii) "Computer" operating systems and related software;
    - (iv) "Computer" networks;
    - (v) Microprocessors ("computer" chips) not part of any "computer" system; or
    - (vi) Any other computerized or electronic equipment or components; or
  - (b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I – Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

**i. "Fungi", Wet Rot Or Dry Rot**

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

**j. Virus Or Bacteria**

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

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

**a. Electrical Apparatus**

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

**b. Consequential Losses**

Delay, loss of use or loss of market.

**c. Smoke, Vapor, Gas**

Smoke, vapor or gas from agricultural smudging or industrial operations.

#### **d. Steam Apparatus**

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

#### **e. Frozen Plumbing**

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

#### **f. Dishonesty**

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

#### **g. False Pretense**

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

#### **h. Exposed Property**

Rain, snow, ice or sleet to personal property in the open.

#### **i. Collapse**

- (1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph i.(1)(a) or i.(1)(b).

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

- (2) This Exclusion i. does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:
  - (i) The "specified causes of loss";
  - (ii) Breakage of building glass;
  - (iii) Weight of rain that collects on a roof; or
  - (iv) Weight of people or personal property.

#### **j. Pollution**

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

**k. Neglect**

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

**l. Other Types Of Loss**

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.  
  
This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
  - (a) Dampness or dryness of atmosphere;
  - (b) Changes in or extremes of temperature; or
  - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

**m. Errors Or Omissions**

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

**n. Installation, Testing, Repair**

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

**o. Electrical Disturbance**

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

**p. Continuous Or Repeated Seepage Or Leakage Of Water**

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

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

**a. Weather Conditions**

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

**b. Acts Or Decisions**

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

**c. Negligent Work**

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

#### 4. Additional Exclusion

The following applies only to the property specified in this Additional Exclusion:

##### Loss Or Damage To Products

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

#### 5. Business Income And Extra Expense Exclusions

a. We will not pay for:

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

#### 6. Accounts Receivable Exclusion

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

#### C. Limits Of Insurance

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I – Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

#### 4. Building Limit – Automatic Increase

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.



b. The amount of increase is calculated as follows:

(1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:

(a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or

(b) .08, if no percentage of annual increase is shown in the Declarations; and

(2) Multiply the number calculated in accordance with b.(1) by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

#### **Example**

If:

The applicable Building limit is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

#### **5. Business Personal Property Limit – Seasonal Increase**

a. Subject to Paragraph 5.b., the Limit of Insurance for Business Personal Property is automatically increased by:

(1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or

(2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;

to provide for seasonal variances.

b. The increase described in Paragraph 5.a. will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:

(1) The 12 months immediately preceding the date the loss or damage occurs; or

(2) The period of time you have been in business as of the date the loss or damage occurs.

#### **D. Deductibles**

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section I – Property.

2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:

a. Money and Securities;

b. Employee Dishonesty;

c. Outdoor Signs; and

d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:

a. Fire Department Service Charge;

b. Business Income;

c. Extra Expense;

d. Civil Authority; and

e. Fire Extinguisher Systems Recharge Expense.

#### **E. Property Loss Conditions**

##### **1. Abandonment**

There can be no abandonment of any property to us.

##### **2. Appraisal**

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

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

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

### **3. Duties In The Event Of Loss Or Damage**

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

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.  
  
Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

### **4. Legal Action Against Us**

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

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

### **5. Loss Payment**

In the event of loss or damage covered by this policy:

- a. At our option, we will either:
  - (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property;
  - (3) Take all or any part of the property at an agreed or appraised value; or
  - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph d.(1)(e) below.
- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:
  - (1) At replacement cost without deduction for depreciation, subject to the following:
    - a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:
      - (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;

(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

i. Of comparable material and quality; and

ii. Used for the same purpose; or

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

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

(i) The actual cash value of the lost or damaged property; or

(ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

#### **Example**

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 ( $\$100,000 \times .80 = \$80,000$ ). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$\$70,000 \div \$80,000 = .875$

$.875 \times \$25,000 = \$21,875$

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

(d) We will not pay on a replacement cost basis for any loss or damage:

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

(ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs **d.(1)(a)** and **d.(1)(b)** above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

(a) Used or secondhand merchandise held in storage or for sale;

(b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
  - (d) Manuscripts; and
  - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
  - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
    - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
    - (ii) Divide the amount determined in (i) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
  - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
  - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
    - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
    - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
  - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
    - (i) The amount of the accounts for which there is no loss or damage;
    - (ii) The amount of the accounts that you are able to reestablish or collect;
    - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
    - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
  - (2) An appraisal award has been made.

- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

#### **6. Recovered Property**

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

#### **7. Resumption Of Operations**

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

### **8. Vacancy**

#### **a. Description Of Terms**

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
  - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
  - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
    - (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or
    - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

#### **b. Vacancy Provisions**

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
  - (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;

- (c) Building glass breakage;
- (d) Water damage;
- (e) Theft; or
- (f) Attempted theft.

- (2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

## F. Property General Conditions

### 1. Control Of Property

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

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

### 2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
  - (1) Pays any premium due under this policy at our request if you have failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
  - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

- e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgageholder at least:
  - (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
  - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

### 3. No Benefit To Bailee

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

### 4. Policy Period, Coverage Territory

Under Section I – Property:

- a. We cover loss or damage commencing:
  - (1) During the policy period shown in the Declarations; and
  - (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.
- b. The coverage territory is:
  - (1) The United States of America (including its territories and possessions);
  - (2) Puerto Rico; and
  - (3) Canada.

## G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

### 1. Outdoor Signs

- a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:
  - (1) Owned by you; or
  - (2) Owned by others but in your care, custody or control.
- b. Paragraph **A.3.**, Covered Causes Of Loss and Paragraph **B.**, Exclusions in Section **I** – Property do not apply to this Optional Coverage, except for:
  - (1) Paragraph **B.1.c.**, Governmental Action;
  - (2) Paragraph **B.1.d.**, Nuclear Hazard; and
  - (3) Paragraph **B.1.f.**, War And Military Action.
- c. We will not pay for loss or damage caused by or resulting from:
  - (1) Wear and tear;
  - (2) Hidden or latent defect;
  - (3) Rust;
  - (4) Corrosion; or
  - (5) Mechanical breakdown.
- d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.
- e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

### 2. Money And Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:
  - (1) Theft, meaning any act of stealing;
  - (2) Disappearance; or
  - (3) Destruction.

- b. In addition to the Limitations and Exclusions applicable to Section **I** – Property, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

- c. The most we will pay for loss in any one occurrence is:

- (1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
  - (a) In or on the described premises; or
  - (b) Within a bank or savings institution; and
- (2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

- d. All loss:

- (1) Caused by one or more persons; or
  - (2) Involving a single act or series of related acts;
- is considered one occurrence.

- e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

### 3. Employee Dishonesty

- a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:
  - (1) Cause you to sustain loss or damage; and also
  - (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
    - (a) Any employee; or
    - (b) Any other person or organization.

**b. We will not pay for loss or damage:**

- (1)** Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
- (2)** Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph **a.**), "managers" or directors:
  - (a)** Whether acting alone or in collusion with other persons; or
  - (b)** While performing services for you or otherwise.
- (3)** The only proof of which as to its existence or amount is:
  - (a)** An inventory computation; or
  - (b)** A profit and loss computation.
- (4)** Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.

**c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.**

**d. All loss or damage:**

- (1)** Caused by one or more persons; or
- (2)** Involving a single act or series of acts; is considered one occurrence.

**e. If any loss is covered:**

- (1)** Partly by this insurance; and
- (2)** Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

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

We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

**f. This Optional Coverage is cancelled as to any employee immediately upon discovery by:**

- (1)** You; or
- (2)** Any of your partners, "members", "managers", officers or directors not in collusion with the employee;

of any dishonest act committed by that employee before or after being hired by you.

**g. We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.**

**h. If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:**

- (1)** This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
- (2)** The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.

**i. The insurance under Paragraph **h.** above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:**

- (1)** This Optional Coverage as of its effective date; or
- (2)** The prior insurance had it remained in effect.

**j. With respect to the Employee Dishonesty Optional Coverage in Paragraph **G.3.**, employee means:**

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



- (2) Any natural person who is furnished temporarily to you:
  - (a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or
  - (b) To meet seasonal or short-term workload conditions;
- (3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;
- (4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or
- (5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

- (1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

#### 4. Equipment Breakdown Protection Coverage

- a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

- (1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;
- (2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- (3) Damage to any vacuum tube, gas tube, or brush; or
- (4) The functioning of any safety or protective device.

- b. Paragraphs **A.4.a.(1)** and **A.4.a.(2)**, Limitations, do not apply to this Optional Coverage.

- c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph **B. Exclusions** do not apply:

- (1) Paragraph **B.2.a.**, Electrical Apparatus;
- (2) Paragraph **B.2.d.**, Steam Apparatus; and
- (3) Paragraph **B.2.l.(6)**, Mechanical Breakdown.

- d. With respect to the coverage provided by this Optional Coverage, Paragraph **G.1.c.(5)** of the **Outdoor Signs Optional Coverage** does not apply.

- e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

- f. With respect to Additional Coverages **5.f. Business Income** and **5.g. Extra Expense**, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

- g. With respect to the coverage provided by this Optional Coverage, Paragraph **H. Property Definitions** is amended as follows:

- 1. "Computer" means:
  - a. Programmable electronic equipment that is used to store, retrieve and process data; and

- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

## H. Property Definitions

### 1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

- 2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.
- 3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.
- 4. "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.
- 5. "Manager" means a person serving in a directorial capacity for a limited liability company.
- 6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".
- 7. "Money" means:
  - a. Currency, coins and bank notes in current use and having a face value; and
  - b. Traveler's checks, register checks and money orders held for sale to the public.
- 8. "Operations" means your business activities occurring at the described premises.
- 9. "Period of restoration":
  - a. Means the period of time that:
    - (1) Begins:
      - (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
      - (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
    - caused by or resulting from any Covered Cause of Loss at the described premises; and

**(2)** Ends on the earlier of:

**(a)** The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

**(b)** The date when business is resumed at a new permanent location.

**b.** Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

**(1)** Regulates the construction, use or repair, or requires the tearing down of any property; or

**(2)** Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

**10.** "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**11.** "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

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

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

but does not include "money".

**12.** "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

**a.** Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

**(1)** The cost of filling sinkholes; or

**(2)** Sinking or collapse of land into man-made underground cavities.

**b.** Falling objects does not include loss of or damage to:

**(1)** Personal property in the open; or

**(2)** The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

**c.** Water damage means:

**(1)** Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

**(2)** Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in **c.(1)** or **c.(2)** of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

**13.** "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

## SECTION II – LIABILITY

### A. Coverages

#### 1. Business Liability

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "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 "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or 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 Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability; 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 or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph f. Coverage Extension – Supplementary Payments.

b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:
  - (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph C.1. 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 before the policy period.

(2) 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.

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 C.1. 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 "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 C.1. 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".

**f. Coverage Extension – Supplementary Payments**

- (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 Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
  - (c) The cost of bonds to release attachments, but only for bond amounts within our 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 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 our Limit of Insurance.

These payments will not reduce the limit of liability.

- (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:
    - (i) Agrees in writing to:
      - i. Cooperate with us in the investigation, settlement or defense of the "suit";
      - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
      - iii. Notify any other insurer whose coverage is available to the indemnitee; and

- iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (ii) Provides us with written authorization to:
  - i. Obtain records and other information related to the "suit"; and
  - ii. Conduct and control the defense of the indemnitee in such "suit".
- (3) So long as the conditions in Paragraph (2) 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 B.1.b.(2) Exclusions in Section II – 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:

- (a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or
- (b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

## 2. Medical Expenses

- 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 Limits of Insurance of Section II – Liability. 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.

## B. Exclusions

### 1. Applicable To Business Liability Coverage

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 attorney 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 allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an 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;
- (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"; or

- (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 allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an 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 51 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 or motor vehicle registration law where it is licensed or principally garaged; or
  - (b) The operation of any of the following machinery or equipment:
    - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing 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", "property damage" or "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 government authority in hindering or defending against any of these.

#### **j. Professional Services**

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Body piercing services; and

(9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

**k. 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 contractor or subcontractor working directly or indirectly on your behalf is 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 Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

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".

**l. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**m. 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.

**n. 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.

**o. 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.

**p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) 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";
- (2) 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;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) 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;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
  - (a) Advertising, broadcasting, publishing or telecasting;
  - (b) Designing or determining content of web sites for others; or
  - (c) 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 Paragraph **F. Liability And Medical Expenses Definitions**.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
- (10) With respect to any loss, cost or expense arising out of any:
  - (a) Request, demand or order 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";
- (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
- (12) 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;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

**q. 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 computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

**r. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**s. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury", "property damage" or "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 Transaction 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., d., e., f., g., h., i., k., l., m., n.** and **o.** in Section II – Liability 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 Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph **D.** Liability And Medical Expenses Limits of Insurance in Section II – Liability.

**2. Applicable To Medical Expenses Coverage**

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. 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. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

**3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage – Nuclear Energy Liability Exclusion**

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
  - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
  - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
    - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
    - (b) Has been discharged or dispersed therefrom;
  - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- (2) "Hazardous properties" include radioactive, toxic or explosive properties;
- (3) "Nuclear facility" means:
- (a) Any "nuclear reactor";
  - (b) Any equipment or device designed or used for:
    - (i) Separating the isotopes of uranium or plutonium;
    - (ii) Processing or utilizing "spent fuel"; or
    - (iii) Handling, processing or packaging "waste";
  - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";
- and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
- (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
  - (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
  - (6) "Property damage" includes all forms of radioactive contamination of property;
  - (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
  - (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
  - (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

**(10)** "Waste" means any waste material:

- (a)** Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- (b)** Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs **(a)** and **(b)** of the definition of "nuclear facility".

### **C. 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), or 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" as a consequence of Paragraph **(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 **(a)** or **(b)**; 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 policy.

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.

#### **D. Liability And Medical Expenses Limits Of Insurance**

1. The Limits of Insurance of Section II – Liability 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 most we will pay for the sum of all damages because of all:
  - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
  - b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

#### **4. Aggregate Limits**

The most we will pay for:

- a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
  - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
  - (2) Plus medical expenses;
  - (3) Plus all "personal and advertising injury" caused by offenses committed;

is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability 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.

#### **E. Liability And Medical Expenses General Conditions**

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

## **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 that 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 policy:

- 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 policy 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 policy 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. Separation Of Insureds**

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy 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.

## **F. Liability And Medical Expenses 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 or motor vehicle registration 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:

- (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
- (2) Your fulfilling the terms of the contract or agreement.

- 9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or 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 Paragraph (2) above and supervisory, inspection or engineering services.
- 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, on which are 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 land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration 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" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.**

**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 the job site has been put to its intended use by any other 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.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

- 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; or

- (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

**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, 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.

**SECTION III – COMMON POLICY CONDITIONS  
(APPLICABLE TO SECTION I – PROPERTY AND  
SECTION II – LIABILITY)**

**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. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
    - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
      - (a) Seasonal unoccupancy; or
      - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
  - (a) Have not started; and
  - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
  - (a) An outstanding order to vacate;
  - (b) An outstanding demolition order; or
  - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
  - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
  - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.

c. 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. Concealment, Misrepresentation Or Fraud**

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

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

#### **D. 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.

#### **E. 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 charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe and 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.

#### **F. Insurance Under Two Or More Coverages**

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

#### **G. Liberalization**

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

#### **H. Other Insurance**

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
  - a. Any other insurance that insures for direct physical loss or damage; or
  - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. 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.

#### **I. Premiums**

1. The first Named Insured shown in the Declarations:
  - a. Is responsible for the payment of all premiums; and
  - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

#### **J. Premium Audit**

- 1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
- 2. Premium shown in this policy 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 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.
- 3. 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.

#### **K. Transfer Of Rights Of Recovery Against Others To Us**

1. Applicable to Businessowners Property Coverage:

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

- a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
  - (a) Owned or controlled by you; or
  - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, 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. This condition does not apply to Medical Expenses Coverage.

#### **L. Transfer Of Your Rights And Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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

**PUNITIVE DAMAGES EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

**SECTION II – LIABILITY, B. Exclusions, 1. Applicable To Business Liability Coverage,** is amended to include the following exclusion:

Fines, penalties, punitive, exemplary, vindictive or other non-compensatory damages imposed upon the insured, or any multiplied portion of compensatory damages.

All other terms and conditions remain unchanged.

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

**BUSINESSOWNERS EXTRA COVERAGE**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

**I. SECTION I - PROPERTY** is changed as follows:

**A. Boundary Extension**

All references to property "within 100 feet of the described premises" are changed to property "within 1,000 feet of the described premises."

**B. Paragraph A. Coverage, sub-paragraph 5. Additional Coverages, is changed as follows:**

1. In part **a. Debris Removal**, in the first sentence and final sentences of **(4)**, \$10,000 is changed to \$25,000.
2. In part **c. Fire Department Service Charge**, \$2,500 is changed to \$15,000.
3. In part **j. Money Orders And Counterfeit Paper Currency**, \$1,000 is changed to \$25,000.
4. In part **k. Forgery And Alteration**, sub-paragraph **(4)** is deleted and replaced by the following:
  - (4)** The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$150,000, unless a higher Limit of Insurance is shown in the Declarations.
5. Part **I. Increased Cost Of Construction**, is deleted and replaced by the following:
  - I. Ordinance Or Law Coverage**
    - (1)** This Additional Coverage applies only to buildings on a replacement cost basis.
    - (2)** In the event of damage by a Covered Cause of Loss to a building that is Covered Property we will pay for the following kinds of loss caused by enforcement of a building, zoning or land use ordinance or law subject to the limitations stated in **(3)** through **(9)** of this Additional Coverage:
      - (a)** The loss in value of the undamaged portion of the building;
      - (b)** The cost to demolish and remove debris of undamaged parts of the building; or
      - (c)** The increased cost to repair or reconstruct damaged portions or to reconstruct or remodel undamaged portions of the building, whether or not demolition is required.
    - (3)** The ordinance or law referred to in **(2)** of this Additional Coverage is an ordinance or law that requires the demolition of parts of the same property not damaged by a Covered Cause of Loss, or that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises, and is in force at the time of loss.
    - (4)** Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
      - (a)** You were required to comply with before the loss, even when the building was undamaged; and
      - (b)** You failed to comply with.
    - (5)** Under this Additional Coverage, we will not pay for any costs associated with the enforcement of an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants" or



due to the presence, proliferation, spread or any activity of “fungi”, wet rot or dry rot.

- (6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is:
  - (a) For loss in value of the undamaged portion of the building, the Limit of Insurance shown in the Declarations as applicable to the covered Building property.
  - (b) For the combined cost of demolition and increased cost of construction, \$50,000, unless a higher Limit of Insurance for Ordinance or Law Coverage is shown in the Schedule. This amount is additional insurance.
- (7) With respect to this Additional Coverage:
  - (a) For loss in value of the undamaged portion of the building, we will not pay more than the lesser of:
    - (i) The amount you actually spend to repair, rebuild, or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured, if the property is repaired or replaced on the same or another premises; or
    - (ii) The actual cash value of the building at the time of loss if the property is not repaired or replaced.
  - (b) For demolition cost, we will not pay more than the amount you actually spend to demolish and clear the site of the described premises.
  - (c) With respect to the Increased Cost of Construction:
    - (i) We will not pay for the Increased Cost of Construction:
      - i. Until the property is actually repaired or replaced, at the same or another premises, and
      - ii. Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
    - (ii) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.
    - (iii) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.
- (8) This Additional Coverage is not subject to the terms of the Ordinance or Law Exclusion, to the extent that such Exclusion would conflict with the provisions of this Additional Coverage.
- (9) The costs addressed in **E. Property Loss Condition**, sub-paragraph 5. **Loss Payment**, in this Coverage Form do not include the increased cost attributable to enforcement of an ordinance or law. The amount payable under this Additional Coverage, as stated in **F.** of this endorsement, is not subject to such limitation.

6. In part **m. Business Income From Dependent Properties**, sub-paragraph (1), \$5,000 is replaced by \$10,000.

7. Part **o. Fire Extinguisher Systems Recharge Expense**, sub-part (3) is deleted and replaced with the following:

- (3) The most we will pay under this Additional Coverage in any one occurrence is \$15,000 for recharge expense, \$15,000 for clean-up expenses, and \$15,000 for

Loss of Business Income and necessary Extra Expense incurred. The amounts payable under this Additional Coverage are additional insurance.

**8. The following **Additional Coverages** are added:**

**a. Arson And Theft Reward**

We will pay a reward for information which leads to an arson conviction in connection with a fire or explosion loss covered under this policy or to a theft conviction in connection with a covered theft loss. Regardless of the number of persons who provide such information, the most we will pay for rewards in any one loss is \$25,000. But we will not pay more for a reward than we paid for the loss. The amount payable under this Additional Coverage is additional insurance. This additional coverage is not available in New York.

**b. Sewer Backup**

We will pay for direct physical loss of or damage to Covered Property and loss of Business Income you sustain and necessary Extra Expense you incur at the premises described in the Declarations caused by or resulting from:

- (1) Water that backs up from a sewer or drain; or
- (2) Water under the ground surface pressing on, or flowing or seeping through:
  - (i) Foundations, walls, floors or paved surfaces;
  - (ii) Basements, whether paved or not; or
  - (iii) Doors, windows or other openings.

This Additional Coverage is not subject to the terms of Exclusion **B.1.g**, to the extent that such Exclusion would conflict with the provisions of this Additional Coverage.

The most we will pay for loss or damage for each described premises under this Additional Coverage during each separate 12 month period of this policy is:

- (1) For the sum of all direct physical loss or damage to Covered Property: \$50,000, unless a higher Limit of Insurance for Sewer Backup Direct Damage Coverage is shown in the Schedule. This Additional Coverage is included within the Limit of Insurance applicable to the premises where the damage occurs.
- (2) For loss of Business Income and necessary Extra Expense incurred: The actual loss sustained in any one policy year, regardless of the number of occurrences that cause or result in loss or damage to covered property, subject to the Sewer Backup Business Income and Extra Expense Annual Aggregate Limit of Insurance. That Limit is \$5,000 unless a higher Limit of Insurance is shown in the declarations for this coverage. There shall be no coverage and no damages paid for Sewer Backup Business Income damages or losses incurred within the lesser of either the first 72 hours of Utility Service Interruption or the period shown in paragraph **H.9.a.(1)(a)** "Period of Restoration".

**c. Theft Damage To Buildings**

If you are a tenant and no Building Limit of Insurance is shown in the Declarations, we will pay for damage at the described premises caused directly by theft or attempted theft to:

- (1) That part of any building containing Covered Property; or
- (2) Equipment within the building used to maintain or service the building if you are legally responsible for the damage.

But we will not pay under this Additional Coverage for damage caused by fire, or to glass or to lettering or art work on glass.

This Additional Coverage is included within the Limit of Insurance applicable to Business Personal Property at the premises where the damage occurs.

**d. Temporary Relocation Of Property**

We will pay for direct physical loss of or damage to Covered Property caused by or resulting from a Covered Cause of Loss at another location where it is in storage for up to 120 days while the described premises is being repaired, renovated or remodeled. This 120-day period includes any coverage period provided under the Preservation of Property Additional Coverage. This Additional Coverage is included within the Limit of Insurance applicable to the premises from which the property was moved.

**e. Brands And Labels**

If branded or labeled merchandise that is Covered Personal Property is damaged by a Covered Cause of Loss and we take all or any part of the damaged merchandise at an agreed or appraised value as part of the loss settlement, we will pay your expense to:

- (1) Stamp "salvage" on the merchandise or its containers, if the stamp will not physically damage the merchandise; or
- (2) Remove the brands or labels if doing so will not physically damage the merchandise or its containers. You must relabel the merchandise or its containers to comply with the law.

This Additional Coverage is included within the Limit of Insurance applicable to Business Personal Property at the premises where the damage occurs.

**f. Fine Arts**

We will pay up to \$25,000 as an additional amount of insurance at each described premises to cover direct physical loss of or damage to Fine Arts owned by you.

As used in this Coverage, Fine Arts means paintings, etchings, pictures, tapestries, art glass windows, valuable rugs, statuary, marbles, bronzes, antique silver, manuscripts, porcelains, rare glass, bric-a-brac, and similar property, of rarity, historical value or artistic merit.

The value of Fine Arts will be the Market Value at the time of loss or damage. Our payment for loss of or damage to property of others will only be for the account of the owner of the property.

**g. Property Of Others**

We will pay up to \$25,000 as an additional amount of insurance at each described premises to cover direct physical loss of or damage by a covered cause of loss to Personal Property of Others that is in your care, custody and control regardless of the amount for which you are legally liable on a replacement cost basis. Part 5.d. (3) (b), in Paragraph E. **Property Loss Conditions**, does not apply to this coverage extension.

**h. Lost Key Consequential Loss**

We will pay up to \$1,000 in any one occurrence for:

- (1) The actual cost of keys, and
- (2) Adjustment of locks to accept new keys; or
- (3) If required, new locks including cost of their installation

if necessary because a master or grand master key is lost or damaged from a Covered Cause of Loss.

**i. Utility Service Interruption**

We will pay for loss or damage to Covered Property and loss of Business Income you sustain and necessary Extra Expense you incur at the described premises caused by the interruption of service to the described premises. The interruption

must result from direct physical loss or damage by a Covered Cause of Loss to a Utility Service property described below, all of which are considered a Utility Service Interruption:

- (1) Water Supply Services, meaning the following types of property supplying water to the described premises:
  - (a) Pumping stations; or
  - (b) Water mains.
- (2) Communications Supply Services, meaning property supplying communication services, including telephone, radio, microwave or television services to the described premises, such as:
  - (a) Communication transmission lines, including fiberoptic transmission lines and overhead transmission lines;
  - (b) Coaxial cables; and
  - (c) Microwave radio relays, except satellites.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.
- (3) Power Supply Services meaning the following types of property supplying electricity, steam, or gas to the described premises:
  - (a) Utility generating plants;
  - (b) Switching stations;
  - (c) Substations;
  - (d) Transformers; and
  - (e) Transmission lines, including overhead transmission lines.

The most we will pay for loss or damage in any one occurrence under this Additional Coverage is as follows:

- (1) For direct physical loss: For each occurrence up to a limit of \$100,000.
- (2) For loss of Business Income and necessary Extra Expense incurred: For each occurrence, actual loss sustained within 30 days following the date of direct physical loss or damage to the utility services property described above up to a limit of \$100,000, provided however that there shall be no coverage and no damages paid for Business Income damages or losses incurred within the lesser of either the first 72 hours of Utility Service Interruption or the period shown in paragraph **H.9.a.(1)(a)** "Period of Restoration".

Coverage under this endorsement does not apply to Business Income loss or Extra Expense related to interruption in utility service which causes loss or damage to "electronic data", including destruction or corruption of "electronic data".

This Additional Coverage is not subject to the terms of Paragraph **B. Exclusions**, sub-paragraph **1.e. Utility Services**, to the extent that such exclusion would conflict with the provisions of the Additional Coverage.

**j. Computer Fraud And Funds Transfer Fraud**

- (1) We will pay for loss of and damage to "money", "securities" and "other property" following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the described premises, bank or savings institution:
  - (a) To a person (other than a messenger) outside those premises; or
  - (b) To a place outside those premises.
- (2) The most we will pay for loss of "money" and "securities" resulting directly

from a “fraudulent instruction” directing a financial institution to transfer, pay or delivery “money” and “securities” from your “transfer account” is \$5,000. This limit is in addition to any limit shown in the schedule of any Computer Fraud And Funds Transfer Fraud endorsement attached to this policy.

- (3) With respect to coverage provided by this endorsement, Paragraph **A.4. Limitations** is amended as follows:  
Subparagraph **a.(4)** does not apply.
- (4) With respect to coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:  
Paragraph **2.g. False Pretense** does not apply.
- (5) The following exclusion is added:  
We will not pay for loss or damage caused by or resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

**C. Paragraph A., Coverage, sub-paragraph 6. Coverage Extensions, is changed as follows:**

**1. Part a. Newly Acquired or Constructed Property is changed as follows:**

- (a) The final sentence of part **(1) Buildings** is replaced with the following:

The most we will pay for loss or damage at each building under this Extension is 25% of the highest Limit of Insurance shown in the Declarations for Buildings at any one premises, but not more than \$750,000.

- (b) The final sentence of part **(2) Business Personal Property** is replaced with the following:

The most we will pay for loss or damage at each premises under this Extension is 100% of the highest Limit of Insurance shown in the Declarations for Business Personal Property at any one premises, but not more than \$750,000.

- (c) Item **(4) Business Income and Extra Expense** is added as follows:

**(4) Business Income and Extra Expense**

You may extend your Business Income and Extra Expense Coverage to apply at any premises covered under **1. or 2.** above. Insurance under this Extension for each newly acquired or constructed property will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire or begin to construct the property;  
or
- (c) You report values to us.

- 2. The final sentence of part **b. Personal Property Off-premises**, is replaced by the following:

The most we will pay for loss or damage under this Extension is \$50,000, unless a higher Limit of Insurance for Personal Property Off-premises is shown in the Schedule.

- 3. Part **c. Outdoor Property**, is replaced by the following:

**c. Outdoor Property**

- (1) You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), trees, shrubs and plants, including debris removal expense, caused by or

resulting from any of the following causes of loss:

- (a) Fire;
- (b) Lightning;
- (c) Explosion;
- (d) Riot or Civil Commotion; or
- (e) Aircraft.

The most we will pay for loss or damage under this Extension is \$15,000, unless a higher Limit of Insurance for Outdoor Property is shown in the Declarations, but not more than \$2,500 for any one tree, shrub or plant.

4. In the final sentence of part **d. Personal Effects**, \$2,500 is changed to \$25,000. Sub-part (2) of part **d.** is deleted.
5. In sub-part (3) of part **e. Valuable Papers And Records**, the \$10,000 limit at described premises is changed to \$50,000. The limit for "Valuable papers and records" not at the described premises is changed from \$5,000 to \$25,000.
6. In sub-part (2) of part **f. Accounts Receivable**, the \$10,000 limit at described premises is changed to \$50,000. The limit for accounts receivable not at the described premises is changed from \$5,000 to \$25,000.
7. The following **Coverage Extensions** are added:
  - a. **Other Buildings And Structures**
    - (1) If you are a tenant and no Building Limit of Insurance is shown in the Declarations, you may extend the insurance that applies to Business Personal Property to apply to garages, storage buildings or other buildings or structures on the described premises which are:
      - (a) Not otherwise insured;
      - (b) Owned by you or for which you are legally liable; and
      - (c) Used in your business.
    - (2) If a Building Limit of Insurance is shown in the Declarations and other buildings as described in paragraph (1) are damaged in the same occurrence as your main building(s), we will extend the insurance that applies to Building to cover loss or damage at those other buildings.
    - (3) The most we will pay for loss or damage under this Extension is:
      - (a) Under sub-part (1), 10% of the Business Personal Property Limit of Insurance; or
      - (b) Under sub-part (2), 10% of the Building Limit of Insurance, applicable at the premises where the damage occurs, but not more than \$50,000 for any one occurrence.
  - b. **Claims Expenses**  
 When there is a loss to Covered Property from a Covered Cause of Loss, you may extend the insurance provided by this policy to apply to your expense to prepare a statement of loss, an inventory of damaged property, or other exhibits required to present your claim. The most we will pay for all such expenses in any one occurrence is \$10,000.
- D. Sub-paragraph 2. of Paragraph **C. Limits Of Insurance**, is deleted.
- E. Sub-paragraph 3. of Paragraph **C. Limits Of Insurance**, is amended to add the following:
  - g. Arson And Theft Reward;
  - h. Fine Arts;
  - i. Property Of Others;

j. Lost Key Consequential Loss.

F. Paragraph **E. Property Loss Condition** is changed as follows

1. Paragraph **E. Property Loss Condition**, sub-paragraph **5. Loss Payment**, is changed as follows:

**Replacement Cost**

Paragraphs (a) and (b) of Part **d.(1)** are replaced by the following:

- (a) The Limit of Insurance under this policy that applies to the lost or damaged property; or
- (b) The cost to replace, on the same premises, the lost or damaged property with other property:
  - (i) Of comparable material of like kind and quality; and
  - (ii) Used for the same purpose; or
  - (iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

2. The following is added to Paragraph **E. Property Loss Conditions**, sub-paragraph **5. Loss Payment**:

**Selling Price for Stock**

We will determine the value of Covered Property that is "stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.

G. Section **G. Optional Coverages**, is changed as follows:

1. The first paragraph of Section **G. Optional Coverages** is replaced by the following: If shown as applicable in the Declarations, or if a specific limit is shown below, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

2. Paragraph **1. Outdoor Signs**, item **d.** is replaced with the following:

**d.** The most we will pay for loss or damage in any one occurrence is \$15,000 or the Limit of Insurance for Outdoor Signs shown in the Declarations.

3. Paragraph **2. Money and Securities**, item **c.** is replaced with the following:

**c.** The most we will pay for loss in any one occurrence is:

- (1) \$50,000 or the limit shown in the declarations for Inside the Premises for "money" and "securities" while:
  - (a) In or on the described premises; or
  - (b) Within a bank or savings institution; and
- (2) \$25,000 or the limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

4. Paragraph **3. Employee Dishonesty**, item **c.** is replaced with the following and item **k.** is added as below:

**c.** The most we will pay for loss or damage in any one occurrence is \$150,000 or the Limit of Insurance for Employee Dishonesty shown in the Declarations.

**k.** ERISA – Employee Dishonesty

We shall include as a Named Insured under the Employee Dishonesty Coverage any:

- (1) Employee Welfare Benefit Plan, and
- (2) Employee Pension Benefit Plan,

owned, controlled or operated by you which you provide solely for the benefit of your employees (hereinafter collectively called "Plan").

This insurance does not increase the Limit of Insurance under the Employee Dishonesty Optional Coverage. ERISA - Employee Dishonesty does not provide fiduciary liability insurance.

The following provisions shall apply to ERISA - Employee Dishonesty Coverage.

- (1) Employee as used in ERISA - Employee Dishonesty shall also include any natural person who is:
  - (a) a trustee, an officer, employee, administrator, volunteer, or a manager, except an administrator or a manager who is an independent contractor, of any Plan insured under this insurance, and
  - (b) Your director or trustee other than a fiduciary while that person is handling funds or other property of any Plan insured under this insurance.
- (2) If any Plan is insured jointly with any other entity under this insurance, you or the Plan Administrator must select a Limit of Insurance for the Employee Dishonesty Coverage Form that is sufficient to provide an amount of insurance for each Plan that is at least equal to that required if each Plan were separately insured.
- (3) If the Insured first named in the Declarations is an entity other than a Plan, any payment we make to that Insured for loss sustained by any Plan will be held by that Insured for the use and benefit of the Plan(s) sustaining the loss.
- (4) If two or more Plans are insured under this insurance, any payment we make for loss:
  - (a) sustained by two or more Plans; or
  - (b) of commingled funds or other property of two or more Plans that arises out of one "occurrence," is to be shared by each Plan sustaining loss in the proportion that the amount of insurance required for each such Plan under ERISA provisions bears to the total of those amounts.
- (5) The Deductible provisions of the Employee Dishonesty Coverage Form does not apply to loss sustained by any Plan subject to ERISA which is insured under this insurance.
- (6) The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Employee Dishonesty.

Paragraph **B. Exclusions**, sub-paragraph **2.f. Dishonesty**, does not apply to coverage afforded by this additional coverage.



**II. SECTION II – LIABILITY** is changed as follows:

**A. TENANTS LIABILITY**

1. The first sentence of the final paragraph of Paragraph **B. Exclusions, 1. Applicable To Business Liability Coverage**, is deleted and replaced by the following:

With respect to premises which are rented to you or temporarily occupied by you with the permission of the owner, Exclusions **c., d., e., g., h., k., l., m., n.** and **o.** do not apply to "property damage".

2. With respect to this coverage sub-paragraph **3.** under Paragraph **D. Liability And Medical Expenses Limits Of Insurance**, is deleted and replaced by the following:

The most we will pay under Business Liability Coverage for the sum of all damages because of all "property damage" arising out of any one "occurrence" to premises rented to you or temporarily occupied by you with the permission of the owner is \$300,000, unless a higher Tenants Liability Limit of Insurance is shown in the Declarations.

3. The Aggregate Limit under Paragraph **D. Liability And Medical Expenses Limits Of Insurance**, sub-paragraph **4. Aggregate Limits**, part **b.**, does not apply to Tenants Liability. "Tenants Liability" is defined as "bodily injury", "property damage", or "personal and advertising injury" arising out of the rental of any premises by an insured from a party who is not an insured. All reference to "Damage To Premises Rented To You" limit is deleted.

**B. Fellow Employee**

Paragraph **C. Who Is An Insured** of **SECTION II – LIABILITY** is changed as follows:

Under **C.2.a.(1)**, the exceptions in parts **(a)** and **(b)** for "bodily injury" or "personal and advertising injury" 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", or to your other "volunteer workers", or to the spouse, child, parent, brother or sister of that co-"employee", apply only to "personal and advertising injury".

**C. The following is added to Paragraph C. Who Is An Insured:**

**3. Newly Acquired Organizations**

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 120th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Business Liability Coverage does not apply to:
  - (1) "Bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - (2) "Personal injury and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Operator Of Mobile Equipment**

With respect to "mobile equipment" you own, lease or rent, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if

no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**5. Operator Of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

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.

**D. Amendment - Aggregate Limits Of Insurance (Per Project Or Per Location)**

The Aggregate Limits in Paragraph **D.4. of Liability And Medical Expenses Limits Of Insurance** apply separately to:

- 1. Each of your projects away from premises owned by or rented to you; and
- 2. Each "location" arising from all "occurrences" which can be attributed only to operations at a single "location."

For the purposes of this endorsement, the following is added to Paragraph **F. Liability and Medical Expense Definitions**:

"Location" means described premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

**E. Expanded Bodily Injury**

Paragraph **F. Liability And Medical Expenses Definitions**, sub-paragraph **3.** is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including disability, shock, mental anguish, mental injury or death resulting from any of these at any time.

All other terms and conditions remain unchanged.

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

**UNINTENTIONAL ERRORS AND OMISSIONS**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to **SECTION III – COMMON POLICY CONDITIONS (APPLICABLE TO SECTION I – PROPERTY and SECTION II – LIABILITY)**:

**Unintentional Errors And Omissions**

Failure of the insured to disclose all hazards existing as of the inception or renewal dates of this policy, or errors or omissions in applications, declarations, schedules, endorsements or other documents shall not prejudice the insurer with respect to the coverage afforded by this policy, as long as such failures, errors, or omissions are unintentional.

You must report to us any error or omission in the information you have given us as soon as practicable after the error is discovered. We have the right to collect any additional premium due based upon the corrected information.

All other terms and conditions remain unchanged.

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

**BLANKET ADDITIONAL INSURED – CERTIFICATE HOLDER**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

Paragraph **C., Who Is An Insured** of **SECTION II - LIABILITY** is changed to include as an insured any person or organization named as an additional insured on a certificate of insurance issued by us or our agent, but only to the extent of their liability arising out of your operations while providing service for the additional insured.

All other terms and conditions of this policy shall remain unchanged.

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

**BLANKET ADDITIONAL INSURED – WRITTEN CONTRACT**  
(INCLUDING PRODUCTS-COMPLETED OPERATIONS HAZARD)

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

**A. SECTION II – LIABILITY** is amended as follows:

1. Paragraph **C. – Who Is An Insured**, is amended to include, as an additional insured, any person(s) or organization(s) for whom a written contract or agreement between you and such person(s) or organization(s) exists and requires such person(s) or organizations(s) to be added as an additional insured to your policy, but only for liability arising out of "bodily injury," "property damage," or "personal and advertising injury". This endorsement applies only if the written contract or agreement is:
  - a. Currently in effect or becomes effective during the term of this policy; and
  - b. Executed prior to the "bodily injury", "property damage", or "personal and advertising injury".
2. The insurance provided to the additional insured by this endorsement applies as follows:
  - a. The person(s) or organization(s) is an additional insured but only for liability arising, in whole or in part, out of your negligent acts or omissions at or from:
    - (1) Premises you own, rent, lease, or occupy, or
    - (2) Your ongoing operations performed for the additional insured at the job indicated by written contract or written agreement; or
    - (3) In connection with "your work" and included within the "products-completed operations hazard", but only if:
      - (a) The written contract or written agreement requires you to provide such coverage to the additional insured; and
      - (b) This policy provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
  - b. If the additional insured is an architect, engineer, or surveyor, this insurance does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering of or failure to render any professional services including:
    - (1) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
    - (2) Supervisory, inspection, or engineering services.

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", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services.
  - c. If the additional insured is a lessor of equipment, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
  - d. If the additional insured is a state or governmental agency or political subdivision and has issued a permit in connection with premises you own, rent, or control, this insurance applies only with respect to the following hazards for which the state or political subdivision has issued such permit:
    - (1) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decoration and similar exposures;
    - (2) The construction, erection, or removal of elevators; or
    - (3) The ownership, maintenance, or use of any elevators covered by this insurance.
  - e. If the additional insured is a state or governmental agency or political subdivision that has issued a permit or authorization with respect to operations performed by you or on your behalf, then this insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality.

- f.** If the additional insured is a manager or lessor of insured premises, that person or organization is an additional insured only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.  
This insurance does not apply to:
- (1)** Any "occurrence" that takes place after you cease to be a tenant in that premises.
  - (2)** Structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor of insured premises.
- g.** If the additional insured is grantor of franchise, that person(s) or organization(s) is only an additional insured with respect to liability as grantor of a franchise to you.
- h.** If the additional insured is an owner or other interest from whom land has been leased, that person(s) or organization(s) is only an additional insured with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you.  
This insurance does not apply to:
- (1)** Any "occurrence" that takes place after you cease to lease that land;
  - (2)** Structural alterations, new construction or demolition operations performed by or on behalf of the owner or other interest from whom land has been leased.
- i.** If the additional insured is a mortgagee, assignee, or receiver, that person(s) or organization(s) is only an additional insured with respect to their liability as such and arising out of the ownership, maintenance or use of the premises by you.  
This insurance does not apply to structural alterations, new construction or demolition operations performed by or for that mortgagee, assignee, or receiver.
- j.** If the additional insured is a controlling interest, that person(s) or organization(s) is an additional insured but only for their liability arising out of:
- (1)** Their financial control of you; or
  - (2)** Premises they own, maintain or control while you lease or occupy those premises.
- This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that controlling interest.
- k.** If the additional insured is a vendor, that person(s) or organization(s) is only an additional insured with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, but only if this policy provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard."
- (1)** This insurance afforded to the vendor does not apply to:
- (a)** "Bodily injury" or "property damage" for which the vendor 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 that the vendor would have in the absence of the contract or agreement;
  - (b)** Any express warranty unauthorized by you;
  - (c)** Any physical or chemical change in the product made intentionally by the vendor;
  - (d)** Repackaging, except when unpacked under the instructions of the manufacture for the sole purpose of inspection, demonstration, testing or the substitution of parts and then repackaged in the original container;
  - (e)** Any failure, by the vendor, to make inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of "your products";
  - (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of "your products";
  - (g)** Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
  - (h)** "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (i)** The exceptions contained in Sub-Paragraphs **(d)** or **(f)**; or
    - (ii)** Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of "your products".

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- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container entering into, accompanying or containing such products.
- I. Paragraph D. – **Liability And Medical Expenses Limits of Insurance** is amended to include:  
The most we will pay on behalf of the additional insured is the amount of insurance:
  - (1) Required by written contract or agreement; or
  - (2) Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.
- 3. This endorsement shall not increase the Limits of Insurance shown in the Declarations.

### B. SECTION III – COMMON POLICY CONDITIONS

- 1. Paragraph H. **Other Insurance**, subparagraph 2. is amended to include:  
Regardless of whether other insurance is available to an additional insured on a primary basis, this insurance will be primary and noncontributory if a written contract between you and the additional insured specifically requires that this insurance be primary.

All other terms and conditions of this policy shall remain unchanged.

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

## **EQUIPMENT BREAKDOWN COVERAGE**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

- A.** Paragraph **G., Optional Coverages**, item **4. Equipment Breakdown Protection Coverage** in **SECTION I - PROPERTY** is deleted.
- B.** The following are added to Paragraph **A.3. Covered Causes of Loss** in **SECTION I - PROPERTY**:

#### **Additional Coverage - Equipment Breakdown**

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

- 1.** We will pay for direct physical damage to Covered Property that is the direct result of an "accident". As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment". The event must be one of the following:
  - a.** mechanical breakdown, including rupture or bursting caused by centrifugal force;
  - b.** artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
  - c.** explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
  - d.** loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
  - e.** loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
- 2.** The following coverages also apply to the direct result of an "accident". These coverages do not provide additional amounts of insurance.

**a. Expediting Expenses**

With respect to your damaged Covered Property, we will pay, up to \$100,000 for the reasonable extra cost to:

- (1)** make temporary repairs; and
- (2)** expedite permanent repairs or permanent replacement.

**b. Hazardous Substances**

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance". This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in **2.c. (1)(b)** below. As used in this



coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur is \$100,000.

**c. Spoilage**

(1) We will pay:

- (a) for physical damage to "perishable goods" due to spoilage;
- (b) for physical damage to "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c) any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

(2) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident", less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss, damage or expense under this coverage is \$100,000.

**d. Computer Equipment**

We will pay for loss, damage or expense caused by or resulting from an "accident" to "computers".

The most we will pay for loss or damage under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$100,000. Computers used primarily to control or operate "covered equipment" are not subject to this limit.

**e. Data Restoration**

We will pay for your reasonable and necessary cost to research, replace and restore the lost information on "electronic data".

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur is \$100,000.

**f. Service Interruption**

(1) Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by an "accident" to equipment that is owned by a utility, landlord or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

- (2) Unless otherwise shown in a Schedule, Service Interruption coverage will not apply unless the failure or disruption of service exceeds 24 hours immediately following the “accident” or the period shown in paragraph **H.9.a.(1)(a)** “Period of Restoration,” whichever is less.
- (3) The most we will pay for loss, damage or expense under this coverage is the limit that applies to Business Income, Extra Expense or Spoilage, except that if a limit is shown in a Schedule for Service Interruption, that limit will apply to Business Income and Extra Expense loss under this coverage

**C. The following is added to Paragraph B. Exclusions in SECTION I – PROPERTY:**

**Equipment Breakdown Exclusions**

All exclusions in the Businessowners Coverage Form apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

**1. The exclusions are modified as follows:**

**a. The following is added to Exclusion B.1.g in SECTION I - PROPERTY.:**

However, if electrical “covered equipment” requires drying out because of Water as described in **g.(1)** through **g.(3)** above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

**b. As respects this endorsement only, the next to the last paragraph in Exclusion B.1.h. is deleted and replaced with the following:**

However, if excluded loss or damage, as described in Paragraph **(1)** above results in an “accident”, we will pay only for the loss or damage caused by such “accident”.

**c. As respects this endorsement only, the last paragraph of Exclusion B.2.l. is deleted and replaced with the following:**

But if an excluded cause of loss that is listed in **2.l.(1)** through **(7)** above results in an “accident”, we will pay for the loss, damage or expense caused by that “accident”.

**d. As respects this endorsement only, the following is added to Exclusions B.2.m. and B.2.n:**

We will also pay for direct physical loss or damage caused by an “accident” to “covered equipment”.

**2. We will not pay under this endorsement for loss, damage or expense caused by or resulting from:**

- a.** your failure to use all reasonable means to protect Covered Property from damage following an “accident”;
- b.** any defect, programming error, programming limitation, computer virus, malicious code, loss of data, loss of access, loss of use, loss of functionality or other condition within or involving “electronic media and records” of any kind. But if an “accident” results, we will pay for the resulting loss, damage or expense; or
- c.** any of the following tests:

## BUSINESSOWNERS

a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment.

3. With respect to Service Interruption coverage, we will also not pay for:  
  
an "accident" caused by or resulting from: fire; lightning; windstorm or hail; explosion (except as specifically provided in **A.1.c.** above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.
4. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for:
  - a. loss caused by your failure to use due diligence and dispatch and all reasonable means to resume business; or
  - b. any increase in loss resulting from an agreement between you and your customer or supplier.
5. We will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident":  
  
Any mold, fungus, mildew or yeast, including any spores or toxins produced by or emanating from such mold, fungus, mildew or yeast. This includes, but is not limited to, costs arising from clean up, removal, or abatement of such mold, fungus, mildew or yeast, spores or toxins. However, this exclusion does not apply to spoilage of personal property that is "perishable goods", to the extent that spoilage is covered under Spoilage coverage.
6. We will not pay under this endorsement for any loss or damage to animals.

## D. DEDUCTIBLES

The deductible in the Declarations applies.

## E. CONDITIONS

The following conditions are in addition to the Conditions in the Businessowners Coverage Form.

### 1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment". This can be done by mailing or delivering a written notice of suspension to:

- a. your last known address; or
- b. the address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment". If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

### 2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

**3. Environmental, Safety and Efficiency Improvements**

If “covered equipment” requires replacement due to an “accident”, we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to repair or replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

**F. The following are added to H. Property Definitions:****1. “Boilers and vessels” means:**

- a.** Any boiler, including attached steam, condensate and feedwater piping; and
- b.** Any fired or unfired pressure vessel subject to vacuum or internal pressure other than the static pressure of its contents.

This term does not appear elsewhere in this endorsement, but may appear in a Schedule.

**2. “Covered equipment”****a. “Covered equipment” means, Covered Property:**

- (1)** that generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
- (2)** which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

**b. None of the following is “covered equipment”:**

- (1)** structure, foundation, cabinet, compartment or air supported structure or building;
- (2)** insulating or refractory material;
- (3)** sewer piping, underground vessels or piping, or piping forming a part of a sprinkler system;
- (4)** water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
- (5)** “vehicle” or any equipment mounted on a “vehicle”;
- (6)** satellite, spacecraft or any equipment mounted on a satellite or spacecraft;
- (7)** dragline, excavation or construction equipment; or
- (8)** equipment manufactured by you for sale.

**3. “Hazardous substance” means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.**

## **BUSINESSOWNERS**

4. "One accident" means: If an initial "accident" causes other "accidents", all will be considered "one accident". All "accidents" that are the result of the same event will be considered "one accident".
5. "Perishable goods" means personal property maintained under controlled conditions for its preservation and susceptible to loss or damage if the controlled conditions change.
6. "Production machinery" means any machine or apparatus that processes or produces a product intended for eventual sale. This includes all component parts of such machine or apparatus.

This term does not appear elsewhere in this endorsement.

7. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle".

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance in the Declarations Coverage provided under this endorsement does not provide an additional amount of insurance.

All other terms and conditions of this policy shall remain unchanged.

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

## **TRADE OR ECONOMIC SANCTIONS ENDORSEMENT**

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims.

All other terms and conditions remain unchanged.

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

**TOTAL LEAD EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART  
BUSINESSOWNERS COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
GARAGE COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
MOTOR CARRIER COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

This insurance does not apply to any actual, alleged, or threatened, loss or damage of any kind whether directly or indirectly arising out of, resulting from, or related to, lead in any form, regardless of its purpose, usage, or condition, including but not limited to:

1. Any "bodily injury", "property damage", medical expense, or "personal and advertising injury";
2. Any cost or expense relating to the investigation or defense of any claim, loss, damage, "suit" or any other proceeding. We do not have any duty to defend any insured against anyone seeking damages;
3. Any cost or expense relating to any request, demand, or order, statutory or regulatory requirement, that any insured or others test for, monitor, clean up, remediate, encapsulate, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of lead; or
4. Any fines, penalties, or assessments of any kind.

This exclusion applies whether the loss or damage was existing prior to or occurring after the effective date of this policy.

All other terms and conditions of the policy remain unchanged.

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

**TOTAL ASBESTOS EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART  
BUSINESSOWNERS COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
GARAGE COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
MOTOR CARRIER COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

This insurance does not apply to any actual, alleged, or threatened, loss or damage of any kind whether directly or indirectly arising out of, resulting from, or related to, asbestos in any form, regardless of its purpose, usage, or condition, including but not limited to:

1. Any "bodily injury", "property damage", medical expense, or "personal and advertising injury";
2. Any cost or expense relating to the investigation or defense of any claim, loss, damage, "suit" or any other proceeding. We do not have any duty to defend any insured against anyone seeking damages;
3. Any cost or expense relating to any request, demand, or order, statutory or regulatory requirement, that any insured or others test for, monitor, clean up, remediate, encapsulate, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess, the effects of asbestos; or
4. Any fines, penalties, or assessments of any kind.

This exclusion applies whether the loss or damage was existing prior to or occurring after the effective date of this policy.

All other terms and conditions of the policy remain unchanged.



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

## TEXAS CHANGES

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

**A. Section I – Property** is amended as follows:

**1. Paragraph B. Exclusions** is amended as follows:

**a. Paragraph 2.I.(4)** is replaced by the following:

**(4)** Settling, cracking, shrinking, expansion or contraction;

**b. The following is added to Paragraph 2.I. Other Types Of Loss:**

**(8)** Release, discharge or dispersal of contaminants or pollutants.

**2. Paragraph E.2. Appraisal Property Loss Condition** is replaced by the following:

**2. Appraisal**

**a.** If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand. The two appraisers will select an umpire. If they cannot agree within 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. Each appraiser will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding as to the amount of loss. Each party will:

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

**b. If there is an appraisal:**

- (1)** You will retain your right to bring a legal action against us, subject to the provisions of Paragraph E.4. Legal Action Against Us Property Loss Condition; and

**(2)** We will still retain our right to deny the claim.

**3. Paragraph E.3. Duties In The Event Of Loss Or Damage Property Loss Condition** is amended as follows:

**a. Paragraph a.(2)** is replaced by the following:

**(2)** Give us prompt notice of the loss or damage. Include a description of the property involved. However, with respect to loss or damage in the state of Texas caused by windstorm or hail in the catastrophe area as defined by the Texas Insurance Code, any claim must be filed with us not later than one year after the date of the loss or damage that is the subject of the claim, except that a claim may be filed after the first anniversary of the date of the loss or damage for good cause shown by the person filing the claim.

**b. Paragraph a.(7)** is replaced by the following:

**(7)** Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 91 days after our request. We will supply you with the necessary forms.

**4. Paragraph E.4. Legal Action Against Us Property Loss Condition** is replaced by the following, except as provided in 7. below:

**4. Legal Action Against Us**

**a.** Except as provided in Paragraph b., no one may bring a legal action against us under this insurance unless:

- (1)** There has been full compliance with all of the terms of this insurance; and
- (2)** The action is brought within two years and one day from the date the cause of action first accrues. A cause of action accrues on the date of the initial breach of our contractual duties as alleged in the action.

b. With respect to loss or damage in the state of Texas caused by windstorm or hail in the catastrophe area as defined by the Texas Insurance Code, no one may bring a legal action against us under this insurance, unless:

- (1) There has been full compliance with all of the terms of this insurance; and
- (2) The action is brought within the earlier of the following:
  - (a) Two years and one day from the date we accept or reject the claim; or
  - (b) Three years and one day from the date of the loss or damage that is the subject of the claim.

This Paragraph 4. does not apply to Paragraph E.3. **Legal Action Against Us** Liability And Medical Expenses General Condition in **Section II – Liability**.

5. Paragraph E.5. **Loss Payment** Property Loss Condition is amended as follows:

a. Paragraph 5.d.(1)(b) is replaced by the following:

- (b) If, at the time of the loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:
  - (i) The actual cash value of the lost or damaged property; or
  - (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property immediately before the loss.

b. The following is added:

**Section 862.053. Policy A Liquidated Demand**

A fire insurance policy, in case of total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. The provisions of this Article shall not apply to personal property.

c. Under Paragraph E.5. **Loss Payment**, the provisions pertaining to notice of our intentions and the time period for payment of claims are replaced by the following:

**(1) Claims Handling**

- (a) Within 15 days after we receive written notice of claim, we will:
  - (i) Acknowledge receipt of the claim. If we do not acknowledge receipt of the claim in writing, we will keep a record of the date, method and content of the acknowledgment;
  - (ii) Begin any investigation of the claim; and
  - (iii) Request a signed, sworn proof of loss, specify the information you must provide and supply you with the necessary forms. We may request more information at a later date, if during the investigation of the claim such additional information is necessary.
- (b) We will notify you in writing as to whether:
  - (i) The claim or part of the claim will be paid;
  - (ii) The claim or part of the claim has been denied, and inform you of the reasons for denial;
  - (iii) More information is necessary; or
  - (iv) We need additional time to reach a decision. If we need additional time, we will inform you of the reasons for such need.

We will provide notification, as described in (b)(i) through (b)(iv) above within:

- (i) 15 business days after we receive the signed, sworn proof of loss and all information we requested; or
- (ii) 30 days after we receive the signed, sworn proof of loss and all information we requested, if we have reason to believe the loss resulted from arson.

If we notified you that we need additional time to reach a decision, we must then either approve or deny the claim within 45 days of such notice.

(2) We will pay for covered loss or damage within five business days after:

(a) We have notified you that payment of the claim or part of the claim will be made and have reached agreement with you on the amount of loss; or

(b) An appraisal award has been made.

However, if payment of the claim or part of the claim is conditioned on your compliance with any terms of this policy, we will make payment within five business days after the date you have complied with such terms.

**(3) Catastrophe Claims**

If a claim results from a weather-related catastrophe or a major natural disaster, the claim handling and claim payment deadlines described in **c.(1)** and **c.(2)** above are extended for an additional 15 days.

Catastrophe or Major Natural Disaster means a weather-related event which:

(a) Is declared a disaster under the Texas Disaster Act of 1975; or

(b) Is determined to be a catastrophe by the Texas Department of Insurance.

(4) The term "business day", as used in the Loss Payment Property Loss Condition, means a day other than Saturday, Sunday or a holiday recognized by the state of Texas.

6. The following is added to Paragraph **F. Property General Conditions**:

**5. Loss To Real Property**

The amount of insurance applicable to loss to real property by fire will be reduced by the amount of such loss. As repairs are made, the amount reduced will be reinstated to the extent of the value of the repairs. The reinstatement will not increase the specified Limits of Insurance.

No other loss insured against in Section **I** – Property will reduce the specified Limits of Insurance.

7. Paragraphs **F.2.d.** and **F.2.f.** of the **Mortgageholders** Property General Condition are replaced by the following:

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:

(1) Pays any premium due under this policy at our request if you have failed to do so;

(2) Submits a signed, sworn proof of loss within 91 days after receiving notice from us of your failure to do so; and

(3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

f. If this policy is cancelled, we will give the mortgageholder named in the Declarations written notice of cancellation.

If we cancel this policy, we will notify the mortgageholder at least:

(1) 14 days before the effective date of cancellation if we cancel for your nonpayment of premium; or

(2) 30 days before the effective date of cancellation if we cancel for any other reason.

If you cancel the policy, we will give the mortgageholder notice of cancellation to be effective on the date stated in the notice. The date of cancellation cannot be before the 10th day after the date we mail the notice.

8. Paragraph **H. Property Definitions** is amended as follows:

Paragraph **9.b.** is replaced by the following:

b. "Period of restoration" does not include any increased period required due to the enforcement of or compliance with any ordinance or law that regulates the construction, use or repair, or requires the tearing down of any property.

The expiration date of this policy will not cut short the "period of restoration".

**B. Section II – Liability** is amended as follows:

1. The following is added to Paragraph **E.2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** Liability And Medical Expenses General Condition and similar conditions in any endorsement attached to this policy:

We will notify the first Named Insured in writing of:

- a. An initial offer to settle a claim made or "suit" brought against the insured under this coverage. The notice will be given not later than the 10th day after the date on which the offer is made.
- b. Any settlement of a claim made or "suit" brought against the insured under this coverage. The notice will be given not later than the 30th day after the date of the settlement.

2. The following provision applies:

With regard to liability for "bodily injury", "property damage" and "personal and advertising injury", unless we are prejudiced by the insured's or your failure to comply with the requirement, no provision of this policy requiring you or any insured to give notice of "occurrence", claim or "suit" or to forward demands, notices, summonses or legal papers in connection with a claim or "suit" will bar coverage under this policy.

**C. Section III – Common Policy Conditions** is amended as follows:

1. Paragraph 2. under **A. Cancellation** is replaced by the following:

2. We may cancel this policy:

- a. By mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least 10 days before the effective date of cancellation.
- b. For the following reasons, if this policy does not provide coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001 or on one- and two-family dwellings:

- (1) If this policy has been in effect for 60 days or less, we may cancel for any reason except that, under the provisions of the Texas Insurance Code, we may not cancel this policy solely because the policyholder is an elected official; or

- (2) If this policy has been in effect for more than 60 days, or if it is a renewal or continuation of a policy issued by us, we may cancel only for one or more of the following reasons:

- (a) Fraud in obtaining coverage;
- (b) Failure to pay premiums when due;
- (c) An increase in hazard within the control of the insured which would produce an increase in rate;
- (d) Loss of our reinsurance covering all or part of the risk covered by the policy; or
- (e) If we have been placed in supervision, conservatorship or receivership and the cancellation is approved or directed by the supervisor, conservator or receiver.

- c. For the following reasons, if this policy provides coverage to a governmental unit, as defined under 28 TEX. ADMIN. CODE, Section 5.7001 or on one- and two-family dwellings:

- (1) If this policy has been in effect for less than 90 days, we may cancel this policy for any reason.

- (2) If this policy has been in effect for 90 days or more, or if it is a renewal or continuation of a policy issued by us, we may cancel this policy only for the following reasons:

- (a) If the first Named Insured does not pay the premium or any portion of the premium when due;
- (b) If the Texas Department of Insurance determines that continuation of this policy would result in violation of the Texas Insurance Code or any other law governing the business of insurance in Texas;
- (c) If the Named Insured submits a fraudulent claim; or
- (d) If there is an increase in the hazard within the control of the Named Insured which would produce an increase in rate.

2. The following paragraph is added and supersedes any provision to the contrary:

**M. Nonrenewal**

1. We may elect not to renew this policy except that, under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.
2. If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, at least 60 days before the expiration date. If notice is mailed or delivered less than 60 days before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's premium.

3. If notice is mailed, proof of mailing will be sufficient proof of notice.
4. The transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.
3. Paragraph 3. under I. **Premiums** does not apply.

## BUSINESSOWNERS UNMANNED AIRCRAFT ENDORSEMENTS ADVISORY NOTICE TO POLICYHOLDERS

This Notice does not form part of your policy. No coverage is provided by this Notice nor can it be construed to replace any provision of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided. If there is any conflict between the Policy and this Notice, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

Carefully read your policy, including the endorsements attached to your policy.

This Notice provides information, concerning the following new endorsements, which applies to your renewal policy being issued by us:

### **BP 15 11 – Exclusion – Unmanned Aircraft**

When this endorsement is attached to your policy, unless the Schedule indicates otherwise, liability coverage is excluded with respect to bodily injury and property damage arising out of the ownership, maintenance, use or entrustment to others of any unmanned aircraft. Unless the Schedule indicates otherwise, the attachment of this endorsement will result in a reduction in bodily injury and property damage coverage to the extent that:

1. An exposure exists with respect to unmanned aircraft that are **not** owned or operated by or rented or loaned to any insured; or
2. Liability is assumed under any insured contract for the ownership, maintenance or use of unmanned aircraft.

In addition, unless the Schedule indicates otherwise, this endorsement excludes liability coverage with respect to personal and advertising injury arising out of the ownership, maintenance, use or entrustment to others of any unmanned aircraft, with certain exceptions. Unless the Schedule indicates otherwise, the attachment of this endorsement will result in a reduction in personal and advertising injury liability coverage, to the extent that an exposure exists with respect to unmanned aircraft. However, the attachment of this endorsement would **not** result in a reduction of coverage with respect to the use of another's advertising idea in your advertisement or to infringing upon another's copyright, trade dress or slogan in your advertisement.

### **BP 15 12 – Limited Coverage For Designated Unmanned Aircraft**

When this endorsement is attached to your policy, liability coverage is excluded with respect to bodily injury and property damage arising out of the ownership, maintenance, use or entrustment to others of any unmanned aircraft, with the exception of unmanned aircraft that are designated under Section **A.** of the Schedule of the endorsement, but only related to operations or projects that are also designated under Section **A.** of the Schedule.

The attachment of this endorsement will result in a broadening of bodily injury and property damage liability coverage with respect to designated unmanned aircraft under Section **A.** of the Schedule of the endorsement that are owned or operated by or rented or loaned to any insured, but only with respect to designated operations or projects.

However, the attachment of this endorsement will result in a reduction in such coverage to the extent that:

- An exposure exists with respect to unmanned aircraft that are **not** owned or operated by or rented or loaned to any insured; or
- Liability is assumed under any insured contract for the ownership, maintenance or use of unmanned aircraft; with respect to unmanned aircraft that are:
  - **Not** designated in the Schedule of the endorsement; or

- Designated in the Schedule of the endorsement, with respect to operations or projects that are **not** designated in the Schedule of the endorsement.

In addition, this endorsement excludes liability coverage with respect to personal and advertising injury arising out of the ownership, maintenance, use or entrustment to others of any unmanned aircraft, with the exception of unmanned aircraft that are designated under Section **B.** of the Schedule of the endorsement, but only related to operations or projects that are also designated under Section **B.** of the Schedule. The attachment of this endorsement will result in a reduction in such coverage to the extent that an exposure exists with respect to unmanned aircraft, but only if such unmanned aircraft are:

- **Not** designated in the Schedule of the endorsement; or
- Designated in the Schedule of the endorsement, with respect to operations or projects that are **not** designated in the Schedule of the endorsement.

However, the attachment of this endorsement would **not** result in a reduction of coverage with respect to the use of another's advertising idea in your advertisement or to infringing upon another's copyright, trade dress or slogan in your advertisement.

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

## **TEXAS CHANGES - AMENDMENT OF CANCELLATION PROVISIONS OR COVERAGE CHANGE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

In the event of cancellation or material change that reduces or restricts the insurance afforded by this Policy, we agree to mail prior written notice of cancellation or material change to:

### **SCHEDULE**

<b>A. Name:</b> AGNY LLC
<b>B. Address:</b> 1104 Cedar Valley Dr Irving, TX 75063
<b>C. Number Of Days Advance Notice:</b> 30
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.



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

## **COMPREHENSIVE BUSINESS LIABILITY EXCLUSION (ALL HAZARDS IN CONNECTION WITH DESIGNATED PREMISES OR OPERATIONS)**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

#### **A. Description And Location Of Premises:**

Any location or Operation: 1) which is owned in whole or part by the individual or organization shown as a Named Insured in the Declarations and 2) Which is specifically scheduled under another policy issued by this Insurance Company.

#### **B. Description And Location Of Premises Operations:**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following are added to Paragraph **B. Exclusions** in **Section II - Liability**, with respect to Business Liability Coverage and Medical Expenses Coverage:

**A.** This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. The ownership, maintenance or use of the premises described in Item **A.** of the Schedule or any property located on those premises;
2. Operations on those premises or elsewhere that are necessary or incidental to the ownership, maintenance or use of those premises; or

3. Goods or products manufactured at or distributed from those premises.

**B.** This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. Operations described in Item **B.** of the Schedule; or
2. The "products-completed operations hazard" arising from those operations.

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

## **HIRED AUTO AND NON-OWNED AUTO LIABILITY**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<b>Coverage</b>	<b>Additional Premium</b>
<b>A. Hired Auto Liability</b>	\$65
<b>B. Non-owned Auto Liability</b>	\$114
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A.** Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in the Schedule.

**1. Hired Auto Liability**

The insurance provided under Paragraph **A.1. Business Liability** in **Section II - Liability** applies to "bodily injury" or "property damage" arising out of the maintenance or use of a "hired auto" by you or your "employees" in the course of your business.

**2. Non-owned Auto Liability**

The insurance provided under Paragraph **A.1. Business Liability** in **Section II - Liability** applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person.

**B.** For insurance provided by this endorsement only:

**1.** The exclusions under Paragraph **B.1. Applicable To Business Liability Coverage** in **Section II - Liability**, other than Exclusions **a., b., d., f. and i.** and the **Nuclear Energy Liability Exclusion**, are deleted and replaced by the following:

**a.** "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:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of injury.

This exclusion does not apply to:

- (1) Liability assumed by the insured under an "insured contract"; or
- (2) "Bodily injury" arising out of and in the course of domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers' compensation law.

**b.** "Property damage" to:

- (1) Property owned or being transported by, or rented or loaned to the insured; or
- (2) Property in the care, custody or control of the insured.

**2. Paragraph C. Who Is An Insured in Section II - Liability is replaced by the following:**

1. Each of the following is an insured under this endorsement to the extent set forth below:
  - a. You;
  - b. Any other person using a "hired auto" with your permission;
  - c. For a "non-owned auto":
    - (1) Any partner or "executive officer" of yours; or
    - (2) Any "employee" of yours; but only while such "non-owned auto" is being used in your business; and
  - d. Any other person or organization, but only for their liability because of acts or omissions of an insured under **a.**, **b.** or **c.** above.
2. None of the following is an insured:
  - a. Any person engaged in the business of his or her employer for "bodily injury" to any co-"employee" of such person injured in the course of employment, or to the spouse, child, parent, brother or sister of that co-"employee" as a consequence of such "bodily injury", or for any obligation to share damages with or repay someone else who must pay damages because of the injury;
  - b. Any partner or "executive officer" for any "auto" owned by such partner or officer or a member of his or her household;

- c. Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;
- d. The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee; or
- e. Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

**C. For the purposes of this endorsement only, Paragraph H. Other Insurance in Section III - Common Policy Conditions is replaced by the following:**

This insurance is excess over any primary insurance covering the "hired auto" or "non-owned auto".

**D. The following additional definitions apply:**

1. "Auto business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".
2. "Hired auto" means any "auto" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", your partners or your "executive officers" or members of their households.
3. "Non-owned auto" means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes "autos" owned by your "employees", your partners or your "executive officers", or members of their households, but only while used in your business or your personal affairs.

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

## **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to Paragraph **B.1. Exclusions – Applicable To Business Liability Coverage** in **Section II – Liability**:

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraph (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.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<b>Name Of Person Or Organization:</b>
As required by written contract issued prior to loss.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us** in **Section III - Common Policy Conditions** is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

## DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

### SCHEDULE

<b>SCHEDULE – PART I</b>
<b>Terrorism Premium (Certified Acts)</b> \$17.00  <b>Additional information, if any, concerning the terrorism premium:</b>    
<b>SCHEDULE – PART II</b> <b>Federal share of terrorism losses</b> <u>80</u> <b>% Year: 20</b> <u>20</u> (Refer to Paragraph B. in this endorsement.)  <b>Federal share of terrorism losses</b> <u>80</u> <b>% Year: 20</b> <u>21</u> (Refer to Paragraph B. in this endorsement.)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

#### A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

#### B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals a percentage (as shown in Part II of the Schedule of this endorsement or in the policy Declarations) of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

**C. Cap On Insurer Participation In Payment Of Terrorism Losses**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.



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

## **EXCLUSION – SILICA OR SILICA-RELATED DUST**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

- A.** The following exclusion is added to Paragraph **B. Exclusions** in **Section II – Liability**:

**B. Exclusions**

This insurance does not apply to:

**SILICA OR SILICA-RELATED DUST**

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- B.** The following definitions are added to Paragraph **F. Liability And Medical Expenses Definitions** in **Section II – Liability**:

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

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

## **CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

#### **A. CAP ON CERTIFIED TERRORISM LOSSES**

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B.** The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

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

## **FUNGI OR BACTERIA EXCLUSION (LIABILITY)**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following provisions are added to **Section II – Liability**:

**A.** The following exclusion is added to Paragraph **B.1., Exclusions – Applicable To Business Liability Coverage**:

**t. Fungi Or Bacteria**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" 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.

- (2) 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 definition is added Paragraph **F. Liability And Medical Expenses Definitions**:

1. "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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## BARBER SHOPS AND HAIR SALONS PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

**Section II – Liability** is amended as follows:

**A.** For the insurance provided by this endorsement, all provisions under Paragraph **A.1. Business Liability** will also apply to other injury.

**B.** Paragraph **A. Coverages** also applies to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.

**C.** With respect to the coverage provided by this endorsement, Paragraph **B. Exclusions** is amended as follows:

**1.** Paragraph **1.b. Contractual Liability** is replaced by the following:

This insurance does not apply to:

**b.** "Bodily injury", "property damage", "personal and advertising injury" or other injury 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 that the insured would have in the absence of the contract or agreement.

**2.** The following exclusions do not apply:

- a.** Paragraph **1.j. Professional Services**;
- b.** Paragraph **1.k.(6) Damage To Property**; and
- c.** Paragraph **1.m. Damage To Your Work**.

**3.** The following exclusions are added:

This insurance does not apply to "bodily injury", "property damage", "personal and advertising injury" or other injury arising out of:

**a.** The violation of any statute, or governmental rule or regulation; however, this exclusion does not apply to the failure to perform a predisposition of skin test.

**b.** The rendering or failure to render any professional service, treatment, advice or instruction, except for "barber shop or hair salon services".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved that which is described in Paragraph **a.** or **b.**

**D.** Paragraph **C. Who Is An Insured** is amended as follows:

**1.** Paragraph **2.a.** is replaced by the following:

**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)** "Bodily injury", "personal and advertising injury" or other 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 (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraph (1)(a) or (1)(b); or
- (2) "Bodily injury", "property damage", "personal and advertising injury" or other injury arising out of his or her providing or failing to provide professional services. However, your "employees" are insureds with respect to their providing or failing to provide "barber shop or hair salon services" in connection with the operation of your business as a barber shop or hair salon.
- (3) "Property damage" to property:
  - (a) Owned, occupied or used by; or
  - (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", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

2. The following is added to Paragraph 2.:

- e. Any operator who rents or leases from the insured booth space, chairs or any portion of your premises for the purpose of conducting "barber shop or hair salon services" and any "employee" of such operator, but only with respect to liability arising out of such services.

E. Paragraph D.2. **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

- 2. The most we will pay for the sum of all damages because of all:
  - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence";

- b. "Personal and advertising injury" sustained by any one person or organization; and
- c. Other injury arising out of any one "occurrence";

is the Liability And Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

F. For the coverage provided by this endorsement, Paragraph F. **Liability And Medical Expenses Definitions** is amended as follows:

- 1. The definition of "occurrence" is amended to include any act or omission arising out of the rendering of or failure to render "barber shop or hair salon services".

- 2. The following definition is added:

"Barber shop or hair salon services" means:

- a. Haircutting, hairstyling, hair dyeing, hair trimming, hair shaving, hair conditioning, hair shampooing; or
- b. Advice or instruction for the purpose of appearance or personal grooming or therapy in connection with any of the services described in a. above.

However, "barber shop or hair salon services" does not include:

- a. The removal of, or the attempted removal of, hair by electrolysis;
- b. Hair implanting or hair transplanting or any attempt at these; or
- c. The use of any dye or coloring to eyelashes or eyebrows except mascara or eyebrow pencils.

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

## LOSS PAYABLE CLAUSES

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### SCHEDULE

<b>Premises Number:</b> All	<b>Building Number:</b> All	<b>Applicable Clause (Indicate Paragraph A, B, C or D):</b> A, B, C or D as required by contract
<b>Description Of Property:</b> Property described in the Certificate Of Insurance on file with the Company		
<b>Loss Payee Name:</b> Loss Payees issued a Certificate Of Insurance on file with the Company		
<b>Loss Payee Address:</b>		
<b>Premises Number:</b>	<b>Building Number:</b>	<b>Applicable Clause (Indicate Paragraph A, B, C or D):</b>
<b>Description Of Property:</b>		
<b>Loss Payee Name:</b>		
<b>Loss Payee Address:</b>		
<b>Premises Number:</b>	<b>Building Number:</b>	<b>Applicable Clause (Indicate Paragraph A, B, C or D):</b>
<b>Description Of Property:</b>		
<b>Loss Payee Name:</b>		
<b>Loss Payee Address:</b>		
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

Nothing in this endorsement increases the applicable Limit of Insurance. We will not pay any Loss Payee more than their financial interest in the Covered Property, and we will not pay more than the applicable Limit of Insurance on the Covered Property.

The following is added to the **Loss Payment** Property Loss Condition in **Section I - Property**, as shown in the Declarations or in the Schedule:

#### A. Loss Payable

For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:

1. Adjust losses with you; and

2. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

#### **B. Lender's Loss Payable Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee, whose interest in that Covered Property is established by such written instruments as:
  - a. Warehouse receipts;
  - b. A contract for deed;
  - c. Bills of lading;
  - d. Financing statements; or
  - e. Mortgages, deeds of trust, or security agreements.
2. For Covered Property in which both you and a Loss Payee have an insurable interest:
  - a. We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
  - b. The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure for similar action on the Covered Property.
  - c. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the Loss Payee will still have the right to receive loss payment if the Loss Payee:
    - (1) Pays any premium due under this policy at our request if you have failed to do so;
    - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
    - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.All of the terms of **Section I - Property** will then apply directly to the Loss Payee.
  - d. If we pay the Loss Payee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:
    - (1) The Loss Payee's rights will be transferred to us to the extent of the amount

- (2) The Loss Payee's right to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, we may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.

3. If we cancel this policy, we will give written notice to the Loss Payee at least:
  - a. 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
4. If we do not renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration date of this policy.

#### **C. Contract Of Sale Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is a person or organization you have entered a contract with for the sale of Covered Property.
2. For Covered Property in which both you and the Loss Payee have an insurable interest, we will:
  - a. Adjust losses with you; and
  - b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
3. The following is added to Paragraph **H. Other Insurance** in **Section III - Common Policy Conditions**:

For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

#### **D. Building Owner Loss Payable Clause**

1. The Loss Payee shown in the Schedule or in the Declarations is the owner of the described building, in which you are a tenant.
2. We will adjust losses to the described building with the Loss Payee. Any loss payment made to the Loss Payee will satisfy your claims against us for the owner's property.
3. We will adjust losses to tenant's improvements and betterments with you, unless the lease provides otherwise.

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

## **ADDITIONAL INSURED – GRANTOR OF FRANCHISE**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

**Name Of Person(s) Or Organization(s):**

Regis Corporation, its parent, subsidiaries and affiliates and  
their respective officers, directors, employees and agents  
7201 Metro Blvd  
Minneapolis, MN 55439

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:

**A. The following is added to Paragraph C. Who Is An Insured:**

Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to their liability as a grantor of a franchise to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

- A. Exclusion **B.1.q.** of **Section II – Liability** is replaced by the following:

This insurance does not apply to:

**q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

- (1) Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

**B. The following is added to Paragraph B.1.p. Personal And Advertising Injury Exclusion of Section II – Liability:**

This insurance does not apply to:

**p. Personal And Advertising Injury**

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

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

## **EXCLUSION – UNMANNED AIRCRAFT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<input type="checkbox"/>	<b>Bodily Injury And Property Damage:</b> Paragraph A. in this endorsement does not apply if an "X" is shown in the box.
<input type="checkbox"/>	<b>Personal And Advertising Injury:</b> Paragraph B. in this endorsement does not apply if an "X" is shown in the box.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Liability** is amended as follows:

**A.** Exclusion **B.1.g.** is replaced by the following:

This insurance does not apply to:

**g. Aircraft, Auto Or Watercraft**

**(1) Unmanned Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph **g.(1)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

**(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph **g.(2)** applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph **g.(2)** does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
  - (i) Less than 51 feet long; and
  - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
  - (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (ii) The operation of any of the following machinery or equipment:
    - i. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - ii. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

**B. The following is added to Exclusion B.1.p. Personal And Advertising Injury:**

This insurance does not apply to:

**p. Personal And Advertising Injury**

"Personal and advertising injury":

Arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (1) The use of another's advertising idea in your "advertisement"; or
- (2) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

**C. The following definition is added to Paragraph F. Liability And Medical Expenses Definitions:**

"Unmanned aircraft" means an aircraft that is not:

- 1. Designed;
- 2. Manufactured; or
- 3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

# **Exhibit B**



## **DALLAS COUNTY**

### **AMENDED ORDER OF COUNTY JUDGE CLAY JENKINS**

DATE AMENDED ORDER ISSUED: March 21, 2020

WHEREAS, pursuant to Texas Government Code Section 418.108, Dallas County Judge Clay Jenkins issued a Declaration of Local Disaster for Public Health Emergency on March 12, 2020, due to a novel coronavirus now designated SARS-CoV2 which causes the disease COVID-19; and,

WHEREAS, on March 12, 2020, Judge Jenkins issued an Order in furtherance of his authority to protect the safety and welfare of the public by slowing the spread of the virus; and,

WHEREAS, the on-going evaluation of circumstances related to the virus and the updated recommendations of the Centers for Disease Control and the Texas Department of State Health Services warrant the March 12, 2020 Order of County Judge Clay Jenkins to be amended;

WHEREAS, on March 16, 2020, President Trump acknowledged the gravity of the COVID-19 pandemic, releasing strict new guidelines to limit people's interactions, including that Americans should avoid groups of more than 10 people;

WHEREAS, on March 19, 2020, the Dallas County Commissioners Court issued an Order of Continuance of Declaration of Local Disaster for Public Health Emergency that affirmed the activation of the Dallas County Emergency Management Plan and extends the Declaration of Local Disaster until 11:59 p.m. on April 3, 2020, unless rescinded by order of the Commissioners Court.

THEREFORE, the March 12, 2020, Order of County Judge Clay Jenkins is hereby AMENDED as follows:

Summary: The virus that causes 2019 Coronavirus Disease (COVID-19) is easily transmitted through person to person contact, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety. Because of the risk of the rapid spread of the virus, and the need to protect the most vulnerable members of the community, this Order prohibits community gatherings, as defined by Section 3 herein, of 50 persons or more anywhere in Dallas County beginning at 10:00 a.m. on March 20, 2020, and continuing through 11:59 p.m. on April 3, 2020. Additionally, this Order prohibits social gatherings, as defined by Section 3 herein, of 10 persons or more anywhere in Dallas County beginning at 10:00 a.m. on March 20, 2020, and continuing through 11:59 p.m. on April 3, 2020. For gatherings of less than 10 persons, the Office of the Dallas County Judge and the Health Authority strongly recommends following the social distancing protocols attached to this Order. Additionally, the Office of the Dallas County Judge and the Health Authority urges in the strongest terms possible all high-risk individuals, as defined by the Centers for Disease Control and Prevention (CDC), cancel, reschedule, or not attend any event.

**UNDER THE AUTHORITY OF TEXAS GOVERNMENT CODE  
SECTION 418.108, DALLAS COUNTY JUDGE CLAY JENKINS ORDERS:**



## DALLAS COUNTY

1. Effective as of 11:59 p.m. on March 21, 2020, and continuing until 11:59 p.m. on April 3, 2020:
  - (a) Public or private Recreational Gatherings and Community Gatherings (as defined in Section 3 below) are prohibited anywhere in Dallas County.
  - (b) Restaurants with or without drive-in or drive-through services and microbreweries, micro-distilleries, or wineries may only provide take out, delivery, or drive-through services as allowed by law.
  - (c) Bars, lounges, taverns, private clubs, arcades, bowling alleys, theaters, gyms, fitness centers, gymnastics studios, and martial arts studios shall close.
  - (d) Massage parlors, nail salons, hair salons, barber shops, beauty salons, hair removal services, spas, tattoo and piercing parlors, and all other non-medical, personal care services that cannot be provided while maintaining six feet of distance shall close.
  - (e) Dallas County Tax Offices and passport offices shall close for in-person services.
  - (f) All elective medical, surgical, and dental procedures are prohibited anywhere in Dallas County. Hospitals, ambulatory surgery centers, dental offices, and other medical facilities are directed to identify procedures that are deemed "elective" by assessing which procedures can be postponed or cancelled based on patient risk considering the emergency need for redirection of resources to COVID-19 response.
2. In addition, the Office of the Dallas County Judge and the Dallas County Department of Health and Human Services ("Health Authority") strongly urge high-risk individuals to cancel, reschedule, and not attend all gatherings until further notice. These recommendations are based on the social distancing practices attached to this Order as well as the "Implementation of Mitigation Strategies for Communities with Local COVID-19 Transmission" issued by the United States Centers for Disease Control and Prevention ("CDC"). The Office of the Dallas County Judge and the Health Authority urge people to not attend non-essential gatherings during the duration of this Order in order to help slow down the spread of the COVID-19 virus.
3. Definitions:
  - a. For purposes of this Order, a "Community Gathering" is any indoor or outdoor event or convening, subject to the exceptions and clarifications below, that brings together or is likely to bring together fifty (50) or more persons within six feet of one another for extended periods at the same time in a single room or other single confined or enclosed space, such as an auditorium, theatre, stadium (indoor or outdoor), arena or event center, meeting hall, conference center, large cafeteria. An outdoor "Community Gathering" under this Order is limited to events in confined outdoor spaces, which means an outdoor space that (i) is enclosed by a fence, physical barrier, or other structure and (ii) where people are present and they are within six feet of one another for extended periods. For clarity, community gatherings include, but are not limited to, weddings, religious services, funerals, and other gatherings.
  - b. For the purposes of the Order, a "Recreational Gathering" is any indoor or outdoor event or convening that is primarily social or recreational in nature, subject to the exceptions and clarifications below, that brings together or is likely to bring



## DALLAS COUNTY

together ten (10) or more persons at the same time in a single room or other single confined or enclosed space. For clarity, social gatherings include, but are not limited to, parties, backyard barbecues, social events, sporting events, and other gatherings. Private facilities, such as county clubs, may still operate their outdoor facilities, such as golf or tennis courts, but must limit indoor activities, such as their card rooms and similar amenities to 10 people or less. To the extent individuals are using shared outdoor spaces, such as public parks or trails, they must maintain at least six feet of space from any other person at all times.

- c. This Order does not prohibit gatherings of people in multiple, separate enclosed spaces in a single building such as school classrooms, residential buildings, or hotels, so long as 50 people are not present in any single space at the same time. This Order also does not prohibit the use of enclosed spaces where 50 or more people may be present at different times during the day, so long as 50 or more people are not present in the space at the same time. For example, residential buildings may continue to operate their common facilities, such as laundry facilities, so long as 50 or more people are not present at the same time. For any gathering covered by this subsection, the Office of the Dallas County Judge and the Health Authority strongly encourage compliance with the attached Recommendations, including social distancing, providing hand sanitizer and tissues, and increasing cleaning of commonly and frequently touched services.
- d. This Order does not apply to the following critical facilities, so long as visitors are generally not within six feet of one another for extended periods:
  - i. (i) critical infrastructure, including airport facilities and operations, bus stations, transit, and transit facilities;
  - ii. (ii) government buildings providing essential services;
  - iii. (iii) schools or institutes of higher learning;
  - iv. (iv) banks, financial institutions, and credit unions;
  - v. (v) office buildings, so long as employers take all steps reasonably possible to implement social distancing protocols;
  - vi. (vi) grocery stores and pharmacies;
  - vii. (vii) hospitals and medical offices and facilities, including cafes and restaurants located within these facilities; and
  - viii. (viii) Businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals.

For purposes of this Order, “grocery stores” includes warehouse stores, big-box stores, bodegas, gas stations, and farmers’ markets that sell food products and household staples.

In the settings described in Section (3)(d), the Office of the Dallas County Judge and the Dallas County Health Authority strongly encourage compliance with the attached Recommendations, including social distancing, providing hand sanitizer





## DALLAS COUNTY

and tissues, and increasing cleaning of commonly and frequently touched services.

4. Our community's critical infrastructure, which includes communications, emergency services, energy, transportation systems, and water and wastewater systems, are instructed by this order to continue operating and encouraged to implement screening precautions to protect employees.
5. Grocery stores, supermarkets, warehouse stores, hospitals, and medical facilities are experiencing high levels of demand for a large number of products, requiring more deliveries from manufacturers and distribution centers to serve their customers. A number of Texas cities and local associations have implemented restrictions on delivery hours to stores to mitigate truck noise and traffic. Due to the need to deliver products as quickly and efficiently as possible during this critical timeframe, this Order hereby suspends all delivery hour restrictions for transport to or from any entity involved in the selling or distribution of food products, medicine, or medical supplies in Dallas County for the next 60 days.
6. Due to increased demand for bath or toilet tissue resulting from stock up buying and individuals who purchase for resale, a mandatory limit on toilet paper sales is instituted until the supply chain meets the demand or two weeks, whichever comes first. All sales of bath or toilet tissue occurring in Dallas County are limited to the greater of: (a) twelve (12) rolls per purchase or (b) one (1) package per purchase.
7. Due to the public health emergency, the Office of the Dallas County Judge hereby advises the Dallas County Justices of the Peace to suspend eviction hearings and writs of possession for at least the next 60 days to prevent renters from being displaced.
8. If someone in a household has tested positive for coronavirus, the household is ordered to isolate at home. Members of the household cannot go to work, school, or any other community function.
9. Nursing homes, retirement, and long-term care facilities are instructed by this order to prohibit non-essential visitors from accessing their facilities unless to provide critical assistance or for end-of-life visitation.
10. Public and private schools and institutions of higher education are instructed by this order to provide a safety plan to Dallas County Office of Homeland Security and Emergency Management 72 hours before students return to a classroom settings.
11. Additionally, the Office of the Dallas County Judge and the Health Authority instructs all employees to remain at home if sick. Employees of private businesses and nonprofits with six or more employees in the City of Dallas can use their paid sick leave when they are sick or to care for sick family members.
12. This Order shall be effective until 11:59 p.m. on April 3, 2020, or until it is either rescinded, superseded, or amended pursuant to applicable law.
13. The County of Dallas must promptly provide copies of this Order by posting on the Dallas County Health and Human Services website. In addition, the owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public asking for a copy. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or



## **DALLAS COUNTY**

unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.

**IT IS SO ORDERED**

**CLAY JENKINS**  
**DALLAS COUNTY JUDGE**



## **DALLAS COUNTY**

### **DCHHS Social Distancing Recommendations**

#### **1) Vulnerable Populations: Limit Outings**

- Vulnerable populations include people who are:
  - 60 years old and older.
  - People with certain health conditions such as heart disease, lung disease, diabetes, kidney disease and weakened immune systems.
- For vulnerable populations, don't go to gatherings unless it is essential. If you can telecommute, you should. Avoid people who are sick.

#### **2) Workplace and Businesses: Minimize Exposure**

- Suspend nonessential employee travel.
- Minimize the number of employees working within six feet of one another, including minimizing or canceling large in-person meetings and conferences.
- Urge employees to stay home when they are sick and maximize flexibility in sick leave benefits.
- Do not require a doctor's note for employees who are sick.
- Consider use of telecommuting options.
- Some people need to be at work to provide essential services of great benefit to the community. They can take steps in their workplace to minimize risk.

#### **3) Cancel Non-essential Events**

- Cancel non-essential events.
- Do not attend any events or gatherings if sick.
- For events that aren't cancelled, we recommend:
  - Having hand washing capabilities, hand sanitizers and tissues available.
  - Frequently cleaning high touch surface areas like counter tops and hand rails.
  - Finding ways to create physical space to minimize close contact as much as possible.

#### **4) Schools: Safety First**

- Do not have your child attend school if sick.
- If you have a child with chronic health conditions, consult the child's doctor about school attendance.
- Schools should equip all classrooms with hand sanitizers and tissues.
- Recommend rescheduling or cancelling events that are not essential.
- Explore remote teaching and online options to continue learning.
- Schools should develop a plan for citywide school closures, and families should prepare for potential closures.

#### **5) Transit: Cleaning and Protection**

- Increase cleaning of vehicles and high touch surface areas.
- Provide hand washing/hand sanitizers and tissues in stations and on vehicles.



## DALLAS COUNTY

### **6) Health Care Settings: Avoid as possible, protect the vulnerable**

- Long-term care facilities should have a COVID-19 plan in accordance with CDC or state guidelines.
- Long-term care facilities should restrict all visitation except for certain compassionate care situations, such as end of life situations.
- The general public should avoid going to medical settings such as hospitals, nursing homes and long-term care facilities, even if you are not ill.
- If you are ill, call your health care provider ahead of time, and you may be able to be served by phone.
- Do not visit emergency rooms unless it is essential.
- Follow guidance and directions of all facilities.

### **7) Everyone: Do your part**

The best way for all Dallas County residents to reduce their risk of getting sick, as with seasonal colds or the flu, still applies to prevent COVID-19:

- Wash hands with soap and water for at least 20 seconds.
- Cough or sneeze into your elbow or a tissue. Throw the tissue in the trash.
- Stay home if you are sick.
- Avoid touching your face.
- Try alternatives to shaking hands, like an elbow bump or wave.
- If you have recently returned from a country, state or region with ongoing COVID-19 infections, monitor your health and follow the instructions of public health officials and CDC guidance.
- There is no recommendation to wear masks at this time to prevent yourself from getting sick.

You can also prepare for the possible disruption caused by an outbreak. Preparedness actions include:

- Prepare to work from home if that is possible for your job, and your employer.
- Make sure you have a supply of all essential medications for your family.
- Prepare a child care plan if you or a caregiver are sick.
- Make arrangements about how your family will manage a school closure.
- Plan for how you can care for a sick family member without getting sick yourself.
- Take care of each other and check in by phone with friends, family and neighbors that are vulnerable to serious illness or death if they get COVID-19.
- Keep common spaces clean to help maintain a healthy environment for you and others. Frequently touched surfaces should be cleaned regularly with disinfecting sprays, wipes or common household cleaning products.

# Exhibit C



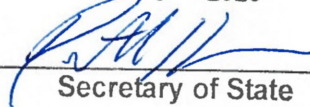
GOVERNOR GREG ABBOTT

March 31, 2020

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

2 PM O'CLOCK

MAR 31 2020

  
Secretary of State

The Honorable Ruth R. Hughs  
Secretary of State  
State Capitol Room 1E.8  
Austin, Texas 78701

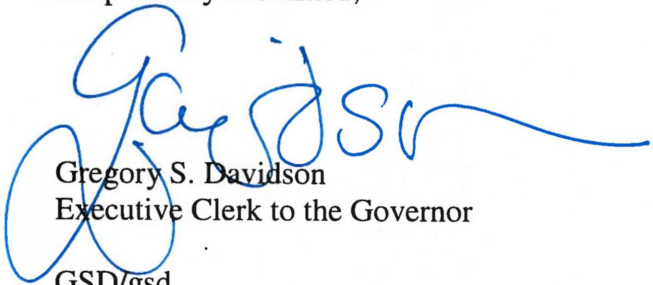
Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-14 relating to statewide continuity of essential services  
and activities during the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

  
Gregory S. Davidson  
Executive Clerk to the Governor

GSD/gsd

Attachment

# Executive Order

BY THE  
GOVERNOR OF THE STATE OF TEXAS

Executive Department  
Austin, Texas  
March 31, 2020

## EXECUTIVE ORDER GA 14

*Relating to statewide continuity of essential services and activities  
during the COVID-19 disaster.*

---

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, the Commissioner of the Texas Department of State Health Services (DSHS), Dr. John Hellerstedt, has determined that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued numerous executive orders and suspensions of Texas laws in response to the COVID-19 disaster, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, mandating certain obligations for Texans in accordance with the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC) on March 16, 2020, which called upon Americans to take actions to slow the spread of COVID-19 for 15 days; and

WHEREAS, Executive Order GA-08 is subject to expiration at 11:59 p.m. on April 3, 2020, absent further action by the governor; and

WHEREAS, on March 29, 2020, to avoid scenarios that could lead to hundreds of thousands of deaths, the President announced that, based on advice from Dr. Anthony Fauci and Dr. Deborah Birx, the restrictive social-distancing Guidelines should extend through April 30, 2020; and

WHEREAS, DSHS Commissioner Dr. Hellerstedt and White House Coronavirus Response Coordinator Dr. Birx say that the spread of COVID-19 can be reduced by minimizing social gatherings; and

WHEREAS, all government entities and businesses should be allowed to continue providing essential services during the COVID-19 disaster, and all critical infrastructure should be allowed to remain operational; and

WHEREAS, the “governor is responsible for meeting ... the dangers to the state and people presented by disasters” under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the “governor may issue executive orders ... hav[ing] the force and effect of law;” and

WHEREAS, under Section 418.016(a), the “governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;” and

WHEREAS, under Section 418.017(a), the “governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster;” and

WHEREAS, under Section 418.018(c), the “governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;” and

WHEREAS, under Section 418.173, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both fine and confinement.

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective 12:01 a.m. on April 2, 2020, and continuing through April 30, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the CDC and the White House Coronavirus Task Force:

In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services, minimize social gatherings and minimize in-person contact with people who are not in the same household.

“Essential services” shall consist of everything listed by the U.S. Department of Homeland Security in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of



home unless they are essential services that cannot be provided through remote telework. If religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19.

In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of this executive order.

This executive order does not prohibit people from accessing essential services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission.

In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance and shall not recommence before May 4, 2020.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services allowed by this executive order or allows gatherings prohibited by this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

This executive order supersedes Executive Order GA-08, but not Executive Orders GA-09, GA-10, GA-11, GA-12, or GA-13, and shall remain in effect and in full force until April 30, 2020, unless it is modified, amended, rescinded, or superseded by the governor.



Given under my hand this the 31st day of  
March, 2020.

**Governor Greg Abbott**  
March 31, 2020

***Executive Order GA-14***  
Page 4

ATTESTED BY:

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RUTH R. HUGHS  
Secretary of State

# **Exhibit D**



May 19, 2020

AGNY LLC DBA: Supercuts  
1104 Cedar Valley Drive  
Irving, TX. 75063  
Attention: Amian Bardhan

**CERTIFIED MAIL / RETURN RECEIPT**

Re: Insured: AGNY LLC. DBA: Supercuts  
Policy: LSR-BP-0035083-0  
Effective Dates: 05/01/2019-05/01/2020  
Date of Loss: March 21, 2020  
Property Location: 344 W. Campbell Rd. Ste #344, Richardson, TX. 75080.  
Sedgwick Claim #: AXRT-1270A9

Dear Mr. Bardhan,

Sedgwick is the authorized representative for the Nova Casualty Company who issued policy LSR-BP-0035083-0.

When we spoke on May 19, 2020 with regard to your claim for Business Interruption you confirmed that you have suspended business operations due to the Corona Virus (COVID 19) pandemic in accordance with the Covid-19 civil authority mandatory stay at home order of March 20, 2019 by Texas Governor Greg Abbott that requires all Texas residents to stay home if they do not work at a job that is considered essential to the health and safety of the community. We further note that you have also confirmed that there were "No Physical Damages" to the buildings or contents and that you were not aware of any exposure to your employees, vendors, or customers.

The purpose of this letter is to outline the policy terms and conditions which limit or restrict coverage for your loss. We regret to inform you that your policy does not afford coverage for your loss. We explain our position below.

Please refer to policy form, **BP 00 03 (07/13) Businessowners Coverage Form** provides Business Income Coverage (And Extra Expense) Coverage under **SECTION I- PROPERTY, paragraph 5.f. (1), Additional Coverages, Business Income** as follows:

***SECTION I – PROPERTY***

***A. Coverage***

***5. Additional Coverages***

Sedgwick

P.O. BOX 183188 | COLUMBUS, OH 43218-3188 | PHONE 321.578.5100 | FAX 800.324.9046 | FREE 800.324.9046

**f. Business Income**

**(1) Business Income**

- (a) *We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss.*
- (b) *We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.*

The language above requires that there is direct physical damage caused by a Covered Cause of Loss, which results in a partial or complete shutdown of your business. In this event, there was no direct physical damage to your building that caused or resulted in a shut down or your business was unable to operate as a direct result of a reduction in demand for your goods or services caused by the coronavirus and Corvid-19.

Your policy also provides you with coverage when there is an act of civil authority, which prohibits access to your premises. Please direct your attention to the **Businessowners Policy Form BP 00 03 07 13**, where it states the following:

**SECTION I – PROPERTY**

**A. Coverage**

**5. Additional Coverages**

**i. Civil Authority**

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

- (1) *Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and*

Date: May 19, 2020

Claim: AXP-1270A9

Insured: AGNY LLC DBA: Super

Page 3 of 4

- (2) *The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.*

*Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.*

*Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:*

- (1) *Four consecutive weeks after the date of that action; or*
- (2) *When your Civil Authority Coverage for Business Income ends;*
- whichever is later.*

*The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.*

The above language provides coverage for your loss of income when direct physical loss or damage occurs to property within one mile of the described premises from a Covered Cause of Loss that results in the prohibition of access to your premises from a civil authority. This event did not result in direct physical loss or damage to such other property; however, and therefore Civil Authority Coverage does not apply.

Lastly, please direct your attention to the exclusions section of the **Businessowners Coverage Form, form BP 00 03 07 13** edition where it states:

**B. Exclusions**

**j. Virus Or Bacteria**

- (1) *Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.*
- (2) *However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.*
- (3) *With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".*

Sedgwick

P.O. BOX 183188 | COLUMBUS, OH 43218-3188 | PHONE 321.578.5100 | FAX 800.324.9046 | FREE 800.324.9046

*Date: May 19, 2020*  
*Claim: AXRT-1270A9*  
*Insured: AGNY LLC DBA: Supercuts*

*Page 4 of 4*

As stated above in the Exclusion for Loss Due to Virus or Bacteria we will not pay for loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease. Accordingly, this exclusion precludes coverage under all of the coverage provisions outlined above.

Our investigation and discussion with you confirmed there were no direct physical damages sustained to your described premises or property due to a covered cause of loss; therefore, we will be unable to afford coverage for your claim.

In the event you have additional information or documentation that you wish to present please do not hesitate to notify me.

This letter is not intended to be, nor should it be construed as, an exhaustive listing of all contract terms, conditions, limitations, and/or exclusions that might serve to eliminate or otherwise restrict coverage under the above-captioned policy. We hereby confirm our continuing intent to expressly reserve any and all rights of either party under the policy, and the law. We also reserve the right to supplement this declination should facts and circumstances reveal that additional grounds to deny coverage exist and apply. If you have any questions, please let me know.

Sincerely,

*Gary A. Roos*

Gary A. Roos  
National General Adjuster  
(512) 263-8051 Office  
(512) 563-9131 Cell  
[Gary.Roos@Sedgwick.Com](mailto:Gary.Roos@Sedgwick.Com)

Sedgwick

P.O. BOX 183188 | COLUMBUS, OH 43218-3188 | PHONE 321.578.5100 | FAX 800.324.9046 | FREE 800.324.9046

# **Exhibit E**



CAUSE NO. \_\_\_\_\_

AGNY LLC DBA SUPERCUTS

§  
§  
§  
§  
§  
§  
§

IN THE COUNTY COURT

V.

AT LAW NO. \_\_\_\_\_

NOVA CASUALTY COMPANY  
AND GARY ALLEN ROOS

DALLAS COUNTY, TEXAS

**BINDING STIPULATION**

COMES NOW Plaintiff, AGNY LLC DBA SUPERCUTS, by and through its attorneys of record, who stipulates as follows:

1. The total sum or value in controversy in this cause of action does not exceed \$75,000.00 exclusive of interest and costs.
2. The total damages sought by the Plaintiff in this cause of action does not exceed \$75,000.00 exclusive of interest and costs.
3. Neither Plaintiff nor their attorneys will accept an amount that exceeds \$75,000.00 exclusive of interest and costs.
4. Neither Plaintiff nor their attorneys will amend the petition after one year to plead an amount in controversy in excess of \$75,000.00, exclusive of interest and costs.
5. Neither Plaintiff nor their attorneys will authorize anyone on their behalf or their future heirs and/or assigns, to make such an amendment.
6. Plaintiff and their attorneys agree that Plaintiff's recovery is limited to an amount less than \$75,000.00 exclusive of interest and costs.

**BINDING STIPULATION SIGNED BY:**

/s/ Michael R. Steinmark

Michael Steinmark

State Bar No. 24051384

Bruce W. Steckler

State Bar No. 00785039

**STECKLER GRESHAM COCHRAN**

12720 Hillcrest Road, Suite 1045

Dallas, TX 75230

Telephone: 972-387-4040

Facsimile: 972-387-4041

[michael@sgc.com](mailto:michael@sgc.com)

[bruce@sgc.law](mailto:bruce@sgc.law)

**and**

/s/ Shannon E. Loyd

Shannon E. Loyd

State Bar No. 24045706

THE LOYD LAW FIRM, P.L.L.C.

12703 Spectrum Drive, Suite 201

San Antonio, Texas 78249

Telephone: (210) 775-1424

[shannon@theloydlawfirm.com](mailto:shannon@theloydlawfirm.com)

**ATTORNEYS FOR PLAINTIFF**

Signed on 07/21/2020