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12 and THE TACO STAND ORANGE CORP.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN DIEGO – CENTRAL DIVISION

15 SHOWA HOSPITALITY, LLC, a California  
16 Limited Liability Company; and THE TACO  
17 STAND ORANGE CORP., a California  
18 Corporation,

19 Plaintiffs,

20 v.

21 SENTINEL INSURANCE COMPANY,  
22 LIMITED, a Connecticut corporation; THE  
23 HARTFORD FIRE INSURANCE COMPANY,  
24 a Connecticut Corporation; RUSS  
25 INSURANCE & FINANCIAL SERVICES,  
26 INC, a California Corporation, d/b/a PIPELINE  
27 INSURANCE AGENCY; HAPPY LIFE  
28 FINANCIAL AND INSURANCE  
SOLUTIONS, LLC, a California Limited  
Liability Corporation; and DOES 1 through 40,  
inclusive,

Defendants.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**05/28/2020** at 01:47:32 PM

Clerk of the Superior Court  
By Taylor Crandall, Deputy Clerk

CASE NO.: 37-2020-00018311-CU-IC-CTL

**IMAGED FILE**

**COMPLAINT FOR DAMAGES FOR  
BREACH OF CONTRACT,  
TORTIOUS BREACH OF IMPLIED  
COVENANT OF GOOD FAITH AND  
FAIR DEALING, DECLARATORY  
RELIEF, AND PROFESSIONAL  
NEGLIGENCE**

**JURY TRIAL DEMANDED**

1 Plaintiffs SHOWA HOSPITALITY, LLC and THE TACO STAND ORANGE CORP  
2 (collectively “Plaintiffs”) bring this Complaint against Defendants SENTINEL INSURANCE  
3 COMPANY, LIMITED, THE HARTFORD FIRE INSURANCE COMPANY, RUSS INSURANCE  
4 & FINANCIAL SERVICES, INC., d/b/a PIPELINE INSURANCE AGENCY, HAPPY LIFE  
5 FINANCIAL AND INSURANCE SOLUTIONS, LLC, and DOES 1 through 40, inclusive  
6 (collectively, “Defendants”) as follows:

7 **GENERAL ALLEGATIONS**

8 **PARTIES**

9 1. Plaintiff SHOWA HOSPITALITY, LLC (“Showa”) is, and at all times mentioned  
10 in this complaint was, a licensed California Limited Liability Company, organized and existing under  
11 the laws of the State of California, with its principal places of business in the County of San Diego  
12 at 624 Broadway, Suite 301, San Diego, California, 92101. Showa focuses on developing  
13 hospitality and food culture concepts throughout the United States and Mexico.

14 2. Plaintiff THE TACO STAND ORANGE CORP (“Orange”) is, and at all times  
15 mentioned in this complaint was, a licensed California Corporation, organized under the  
16 laws of the State of California, with its principal place of business at 240 West Chapman  
17 Avenue, Orange, California, 92866 (the “Insured Location”.) Orange operates a fast-casual  
18 Mexican restaurant concept known as “The Taco Stand.” Orange is a wholly-owned  
19 subsidiary of Plaintiff SHOWA HOSPITALITY, LLC.

20 3. Plaintiffs are informed and believe, and thereon allege, that Defendant SENTINEL  
21 INSURANCE COMPANY, LIMITED (“Sentinel”) is, and at all times mentioned in this  
22 complaint was, a licensed Connecticut corporation authorized to do business in California with  
23 offices located in Los Angeles, California. Sentinel issued Hartford Policy No. 72 SBA BC2838  
24 (the “Policy”) to Plaintiffs.

25 4. Plaintiffs are informed and believe, and thereon allege, that Defendant THE  
26 HARTFORD FIRE INSURANCE COMPANY (“Hartford”) is, and at all times mentioned in this  
27 complaint was, a licensed Delaware corporation authorized to do business in California. Plaintiffs  
28

1 are informed and believe, and thereon allege, that Defendant Sentinel is a wholly owned subsidiary  
2 of Defendant Hartford.

3 5. Plaintiff is informed and believes, and thereon alleges, that Defendant RUSS  
4 INSURANCE & FINANCIAL SERVICES, INC., d/b/a PIPELINE INSURANCE AGENCY  
5 (“Pipeline”) is, and at all times mentioned in this complaint was, a licensed California corporation  
6 authorized to do business in California, with offices located at 1330 Orange Avenue, Suite 321,  
7 Coronado, California 92118. On information and belief, Defendant Pipeline is an appointed agent  
8 of Sentinel.

9 6. Plaintiffs are informed and believe, and thereon allege, that Defendant HAPPY LIFE  
10 FINANCIAL AND INSURANCE SOLUTIONS, LLC (“Happy Life”) is, and at all times mentioned  
11 in this complaint was, a licensed California limited liability company authorized to do business in  
12 California, with offices located at 500 Plaza Del Cid, Chula Vista, California 91910. On information  
13 and belief, Defendant Happy Life acted as an agent of Pipeline in presenting a quote for the subject  
14 policy to Plaintiffs.

15 7. Plaintiffs do not presently know the true names and capacities of Defendants named  
16 herein as Does 1 through 40, inclusive. Plaintiffs are informed and believe, and thereon allege, that  
17 each of the Defendants designated herein as a Doe is legally responsible in some manner for the  
18 matters herein alleged, and is legally responsible in some manner for causing the injuries and  
19 damages to Plaintiffs as herein alleged. Plaintiffs will seek leave of Court to amend this Complaint  
20 to allege said Defendants’ true names and capacities as soon as that information has been ascertained.

21 8. At all times mentioned herein, each Defendant was the agent and employee of each  
22 and all of the other Defendants and, in performing the acts hereafter alleged, was acting within the  
23 course and scope of such agency and employment. Plaintiffs are informed and believe that all of the  
24 wrongful acts alleged herein were authorized and/or ratified by officers, directors or other managerial  
25 agents of Defendants.

## 26 JURISDICTION AND VENUE

27 9. This Court has jurisdiction over all causes of action asserted in this Complaint  
28 pursuant to article VI, section 10 of the California Constitution and Code of Civil Procedure section

1 interest, exceeds \$25,000, and because jurisdiction over this case is not given by statute to other trial  
2 courts.

3 10. Venue is proper in the County of San Diego because the contract at issue was executed  
4 within the County of San Diego.

### 5 THE POLICY

6 11. In or about December 2019, Plaintiffs engaged Defendants Pipeline and Happy Life  
7 to facilitate a renewal of their Business Owner's Insurance Policy. Pipeline, through its web page,  
8 promised to offer "a collection of protective insurance policies for any business owner to protect  
9 against some of the greatest risks in business." Throughout its marketing materials, Pipeline holds  
10 itself out as an expert in procuring businessowners policies for restaurants who does not just wait for  
11 its clients' direction but also makes active recommendations to their clients. Pipeline also represented  
12 that it "specialize[d] in covering restaurants just like yours." Among the products that Pipeline  
13 actively promoted was Business Interruption Insurance:

14 If you currently rely on property insurance you are protecting your assets, but not the  
15 business itself. If there's a business interruption or a lawsuit, you need business  
insurance to ensure that you can keep going.

16 A copy of Pipeline's website is attached hereto and incorporated herein by reference as Exhibit A.

17 12. In or around December 2019, Plaintiffs retained Pipeline to act as Plaintiffs' insurance  
18 agent and broker. On information and belief, on or around March 1, 2019, Happy Life, acting as  
19 Pipeline's agent, presented Plaintiffs with a quote for a Business Owner's Policy from The Hartford.  
20 Happy Life, on behalf of Pipeline, represented that the Policy's rate was "competitive." A copy of  
21 Happy Life's March 1, 2019 email is attached hereto and incorporated by reference as Exhibit B.

22 13. In its communications with Plaintiffs, Pipeline and Happy Life failed to apprise  
23 Plaintiffs of the availability of more comprehensive policies from The Hartford. On information and  
24 belief, Defendants Sentinel and Hartford offered a Hartford Deluxe Policy that provided full coverage  
25 for damage caused by viruses. Defendants Pipeline and Happy Life did not offer this alternative  
26 Policy to Plaintiffs at any time.

27 14. On information and belief, Pipeline is an appointed agent of Defendants Sentinel  
28 Insurance Company and The Hartford Fire Insurance Company.

1           15.     On or about December 18, 2019, by and through Sentinel’s appointed agent, Pipeline,  
2 Defendant Sentinel Insurance Company issued a renewal of Spectrum Business Owner’s Policy No.  
3 72 SBA BC2838 (the “Policy”) to Plaintiff Orange. By and through Sentinel’s appointed agent,  
4 Pipeline, Plaintiff Orange entered into this contract of insurance with Sentinel, whereby  
5 Orange agreed to make payments to Sentinel in exchange for Sentinel’s promise to  
6 indemnify Orange for losses including, but not limited to, business income losses incurred  
7 at the Insured Location. This Policy was in effect from March 4, 2020 to March 4, 2021. A copy  
8 of the Policy is attached hereto and incorporated herein by reference as Exhibit C.

9           16.     The Policy comprises a one-hundred-and-ten (110) page document, including twenty-  
10 eight (28) separate forms. In purchasing this voluminous and confusing Policy from Sentinel and  
11 Hartford, Plaintiffs sought expansive coverage. Indeed, Plaintiffs even obtained a policy from  
12 Defendants with an endorsement for limited coverage for damage arising from viruses, which is  
13 normally excluded. Moreover, like most property policies sold in the United States, the Policy is an  
14 “All-Risk” Commercial Property Policy. This means that all perils which are not specifically  
15 excluded by the Policy are covered. (*Garvey v. State Farm Fire & Casualty Co.* (1989) 48 Cal.3d  
16 395, 408.) Nowhere does the Policy list pandemics as excluded perils.

17           17.     The Policy’s Property Coverage Declarations (Form SS 00 02 12 06) state that  
18 Defendant Sentinel agreed to compensate Plaintiff Orange for up 12 Months Actual Loss Sustained  
19 under “**Business Income and Extra Expense Coverage**” at the impacted location. (Exhibit C, p.  
20 14.) The same Declarations note the inclusion of coverage extensions for “**Action of Civil**  
21 **Authority**” with a thirty (30) day limit, and “**Extended Business Income**” with a limit of thirty (30)  
22 consecutive days. (*Id.*)

23           18.     The Policy also provides for additional “Special Property Coverage” (Form SS 00 07  
24 07 05) for actual loss of business income “**that occurs within 12 consecutive months after the date**  
25 **of direct physical loss or physical damage**” and “**is not subject to the Limits of Insurance.**”  
26 (Exhibit C, p. 36, emphasis added.) The same form also provides for coverage of actual loss of  
27 Business Income sustained “**when access to [the] ‘scheduled premises’ is specifically prohibited**  
28 **by order of a civil authority.**” (Exhibit C, p. 37, emphasis added.)

19. Finally, the Policy’s Property Coverage Declarations (Form SS 00 02 12 06) also state that Plaintiffs are entitled to \$50,000 in business income coverage, for thirty (30) days, due to “virus.” (See Exhibit C, p. 13) The declaration cross-references a Form that opaquely provides for “Limited Fungi, Bacteria, or Virus Coverage” (Form SS 40 93 07 05) that fails to mention loss of business income under its terms. (See Exhibit C, pp. 92–94.) Nevertheless, the provision does state that **“[w]ith respect to a particular occurrence of loss which results in . . . virus, we will not pay more than the total of \$50,000 unless a higher Limit of Insurance is shown in the Declarations”** (Exhibit C, p. 93, emphasis added.)

20. Under the foregoing provisions, Plaintiffs are entitled to at least \$50,000 in “Limited Fungi, Bacteria, or Virus Coverage” for the insured location and twelve (12) months of actual loss sustained in “Business Income and Extra Expense Coverage,” as provided under the Policy’s declarations (Form SS 00 02 12 06) (see Exhibit C, pp. 13–14.)

21. The policy is currently in full effect, providing property, business personal property, business income and extra expense, and additional coverages from March 4, 2020 through March 4, 2021.

22. Plaintiffs have faithfully paid premiums to Sentinel as required under the terms of its Policy. Plaintiffs have met all terms and conditions set forth in the Policy.

## THE LOSS

23. Beginning in March 2020, local and state governments across the country urged their citizens to act as if they were infected and as if everyone around them was infected with a novel and highly infectious coronavirus. Under such a guideline, the Insured Properties are, and continue to be, repeatedly infected by individuals coming and going from the premises until the virus is eliminated in the region.

24. In or about the early weeks of March 2020, the government, scientific community, and those personally affected by the virus recognized the coronavirus as a cause of real physical loss and damage.

25. On March 4, 2020, California Governor Gavin Newsom issued Executive Order N-45-20 (the “California Emergency Order”), which declared a state of emergency in response to

1 expected impacts arising from the COVID-19 pandemic. The California Emergency Order required  
2 citizens to heed orders and guidance from the California Department of Health regarding limits on  
3 group size and social distancing.

4         26.     On or about March 11, 2020, in response to the burgeoning COVID-19 pandemic, the  
5 United States barred entry of all foreign nationals who had visited China, Iran, and most European  
6 countries, including Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Hungary, Italy,  
7 and Spain. On March 16, 2020, the ban was extended to include foreign nationals from the United  
8 Kingdom and Ireland. These orders, carried out by civil authorities, severely impacted commercial  
9 enterprises, including restaurants in Orange, California.

10         27.     On or about March 19, 2020, California Governor Gavin Newsom issued Executive  
11 Order N-33-20 (the “California Executive Order”) and “order[ed] all individuals living in the State  
12 of California to stay home or at their place of residence” save for those participating in economic  
13 sectors deemed “Essential Critical Infrastructure.” Although restaurants and food service are deemed  
14 “Essential Critical Infrastructure” under Governor Newsom’s Executive Order, Plaintiffs were forced  
15 to prohibit on-site dining, severely limiting the number of customers that Plaintiffs could service and  
16 effectuating a disastrous evaporation of Plaintiffs’ business income.

17         28.     On or about March 20, 2020, the Federal Government closed its border with Mexico  
18 to “any non-essential travel.” The border with Canada was closed on March, 21, 2020. These closures  
19 further exacerbated damage to Plaintiffs’ business.

20         29.     On March 17, 2020, the Orange County Health Officer, Dr. Nicole Quick, ordered  
21 “[a]ll public and private gatherings of any number of people, including at places of work, occurring  
22 outside a single household or living unit,” be prohibited (the “Orange Local Order”). “Restaurants  
23 and other facilities that prepare and serve food” were allowed to remain open “only for delivery or  
24 carry out.” The Orange Local Order clarified that “[a]ll restaurants and other businesses that serve  
25 food shall close all on-site dining.” Such a closure dramatically decreased the number of customers  
26 that restaurants could serve.

27         30.     All of the aforementioned orders, including the California Emergency Order, orders  
28 restricting travel and banning entry by foreign nationals, California Executive Order, and Orange

1 Local Order, are hereinafter collectively referred to as the “Government Orders.”

2 31. The global COVID-19 pandemic was exacerbated by the fact that the deadly  
3 coronavirus physically infects and stays on the surfaces of objects or materials for many days.<sup>1</sup> The  
4 virus was also carried into this state by individuals traveling between countries and states who in turn  
5 infected others and the facilities they visited, infecting property in and around the Insured Properties.

6 32. The Insured Location is located in Orange, California. The city is located in a vibrant  
7 metropolitan area and sports a lively international tourism and dining scene. Orange sees many  
8 travelers from coronavirus impacted states and countries and is located mere blocks from one of  
9 California’s most heavily visited tourist destinations, Disneyland Park. As a result of the Government  
10 Orders and community infection of coronavirus in and around Orange, California, on-site dining at  
11 the Insured Location was prohibited. Moreover, the combined impacts of these and other actions  
12 taken to comply with the Government Orders, as well as responses to the community infection of  
13 coronavirus adjacent to the Insured Location, have caused a precipitous decline in business income.

14 33. On or about March 23, 2020, Plaintiff Orange submitted a claim with Defendant  
15 Sentinel for loss of business income due to the community spread and infection of coronavirus at the  
16 Insured Properties, and the civil response thereto.

### 17 THE DENIAL

18 34. On or about April 29, 2020, Defendants Sentinel and Hartford sent a letter denying  
19 coverage for Plaintiffs’ lost business income. Sentinel stated that there was “[n]o direct physical loss  
20 or damage . . . to property at the scheduled premises listed in [the] policy” and that “no business  
21 personal property owned by [the insured] suffered any direct physical loss or damage from this  
22 event.” A copy of the denial letter is attached hereto and incorporated herein by reference as Exhibit  
23 D.

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24  
25 <sup>1</sup> Experts have found that coronavirus fomites (infectious pathogens) linger on plastic and stainless  
26 steel surfaces “for up to 72 hours.” (Walker, *COVID-19 Transmission 'Plausible' on Surfaces, in*  
27 *the Air* (Mar. 17, 2020) MedPage Today <<https://www.medpagetoday.com/infectiousdisease/covid19/85466>> [as of Apr. 24, 2020].) Because courts have interpreted “direct physical loss” and  
28 similar provisions in insurance contracts to include coverage for loss of use of tangible property  
that is not otherwise physically injured, such prolonged infection, which necessitates the loss of use  
of the subject property, thus renders any physical loss inflicted by the virus direct and tangible.  
(See *Thee Sombrero, Inc. v. Scottsdale Ins. Co.* (2018) 28 Cal.App.5th 729, 733.)



1           35.     Sentinel’s and Hartford’s position that the community infection of coronavirus caused  
2 “no direct physical loss of or damage to property” is unsupported by case law, both in California and  
3 other jurisdictions. California courts have held that the definition of “property damage” may include  
4 coverage for loss of use of tangible property that is “not” physically injured. (See *Thee Sombrero,*  
5 *Inc. v. Scottsdale Ins. Co.* (2018) 28 Cal.App.5th 729, 733 [“If your leased apartment was rendered  
6 uninhabitable by some noxious stench, you would conclude that you had lost the use of tangible  
7 property.”].) The Northern District of California has held that the presence of E. Coli bacteria in  
8 water was sufficient to cause direct physical damage to property and trigger business income  
9 coverage. (*Cooper v. Travelers Indem. Co. of Illinois* (N.D. Cal. Nov. 4, 2002) No. C-01-2400-VRW,  
10 2002 WL 32775680, at \*3, aff’d. (9th Cir. 2004) 113 F.App’x 198.) Courts in other states have held  
11 that smoke from a nearby fire and the stench of cat urine from a nearby property similarly triggered  
12 coverage. (See, e.g., *Oregon Shakespeare Festival Ass’n v. Great Am. Ins. Co.* (D. Or. June 7, 2016)  
13 No. 1:15-CV-01932-CL, 2016 WL 3267247, at \*9; *Mellin v. N. Sec. Ins. Co., Inc.* (2015) 167 N.H.  
14 544, 550.) In addition, a government order to suspend operations has been held to constitute a direct  
15 physical loss sufficient to trigger coverage even where no other damage to the insured premises  
16 resulted. (See *U.S. Airways, Inc. v. Commonwealth Ins. Co.* (2004) 64 VA. Cir. 408.)

17           36.     More recently, in *Friends of DeVito v. Wolf* (Pa., Apr. 13, 2020) No. 68 MM 2020,  
18 2020 WL 1847100, the Pennsylvania Supreme Court concluded that business losses caused by the  
19 COVID-19 pandemic are indistinguishable from those caused by other natural disasters like  
20 earthquakes, hurricanes, and fires. This is highly significant because these are all major casualty  
21 events for which commercial property insurance is intended to provide coverage.

22           37.     In 2005, after the SARS virus threatened to grow into a pandemic, the insurance  
23 industry recognized that a viral pandemic could cause serious harm to persons and property and  
24 accordingly cause a direct physical loss of use of property. This is precisely why the insurance  
25 industry introduced in 2006 a standard exclusion for losses caused by viruses. Nevertheless, any  
26 policy that does not have such a clear and unequivocal exclusion for viruses is, at the very least,  
27 ambiguous and that ambiguity should give rise to coverage for losses caused by the COVID-19  
28 pandemic. (See *AIU Ins. Co. v. Superior Court* (1990) 51 Cal.3d 807, 822.)

38. In the case of *In re Chinese Manufactured Drywall Products Liability Litigation* (E.D. La. 2010) 759 F.Supp.2d 822, 831–834, a federal court acknowledged that “insurance policies all define ‘property damage’ to include loss of use of tangible property” and that:

The court is required to **interpret each provision in a contract in light of the other provisions, so that each is given the meaning suggested by the contract as a whole.** La. Civ. Code art.2050; *Coleman v. School Bd. Of Richland Parish* (5th Cir. 2005) 418 F.3d 511, 517. Accordingly, the Court finds that the inclusion of “loss of use” as a type of property damage in the policies suggests that the damage caused by the Chinese-manufactured drywall in Plaintiffs’ homes constitutes a covered physical loss since the drywall prevents the Plaintiffs from fully using and enjoying their homes [. . .] The Court finds, based upon the foregoing analysis, that the alleged damages to Plaintiffs’ homes caused by Chinese drywall constitute a covered “physical loss” for purposes of their homeowners’ policies.

(*Id.* at p. 832; see also Cal. Civ. Code § 1641 [“The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other.”]; *S. Kornreich & Sons, Inc. v. Genesis Ins. Co.* (1997) 56 Cal.App.4th 407 [holding that the court must interpret the insurance policy as whole, with each clause lending meaning to other]); *Dupuy v. USAA Cas. Ins. Co.* (M.D. Louisiana, March 9, 2012) 2012 WL 832291, at p. \*3.)

39. Defendants’ Policy is a tangled web of standard forms, endorsements, and special provisions that repeatedly promise coverage with one hand and then attempt to take it away with the other. Its provisions, in many respects, are anything but conspicuous, plain, and clear. Inconsistencies in the language of an insurance policy create ambiguities that must be construed in favor of providing coverage for the insured. (See *AIU Ins. Co. v. Superior Court*, *supra*, 51 Cal.3d at p. 822; see also *Bank of the West v. Superior Court* (1992) 2 Cal.4th 1254, 1265 [explaining that courts must interpret ambiguous policy provisions in accord with “the objectively reasonable expectations of the insured.”])

40. Much of the subject Policy’s complexity can be ascribed to its reliance on a myriad of endorsements. While endorsements in a policy control over the form policy language, those endorsements are nevertheless required to be conspicuous, plain, and clear so as to protect the reasonable expectations of the insured. “Neither the prevalence of endorsements in the industry nor our recognition that they may validly modify an insurance policy diminishes an insurer’s burden in

1 notifying insureds of reductions in otherwise reasonably expected coverage.” (*Tomaselli v.*  
2 *Transamerica Ins. Co.* (1994) 25 Cal.App.4th 1269, 1281–1282.) An insurer cannot rely on esoteric  
3 provisions to limit coverage. “If it deals with the public on a mass basis, the notice of noncoverage  
4 of the policy, in a situation in which the public may reasonably expect coverage, must be  
5 conspicuous, plain, and clear.” (*Haynes v. Farmers Ins. Exch.* (2004) 32 Cal.4th 1198, 1208, citations  
6 omitted.)

7         41. Nevertheless, when each provision of the Policy is interpreted in light of its other  
8 provisions, it becomes clear that Sentinel’s and Hartford’s interpretation of “physical loss” is  
9 unsupported by the Policy’s language. The Policy offers no definition for “Property Damage” in its  
10 twenty-five page “Special Property Coverage Form” (SS 00 07 07 05). Significantly, however, a  
11 definition for “Property Damage” is found in the “Business Liability Coverage Form” (SS 00 08 04  
12 05). This Form defines “Property Damage,” in relevant part as the: “[l]oss of use of tangible  
13 property that is not physically injured. All such loss of use shall be deemed to occur at the time  
14 of the ‘occurrence’ that caused it.” (Exhibit C, p. 76, emphasis added.) That same section defines  
15 “Occurrence” as:

16             **an accident, including continuous or repeated exposure to substantially the same**  
17             **general harmful conditions, which results in bodily injury or property damage**  
18             **first manifested after the inception date of this policy and not first manifested**  
              **after the expiration or cancellation date of this policy.**

19 (Exhibit C, p. 75, emphasis added.) Under these definitions, Plaintiffs suffered direct physical loss  
20 or damage to its Insured Location. This damage was in the form of loss of use resulting from repeated  
21 and continuous community and property infection of coronavirus. The COVID-19 pandemic, the  
22 community spread of coronavirus, and its infection at the Insured Properties easily satisfies the  
23 definition of an “occurrence,” as with any other covered “natural disaster.” (See *Friends of DeVito*  
24 *v. Wolf, supra*, 2020 WL 1847100, at p. \*12 “[A]ny location (including [the insured’s] business)  
25 where two or more people can congregate is *within the disaster area.*”], emphasis added.) Despite  
26 the Policy’s express language and the weight of legal authority on point, however, Defendants persist  
27 in their unreasonable position that the COVID-19 pandemic and presence of coronavirus is not a  
28 covered loss.

42. Moreover, Sentinel’s and Hartford’s interpretation of the operative Policy provisions runs the risk of rendering important coverage provisions illusory, particularly as to the Policy’s purported “Limited Virus Coverage” (Form SS 40 93 07 05). It is well-settled that a policy cannot be interpreted in such a fashion as to render coverage illusory:

When reasonably practical, contracts are to be interpreted in a manner that makes them reasonable and capable of being carried into effect, and that is consistent with the parties’ intent. [citation] A provision will not be construed to nullify the very purpose of a vendor’s endorsement, causing a forfeiture where the parties intended coverage. [citation] **An interpretation that would render the objectively reasonable expectations of the insured for coverage under the policy “meaningless” is an example of an illusory coverage** [citation] **Factors that may be considered in determining the existence of “illusory coverage” are: (1) the business of the insured; and (2) the procedures of the insured in carrying on its business.**

(*Shade Foods, Inc. v. Innovative Products Sales & Marketing, Inc.* (2000) 78 Cal.App.4th 847, 874, emphasis added.)

43. The Limited Virus Coverage provides limited coverage for viruses. Despite this provision, Defendants claim that the novel coronavirus’ presence and infection of physical surfaces does not create a “direct physical loss.” However, Defendants’ interpretation renders the subject coverage illusory because, if Defendants’ position is to be accepted, then the claimed Limited Virus Coverage would not apply to *any* virus whatsoever. Such an interpretation effectively, actively and improperly renders the “Limited Virus Coverage” terms meaningless and manifestly illusory because it “defeats the objectively reasonable expectations of the insured.” (*Shade Foods, Inc. v. Innovative Products Sales & Marketing, Inc., supra*, 78 Cal.App.4th at p. 874.) Furthermore, such an interpretation goes against science. The deadly coronavirus in fact can remain alive and is transmittable on surfaces and physical property for a prolonged period measured by days or even weeks. As such, Defendants’ position that a virus is not covered under these circumstances makes coverage under the Limited Virus Coverage illusory and constitutes bad faith.

44. Further evidence of the illusory nature of Defendants’ interpretation of the Policy is manifest in Defendants’ reference to a purported pollution exclusion that applies to “loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release, or escape of

pollutants and contaminants” as if it somehow vitiates coverage for damage caused by the deadly coronavirus. (Exhibit D, p. 4.) Such a position, however, is futile, and would render Limited Virus Coverage illusory and meaningless. The California Supreme Court decided this very issue in *McKinnon v. Truck Ins. Exch.* (2003) 31 Cal.4th 635. In *McKinnon*, the Court held that a pollution exclusion did not apply to damage caused by a chemical pesticide that killed a person because the disputed exclusion applied only to environmental pollutants. (See also *Paternostro v. Choice Hotel Int’l Sers. Corp.* (E.D. LA 2014) 2014 WL 6460844 at \*1 [holding bacteria does not qualify as a pollutant]; *Keggi v. Northbrook Prop. & Cas. Ins. Co.* (Ariz. App. 2000) 13 P.2d 785, 790 [finding pollution exclusion did not include bacteria].) Moreover, it is bad faith for the Defendants to issue a special endorsement that covers viruses and then take the position that a virus is an excluded pollutant under another provision of the Policy. Here, Defendants’ position, quite literally, seeks to take away with one hand, through a patently inapplicable pollution exclusion, what it has already given with another.

45. Additionally, the Policy claimed to provide coverage for lost income—including income lost due to the government lock-down orders—through a civil authority coverage provision. Specifically, the Policy provides coverage for lost income **“when access to [the] ‘scheduled premises’ is specifically prohibited by order of a civil authority.”** (Exhibit C, p. 37, emphasis added.) Here, the Government Orders prohibited access to the Insured Location, and Plaintiffs incurred losses due to the suspension of business operations resulting from that prohibition. However, in seeking to deny coverage, Defendants point to an “Acts or Decisions” exclusion that claims to exclude “loss caused by or resulting from the decision of any person, group, organization, or governmental body to cancel or otherwise prevent the usual flow of business.” (Exhibit D, p. 5.) Defendants’ interpretation of the Policy, in reliance on this exclusion, succeeds in rendering the civil authority coverage provision meaningless. Once again, only the illusion of coverage for business income loss due to a government lock-down order is provided and “the insured receive[s] no benefit under the policy.” (*Jeff Tracy, Inc. v. U.S. Specialty Ins. Co.* (C.D. Cal. 2009) 636 F.Supp.2d 995, 1007, citing to *Md. Cas. Co. v. Reeder* (1990) 221 Cal.App.3d 961, 978.) Effectively, and predictably, Defendants claim to cover “action of civil authority” with one hand, and take it away with the other

1 by operation of a provision that purports to exclude the “Acts or Decisions” of a “governmental  
2 body.” As such, Defendants’ position reveals that any civil authority coverage was merely an illusion  
3 because Defendants never intended to provide such coverage. Here, again, it is bad faith for the  
4 Defendants to claim to provide coverage for loss of business income resulting from actions of civil  
5 authority and then take the position that such actions are entirely excluded by another provision of  
6 the Policy.

7 46. Based on information and belief, Defendants Sentinel and Hartford have accepted  
8 Plaintiffs’ policy premiums with no intention of providing any coverage. Nevertheless, Plaintiffs are  
9 entitled to coverage under Form SS 04 28 09 07’s Special Property Coverage and Civil Authority  
10 provisions for actual loss of business income. Moreover, Plaintiffs are entitled to Limited Virus  
11 Coverage of \$50,000 as provided under Form SS 40 93 07 05 of the Policy.

12 47. Plaintiffs are in immediate and desperate need of these insurance funds in order to  
13 meet their ongoing obligations and stay in business. Plaintiffs have incurred and continue to incur  
14 damages for each additional day that funds to which it is otherwise entitled are wrongfully withheld.

15 48. The virus is physically impacting public and private properties in cities around the  
16 world, the United States, and the County of Orange. Any effort by Sentinel and Hartford to deny the  
17 reality that the virus causes physical loss and damage is clear and convincing evidence of a false and  
18 fraudulent misrepresentation by Hartford and Sentinel. These misrepresentations could endanger  
19 policyholders and the public.

20 49. In addition, on April, 14, 2020, California Insurance Commissioner, Ricardo Lara,  
21 issued a notice to all admitted and non-admitted insurance companies requiring “all agents, brokers,  
22 insurance companies, and other licensees accept, forward, acknowledge, and fairly investigate all  
23 business interruption insurance claims submitted by businesses” as a result of the COVID-19  
24 pandemic. The commissioner also notified recipients of their legal obligations under the California  
25 Fair Claims Settlement Practices Regulations and their duty to comply with their “contractual,  
26 statutory, regulatory, and other legal obligations.” This notice merely restates existing law that was  
27 in force at the time that Plaintiffs’ claim was denied. On information and belief, Defendants received  
28 this notice. A copy of that notice is attached hereto and incorporated herein by reference as Exhibit

1 E.

2 50. Defendants Sentinel and Hartford did not observe the existing laws and regulations  
3 cited in the notice. Instead, Defendants reflexively denied Plaintiffs' claim without performing a  
4 proper investigation, or at least without giving equal consideration to the interests of the insured.  
5 Moreover, the "direct physical loss" requirement—referenced in the denial letter as the basis for the  
6 denial—is included in virtually all standard commercial property policies. If the "direct physical  
7 loss" requirement alone were a sufficient basis to deny a coronavirus-based claim for business  
8 income loss, the California Insurance Commissioner would not have had cause to issue the April 14,  
9 2020 notice.

10 51. As a result of the pandemic, physical damage at the Insured Location, and the  
11 subsequent response of state and local authorities, Plaintiffs have incurred, and continue to incur, a  
12 substantial loss of business income and additional expenses covered under the Policy. A declaratory  
13 judgment finding the existence of coverage under the policy for lost business income incurred as a  
14 result of the COVID-19 pandemic at the Insured Location and the civil response thereto will prevent  
15 Plaintiffs from being left without vital coverage that Plaintiffs had acquired to ensure the survival of  
16 their business.

17 **FIRST CAUSE OF ACTION**

18 **BREACH OF CONTRACT**

19 **(By Plaintiffs Against Sentinel Insurance Company, Limited and The Hartford**  
20 **Fire Insurance Company)**

21 52. Plaintiffs reallege and incorporates by reference each and every allegation set forth  
22 herein above in paragraphs 1 through 51, inclusive.

23 53. Plaintiffs have performed each and every act and thing required of them to be  
24 performed in accordance with the terms and conditions of the Policy, not otherwise waived or  
25 excused.

26 54. Defendants Sentinel and Hartford have refused to comply with their obligations under  
27 the Policy, including, but not limited to, the following:

28 a. Defendants Sentinel and Hartford have unreasonably failed and refused, and continue

1 to fail and refuse, to pay benefits owed to the Plaintiffs under the Policy as described by the operative  
2 provisions enumerated in Paragraphs 15 through 19 including benefits for lost business income.

3 b. Defendants Sentinel and Hartford have failed to conduct a complete, full and fair  
4 investigation of Plaintiffs' claim that is required by law and the California Insurance Commission.

5 c. Plaintiffs are informed and believe and thereon allege that Sentinel and Hartford have  
6 failed to adopt and implement reasonable standards for the complete investigation and processing of  
7 claims arising under insurance policies.

8 55. As a direct and proximate result of Sentinel's and Hartford's breaches of the Policy,  
9 Plaintiffs have sustained damages, including but not limited to, monies owed under the policy for  
10 property damage, resulting losses, and loss of use of the business premises. The precise amount of  
11 these damages is not presently ascertainable but will be proven at the time of trial.

12 56. Based on information and belief, Defendants Sentinel and Hartford have accepted the  
13 premiums with no intention of providing any coverage under its Policy provisions.

14 **SECOND CAUSE OF ACTION**

15 **TORTIOUS BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR**  
16 **DEALING**

17 **(By Plaintiffs Against Sentinel Insurance Company, Limited and The Hartford**  
18 **Fire Insurance Company)**

19 57. Plaintiffs reallege and incorporate by reference each and every allegation set forth  
20 herein above in paragraphs 1 through 56, inclusive.

21 58. The Policy contains an implied covenant by Sentinel and Hartford that they will act  
22 in good faith and deal fairly with Plaintiffs and that they would do nothing to interfere with the rights  
23 of their insured to receive the benefits of the Policy.

24 59. Sentinel's and Hartford's conduct in failing and refusing to conduct a complete,  
25 thorough, and fair investigation was unreasonable and constitutes bad faith.

26 60. Sentinel's and Hartford's conduct in wrongfully denying Plaintiffs' claim based on  
27 an alleged lack of physical damage—in spite of being presented with evidence that physical damage  
28 occurred due to the viral pandemic—was unreasonable and constitutes bad faith.



1           61.     Sentinel's and Hartford's conduct in refusing to pay for resulting loss which is insured  
2 is unreasonable and constitutes bad faith.

3           62.     Sentinel's and Hartford's bad faith conduct as alleged above injured and impaired  
4 Plaintiffs' rights implied by law in the Policy to enjoy the fruits and benefits of the Policy which  
5 would accrue by the proper performance of Sentinel's and Hartford's obligations under the policy.

6           63.     As a direct and proximate result of Sentinel's and Hartford's breaches of the implied  
7 covenant of good faith and fair dealing, Plaintiffs have sustained damage, including but not limited  
8 to, monies owed under the Policy for Property Damage, resulting losses, loss of use of the business  
9 premises, as well as pain and suffering, mental anguish, and emotional distress. The precise amount  
10 of these damages is not presently ascertainable but will be proven at the time of trial.

11           64.     As a further direct and proximate result of Sentinel's and Hartford's breaches,  
12 Plaintiffs have incurred attorney's fees as additional damages, the precise amount of which are  
13 unascertainable at this time.

14           65.     Plaintiffs are informed and believe that all of the wrongful acts alleged herein were  
15 authorized and/or ratified by officers, directors, or other managerial agents of Defendants Sentinel  
16 and Hartford.

17           66.     Plaintiffs are informed and believe and thereon allege that Hartford and Sentinel  
18 willfully engaged in the conduct alleged with malice, fraud, and oppression without excuse or  
19 justification and with the specific intent to injure Plaintiffs and they are therefore entitled to an award  
20 of punitive damages against Defendant in an amount to be proven at the time of trial. Defendants'  
21 despicable conduct includes, but is not limited to, denying Plaintiffs' claim with little or no  
22 investigation and in the face of overwhelming evidence supporting the validity of Plaintiff's claim.

23                           **THIRD CAUSE OF ACTION**

24                           **DECLARATORY RELIEF**

25           **(By Plaintiffs Against Sentinel Insurance Company, Limited and The Hartford**  
26                           **Fire Insurance Company)**

27           67.     Plaintiffs reallege and incorporate by reference each and every allegation set forth  
28 herein above in paragraphs 1 through 66, inclusive.

1           68.     Under Code of Civil Procedure section 1060 et seq., the Court may declare rights,  
2 status, and other legal relations whether or not further relief is or could be claimed.

3           69.     An actual controversy has arisen between Plaintiffs and Defendants Sentinel and  
4 Hartford as to the rights, duties, responsibilities, and obligations of the parties in that Plaintiffs  
5 contend and, on information and belief, Defendants Sentinel and Hartford dispute and deny that: (1)  
6 the coronavirus constitutes and cause a covered loss to the Insured Location; (2) the Government  
7 Orders prohibit access to Plaintiffs' Insured Location; (3) the Government Orders trigger coverage  
8 because the Policy does not include an exclusion for losses caused by a viral pandemic; (4) the Policy  
9 provides coverage to Plaintiffs for any current and future civil authority closures of businesses in  
10 Orange County, California due to physical loss or damage from the coronavirus under the Civil  
11 Authority coverage provision; and (5) the Policy provides business income coverage in the event that  
12 the coronavirus has caused a loss or damage at the Insured Location or immediate area of the Insured  
13 Location. Resolution of the duties, responsibilities, and obligations of the parties is necessary as no  
14 adequate remedy at law exists and a declaration of the Court is needed to resolve the dispute and  
15 controversy.

16           70.     Plaintiffs seek a Declaratory Judgment to determine whether the Government Orders  
17 caused a covered loss under the Policy.

18           71.     Plaintiffs further seek a Declaratory Judgment to affirm that the Government Orders  
19 trigger coverage because the Policy does not include an exclusion for a viral pandemic.

20           72.     Plaintiffs further seek a Declaratory Judgment to affirm that the policy provides  
21 coverage to Plaintiff for any current and future civil authority closures in Orange County, California  
22 and that the Policy provides business income coverage to the extent that coronavirus has caused a  
23 loss or damage at the Insured Location.

24                   **FOURTH CAUSE OF ACTION**

25                   **PROFESSIONAL NEGLIGENCE**

26                   **(By Plaintiffs Against All Defendants)**

27           73.     Plaintiffs reallege and incorporate by reference each and every allegation set forth  
28 herein above in paragraphs 1 through 72, inclusive.

1           74. In the event that that the Court finds that there is not at least coverage for actual loss  
2 sustained for twelve (12) months at the Insured Location, Plaintiffs assert this cause of action for  
3 Professional Negligence against Defendants Pipeline and Happy Life. Under the law governing an  
4 insurer's liability for its appointed agents, Defendants Sentinel and Hartford are vicariously liable  
5 for any damages established under Plaintiff's claim for Professional Negligence against Defendant  
6 Pipeline and that of Pipeline's agent, Happy Life.

7           75. As enumerated in Paragraph 10, Pipeline held itself out as an expert in the  
8 procurement of business income insurance for restaurants. Plaintiffs relied on Pipeline's professed  
9 expertise in obtaining a Policy with Defendants Sentinel and Hartford.

10          76. Pipeline and Happy Life owed Plaintiffs a duty of reasonable care to procure the  
11 insurance requested by Plaintiffs.

12          77. Pipeline and Happy Life knew or should have known that Plaintiffs would need  
13 coverage sufficient to indemnify against an extensive period of business interruption. Plaintiffs relied  
14 on Pipeline to obtain such coverage.

15          78. Pipeline and Happy Life knew or should have known that Plaintiff's Policy did not  
16 include business interruption coverage of Actual Loss Sustained for up to twelve (12 months).

17          79. In addition, Pipeline and Happy Life knew or should have known that Sentinel  
18 Insurance Company's Deluxe Hartford Policy offered full coverage for damage caused by viruses.  
19 Pipeline and Happy Life failed to inform Plaintiffs of the availability of such additional coverage.

20          80. Pipeline and Happy Life breached their duty of care to Plaintiff by negligently failing  
21 to obtain for Plaintiff sufficient loss of business income insurance coverage.

22          81. On information and belief, Defendant Pipeline is an appointed agent of Co-  
23 Defendants Sentinel and Hartford and is thus subject to Insurance Code section 1731. (See Exhibit  
24 E.) As such, Defendants Sentinel and Hartford are vicariously liable for the professional negligence  
25 of their appointed agent, Defendant Pipeline, and those of Pipeline's agent, Happy Life.

26          82. Under Insurance Code section 1731, "[a] person licensed as a broker-agent shall be  
27 deemed to be acting as an insurance agent in the transaction of insurance placed with those insurers  
28 for whom a notice of appointment has been filed with the Insurance Commissioner." Moreover, "[i]n

1 addition to possessing a license, an insurance agent must be authorized by an insurance carrier to  
2 transact insurance business on the carrier's behalf. This authorization must be evidenced by a notice  
3 of agency appointment on file with the Department of Insurance.” (*Chicago Title Ins. Co. v. AMZ*  
4 *Ins. Services, Inc.* 188 (2010) Cal.App.4th 401, 425.)

5 83. An insurance agent's negligence in failing to procure the type of insurance sought by  
6 the insured may be attributed to the insurer under theories of ratification and ostensible authority.  
7 (See *R&B Auto Ctr., Inc. v. Farmers Group, Inc.* (2006) 140 Cal.App.4th 327, 337.) An insurer may  
8 also be vicariously liable for its agent's negligent misrepresentations as to the existence or scope of  
9 coverage. (See *Paper Savers, Inc. v. Nacka* (1996) 51 Cal.App.4th 1090, 1099.) Consequently, an  
10 agent's representations regarding coverage in selling a policy may have the effect of expanding the  
11 coverage beyond that actually provided by the policy even when there is no ambiguity. (See *Hartford*  
12 *Fire Ins. Co. v. Spartan Realty Int'l, Inc.* (1987) 196 Cal.App.3d 1320, 1325 “[F]raud or  
13 misrepresentation as to coverage under a policy or issuance of a policy different from that represented  
14 to the insured estops the insurer from reliance on the coverage as stated in the issued policy.”]; *R&B*  
15 *Auto Ctr., Inc. v. Farmers Group, Inc.* (2006) 140 Cal.App.4th 376, 339, fn. 11 [finding that the  
16 agent's misrepresentation may be ground for reformation of the policy to provide the coverage  
17 promised].)

18 84. Moreover, under California law, “it is a well-established principle that attorney fees  
19 incurred through instituting . . . an action as a direct result of the tort of another are recoverable  
20 damages.” (*Third Eye Blind, Inc. v. Near North Entertainment Ins. Services, LLC* (2005) 127  
21 Cal.App.4th 1311, 1324.)

22 85. As a proximate result of Defendant Pipeline's negligent failure to obtain loss of  
23 business income coverage and Defendants Sentinel and Hartford's ratification and/or grant of  
24 authority to Pipeline, Plaintiffs have sustained, and continue to sustain, damages for loss of insurance  
25 benefits for the loss of business income claim that it would have received had Pipeline and Happy  
26 Life procured adequate loss of business income coverage from Sentinel and Hartford.

27 ///

28 ///

1 **P R A Y E R**

2 **WHEREFORE**, Plaintiffs SHOWA HOSPITALITY, LLC and THE TACO STAND  
3 ORANGE CORP, pray as follows:

4 **As to the First Cause of Action:**

- 5 1. For contractual benefits under the Policy;  
6 2. For general, special, and consequential damages according to proof at the time of trial;

7 **As to the Second Cause of Action:**

- 8 3. For contractual benefits under the Policy;  
9 4. For general, special, and consequential damages according to proof at the time of trial;  
10 5. For reasonable attorney's fees pursuant to law incurred to obtain the Policy benefits;  
11 6. For punitive damages according to proof;

12 **As to the Third Cause of Action:**

- 13 7. For a declaration that the COVID-19 pandemic and the infection of coronavirus  
14 constitutes "physical loss" under the Policy;  
15 8. For a declaration that the coronavirus caused a covered loss under the Policy;  
16 9. For a declaration that the Government Orders "prohibited access" to Plaintiff's  
17 Insured Properties, as defined in the Policy;  
18 10. For a declaration that the Government Orders trigger coverage because the Policy  
19 does not include an exclusion for losses caused by a pandemic and actually extends coverage for loss  
20 or damage due to virus;  
21 11. For a declaration that the Policy provides: (1) Actual Loss Sustained Business Income  
22 and Extra Expense for twelve (12) months; (2) coverage to Plaintiffs for any current and future civil  
23 authority closures in Orange County due to physical loss or damage from the coronavirus pandemic  
24 under the Policy's Civil Authority coverage provision; and (3) Limited Virus Coverage of \$50,000  
25 due to the business income impact and community infection arising from the COVID-19 pandemic.

26 **As to the Fourth Cause of Action:**

- 27 12. For compensatory damages, in an amount to be proved at trial;  
28 13. For interest at the legal rate;

14. For reasonable attorney's fees pursuant to law incurred to obtain the Policy benefits.

**As to All Causes of Action:**

15. For costs of suit incurred therein;

16. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

LIMANDRI & JONNA LLP

Dated: May 28, 2020

By: 

Charles S. LiMandri

Paul M. Jonna

Jeffrey M. Trissell

Milan L. Brandon

Attorneys for Plaintiffs

SHOWA HOSPITALITY, LLC and

THE TACO STAND ORANGE CORP

**Exhibit A**

[Agent Login](#)[Client Login](#)

## COMMERCIAL

As a business owner, you take calculated risks every day in, order to keep your business thriving. But what about the risks you haven't considered? Business insurance is an excellent way to allow you to concentrate on profit, without being blindsided by unexpected liability.

Regardless of what line of business you work in, business insurance can protect you in a host of ways, including:





- Protection from lawsuits
- Worker's Compensation

The costs associated with a business insurance policy are small compared with the large risks that you'll be protected against.

If you currently rely on property insurance you are protecting your assets, but not the business itself. If there's a business interruption or a lawsuit, you need business insurance to ensure that you can keep going.

Our insurance is a collection of protective insurance policies for any business owner to protect against some of the greatest risks in business. It can shield you from losses arising from property, employee, or customer claims.

Here are two reasons to get started right away!

1. Your business is valuable; don't let another day go by without shutting the door on risk.
2. It's easy and quick to get a no-risk quote for a business insurance policy. Just fill out this simple form, and we'll contact you soon.





AUTO DEALERS INSURANCE →



BEAUTY INDUSTRY →



[BUSINESS LIABILITY INSURANCE →](#)



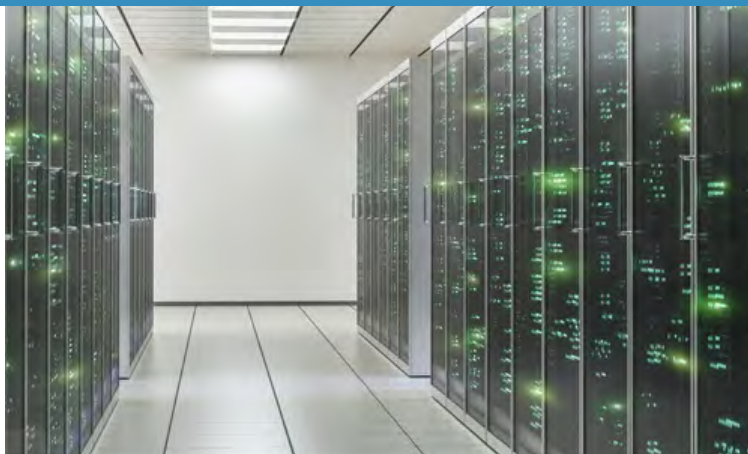
[COMMERCIAL AUTO INSURANCE →](#)



COMMERCIAL PROPERTY INSURANCE →



CONTRACTORS INSURANCE →



CYBER LIABILITY INSURANCE →



E & O INSURANCE →





FARM AND RANCH INSURANCE →



FOOD CART INSURANCE →



GROUP HEALTH INSURANCE →



LANDLORD LIABILITY INSURANCE →



LIQUOR LIABILITY INSURANCE →



RESTAURANT INSURANCE →

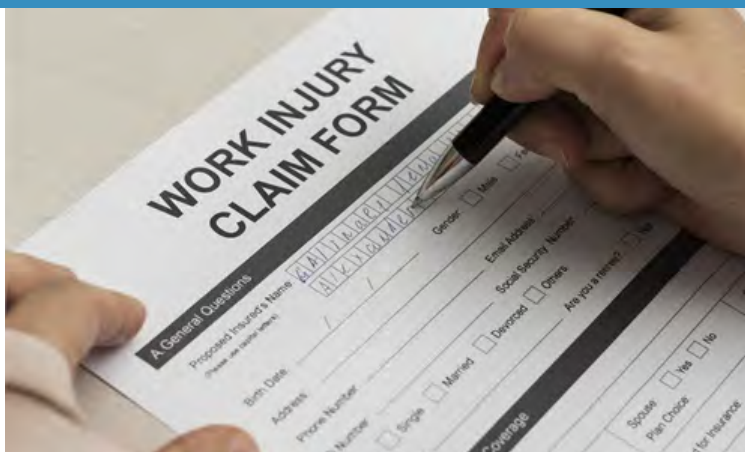




SHORT TERM EVENTS →



SPECIALTY LINES →



WORKERS COMPENSATION INSURANCE →

## CONTACT

Office: [877-928-9994](tel:877-928-9994)

Fax: [877-928-9994](tel:877-928-9994)

1330 Orange Avenue

Suite 321

Coronado, CA 92118

Lic# 0C48666

[service@pipelineinsurance.com](mailto:service@pipelineinsurance.com)

## QUICK LINKS

[All Videos](#)

[All Calculators](#)

[All Presentations](#)

We take protecting your data and privacy very seriously. As of January 1, 2020 the [California Consumer Privacy Act \(CCPA\)](#), suggests the following link as an extra measure to safeguard your data: [Do not sell my personal information](#).

## REFER A CLIENT

Know someone in need of insurance? Take just a moment and let us know by clicking [here](#).

## BECOME AN AGENT

Interested in becoming a Pipeline Insurance agent or adding Insurance Services to your business strategy? Our program is very straight-forward. For additional consideration and Career Agent Opportunities, Email us at [info@pipelineinsurance.com](mailto:info@pipelineinsurance.com).

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**EXHIBIT B**

## Milan Brandon

---

**From:** Milan Brandon  
**Sent:** Wednesday, May 27, 2020 9:19 AM  
**To:** Milan Brandon  
**Subject:** FW: ORANGE BOP

----- Forwarded message -----

From: **Gustavo Contreras** <[gus@happylifefinancial.com](mailto:gus@happylifefinancial.com)>  
Date: Fri, Mar 1, 2019 at 5:08 AM  
Subject: ORANGE BOP  
To: Julian Hakim <[julian@showahospitality.com](mailto:julian@showahospitality.com)>  
Cc: Michael Roels <[mike@showahospitality.com](mailto:mike@showahospitality.com)>

Hello,

I have included the current Business Owner Policy quote proposal from the Hartford. I think the rate is pretty competitive and it is ready to issue. Please let me know if you have any questions.

I am still waiting to here back from a couple other carriers on the Worker's Comp. However, Hartford's workers comp is the most competitive so far.

Thanks,

Gustavo Contreras Hernandez

Lic: 0M08412

E: [gus@happylifefinancial.com](mailto:gus@happylifefinancial.com)

P: 858 688-4756

W: [happylifefinancial.com](http://happylifefinancial.com)



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If you received this transmission in error, please notify the sender by reply e-mail and then destroy the message.

**EXHIBIT C**



## THANK YOU FOR RENEWING YOUR POLICY WITH US

If you're receiving this renewal through the mail directly from The Hartford, please note that we've only attached new, changed or updated documents. These include your new declarations page, which outlines your coverage, as well as any notices and brochures with updated information. We leave out unchanged documents to help cut down on paperwork and mailing costs. You can keep the attached documents filed alongside those from your previous policy if you wish.

If you're receiving this renewal electronically, or it's been mailed by your agent, it may include all of your documents - even ones that haven't changed.

In either case, keep in mind that you can view, download or print any of these documents online. Just register or log into your account <https://business.thehartford.com> and click on "Documents". For added convenience, you can also pay your bill, request a Certificate of Insurance, check claims status, update preferences and more.



# Insurance Policy Billing Information

Thank you for selecting The Hartford for your business insurance needs.

Shortly, you will receive your first bill from us. You are receiving this Notice so you know what to expect as a valued customer of The Hartford. Should you have any questions after reviewing this information, please contact us at 866-467-8730, and we will be happy to assist you.

- o Your total policy premium will appear on your policy's Declarations Page. You will be billed based on the payment plan you selected.
- o You may pay the "minimum due" as it appears on your insurance bill or pay the policy balance in full.
- o An installment service fee is added to each installment. A late fee will also be applied if the "minimum due" is not **received** by the due date shown on your bill. Service and late payment fees do not apply in all states.
- o If you selected installment billing, any credit or additional premium due as the result of a change made to your policy, will be spread over the remaining billing installments. Additional premium due as a result of an **audit** will be billed in full on your next bill date following the completion of the audit.
- o If you elected Electronic Funds Transfer (EFT), policy changes may result in changes to the amount automatically withdrawn from your bank account. The invoice you receive following a policy change will include future withdrawal amounts. If you need to adjust or stop your next scheduled EFT withdrawal, please contact us **at least 3 days prior** to the scheduled withdrawal date at the telephone number shown below.
- o If you selected installment billing and pay the premiums for your first policy term on time, at renewal, your account may qualify for our "Equal Installment" feature. This means that the percentage due for each installment, including the initial renewal installment, will be the same throughout the policy term – helping you better manage cash flow. Equal installments will continue as long as you pay your premiums on time and no cancellation notices are issued for any policy on your account. If you no longer qualify for Equal Installments, future renewals will be billed based on the payment plan you selected, which includes a higher initial installment amount.
- o If your policy is eligible for renewal, your bill for the upcoming policy term will be sent to you approximately 30 days prior to your policy's renewal date. If your insurance needs change, please contact us at least 60 days prior to your renewal date so we can properly address any adjustments needed.
- o **One bill convenience** -- you have the option of combining all eligible Hartford policies on one single bill allowing you to make one payment for all policies on your account as payments are due.

## You're In Control

In addition to selecting a bill plan option that best meets your budget, you have the flexibility to decide **how** your payments are made ...

- o **Repetitive EFT:** Sign up for Repetitive EFT payments and have payments automatically withdrawn from your bank account. This option saves you money by reducing the amount of the installment service fee.
- o **Pay Online:** Register at [www.thehartford.com/servicecenter](http://www.thehartford.com/servicecenter). Online Bill Pay is Quick, Easy and Secure!
- o **Pay by Check:** Send a check with your remittance stub in the envelope provided with your bill.
- o **Pay by Phone:** Call toll-free 1-866-467-8730.

Should you have any questions about your bill, please call Customer Service toll-free number:  
1-866-467-8730 - 7AM – 7PM CST. We look forward to being of service to you.



## IMPORTANT NOTICE TO POLICYHOLDERS

### THE HARTFORD CYBER CENTER WEBSITE ACCESS

Thank you for choosing The Hartford for your business insurance needs.

You are receiving this Notice because you purchased a business owner's policy from The Hartford, (your Policy was issued by The Hartford writing company identified on your policy Declarations page) which includes access to The Hartford Cyber Center. This portal was created because we recognize that businesses face a variety of cyber-related exposures and need help managing the related risks. These exposures include data breaches, computer virus attacks and cyber extortion threats.

Through The Hartford Cyber Center, you have access to:

- o A panel of third party incident response service providers
- o Third party cybersecurity pre-incident service providers and a list of approved services to help protect your business before a cyber-threat occurs
- o Risk management tools, including self-assessments, best practice guides, templates, sample incident response plans, and data breach cost calculators
- o White papers, blogs and webinars from leading privacy and security practitioners
- o Up-to-date cyber-related news and events, including examples of privacy and security related events

Accessing The Hartford Cyber Center is easy

1. Visit [www.thehartford.com/cybercenter](http://www.thehartford.com/cybercenter)
2. Enter policyholder information
3. Access code: 952689
4. Login to The Hartford Cyber Center

This Notice does not amend or otherwise affect the provisions of your business owner's policy.

#### **Coverage Options:**

The Hartford offers a variety of endorsements to your business owner's policy that can help protect your business from a broad range of cyber-related threats. Please review your coverage with your insurance agent or broker to determine the most appropriate cyber coverages and limits for your business.

#### **Claims Reporting:**

If you have a claim, you can report it by calling The Hartford's toll-free claims line at **1-800-327-3636**.

Should you have any questions, please contact your insurance agent, broker or you may contact us directly.

We appreciate your business and look forward to being of continued service to you.

Please be aware that:

- o The Hartford Cyber Center is a proprietary web portal exclusively provided to customers of The Hartford. Please do not share the access code with anyone outside your organization.
- o Registration is required to access the Cyber Center. You may register as many users as necessary.
- o Contacting a service provider about any issue does not constitute providing The Hartford notice of a claim as required under your insurance policy. Read your insurance policy and discuss any questions with your agent or broker.

The Hartford Cyber Center provides third party service provider references and materials for educational purposes only. The Hartford does not specifically endorse any such service provider within The Hartford Cyber Center and hereby disclaims all liability with respect to use of or reliance on such service providers. All service providers are independent contractors and not agents of The Hartford. The Hartford does not warrant the performance of the service providers, even if such services are covered under your Business Owners Policy. We strongly encourage you to conduct your own assessments of the service providers' services and the fitness or adequacy of such services for your particular needs.



## **IMPORTANT NOTICE TO POLICYHOLDERS - PERSONAL AND ADVERTISING INJURY EXCLUSION - LIMITED**

Thank you for trusting The Hartford with your Business Insurance needs.

Your policy may have previously had SS 50 50, Personal and Advertising Injury Exclusion - Limited attached. Please be advised that SS 50 50 will no longer be attached due to your class and business operations. The elimination of SS 50 50 from your policy will result in a broadening of coverage.

If you have any questions regarding this notice, feel free to reach out to your Hartford representative.

# Spectrum®

## Business Owner's Policy





## **PRODUCER COMPENSATION NOTICE**

You can review and obtain information on The Hartford's producer compensation practices at [www.TheHartford.com](http://www.TheHartford.com) or at 1-800-592-5717.



**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT.**

## **DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT**

### **SCHEDULE**

#### **Terrorism Premium:**

**\$**            \$69.00

#### **A. Disclosure Of Premium**

In accordance with the federal Terrorism Risk Insurance Act, as amended (TRIA), we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for "certified acts of terrorism" under TRIA. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement.

#### **B. The following definition is added with respect to the provisions of this endorsement:**

1. A "certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of TRIA, to be an act of terrorism under TRIA. The criteria contained in TRIA for a "certified act of terrorism" include the following:
  - a. The act results in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to TRIA; and
  - b. The act results in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of an United States mission; and
  - c. 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

#### **C. Disclosure Of Federal Share Of Terrorism Losses**

The United States Department of the Treasury will reimburse insurers for a portion of insured losses, as indicated in the table below, attributable to "certified acts of terrorism" under TRIA that exceeds the applicable insurer deductible:

<b>Calendar Year</b>	<b>Federal Share of Terrorism Losses</b>
<b>2015</b>	<b>85%</b>
<b>2016</b>	<b>84%</b>
<b>2017</b>	<b>83%</b>
<b>2018</b>	<b>82%</b>
<b>2019</b>	<b>81%</b>
<b>2020 or later</b>	<b>80%</b>

However, if aggregate industry insured losses under TRIA 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. The United States government has not charged any premium for their participation in covering terrorism losses.

**D. Cap On Insurer Liability for Terrorism Losses**

If aggregate industry insured losses attributable to "certified acts of terrorism" under TRIA exceed \$100 billion in a calendar year and we have met, or will meet, our insurer deductible under TRIA, we shall not be liable for the payment of any portion of the amount of such losses that exceed \$100 billion. In such case, your coverage for terrorism losses may be reduced on a pro-rata basis in accordance with procedures established by the Treasury, based on its estimates of aggregate industry losses and our estimate that we will exceed our insurer deductible. In accordance with the Treasury's procedures, amounts paid for losses may be subject to further adjustments based on differences between actual losses and estimates.

**E. Application of Other Exclusions**

The terms and limitations of any terrorism exclusion, the inapplicability or omission of a terrorism exclusion, or the inclusion of terrorism coverage, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form, Coverage Part or Policy.

**F. All other terms and conditions remain the same.**



## IMPORTANT NOTICE TO POLICYHOLDERS - UNMANNED AIRCRAFT - LIABILITY ENDORSEMENT

Thank you for trusting The Hartford with your Business Insurance needs.

You are receiving this Notice because an Unmanned Aircraft - Liability Endorsement (Form SS 42 06) has been added to your policy. This form modifies the Aircraft, Auto or Watercraft exclusion such that any coverage for unmanned aircraft is completely excluded. This is a reduction in the coverage provided by your policy.

In addition, the Personal and Advertising Injury exclusion in your Business Liability Coverage (Form SS 00 08) is revised to exclude coverage for Personal and Advertising Injury damages arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". This is a reduction in the coverage provided by your policy.

The changes described above do not impact your policy premium.

However; if the box next to Option 1 on Form SS 42 06 (included in your policy package following your declarations page) is selected, Bodily Injury and Property Damage coverage for "unmanned aircraft" applies to your policy. If the box next to Option 2 is selected, Personal and Advertising Injury coverage for "unmanned aircraft" applies to your policy.

If neither option is selected, you may have the option of purchasing Bodily Injury and Property Damage coverage for "unmanned aircraft," Personal and Advertising Injury coverage for "unmanned aircraft" or both for an additional premium.

Please contact your agent, broker or representative of The Hartford to understand if your business is eligible to purchase these coverages or for any questions about these changes.

**Please be aware** that no coverage is provided by this Notice nor should 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 a conflict between the policy and this Notice, the provisions of the policy shall prevail.





## IMPORTANT NOTICE TO POLICYHOLDERS

To help your insurance keep pace with increasing costs, we have increased your amount of insurance . . . giving you better protection in case of either a partial, or total loss to your property.

If you feel the new amount is not the proper one, please contact your agent or broker.

38 This **Spectrum Policy** consists of the Declarations, Coverage Forms, Common Policy Conditions and any  
28 other Forms and Endorsements issued to be a part of the Policy. This insurance is provided by the stock  
BC insurance company of The Hartford Insurance Group shown below.

SBA

**INSURER:** SENTINEL INSURANCE COMPANY, LIMITED  
ONE HARTFORD PLAZA, HARTFORD, CT 06155  
COMPANY CODE: A

**Policy Number:** 72 SBA BC2838 SC



## SPECTRUM POLICY DECLARATIONS

**Named Insured and Mailing Address:** THE TACO STAND ORANGE CORP  
(No., Street, Town, State, Zip Code) DBA THE TACO STAND  
624 BROADWAY STE 301  
SAN DIEGO CA 92101

**Policy Period:** From 03/04/20 To 03/04/21 1 YEAR  
12:01 a.m., Standard time at your mailing address shown above. **Exception:** 12 noon in New Hampshire.

**Name of Agent/Broker:** PIPELINE INSURANCE GENERAL AGENCY  
**Code:** 187454

**Previous Policy Number:** 72 SBA BC2838

**Named Insured is:** CORPORATION

**Audit Period:** ANNUAL

**Type of Property Coverage:** SPECIAL

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

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**TOTAL ANNUAL PREMIUM IS:** \$3,495

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Countersigned by *Suean L. Castaneda*  
Authorized Representative

12/19/19  
Date

## SPECTRUM POLICY DECLARATIONS (Continued)

**POLICY NUMBER:** 72 SBA BC2838

Location(s), Building(s), Business of Named Insured and Schedule of Coverages for Premises as designated by Number below.

**Location:** 001      **Building:** 001

240 W CHAPMAN AVE  
ORANGE      CA 92866

**Description of Business:**

Restaurant - Fast Food or Quick Service (Full Cooking)

**Deductible:** \$ 500 PER OCCURRENCE

### BUILDING AND BUSINESS PERSONAL PROPERTY LIMITS OF INSURANCE

#### BUILDING

NO COVERAGE

#### BUSINESS PERSONAL PROPERTY

**REPLACEMENT COST**      \$ 104,500

#### PERSONAL PROPERTY OF OTHERS

**REPLACEMENT COST**      NO COVERAGE

#### MONEY AND SECURITIES

INSIDE THE PREMISES      \$ 10,000  
OUTSIDE THE PREMISES      \$ 5,000

## **SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER:** 72 SBA BC2838

Location(s), Building(s), Business of Named Insured and Schedule of Coverages for Premises as designated by Number below.

**Location:** 001      **Building:** 001

### **PROPERTY OPTIONAL COVERAGES APPLICABLE    LIMITS OF INSURANCE TO THIS LOCATION**

LIMITED FUNGI, BACTERIA OR VIRUS      \$    50,000  
COVERAGE:

FORM SS 40 93

THIS IS THE MAXIMUM AMOUNT OF  
INSURANCE FOR THIS COVERAGE,  
SUBJECT TO ALL PROPERTY LIMITS  
FOUND ELSEWHERE ON THIS  
DECLARATION.

INCLUDING BUSINESS INCOME AND EXTRA  
EXPENSE COVERAGE FOR:      30 DAYS

## SPECTRUM POLICY DECLARATIONS (Continued)

POLICY NUMBER: 72 SBA BC2838

### PROPERTY OPTIONAL COVERAGES APPLICABLE LIMITS OF INSURANCE TO ALL LOCATIONS

BUSINESS INCOME AND EXTRA EXPENSE  
COVERAGE 12 MONTHS ACTUAL LOSS SUSTAINED  
COVERAGE INCLUDES THE FOLLOWING  
COVERAGE EXTENSIONS:

ACTION OF CIVIL AUTHORITY: 30 DAYS  
EXTENDED BUSINESS INCOME: 30 CONSECUTIVE DAYS

EQUIPMENT BREAKDOWN COVERAGE  
DEDUCTIBLE: \$1,000 FORM: SS 40 65  
COVERAGE FOR DIRECT PHYSICAL LOSS  
DUE TO:  
MECHANICAL BREAKDOWN,  
ARTIFICIALLY GENERATED CURRENT  
AND STEAM EXPLOSION

THIS ADDITIONAL COVERAGE INCLUDES  
THE FOLLOWING EXTENSIONS

HAZARDOUS SUBSTANCES	\$ 50,000
EXPEDITING EXPENSES	\$ 50,000

MECHANICAL BREAKDOWN COVERAGE ONLY  
APPLIES WHEN BUILDING OR BUSINESS  
PERSONAL PROPERTY IS SELECTED ON  
THE POLICY

IDENTITY RECOVERY COVERAGE	\$ 15,000
FORM SS 41 12	

FOOD CONTAMINATION COVERAGE	\$ 10,000
FORM SS 41 32	

# **SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER:** 72 SBA BC2838

<b>BUSINESS LIABILITY</b>	<b>LIMITS OF INSURANCE</b>
<b>LIABILITY AND MEDICAL EXPENSES</b>	\$1,000,000
<b>MEDICAL EXPENSES - ANY ONE PERSON</b>	\$ 5,000
<b>PERSONAL AND ADVERTISING INJURY</b>	\$1,000,000
<b>DAMAGES TO PREMISES RENTED TO YOU ANY ONE PREMISES</b>	\$1,000,000
<b>AGGREGATE LIMITS</b>	
<b>PRODUCTS-COMPLETED OPERATIONS</b>	\$2,000,000
<b>GENERAL AGGREGATE</b>	\$2,000,000

## **BUSINESS LIABILITY OPTIONAL COVERAGES**

**CYBERFLEX COVERAGE  
FORM SS 40 26**

**UNMANNED AIRCRAFT LIABILITY  
IS EXCLUDED  
SEE FORM: SS 42 06**

## SPECTRUM POLICY DECLARATIONS (Continued)

POLICY NUMBER: 72 SBA BC2838

### Form Numbers of Forms and Endorsements that apply:

SS 00 01 03 14	SS 00 05 10 08	SS 00 07 07 05	SS 00 08 04 05
SS 00 38 04 04	SS 00 45 12 06	SS 00 60 09 15	SS 00 61 07 19
SS 00 64 09 16	SS 01 21 03 17	SS 42 06 03 17	SS 40 26 03 17
SS 40 65 07 05	SS 40 93 07 05	SS 41 12 12 17	SS 41 32 09 06
SS 41 51 10 09	SS 41 63 06 11	IH 10 01 09 86	SS 05 10 03 00
SS 05 47 09 15	SS 50 57 04 05	SS 51 11 03 17	SS 50 19 01 15
IH 99 40 04 09	IH 99 41 04 09	SS 83 76 01 15	SS 89 93 07 16

## **SPECTRUM POLICY DECLARATIONS (Continued)**

**POLICY NUMBER:** 72 SBA BC2838

### **SUPPLEMENTAL DECLARATIONS:**

**A service fee of \$ 7.00 is charged for each installment when your premium is paid in installments. The service fee is \$ 5.00 per withdrawal when you select an electronic fund transfer payment plan. The service fee will be added to the premium amount shown on your premium billing statement.**



# Spectrum Supplemental Schedule of Auditable Coverages



This schedule reflects only those locations that have classes and/or coverages that are subject to audit.

**Policy Number:** 72 SBA BC2838

Entries herein, except as specifically provided elsewhere in this policy, do not modify any of the other provisions of this policy.

LOC/BLDG NO: 001/001 TERR: 128  
LOCATION: 240 W CHAPMAN AVE  
ORANGE CA 92866

CLASSIFICATION CODE NUMBER 58031  
DESCRIPTION:  
Restaurant - Fast Food or Quick Service (Full Cooking)

COVERAGE DESCRIPTION: PREMISES/OPERATIONS COVERAGE

REFER TO: BUSINESS LIABILITY COVERAGE PART FORM SS 00 08

RATING BASIS: SALES PER 1000

EXPOSURE: 461,250

FINAL RATE: 3.141

ADVANCE PREMIUM: \$1,449.00

COVERAGE DESCRIPTION: PRODUCTS/COMPLETED OPERATIONS COVERAGE

REFER TO: BUSINESS LIABILITY COVERAGE PART FORM SS 00 08

RATING BASIS: SALES PER 1000

EXPOSURE: 461,250

FINAL RATE: 1.971

ADVANCE PREMIUM: \$909.00

COVERAGE DESCRIPTION: BUSINESS INCOME & EXTRA EXPENSE - ACTUAL LOSS  
SUSTAINED

REFER TO: SPECIAL PROPERTY COVERAGE PART FORM SS 00 07

RATING BASIS: SALES PER 1000

EXPOSURE: 461,250

FINAL RATE: 0.598

ADVANCE PREMIUM: \$276.00

**Spectrum Supplemental Schedule of Auditable Coverages (Continued)**

**Policy Number:** 72 SBA BC2838

-----  
TOTAL ADVANCE PREMIUM \$2,634.00 DOES NOT INCLUDE TERRORISM OR  
FOR AUDITABLE COVERAGES ANY APPLICABLE STATE SURCHARGES OR FEES OR  
MINIMUM PREMIUMS  
-----

## **COMMON POLICY CONDITIONS**

## **QUICK REFERENCE - SPECTRUM POLICY**

### **DECLARATIONS and COMMON POLICY CONDITIONS**

#### **I. DECLARATIONS**

Named Insured and Mailing Address

Policy Period

Description and Business Location

Coverages and Limits of Insurance

#### **II. COMMON POLICY CONDITIONS**

#### **Beginning on Page**

<b>A.</b>	Cancellation	<b>1</b>
<b>B.</b>	Changes	<b>1</b>
<b>C.</b>	Concealment, Misrepresentation Or Fraud	<b>2</b>
<b>D.</b>	Examination Of Your Books And Records	<b>2</b>
<b>E.</b>	Inspections And Surveys	<b>2</b>
<b>F.</b>	Insurance Under Two Or More Coverages	<b>2</b>
<b>G.</b>	Liberalization	<b>2</b>
<b>H.</b>	Other Insurance - Property Coverage	<b>2</b>
<b>I.</b>	Premiums	<b>2</b>
<b>J.</b>	Transfer Of Rights Of Recovery Against Others To Us	<b>2</b>
<b>K.</b>	Transfer Of Your Rights And Duties Under This Policy	<b>3</b>
<b>L.</b>	Premium Audit	<b>3</b>



# COMMON POLICY CONDITIONS

All coverages of this policy are subject to the following conditions.

## A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 5 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 canceled, we will send the first Named Insured any premium refund due. Such 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.

## COMMON POLICY CONDITIONS

### 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 conceal or misrepresent 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 the policy at any time during the policy period and up to three years afterward.

### E. Inspections And Surveys

1. We have the right but are not obligated to:
  - a. Make inspections and surveys at any time;
  - b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. Any inspections, surveys, reports or recommendations will 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 any person. We do not represent or warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.
3. This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations on our behalf.

### 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 at any time during, the policy period, the broadened coverage will immediately apply to this policy.

### H. Other Insurance - Property Coverage

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.

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

### J. Transfer Of Rights Of Recovery Against Others To Us

Applicable to 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:

1. Prior to a loss to your Covered Property; or
2. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

## COMMON POLICY CONDITIONS

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

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

This will not restrict your insurance.

### K. 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.

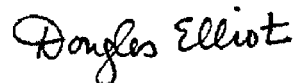
### L. Premium Audit

- a. We will compute all premiums for this policy in accordance with our rules and rates.
- b. The premium amount shown in the Declarations is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Any additional premium found to be due as a result of the audit are due and payable on notice to the first Named Insured. If the deposit premium paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must maintain all records related to the coverage provided by this policy and necessary to finalize the premium audit, and send us copies of the same upon our request.

Our President and Secretary have signed this policy. Where required by law, the Declarations page has also been countersigned by our duly authorized representative.



Lisa Levin, Secretary



Douglas Elliot, President

# **SPECIAL PROPERTY COVERAGE FORM**



# QUICK REFERENCE

## SPECIAL PROPERTY COVERAGE FORM READ YOUR POLICY CAREFULLY

<b>SPECIAL PROPERTY COVERAGE FORM</b>	<b>Beginning on Page</b>
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Property Not Covered	1
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# SPECIAL PROPERTY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to the SECTION G - PROPERTY DEFINITIONS.

## A. COVERAGE

We will pay for direct physical loss of or physical damage to Covered Property at the premises described in the Declarations (also called "scheduled premises" in this policy) caused by or resulting from a Covered Cause of Loss.

### 1. Covered Property

Covered Property as used in this policy, means the following types of property for which a Limit of Insurance is shown in the Declarations:

**a. Buildings**, meaning only building(s) and structure(s) described in the Declarations, including:

- (1) Completed additions;
- (2) Permanently installed:
  - (a) Fixtures;
  - (b) Machinery; and
  - (c) Equipment;
- (3) Outdoor fixtures;
- (4) Your personal property in apartments, rooms or common areas furnished by you as landlord;
- (5) Building Glass, meaning glass that is part of a building or structure;
- (6) Personal property owned by you that is used to maintain or service the buildings or structures on the premises, including:
  - (a) Fire extinguishing equipment;
  - (b) Outdoor furniture;
  - (c) Floor coverings; and
  - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering; and
- (7) 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 1,000 feet of the "scheduled premises", used for making additions, alterations or repairs to the buildings or structures.

**b. Business Personal Property** located in or on the building(s) described in the Declarations at the "scheduled premises" or in the open (or in a vehicle) within 1,000 feet of the "scheduled premises", including:

- (1) Property you own that is used in your business;
- (2) Tools and equipment owned by your employees, which are used in your business operations;
- (3) Property of others that is in your care, custody or control;
- (4) "Tenant Improvements and Betterments"; and
- (5) Leased personal property for which you have contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.

### 2. Property Not Covered

Covered Property does not include:

- a.** Aircraft, automobiles, motor trucks and other vehicles subject to motor vehicle registration;
- b.** Automobiles held for sale;
- c.** "Money", bullion, numismatic and philatelic property and bank notes or "securities" except as provided in any Additional Coverages or Optional Coverages. Lottery tickets held for sale and postage stamps in current use and having face value are not "securities".
- d.** Contraband, or property in the course of illegal transportation or trade;

## SPECIAL PROPERTY COVERAGE FORM

- e. Land (including land on which the property is located), water, growing crops or lawns;
- f. Outdoor fences, radio or television antennas (including satellite dishes), including their lead in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than those held for sale or sold but not delivered), except as any of these may be provided in the:
  - (1) Outdoor Property Coverage Extension; or
  - (2) Outdoor Signs Optional Coverage;
- g. Watercraft (including motors, equipment and accessories) while afloat;
- h. The cost to research, replace or restore the information on "valuable papers and records", except as may be provided in any Coverage Extensions or Optional Coverages.
- i. "Data" and "software" which exists on electronic "media" including the cost to research, replace or restore them, except as may be provided for in any Additional Coverages or Optional Coverages.
- j. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided for in this policy.

### 3. Covered Causes of Loss

RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

- a. Excluded in Section B., **EXCLUSIONS**; or
- b. Limited in Paragraph A.4. Limitations; that follow.

### 4. Limitations

- a. We will not pay for direct loss of or damage to:
  - (1) Property that is missing, where the only evidence of the direct physical loss or physical 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 Additional Coverage for "Money" and "Securities".
  - (2) Property that has been transferred to a person or to a place outside the "scheduled premises" on the basis of unauthorized instructions.
  - (3) The interior of any 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 physical 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 direct physical loss or physical damage is caused by or results from thawing of snow, sleet, or ice on the building or structure.

- b. Pets and animals are covered only if:

- (1) They are inside the building; and
- (2) They are owned by others and boarded by you, or owned by you and held for sale or sold but not delivered.

And then we will pay only if they are killed, stolen, or their destruction is made necessary by a "specified cause of loss".

- c. For direct physical loss or physical damage by "theft", the following types of property are covered only up to the limits shown:

- (1) \$2,500 for furs, fur garments and garments trimmed with fur;
- (2) \$5,000 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$500 or less per item;
- (3) \$2,500 for patterns, dies, molds and forms; and
- (4) \$500 for stamps, lottery tickets held for sale and letters of credit.

- d. Unless specifically provided under a separate endorsement and with a specific Limit of Insurance indicated in the Declarations, we will not pay for direct physical loss of or physical damage to "perishable stock" caused by or resulting from:

- (1) A change in temperature or humidity resulting from:
  - (a) Mechanical breakdown or failure of:
    - (i) Stationary heating plants; or
    - (ii) Refrigerating, cooling, or humidity control apparatus or equipment;
  - (b) Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires; or
  - (c) Complete or partial failure of electric power on your "scheduled premises".
- (2) Contamination by refrigerant.

**5. Additional Coverages**

**a. Collapse**

**(1) With respect to Buildings:**

- (a)** Collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building cannot be occupied for its intended purpose;
- (b)** A building or any part of a building that is in danger of falling down or caving in is not considered to be in a state of collapse;
- (c)** A part of a building that is standing is not considered to be in a state of collapse even if it has separated from another part of the building;
- (d)** A building that is standing or any part of a building that is standing is not considered to be in a state of collapse even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage, or expansion.

**(2) We will pay for direct physical loss or physical damage caused by or resulting from risks of collapse of a building or any part of a building that is insured by this policy caused only by one or more of the following:**

- (a)** "Specified cause of loss" or breakage of building glass, if such loss or breakage was covered by this policy;
- (b)** Decay that is hidden from view, unless the presence of such decay was known to an insured prior to collapse;
- (c)** Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
- (d)** Weight of people or personal property;
- (e)** Weight of rain that collects on a roof; and
- (f)** Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

The criteria set forth in Paragraphs **(1)(a)** through **(1)(d)** do not limit the coverage otherwise provided under this Additional Coverage for the Causes of Loss listed in Paragraph **(2)(a)**, **(2)(d)**, and **(2)(e)**.

**(3) If the collapse is caused by a Covered Cause of Loss listed in Paragraphs **(2)(b)** through **(2)(f)**, we will pay for direct physical loss of or physical damage to the property listed below, but only if such physical loss or physical damage is a direct result of the collapse of a building insured under this policy, and the property is property covered under this policy:**

- (a)** Awnings; gutters and downspouts; yard fixtures; outdoor swimming pools; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

**(4) If personal property abruptly falls down or caves in and such collapse is not the result of 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 was caused by a cause of loss listed in Paragraphs **(2)(a)** through **(2)(f)** 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 **(3)** above, regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph **(4)** does not apply to personal property if marring or scratching is the only damage to that personal property caused by the collapse.

Collapse of personal property does not mean cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

**(5) This Additional Coverage, Collapse, will not increase the Limits of Insurance provided in this policy.**

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### b. Debris Removal

(1) We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the earlier of:

- (a) The date of direct physical loss or physical damage; or
- (b) The end of the policy period.

(2) The most we will pay under this additional Coverage is 25% of the amount we pay for the direct loss of or physical damage to Covered Property plus the deductible in this policy applicable to that physical loss or physical damage.

But this limitation does not apply to any additional Debris Removal limit provided in the Limits of Insurance section.

(3) This Additional Coverage does not apply to costs to:

- (a) Extract "pollutants and contaminants" from land; or
- (b) Remove, restore or replace polluted or contaminated land or water.

### c. Equipment Breakdown

(1) We will pay for direct physical loss or physical damage caused by or resulting from an Equipment Breakdown Accident to Equipment Breakdown Property.

Equipment Breakdown Accident means:

- (a) Mechanical breakdown, including rupture or bursting caused by centrifugal force.
- (b) Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires.
- (c) Explosion of steam boilers, steam piping, steam engines or steam turbines owned or leased by you, or operated under your control.
- (d) Physical loss or physical damage to steam boilers, steam pipes, steam engines or steam turbines

caused by or resulting from any condition or event inside such boilers or equipment.

(e) Physical loss or physical damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.

Equipment Breakdown Property means Covered Property built to operate under vacuum or pressure, other than weight of contents, or used for the generation, transmission or utilization of energy.

The following is not Equipment Breakdown Property:

- (a) Any structure, foundation, cabinet, compartment or air supported structure building;
- (b) Any insulating or refractory material;
- (c) Any sewer piping, any underground vessels or piping, any piping forming a part of a sprinkler system, water piping other than boiler feed water piping, boiler condensate return piping, or water piping forming a part of a refrigerating or air conditioning system;
- (d) Any vehicle or any equipment mounted on a vehicle. As used here, vehicle means 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 "scheduled premises" and that receives electrical power from an external power source will not be considered a vehicle.
- (e) Any equipment manufactured by you for sale.

### (2) Coverage Extensions

The following coverage extensions apply only to direct physical loss or physical damage caused by or resulting from an Equipment Breakdown Accident:

**(a) Hazardous Substances**

We will pay in any one occurrence for the additional cost, not to exceed \$50,000, to repair or replace Covered Property because of contamination by a hazardous substance. This includes the expenses to clean up or dispose of such property. Hazardous substance means any substance that is hazardous to human health or that has been declared by a government agency to be hazardous to human health.

Additional cost in this extension means those beyond what would have been required had no hazardous substance been involved.

This limit is part of and not in addition to the Limits of Insurance for Covered Property.

**(b) Expediting Expenses**

With respect to your damaged Covered Property, we will pay in any one occurrence, up to \$50,000, for the reasonable and necessary additional expenses you incur to:

- (i) Make temporary repairs; or
- (ii) Expedite permanent repairs or permanent replacement.

**(c) Defense**

If a claim or "suit" is brought against you alleging that you are liable for damage to property of another in your care, custody or control directly caused by Equipment Breakdown we will either:

- (i) Settle the claim or "suit"; or
- (ii) Defend you against the claim or "suit," but keep for ourselves the right to settle it at any point.

**(d) Supplementary Payments**

We will pay, with respect to any claim or "suit" we defend:

- (i) All expenses we incur;
- (ii) The cost of bonds to release attachments, but only for bond

amounts within the Limit of Insurance. We do not have to furnish these bonds;

- (iii) All reasonable expenses incurred by you at our request to assist us in the investigation or defense of the claim or "suit" including actual loss of earnings up to \$100 a day because of time off from work;
- (iv) All costs taxed against you in any "suit" we defend;
- (v) Prejudgment interest awarded against you on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer; and
- (vi) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the Limit of Insurance shown in the Declarations.

These payments will not reduce the Limit of Insurance shown in the Declarations.

**(e) Business Income and Extra Expense Extension**

The Business Income and Extra Expense Additional Coverages are extended to provide coverage for a tenant who has a loss of income from the lack of heating, cooling or power as a result of equipment breakdown to mechanical, electrical or pressure equipment of the building owner.

- (f) If Equipment Breakdown Property requires replacement due to an Equipment Breakdown Accident, we will pay your additional cost to replace it 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 property of

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comparable material and quality. This coverage does not increase any of the applicable limits. This coverage does not apply to any property indicated as being valued on an Actual Cash Value basis.

If you wish to retrofit air conditioning or refrigeration equipment that utilizes a refrigerant containing CFC (chlorofluorocarbon) substances to accept a non-CFC refrigerant or replace the system with a system using a non-CFC refrigerant, we will consider this better for the environment. Any associated Business Income or Extra Expense will be included in determining the additional cost, if Business Income and Extra Expense apply to this policy.

### **(3) Additional Condition - Bankruptcy**

The bankruptcy or insolvency of you or your estate will not relieve us of any obligation under this Additional Coverage.

### **(4) Jurisdictional Inspections:**

If any boiler or pressure vessel requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf.

### **d. 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 \$25,000 in any one occurrence for your liability for fire department service charges:

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

### **e. Fire Extinguisher Recharge**

We will pay to cover your expenses for recharge of your hand fire extinguishers when they are emptied while fighting fire.

### **f. Forgery**

- (1)** We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, or similar written promises, orders or directions to pay a sum certain in "money" that you or your

agent has issued, or that was issued by someone who impersonates you or your agent. This includes written instruments required in conjunction with any credit, debit, or charge card issued to you or any "employee" for business purposes.

- (2)** If you are sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and you have our written consent to defend against the "suit", we will pay for any reasonable expenses that you incur and pay in that defense.
- (3)** We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:
  - (a)** Money orders, including counterfeit money orders, of any United States or Canadian post office, express company or national or state (or Canadian) chartered bank that are not paid upon presentation; and
  - (b)** Counterfeit United States or Canadian paper currency.
- (4)** The most we will pay in any one occurrence, including legal expenses, under this Additional Coverage is \$5,000, unless a higher Limit of Insurance is shown in the Declarations.

### **g. Glass Expense**

We will pay for necessary expenses incurred to:

- (1)** Put up temporary plates or board up openings if repair or replacement of damaged glass is delayed;
- (2)** Repair or replace encasing frames; and
- (3)** Remove or replace obstructions when repairing or replacing glass that is part of a building.

This does not include removing or replacing window displays.

### **h. Lock and Key Replacement**

We will pay up to \$1,000 in any one occurrence for the re-keying of locks or the repair or replacement of locks at "scheduled premises" following the theft or the attempted theft of keys by burglars.

### **i. Money and Securities**

- (1)** 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 having use and custody of the property, at the "scheduled premises", or in transit between any of these places, resulting directly from:

- (a) "Theft";
  - (b) Disappearance; or
  - (c) Destruction.
- (2) In addition to the Limitations and Exclusions applicable to property coverage, we will not pay for loss:
- (a) Resulting from accounting or arithmetical errors or omissions;
  - (b) Due to the giving or surrendering of property in any exchange or purchase; or
  - (c) Of property contained in any "money"-operated device unless a continuous recording instrument in the device records the amount of "money" deposited in the "money"-operated device.
- (3) The most we will pay for loss in any one occurrence is:
- (a) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:
    - (i) In or on the "scheduled premises"; or
    - (ii) Within a bank or savings institution; and
  - (b) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.
- (4) All loss:
- (a) Caused by one or more persons; or
  - (b) Involving a single act or series of related acts;
- is considered one occurrence.

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

**j. Ordinance or Law**

- (1) If a Covered Cause of Loss occurs to covered Building property, we will pay on a "scheduled premises" any of the following costs that are caused by enforcement of an ordinance or law:

**Undamaged Part**

- (a) For loss to the undamaged portion of the Building that requires the demolition of parts of the same property not damaged by a Covered Cause of Loss provided that any such ordinance or law resulting in this type of loss:
- (i) Regulates the construction or repair of buildings, or establishes zoning or land use requirements at the "scheduled premises"; and
  - (ii) Is in force at the time of the loss.

The most we will pay in any one occurrence for this coverage is \$25,000 as a Limit of Insurance.

**Demolition Cost**

- (b) The cost to demolish and clear the site of undamaged parts of the property caused by enforcement of a building, zoning or land use ordinance or law.

The most we will pay in any one occurrence for this coverage is \$25,000 as a Limit of Insurance.

**Increased Cost of Construction**

- (c) The increased cost to repair, rebuild or reconstruct the covered property, caused by enforcement of a building, zoning or land use ordinance or law.

The most we will pay in any one occurrence for this coverage is \$25,000 as a Limit of Insurance.

**"Tenants Improvements and Betterment"**

- (d) The increased cost to repair, rebuild or reconstruct "tenant's improvements and betterments" caused by enforcement of building, zoning or land use ordinance or law.

The most we will pay in any one occurrence for this coverage is \$25,000 as a Limit of Insurance.

**(2) Additional Exclusions**

We will not pay under this Additional Coverage for:

- (a) The enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or



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remediation of property due to contamination by "pollutants and contaminants" or due to the presence, growth, proliferation, spread of any activity of "fungi", wet or dry rot, bacteria or virus; or

- (b) The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants or contaminants", "fungi", wet or dry rot, bacteria or virus.
- (c) Loss caused by, resulting from, contributed to or aggravated by earthquake or volcanic eruption.
- (d) Loss due to an ordinance or law that:
  - (i) You were required to comply with before the loss even if the building was undamaged; and
  - (ii) You failed to comply with.

### (3) Additional Limitations – Loss to Undamaged Portion of Building

Subject to the limit stated in Paragraph **A.5.j.(1)(a)**, the insurance provided under this Additional Coverage for loss in value to the undamaged portion of the building is limited as follows:

- (a) If Replacement Cost applies and the property is repaired or replaced on the same or another premises, we will not pay more for physical loss of or physical damage to designated Building property, including loss caused by enforcement of an ordinance or law, than:
  - (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
  - (ii) The amount it would cost to restore the undamaged portion to the same height, floor area, style and comparable quality of the original property insured.

- (b) If the Building(s) Full Value Endorsement applies and the property is repaired or replaced on the same or another premises, we will not pay more for physical loss of or physical damage to designated Building property, including loss caused by enforcement of an ordinance or law, than:

- (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
- (ii) The amount it would cost to restore the undamaged portion to the same height, floor area, style and comparable quality of the original property insured.

- (c) If Replacement Cost or the Building(s) Full Value Endorsement applies and the property is not repaired or replaced, or if Actual Cash Value applies, then we will not pay more for physical loss of or physical damage to designated Building property, including loss caused by enforcement of an ordinance or law, than the lesser of:

- (i) The Actual Cash Value of the Building at the time of loss; or
- (ii) The Limit of Insurance applicable to the covered Building property stated in Paragraph **A.5.j.(1)(a)**.

### (4) Additional Limitation – Demolition Cost

We will not pay more than the lesser of:

- (a) The amount actually spent to demolish and clear the site of the "scheduled premises"; or
- (b) The applicable Demolition Cost Limit of Insurance as stated in Paragraph **A.5.j.(1)(b)**.

### (5) Additional Limitation – Increased Cost of Construction

The insurance provided under this Additional Coverage for increased cost of construction is limited as follows:

- (a) We will not pay:

- (i) Until the property is actually repaired or replaced, at the same or another premises; and
  - (ii) Unless the repairs or replacements are made as soon as reasonably possible after the physical loss or physical 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 is the lesser of:
- (i) The increased cost of construction at the same premises; or
  - (ii) The applicable Increased Cost of Construction Limit of Insurance stated in Paragraph **A.5.j.(1)(c)**.
- (c) If the ordinance or law requires relocation to another premises, the most we will pay is the lesser of:
- (i) The Increased Cost of Construction at the new premises; or
  - (ii) The applicable Increased Cost of Construction Limit of Insurance stated in Paragraph **A.5.j.(1)(c)**.

**k. "Pollutants and Contaminants" Clean Up and Removal**

We will pay your expense to extract "pollutants and contaminants" from land or water at the "scheduled premises" if the discharge, dispersal, seepage, migration, release or escape of the "pollutants and contaminants" 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 earlier of:

- (1) The date of direct physical loss or physical damage; or
- (2) The end of the policy period.

The most we will pay in any one occurrence for each location under this Additional Coverage is \$15,000 for the sum of all such expenses arising out of Covered Causes of Loss.

**l. Preservation of Property**

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

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the direct physical loss or physical damage occurs within 45 days after the property is first moved.

**m. Theft Damage to Building**

This Additional Coverage applies only to premises where you are a tenant and are responsible in the lease for physical loss or physical damage to the building you lease, rent, or occupy that is caused by or results from "theft", burglary or robbery.

We will pay for direct physical loss or physical damage directly resulting from "theft", burglary or robbery (except loss by fire or explosion) to a building:

- (1) You occupy, including personal property that is used to maintain or service the building; or
- (2) Containing covered personal property if you are legally liable for such physical loss or physical damage.

But we will not pay for such physical loss of or physical damage to property that is away from the "scheduled premises".

**n. Water Damage, Other Liquid, Powder or Molten Material Damage**

If direct physical loss or physical damage caused by or resulting from covered water or other liquid, powder or molten material damage loss 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 direct physical loss or physical damage except as provided in paragraph **A.5.c., Equipment Breakdown** of this coverage form. 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

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- (2) Is directly caused by freezing.

**o. Business Income**

- (1) 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 physical damage to property at the "scheduled premises", including personal property in the open (or in a vehicle) within 1,000 feet of the "scheduled premises", caused by or resulting from a Covered Cause of Loss.
- (2) With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the "scheduled premises" are located, your "scheduled premises" also means:
- (a) The portion of the building which you rent, lease or occupy; and
  - (b) Any area within the building or on the site at which the "scheduled premises" are located, but only if that area services, or is used to gain access to, the "scheduled premises".
- (3) We will only pay for loss of Business Income that occurs within 12 consecutive months after the date of direct physical loss or physical damage.

This Additional Coverage is not subject to the Limits of Insurance.

- (4) Business Income means the:
- (a) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no direct physical loss or physical damage had occurred; and
  - (b) Continuing normal operating expenses incurred, including payroll.
- (5) 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 part or all of the "scheduled premises" is rendered untenable as a result of a Covered Cause of Loss if coverage for Business Income applies to the policy.

**p. Extra Expense**

- (1) We will pay reasonable and 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 physical damage to property at the "scheduled premises", including personal property in the open (or in a vehicle) within 1,000 feet, caused by or resulting from a Covered Cause of Loss.
- (2) With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the "scheduled premises" are located, your "scheduled premises" also means:
- (a) The portion of the building which you rent, lease or occupy; and
  - (b) Any area within the building or on the site at which the "scheduled premises" are located, but only if that area services, or is used to gain access to, the "scheduled premises".
- (3) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
    - (i) At the "scheduled premises"; or
    - (ii) At replacement premises or at temporary locations, including:
      - (aa) Relocation expenses; and
      - (bb) Cost to equip and operate the replacement or temporary location, other than those costs necessary to repair or to replace damaged stock and equipment.
  - (b) To minimize the suspension of business if you cannot continue "operations".
  - (c) (i) To repair or replace any property; or

- (ii) To research, replace or restore the lost information on damaged "valuable papers and records";

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage o., Business Income.

We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or physical damage. This Additional Coverage is not subject to the Limits of Insurance.

- (4) 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 part or all of the "scheduled premises" is rendered untenable as a result of a Covered Cause of Loss if coverage for Extra Expense applies to the policy.

**(5) Limitation**

This Extra Expense Coverage does not apply to:

- (a) Any deficiencies in insuring building or business personal property; or
- (b) Any expense related to any recall of products you manufacture, handle or distribute.

**q. Civil Authority**

- (1) This insurance is extended to apply to the actual loss of Business Income you sustain when access to your "scheduled premises" is specifically prohibited by order of a civil authority as the direct result of a Covered Cause of Loss to property in the immediate area of your "scheduled premises".
- (2) The coverage for Business Income will begin 72 hours after the order of a civil authority and coverage will end at the earlier of:

- (a) When access is permitted to your "scheduled premises"; or
- (b) 30 consecutive days after the order of the civil authority.

**r. Extended Business Income**

- (1) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
  - (i) The date you could restore your "operations" with reasonable speed, to the condition that would have existed if no direct physical loss or damage occurred; or
  - (ii) 30 consecutive days after the date determined in (1)(a) above.

Loss of Business Income must be caused by direct physical loss or physical damage at the "scheduled premises" caused by or resulting from a Covered Cause of Loss.

- (2) With respect to the coverage provided in this Additional Coverage, suspension means:

- (a) The partial slowdown or complete cessation of your business activities; and
- (b) That a part or all of the "scheduled premises" is rendered untenable as a result of a Covered Cause of Loss.

**s. Business Income from Dependent Properties**

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

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

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- (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, leased or operated by others whom you depend on to:

- (a) Deliver materials or services to you or to others for your account. But services do not include:

- (i) Water, communication, power services or any other utility services; or
- (ii) Any type of web site, or Internet service.

- (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 premises.

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

- (5) The coverage period for Business Income under this Additional Coverage:

- (a) Begins 72 hours after the time of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the premises of the dependent property; and
- (b) Ends on the date when the property at the premises of the dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.

- (6) The Business Income coverage period, as stated in Paragraph (5), does not include any increased period required due to the enforcement of any ordinance or law that:

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

- (b) 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 "pollutants."

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

### t. Tenant Glass

This Additional Coverage applies only to premises where you are a tenant and are responsible in the lease for such damage.

We will cover loss to glass, which is in your care, custody or control and for which the lease holds you responsible. The glass must be part of a building described in the Declarations or at a location that would be included in Coverage Extension b. Newly Acquired or Constructed Property.

The most that we will pay in any one occurrence for each location under this Additional Coverage is \$25,000.

### u. Leasehold Improvements

If your lease is cancelled in accordance with a valid lease provision as the direct result of a Covered Cause of Loss to property at the location in which you are a tenant, and you cannot legally remove "Tenant Improvements and Betterments", we will extend Business Personal Property coverage to apply to the unamortized value of "Tenants Improvement and Betterment" that remain and that you were forced to abandon.

The most we will pay in any one occurrence for loss under this Additional Coverage is \$25,000.

### v. Lease Assessment

Your Business Personal Property is extended to apply to your share of any assessment charged to all tenants by the building owner as a result of direct physical damage caused by or resulting from a Covered Cause of Loss to building property you occupy as agreed to in your written lease agreement.

We will pay no more than \$2,500 in any one occurrence for this Additional Coverage.

**6. Coverage Extensions**

Except as otherwise provided, the following Extensions apply to property located in or on the building at the "scheduled premises" or in the open (or in a vehicle) within 1,000 feet of the "scheduled premises". All Coverage Extensions are subject to the terms, conditions and exclusions of this policy, except as otherwise provided.

In addition to the Limits of Insurance, you may extend the insurance provided by this policy as follows:

**a. Accounts Receivable**

- (1) You may extend the insurance that applies to your Business Personal Property, to apply to your accounts receivable.

We will pay for:

- (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 the physical loss or physical damage; and
- (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss of or physical damage to your records of accounts receivable.

- (2) Paragraph **A.3.**, Covered Causes of Loss, and Section **B.**, Exclusions, do not apply to this Additional Coverage except for:

- (a) Paragraph **B.1.b.**, Governmental Action;
- (b) Paragraph **B.1.c.**, Nuclear Hazard; and
- (c) Paragraph **B.1.e.**, War and Military Action.

- (3) Additional Exclusions

- (a) Dishonest acts by you, anyone else with an interest in the records of accounts receivable, or your or their employees or authorized

representatives, or anyone entrusted with the records of accounts receivable, whether or not acting alone or in collusion with other persons or occurring during the hours of employment.

This exclusion does not apply to a carrier for hire.

- (b) 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.

- (c) Bookkeeping, accounting or billing errors or omissions.
- (d) Electrical or magnetic injury, disturbance or erasure of electronic recordings.

But we will pay for direct physical loss or physical damage caused by Lightning.

- (e) Voluntary parting with any property by you or anyone entrusted with the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- (f) Unauthorized instructions to transfer property to any person or to any place.

- (4) We will not pay for direct physical loss or physical damage that requires any audit of records or any inventory computation to prove its factual existence.

- (5) The most we will pay in any one occurrence for direct physical loss of or physical damage to your accounts receivable at each "scheduled premises" is \$25,000.

- (6) The most we will pay in any one occurrence for direct physical loss of or physical damage to accounts receivables away from the "scheduled premises", including while in transit, is \$25,000.

**b. Arson and "Theft" Reward**

- (1) In the event that a covered fire loss was the result of an act of arson, we will reimburse you for rewards you pay for information leading to convictions for that act of arson.

## SPECIAL PROPERTY COVERAGE FORM

- (2) In the event of a covered "theft" loss, we will reimburse you for rewards you pay for information leading to convictions for the "theft" loss.

The most we will pay to reimburse you in any one occurrence for arson or "theft" rewards is \$10,000.

This is additional insurance. The deductible does not apply to these reimbursements.

### c. Data and Software

We will pay up to \$10,000 in any one occurrence to cover your costs to research, replace or restore "data" or "software" which exists or existed on electronic or magnetic "media" that is lost or damaged as a result of direct physical loss or physical damage to "computer equipment" at the "scheduled premises".

### d. Garages, Storage Buildings and Other Appurtenant Structures

- (1) You may extend the insurance that applies to Building to apply to garages, storage buildings and other appurtenant structures, except outdoor fixtures, at the "scheduled premises".

The most we will pay in any one occurrence for direct physical loss or physical damage under this Extension is \$50,000 at each "scheduled premises".

- (2) You may extend the insurance that applies to Business Personal Property in garages, storage buildings and other appurtenant structures at the "scheduled premises".

The most we will pay in any one occurrence for direct physical loss or physical damage under this Extension is \$5,000 at each "scheduled premises".

### e. Newly Acquired or Constructed Property

- (1) You may extend the insurance that applies to Building to apply to:

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

The most we will pay in any one occurrence for loss or damage under this Extension is 25% of the Limit of Insurance for Building shown in the Declarations, but not more than \$500,000 at each premises.

- (2) You may extend the insurance that applies to Business Personal Property to apply to:

- (a) Property at any premises you acquire or construct;
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed building, or
- (c) Business Personal Property that you newly acquire, located at the "scheduled premises".

This extension does not apply to:

- (a) Personal Property that you temporarily acquire in the course of installing or performing work on such property;
- (b) Personal property of others that you temporarily acquire in the course of your wholesaling activity.
- (c) Merchandise held for sale, except as provided under Paragraph C.6. Business Personal Property Limit – Seasonal Increase.

The most we will pay in any one occurrence for direct physical loss or physical damage under this Extension is \$250,000 at each premises.

- (3) You may extend the insurance that applies to Business Income and Extra Expense to apply to newly acquired or constructed locations.

The most we will pay in any one occurrence under this Extension is \$50,000.

- (4) If Covered Property is moved to a new premises endorsed onto this policy, from a "scheduled premises" being endorsed off this policy, the Limit of Insurance applicable to that vacated premises will apply proportionately to both premises as the property is moved. This coverage applies to up to 180 days after the move begins or upon completion of the move, whichever is sooner. This coverage does not apply to Business Personal Property while in transit.

- (5) 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) 180 days after you acquire or begin to construct the property, or
- (c) You report values to us.

We will charge you additional premium for values reported from the day construction begins or you acquire the property.

**f. Outdoor Property**

You may extend the insurance provided by this policy to apply to your outdoor:

- (1) Fences, signs (other than signs attached to buildings), trees, shrubs and plants caused by or resulting from any of the following causes of loss:

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

The most we will pay in any one occurrence for direct physical loss or physical damage, including debris removal expense, under this Extension is \$10,000 but not more than \$1,000 for any one tree, shrub or plant.

- (2) Radio and television antennas (including satellite dishes) caused by or resulting from any of the following causes of loss:

- (a) Fire;
- (b) Lightning;
- (c) Windstorm;
- (d) Ice, Snow, Sleet or Hail;
- (e) Explosion;
- (f) Riot or Civil Commotion; and
- (g) Aircraft.

The most we will pay in any one occurrence for direct physical loss or physical damage, including debris removal expense, under this Extension is \$2,000.

**g. 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, "managers", "members", or your employees.

The most we will pay in any one occurrence for physical loss or physical damage under this Extension is \$10,000 at each "scheduled premises".

**h. Property Off-Premises**

- (1) You may extend the insurance that applies to Building to apply to such property that is temporarily at a location you do not own, lease or operate. This Extension applies only if physical loss or physical damage is caused by or resulting from a Covered Cause of Loss. This Extension does not apply to property in course of transit.

The most we will pay in any one occurrence under this coverage extension is \$5,000.

- (2) You may extend the insurance that applies to Business Personal Property to apply to such property, other than Accounts Receivable, "money" and "securities" while:

- (a) In the course of transit and more than 1,000 feet from the "scheduled premises". Property must be in or on, but not permanently attached to or installed in, a motor vehicle you own, lease or operate while between points in the coverage territory; or
- (b) Temporarily at a premises you do not own, lease or operate.
- (c) At a premises owned, leased, operated or used by you and the Business Personal Property is a vending machine.
- (d) In or on, but not permanently attached to or installed in, motor vehicles operated by your employees in the course of your business operations.
- (e) On temporary public display, or while being used at fairs, exhibitions, expositions, or trade shows or while in transit to and from these temporary sites.

The most we will pay in any one occurrence under this Extension is \$2,500.

**i. Valuable Papers and Records - Cost of Research**

You may extend the insurance that applies to Business Personal Property to apply to your costs to research, replace or restore the lost information on lost or damaged "valuable papers and records", for which duplicates do not exist.



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The most we will pay in any one occurrence under this Extension is \$25,000 at each "scheduled premises". For "valuable papers and records" not at the "scheduled premises", including while in transit, the most we will pay in any one occurrence is \$25,000.

### B. EXCLUSIONS

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

#### a. Earth Movement

- (1) Earthquake, meaning a shaking or trembling of the earth's crust, caused by underground tectonic forces resulting in breaking, shifting, rising, settling, sinking or lateral movement;
- (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 physical loss or physical damage caused by that fire or explosion.

- (5) Volcanic eruption, meaning the eruption, explosion or effusion of a volcano. But if physical loss or physical damage by fire or volcanic action results, we will pay for that resulting physical damage.

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

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

- (d) All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

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

#### b. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for 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.

#### c. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination however caused.

But if physical loss or physical damage by fire results, we will pay for that resulting physical loss or physical damage.

#### d. Power Failure

The failure of power or other utility service supplied to the "scheduled premises", however caused, if the failure occurs away from the "scheduled premises". Failure includes lack of sufficient capacity and reduction in supply necessary to maintain normal operations.

But if physical loss or physical damage by a Covered Cause of Loss results, we will pay for that resulting physical loss or physical damage.

#### e. 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.

#### f. Water

- (1) Flood, including the accumulation of surface water, waves, tides, tidal waves, overflow of streams or any other bodies of water, or their spray, all whether driven by wind or not;

- (2) Mudslide or mud flow;
- (3) Water that backs up from a sewer or drain; or
- (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.

But if loss or damage by fire, explosion or sprinkler leakage results, we will pay for that resulting physical loss or physical damage.
- (5) Water damage caused by or resulting from earthquake or volcanic eruption:
  - (a) Earthquake means a shaking or trembling of the earth's crust, caused by underground tectonic forces resulting in breaking, shifting, rising, settling, sinking or lateral movement or other movement;
  - (b) Volcanic eruption means the eruption, explosion or effusion of a volcano.

**g. 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.

- 2. We will not pay for physical loss or physical damage caused by or resulting from:
  - a. **Consequential Losses:** Delay, loss of use or loss of market.
  - b. **Smoke, Vapor, Gas:** Smoke, vapor or gas from agricultural smudging or industrial operations.
  - c. **Miscellaneous Types of Loss:**
    - (1) Wear and tear;
    - (2) Rust, corrosion, fungus, 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, mold, spore or other animals;

- (6) 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 physical loss or physical damage by the "specified causes of loss", building glass breakage or Equipment Breakdown Accident results, we will pay for that resulting physical loss or physical damage.

- d. **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.
- e. **Dishonesty:** Dishonest or criminal act by you, any of your partners, "members", officers, "managers", employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
  - (1) Acting alone or in collusion with others; or
  - (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.
- f. **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.
- g. **Exposed Property:** Rain, snow, ice or sleet to personal property in the open, except as provided in the Coverage Extension for Outdoor Property.
- h. **Collapse:** Collapse, except as provided in the Additional Coverage for Collapse. But if loss or damage by a Covered Cause of Loss results at the "scheduled premises", we will pay for that resulting loss or damage.
- i. **Pollution:** We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants and

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contaminants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss." But if physical loss or physical damage by the "specified causes of loss" results, we will pay for the resulting physical loss or physical damage caused by the "specified cause of loss."

3. We will not pay for loss or damage caused by or resulting from any of the following. But if physical loss or physical damage by a Covered Cause of Loss results, we will pay for that resulting physical loss or physical damage.

a. **Weather conditions:** Weather conditions. This exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the physical loss or physical 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 "scheduled premises".

4. **Business Income and Extra Expense Exclusions.** We will not pay for:

a. Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

- (1) 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
- (2) 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".

b. Any other consequential loss.

## 5. Equipment Breakdown Exclusion

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

- (a) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel; or
- (b) An insulation breakdown test of any type of electrical equipment.

## C. LIMITS OF INSURANCE

1. The most we will pay for physical loss or physical damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

2. The most we will pay for physical loss of or physical damage to outdoor signs attached to buildings is \$5,000 per sign in any one occurrence.

3. The limits applicable to:

a. Coverage Extensions; and

b. The following Additional Coverages:

- (1) Accounts Receivable,
- (2) Fire Department Service Charges,
- (3) Fire Extinguisher Recharge, and
- (4) "Pollutants and Contaminants" Clean Up and Removal

are in addition to the Limits of Insurance.

4. Payments under the following Additional Coverages will not increase the applicable Limit of Insurance:

a. Preservation of Property; or

b. Debris Removal; but if:

- (1) The sum of direct physical loss or physical damage and Debris Removal expense exceeds the Limit of Insurance; or
- (2) The Debris Removal expense exceeds the amount payable under the 25% limitation in the Debris Removal Additional Coverage.

We will pay up to an additional \$10,000 for each location stated in the Declarations in any one occurrence under the Debris Removal Additional Coverage.

## 5. Building Limit - Automatic Increase

a. The Limit of Insurance for Buildings will automatically increase annually by 8%.

b. The amount of increase will be:

- (1) The Limit of Insurance for Buildings that applied on the most recent of the policy

inception date, policy anniversary date, or the date of any other policy change amending the Buildings limit, times

- (2) The percentage of annual increase shown above, expressed as a decimal (.08); times
- (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance for Buildings, divided by 365.

Example: The applicable Limit of Insurance for Buildings is \$100,000. The annual percentage increase is 8%. The number of days since the beginning of the policy period (or last policy change) is 146.

The amount of increase is:

$\$100,000 \times .08 \times 146 \text{ divided by } 365 = \$3,200$

**6. Business Personal Property Limit - Seasonal Increase**

- a. The Limit of Insurance for Business Personal Property will automatically increase by 25% to provide for seasonal variations.
- b. This increase will apply only if all Limits of Insurance shown in the Declarations for Business Personal Property at the "scheduled premises" is at least 100% of your average monthly values during the lesser of:
  - (1) The 12 months immediately preceding the date the physical loss or physical damage occurs; or
  - (2) The period of time you have been in business as of the date the physical loss or physical damage occurs.

**D. DEDUCTIBLES**

1. We will not pay for physical loss or physical damage in any one occurrence until the amount of physical loss or physical 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.
2. Except as otherwise listed, the deductible applicable to Additional Coverages and Coverage Extensions is the Special Property Coverage Form is \$250.
3. A \$250 deductible applies to the following Glass Coverages, unless Glass Coverage is provided under a separate coverage form:

- a. Building Glass
- b. Glass Expense
- c. Tenant Glass

4. Unless a separate deductible is shown in the Declarations, the deductible applicable to the following Additional Coverages or Coverage Extensions is \$250, whether the coverage is provided under this coverage form, provided on a separate coverage form or the coverage is provided in a form that includes a package of coverages, such as a Stretch endorsement:

- a. Accounts Receivable;
- b. Fine Arts
- c. Outdoor Signs; and
- d. "Valuable Papers and Records";

5. Unless a separate deductible is shown in the Declarations, the deductible applicable to the following Additional Coverages or Coverage Extensions is \$100, whether the coverage is provided under this coverage form, provided on a separate coverage form or the coverage is provided in a form that includes a package of coverages, such as a Stretch endorsement:

- a. Employee Dishonesty; and
- b. Temperature Change.

6. No deductible applies to the following Coverage Extensions and Additional Coverages:

- a. Fire Extinguisher Recharge;
- b. Preservation of Property;
- c. Fire Department Service Charge;
- d. Business Income, Extra Expense, Civil Authority and Extended Business Income;
- e. Arson Reward; and
- f. Lock and Key Replacement

6. The Deductible applicable to the following Additional Coverages is the policy deductible or the deductible shown in the Declarations for the following coverage:

- a. Equipment Breakdown;
- b. Ordinance or Law Coverage; and
- c. Leasehold Improvements.

7. Each deductible applicable to this policy shall be applied separately but only to the coverage specified, and the total deductible for all losses in any one occurrence shall be the highest deductible amount that applies to the occurrence.

**E. PROPERTY LOSS CONDITIONS**

**1. Abandonment**

There can be no abandonment of any property to us.

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### 2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In that 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

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

- a. Notify the police if a law may have been broken.
- b. Give us prompt notice of the physical loss or physical damage. Include a description of the property involved.
- c. As soon as possible, give us description of how, when and where the physical loss or physical damage occurred.
- d. Take all reasonable steps to protect the Covered Property from further damage by a Covered Cause of Loss. If feasible, set the damaged property aside in the best possible order for examination. Also, keep a record of your expenses for emergency and temporary repairs, for consideration in the settlement of the claim.

This will not increase the Limits of Insurance.

- e. At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- f. Permit us to inspect the property and records proving the loss or damage. Also permit us to take samples of damaged property for inspection, testing and analysis.
- g. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. In such event, your answers must be signed.

- h. Send us a signed, sworn statement 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.

- i. Cooperate with us in the investigation or settlement of the claim.

- j. Resume part or all of your "operations" as quickly as possible.

### 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 2 years after the date on which the direct physical loss or physical damage occurred.

### 5. Loss Payment

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

- a. At our option we will either:
  - (1) Pay the value of physically lost or physically damaged property, as described in paragraph d. below;
  - (2) Pay the cost of repairing or replacing the physically lost or physically damaged property, plus any reduction in value of repaired items;
  - (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.
- b. We will give notice of our intentions within 30 days after we receive the sworn statement of loss.
- c. We will not pay you more than your financial interest in the Covered Property.
- d. We will determine the value of Covered Property as follows:
  - (1) At replacement cost (without deduction for depreciation), except as provided in (2) through (7) below.
    - (a) You may make a claim for physical loss or physical 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 physical loss or physical 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 physical loss or physical damage.

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

- (i) Until the physically lost or physically damaged property is actually repaired or replaced; and
- (ii) Unless the repairs or replacement are made as soon as reasonably possible after the physical loss or physical damage.

However, if the cost to repair or replace the damaged 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.

- (c) We will not pay more for physical loss or physical damage on a replacement cost basis than the least of:

- (i) The cost to replace, on the same premises, the physically lost or physically damaged property with other property of comparable material and quality and which is used for the same purpose; or
- (ii) The amount you actually spend that is necessary to repair or replace the physically lost or physically damaged 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) Manuscripts;
- (b) Works of art, antiques or rare articles, including etchings, pictures, statuary, objects of marble, bronzes, porcelains and bric-a-brac.

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord.

- (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 physical loss or physical 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) "Valuable Papers and Records", at the cost of:

- (a) Blank materials for reproducing the records; and

- (b) Labor to transcribe or copy the records.

- (7) "Money" and "Securities":

- (a) "Money" at its face value; and

- (b) "Securities" at their value at the close of business on the day the loss is discovered.

- (8) The value of United States Government Internal Revenue taxes and custom duties and refundable state and local taxes paid or fully determined on the following property held for sale will not be considered in determining the value of Covered Property:

- (a) Distilled spirits;

- (b) Wines;

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- (c) Rectified products; or
  - (d) Beer.
  - (9) Applicable to Accounts Receivable:
    - (a) If you can not accurately establish the amount of the accounts receivable outstanding as of the time of physical loss or physical damage the following method will be used:
      - (i) Determine the total of the average monthly value of accounts receivable for 12 months immediately preceding the month in which the direct physical loss or physical damage occurred; and
      - (ii) Adjust the total determined in paragraph (i) above for any normal fluctuations in the value of accounts receivable for the month in which the direct physical loss or physical damage occurred for any demonstrated variance from the average of that month.
    - (b) The following will be deducted from the total value of accounts receivable, however that value is established:
      - (i) The value of the accounts for which there is no physical loss or physical damage;
      - (ii) The value of the accounts that you are able to re-establish or collect;
      - (ii) A value to allow for probable bad debts that you are normally unable to collect; and
      - (iv) All unearned interest and services charged.
  - e. Our payment for physical loss of or physical 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 physically lost or physically damaged property if other than you. If we pay the owners, such payment 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 physical loss or physical damage within 30 days after we receive the sworn statement of loss, if:
    - (1) You have complied with all of the terms of this policy; and
    - (2) (a) We have reached agreement with you on the amount of loss, or
    - (b) An appraisal award has been made.
  - h. The following condition applies to any loss payment for Extra Expense:

We will deduct from the total Extra Expense to be paid:

    - (1) The salvage value that remains of any property bought for temporary use during the Period of Restoration, once business operations are resumed; and
    - (2) Any Extra Expense that is paid for by other insurance.
- 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.
- 7. Resumption of Operations**
- In the event of physical loss or physical damage at the "scheduled premises" you must resume all or part of your "operations" as quickly as possible.
- 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 "scheduled 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 sub-lessee and used by the lessee or sub-lessee 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 physical loss or physical damage occurs has been vacant for more than 60 consecutive days before that physical loss or physical damage occurs:

(1) We will not pay for any physical loss or physical damage caused by any of the following even if they are Covered Causes of Loss:

(a) Vandalism;

(b) Sprinkler leakage, unless you had protected the system against freezing;

(c) Building glass breakage;

(d) Water damage;

(e) Theft; or

(f) Attempted theft.

(2) With respect to Covered Causes of Loss other than those listed in **b.(1)(a)** through **b.(1)(f)** above, we will reduce the amount we would otherwise pay for the physical loss or physical 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 one or more locations will not affect coverage at any location where, at the time of physical loss or physical damage, the breach of condition does not exist.

**2. Mortgage Holders**

a. The term mortgage holder includes trustee.

b. We will pay for covered physical loss of or physical damage to buildings or structures to each mortgage holder shown in the Declarations in their order of precedence, as interests may appear.

c. The mortgage holder has the right to receive loss payment even if the mortgage holder 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 mortgage holder will still have the right to receive loss payment if the mortgage holder:

(1) Pays any premium due under this policy at our request if you have failed to do so;

(2) Submits a signed, sworn statement 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 mortgage holder.

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

e. If we pay the mortgage holder for any physical loss or physical 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 mortgage holder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and

(2) The mortgage holder's rights to recover the full amount of the mortgage holder's claim will not be impaired.

At our option, we may pay to the mortgage holder 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.



## SPECIAL PROPERTY COVERAGE FORM

- f. If we cancel this policy, we will give written notice to the mortgage holder at least:

- (1) 10 days before the effective date of cancellation if we cancel for your non payment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

- g. If we elect not to renew this policy, we will give written notice to the mortgage holder 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 this form:

- a. We cover physical loss or physical 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.

But we do not cover physical loss or physical damage that is also covered by a preceding policy.

- b. The coverage territory is:

- (1) The United States of America (including its territories and possessions);
- (2) Puerto Rico; and
- (3) Canada.

### 5. Additional Conditions

The following conditions apply to paragraph A.5.u., Forgery Additional Coverage:

- a. We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
- b. You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.
- c. The Coverage Territory is revised to cover loss you sustain anywhere in the world.

## G. PROPERTY DEFINITIONS

1. "Computer" means a programmable electronic device that can store, retrieve and process "data".

2. "Computer Equipment" means "computers", "peripheral devices", "media", and manuals that are purchased to be used in conjunction with hardware and "software".

3. "Counterfeit" means an imitation of an actual valid original which is intended to deceive and to be taken as the original.

4. "Data" means information or facts stored in a "computer's" memory, on "software" or on "media".

5. "Finished Stock" means stock you have manufactured.

"Finished Stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this policy.

6. "Manager" means a person serving in a directorial capacity for a limited liability company.

7. "Media" means the material used solely with the "computer" or "peripheral device" upon which "software" or "data" is stored, such as tapes, CD-ROMs or disks.

8. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".

9. "Messenger" means you, any any of your partners or any employee while having care and custody of the property outside your premises.

10. "Money" means:

- a. Currency, coins and bank notes whether or not in current use; and
- b. Travelers checks, registered checks and money orders held for sale to the public.

11. "Operations" means your business activities occurring at the "scheduled premises" and tenantability of the "scheduled premises".

12. "Period of Restoration" means the period of time that:

- a. Begins with the date of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the "scheduled premises", and
- b. Ends on the date when:
  - (1) The property at the "scheduled premises" should be repaired, rebuilt or replaced with reasonable speed and similar quality;
  - (2) The date when your business is resumed at a new, permanent location.

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

- a. Regulates the construction, use or repair, or required the tearing down of any property; or
- b. Regulates the prevention, control, repair, clean up or restoration of environmental damage.

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

13. "Peripheral Device" means any physical unit used to operate the "computer" that cannot be used for purposes other than as part of the computer's system, such as tape or disk drives, printers, or modems.
14. "Perishable Stock" means personal property:
  - a. Maintained under controlled conditions for its preservation; and
  - b. Susceptible to physical loss or physical damage if the controlled conditions change.
15. "Pollutants and Contaminants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, or any other material which causes or threatens to cause physical loss, physical damage, impurity to property, unwholesomeness, undesirability, loss of marketability, loss of use of property, or which threatens human health or welfare. Waste includes materials to be recycled, reconditioned or reclaimed.
16. "Scheduled Premises" means any premises listed by location address in the Scheduled Premises section of the Declarations.
17. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:
  - a. Tokens, tickets except Lottery Tickets, revenue and other non-postage stamps whether or not in current use; and
  - b. Evidences of debt issued in connection with credit or charge cards, which are not of your own issue;but does not include "money."
18. "Software" means instructions or programs that are stored on "media" and which instruct the hardware as to how to process "data".

19. "Specified Cause 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. It does not include the cost of filling sinkholes.
- 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 accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

20. "Suit" means a civil proceeding and includes:

- a. An arbitration proceeding in which damages are claimed and to which you must submit or do submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which damages are claimed and to which you submit with our consent.

21. "Tenant Improvements and Betterments" means fixtures, alterations, installations or additions made a part of the Building you occupy but do not own and that you cannot legally remove; and

- a. Which are made at your expense; or
- b. That you acquired from the prior tenant at your expense.

22. "Theft" means the act of stealing.

23. "Valuable papers and records" means inscribed, printed or written documents, manuscripts or records, including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" and "securities", "data" and "software" or the materials on which the "data" and "software" is recorded.

# **BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE  
BUSINESS LIABILITY COVERAGE FORM  
READ YOUR POLICY CAREFULLY**

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# BUSINESS LIABILITY COVERAGE FORM

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

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

- 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 offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under 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 1. of Section **C.** - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- (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" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section **C.** - 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;

## BUSINESS LIABILITY COVERAGE FORM

- (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.
- d. 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".
- e. **Incidental Medical Malpractice**

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
  - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
  - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;
  - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
  - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

- a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:
- (1) All expenses we incur.
  - (2) Up to \$1,000 for the 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.
  - (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - (4) 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 \$500 a day because of time off from work.
  - (5) All costs taxed against the insured in the "suit".
  - (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. 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:

- (1) 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";
- (2) This insurance applies to such liability assumed by the insured;
- (3) 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";
- (4) 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 interest of the indemnitee;
- (5) 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
- (6) The indemnitee:
  - (a) 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
  - (b) 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".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, 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:

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

## **B. EXCLUSIONS**

### **1. Applicable To Business Liability Coverage**

This insurance does not apply to:

#### **a. Expected Or Intended Injury**

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

#### **b. Contractual Liability**

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising 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 because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

## BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" 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 purpose 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:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, 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 (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 the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury", "property damage" or "personal and advertising injury" 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 against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons 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;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**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 or preparation for, a prearranged racing, speed or demolition contest or in any 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 governmental authority in hindering or defending against any of these.

**j. Professional Services**

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of 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, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (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) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
  - (a) Body piercing (not including ear piercing);
  - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
  - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

**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 contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

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.

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### **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) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense 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 **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) 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;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

- (a) An "advertisement" for others on your web site;
- (b) Placing a link to a web site of others on your web site;
- (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
- (d) Computer code, software or programming used to enable:
  - (i) Your web site; or
  - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**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".

**r. Employment-Related Practices**

"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 or discrimination 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 the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**s. Asbestos**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information**

"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; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion**

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

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### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers' Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

**f. Products-Completed Operations Hazard**

Included with the "products-completed operations hazard".

**g. Business Liability Exclusions**

Excluded under Business Liability Coverage.

### 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. Employees And Volunteer Workers**

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" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

- (d)** Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such 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. Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

**c. Temporary Custodians Of Your Property**

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. Legal Representative If You Die**

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 insurance.

**e. Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

**3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal 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" registered in your name under any motor vehicle registration law, 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 operating the watercraft; 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.

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

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contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only 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 and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance 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 solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make 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 the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (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 Subparagraphs (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 the products.

- (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.

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.



- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:  
 This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
  - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:  
 "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D. – Limits Of Insurance**.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. – Liability And Medical Expenses General Conditions**.

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 Most We Will Pay**

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### **2. Aggregate Limits**

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### **3. Each Occurrence Limit**

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

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.

#### **4. Personal And Advertising Injury Limit**

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

#### **5. Damage To Premises Rented To You Limit**

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### **6. How Limits Apply To Additional Insureds**

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## **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 Coverage Part.

### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

#### **a. Notice Of Occurrence Or Offense**

You or any additional insured 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. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

#### **c. Assistance And Cooperation Of The Insured**

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, 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. Obligations At The Insured's Own Cost**

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.

### **e. Additional Insured's Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

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This Paragraph f. applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form 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 insurance 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.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, 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 a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

#### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

#### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

#### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

#### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

#### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

**(6) When You Are Added As An Additional Insured To Other Insurance**

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

**(7) When You Add Others As An Additional Insured To This Insurance**

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

**(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

**(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

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

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**F. OPTIONAL ADDITIONAL INSURED COVERAGES**

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

**1. Additional Insured - Designated Person Or Organization**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

**2. Additional Insured - Managers Or Lessors Of Premises**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**3. Additional Insured - Grantor Of Franchise**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

**4. Additional Insured - Lessor Of Leased Equipment**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

- b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**6. Additional Insured - State Or Political Subdivision – Permits**

- a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1)** "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2)** "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

**7. Additional Insured – Vendors**

- a.** WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only 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 and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b.** The insurance afforded to the vendor is subject to the following additional exclusions:

- (1)** This insurance 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, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e)** Any failure to make 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 the products;

- (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (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 Subparagraphs **(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 the products.

- (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.

**8. Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a.** Their financial control of you; or
- b.** Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "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 **a.** above;
- 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 **a.** above;
  - (2) The activities of a person whose home is in the territory described in **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 the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

- 7. "Electronic data" means information, facts or programs:
  - a. Stored as or on;
  - b. Created or used on; or
  - c. 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.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "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:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

**12. "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, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D. – Liability and Medical Expenses Limits of Insurance.**
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- 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, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

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

## BUSINESS LIABILITY COVERAGE FORM

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) 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 (1) above and supervisory, inspection, architectural or engineering activities.
13. "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".
14. "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".
15. "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 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 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, of at least 1,000 pounds gross vehicle weight, 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.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "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 the person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral, written or electronic publication of material that violates a person's right of privacy;
  - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
  - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
- 18. "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.
- 19. "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 to be completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- 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.
- 20. "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 "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
- 21. "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.
- 22. "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.
- 23. "Volunteer worker"** means a person who:
- a. Is not your "employee";

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- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

**24. "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.

**25. "Your work":**

**a. Means:**

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

**b. Includes:**

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.



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

## **BUSINESS LIABILITY COVERAGE FORM AMENDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

- A.** Sub-subparagraphs 1.p. (7), (8), (15) of Paragraph 2., of Section B. **Exclusions** are deleted and replaced with the following:

**p. Personal and Advertising Injury:**

- (7) (a) Arising out of any actual or alleged infringement or violation of any intellectual property right, such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity; or
- (b) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

- (1) Infringement, in your "advertisement", of:
- (a) Copyright;
  - (b) Slogan; or
  - (c) Title of any literary or artistic work; or
- (2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".
- (8) Arising out of an offense 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 a., b. and c. of the definition of "personal and advertising injury" under the Definitions Section.

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

- (15) 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.

- B.** Subparagraph 1.r. of Section B. **Exclusions** is deleted and replaced with the following:

**r. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (a) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (b) Whether the insured may be liable as an employer or in any other capacity; and
- (c) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

C. Subparagraph 1.q. "Electronic Data" of Section B. **Exclusions** is deleted and replaced with the following:

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.

D. Sub-subparagraph 7.b.(1) Other Insurance of Section E. **Liability and Medical Expenses General Conditions** is deleted and replaced with the following:

b. **Excess Insurance**

(1) **Your Work**

That is Fire, Extended Coverage, Builder's Risk, Installation Risk, Owner Controlled Insurance Program or OCIP, Wrap Up Insurance or similar coverage for "your work".

E. Subparagraph 17. c. "Personal and Advertising Injury" of Section G, **Liability and Medical Expenses Definitions** is deleted and replaced with the following:

"Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- 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 or organization occupies, committed by or on behalf of its owner, landlord or lessor;

F. Subparagraph 17.h. of Section G, **Liability and Medical Expenses Definitions** deleted.



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

## **SPECIAL PROPERTY COVERAGE AMENDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **SPECIAL PROPERTY COVERAGE FORM**

**A. The following changes are made to Paragraph A.5., Additional Coverages:**

1. Paragraph f., **Forgery** is deleted and replaced with the following:

**f. Forgery**

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, or 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. This includes written instruments required in conjunction with any credit, debit, or charge card issued to you or any employee for business purposes.
- (2) If you are sued for refusing to pay the check, draft, promissory note, or 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 expenses that you incur and pay in that defense.
- (3) We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:
  - (a) Money orders, including counterfeit money orders, issued by any post office, express company or bank that are not paid upon presentation; and
  - (b) Counterfeit United States or Canadian paper currency.

- (4) For the purpose of this Coverage Extension, 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.

- (5) We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.

- (6) The most we will pay in any one occurrence, including legal expenses, under this Additional Coverage is \$5,000, unless a higher Limit of Insurance is shown in the Declarations.

2. Paragraph i.(2)(c) of the **Money and Securities** Additional Coverage is deleted and replaced with the following:

- (c) Loss or damage to "money" and "securities" following and directly related to the use of any "computer" to fraudulently cause a transfer of that property.

**B. The following changes are made to Section B., EXCLUSIONS**

1. Paragraph 1.a., **Earth Movement** is amended to add the following:

This Exclusion applies regardless of whether any of the following is caused by weather, an act of nature, by an artificial, man-made or other cause.

2. The following exclusion is added to Paragraph 1.:

**Electronic Vandalism or Corruption of "Electronic Data" or Corruption of "Computer Equipment"**

This exclusion does not apply to Electronic Vandalism, form SS 14 29 or Electronic Vandalism, form SS 40 08 if either form has been made part of this policy.

- (1) Destruction or corruption of "electronic data" caused by a virus, malicious 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.
- (2) Unauthorized viewing, copying or use of electronic data (or any proprietary or confidential information or intellectual property in any form) by any person, even if such activity is characterized as "theft";
- (3) Errors or omissions in programming or processing "electronic data";
- (4) Errors or deficiency in design, installation, maintenance, repair or modification of your computer system or any computer system or network to which your system is connected or on which your system depends (including "electronic data");
- (5) Manipulation of your computer system, including "electronic data", by an employee, volunteer worker or contractor, for the purpose of diverting or destroying "electronic data" or causing fraudulent or illegal transfer of any property;
- (6) Interruption in normal computer function or network service or function due to insufficient capacity to process transactions or to an overload of activity on the system or network;
- (7) Unexplained or indeterminable failure, malfunction or slowdown of a computer system, including "electronic data" and the inability to access or properly manipulate the "electronic data";
- (8) Complete or substantial failure, disablement or shutdown of the Internet, regardless of the cause;
- (9) The inability of a computer system to correctly recognize, process, distinguish, interpret or accept one or more dates or times.

But if direct physical loss or direct physical damage occurs to Covered Property from a resulting Covered Cause of Loss, we will

pay for that resulting direct physical loss or direct physical damage. Mere loss of use or loss of functionality of any property is not considered physical loss or physical damage.

3. Paragraph 2. is deleted and replaced with the following:

We will not pay for loss or damage caused by or resulting from:

a. **Consequential Losses:** Delay, loss of use or loss of market.

b. **Smoke, Vapor, Gas:** Smoke, vapor or gas from agricultural smudging or industrial operations.

c. **Miscellaneous Types of Loss:**

(1) Wear and tear;

(2) Rust, corrosion, fungus, 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, mold, spore or other animals;

(6) 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 physical loss or physical damage by the "specified causes of loss", building glass breakage or Equipment Breakdown Accident results, we will pay for that resulting physical loss or physical damage.

d. **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.

e. **Dishonesty:** Dishonest or criminal act by you, any of your partners, "members", officers, "managers", employees,



directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others; or
- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

- f. **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.
- g. **Exposed Property:** Rain, snow, ice or sleet to personal property in the open, except as provided in the Coverage Extension for Outdoor Property.
- h. **Collapse:** Collapse, except as provided in the Additional Coverage for Collapse. But if loss or damage by a Covered Cause of Loss results at the "scheduled premises", we will pay for that resulting loss or damage.
- i. **Pollution:** We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants and contaminants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss." But if physical loss or physical damage by the "specified causes of loss" results, we will pay for the resulting physical loss or physical damage caused by the "specified cause of loss."

C. Definition 4., "Data", of Section G., **PROPERTY DEFINITIONS** is deleted and replaced with the following.

- 4. "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.

"Electronic data" it is not considered physical property under this Coverage Part and is covered only as expressly provided for in this Coverage Part. Any such coverage does not indicate that "electronic data" is considered to be tangible property subject to physical loss or physical damage for purposes of any business interruption coverage or other coverage that requires physical loss or physical damage.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **BUSINESS LIABILITY COVERAGE FORM AMENDATORY ENDORSEMENT- SUPPLEMENTARY PAYMENTS**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

- A. Sub-subparagraph 3.a.(5) of Paragraph 3., Section A. **Coverages** is deleted and replaced with the following:
  - 3. **Coverage Extension - Supplementary Payments:**
    - a. **(5)** 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.



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

## **CALIFORNIA CHANGES**

This endorsement modifies insurance provided under the following:

**COMMON POLICY CONDITIONS  
SPECIAL PROPERTY COVERAGE FORM  
STANDARD PROPERTY COVERAGE FORM  
BUSINESS LIABILITY COVERAGE FORM  
EMPLOYMENT PRACTICES LIABILITY COVERAGE FORM**

- A.** Paragraphs **2.** and **3.** of the **Cancellation** Common Policy Condition are replaced by the following:
- 2.** All Policies in Effect for 60 Days Or Less:
- If this policy has been in effect for 60 days or less, and is not a renewal of a policy we have previously issued, we may cancel this policy by mailing or delivering to the first Named Insured at the mailing address shown in the policy and to the producer of record, advance written notice of cancellation, stating the reason for cancellation, at least:
- a.** 10 days before the effective date of cancellation if we cancel for:
- (1)** Nonpayment of premium; or
- (2)** Discovery of fraud or material misrepresentation by:
- (a)** Any insured or his or her representative in obtaining this insurance; or
- (b)** You or your representative in pursuing a claim under this policy.
- b.** 30 days before the effective date of cancellation if we cancel for any other reason.
- 3.** All Policies in Effect For More Than 60 Days
- a.** If this policy has been in effect for more than 60 days, or is a renewal of a policy we issued, we may cancel this policy only upon the occurrence, after the effective date of the policy, of one or more of the following, or as permitted under applicable California law:
- (1)** Nonpayment of premium, including payment due on a prior policy we issued and due during the current policy term covering the same risks.
- (2)** Discovery of fraud or material misrepresentation by:
- (a)** Any insured or his or her representative in obtaining this insurance; or
- (b)** You or your representative in pursuing a claim under this policy.
- (3)** A judgment by a court or an administrative tribunal that you have violated a California or Federal law, having as one of its necessary elements an act which materially increases any of the risks insured against.
- (4)** Discovery of willful or grossly negligent acts or omissions, or of any violations of state laws or regulations establishing safety standards, by you or your representative, which materially increase any of the risks insured against.
- (5)** Failure by you or your representative to implement reasonable loss control requirements, agreed to by you as a condition of policy issuance, or which were conditions precedent to our use of a particular rate or rating plan, if that failure materially increases any of the risks insured against.
- (6)** A determination by the Commissioner of Insurance that the:
- (a)** Loss of, or changes in, our reinsurance covering all or part of the risk would threaten our financial integrity or solvency; or
- (b)** Continuation of the policy coverage would:
- i.** Place us in violation of California law or the laws of the state where we are domiciled; or
- ii.** Threaten our solvency.
- (7)** A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the

added, increased or changed risk is included in the policy.

- i. Place us in violation of California law or the laws of the state where we are domiciled; or
- ii. Threaten our solvency.

(7) A change by you or your representative in the activities or property of the commercial or industrial enterprise, which results in a materially added, increased or changed risk, unless the added, increased or changed risk is included in the policy.

b. We will mail or deliver advance written notice of cancellation, stating the reason for cancellation, to the first Named Insured, at the mailing address shown in the policy, and to the producer of record, at least:

(1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium or discovery of fraud, or

(2) 30 days before the effective date of cancellation if we cancel for any other reason listed in paragraph 3.a.

B. The following provisions is added to the Cancellation Common Policy Condition:

#### 7. Residential Property

This provision applies to coverage on real property which is used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household personal property in a residential unit, if such coverage is written under this policy:

a. If such coverage has been in effect for 60 days or less, and is not a renewal of coverage we previously issued, we may cancel this coverage for any reason, except as provided in b. and c. below.

b. We may not cancel solely because the first Named Insured has:

(1) Accepted an offer of earthquake coverage; or

(2) Cancelled or did not renew a policy issued by the California Earthquake Authority (CEA) that included and earthquake policy premium surcharge. However, we shall cancel this policy if the first Named Insured has accepted a new or renewal policy issued by the CEA that includes an earthquake policy premium surcharge but fails to pay the earthquake policy premium surcharge authorized by the CEA.

c. We may not cancel such coverage solely because corrosive soil conditions exist on the premises. This restriction (c.) applies only if coverage under the **Special Property Coverage Form**, which excludes loss or damage caused by or resulting from corrosive soil conditions.

C. The following is added and supersedes any provisions to the contrary:

#### NONRENEWAL

1. Subject to the provisions of paragraphs C.2. and C.3. below, if we elect not to renew this policy, we will mail or deliver written notice stating the reason for nonrenewal to the first Named Insured shown in the Declarations and to the producer of record, at least 60 days but not more than 120 days, before the expiration or anniversary date.

We will mail or deliver our notice to the first Named Insured, and to the producer of record, at the mailing address shown in the policy.

#### 2. Residential Property

This provision applies to coverage on real property used predominantly for residential purposes and consisting of not more than four dwelling units, and to coverage on tenants' household property contained in a residential unit, if such coverage is written under this policy.

a. We may elect not to renew such coverage for any reason, except as provided in b., c. and d. below:

b. We will not refuse to renew such coverage solely because the first Named Insured has accepted an offer of earthquake coverage.

However, the following applies only to insurers who are associated participating insurers as established by Cal. Ins. Code Section 10089.16. We may elect not to renew such coverage after the first Named Insured has accepted an offer of earthquake coverage, if one or more of the following reasons applies:

(1) The nonrenewal is based on sound underwriting principles that relate to the coverages provided by this policy and that are consistent with the approved rating plan and related documents filed with the Department of Insurance as required by existing law;

(2) The Commissioner of Insurance finds that the exposure to potential losses will threaten our solvency or place us in a hazardous condition. A hazardous condition in which we make claims payments for losses resulting from an earthquake that occurred within the

- preceding two years and that required a reduction in policyholder surplus of at least 25% for payment of those claims;  
or
- (2) The Commissioner of Insurance finds that the exposure to potential losses will threaten our solvency or place us in a hazardous condition. A hazardous condition in which we make claims payments for losses resulting from an earthquake that occurred within the preceding two years and that required a reduction in policyholder surplus of at least 25% for payment of those claims;  
or
- (3) We have:
- (a) Lost or experienced a substantial reduction in the availability or scope of reinsurance coverage; or
  - (b) Experienced a substantial increase in the premium charged for reinsurance coverage of our residential property insurance policies; and the Commissioner has approved a plan for the nonrenewals that is fair and equitable, and that is responsive to the changes in our reinsurance position.
  - (c) We will not refuse to renew such coverage solely because the first Named Insured has cancelled or did not renew a policy, issued by the California Earthquake Authority that included an earthquake policy premium surcharge.
  - (d) We will not refuse to renew such coverage solely because corrosive soil conditions exist on the premises. This restriction (d) applies only if coverage is subject to the Special Property Coverage Form, which excludes loss or damage caused by or resulting from corrosive soil conditions.
3. We are not required to send notice of nonrenewal in the following situations:
- a. If the transfer or renewal of a policy, without any changes in terms, conditions, or rates, is between us and a member of our insurance group.
  - b. If the policy has been extended for 90 days or less, provided that notice has been given in accordance with paragraph C.1.
  - c. If you have obtained replacement coverage, or if the first Named Insured has agreed, in writing, within 60 days of the termination of the policy, to obtain that coverage.
  - d. If the policy is for a period of no more than 60 days and you are notified at the time of issuance that it will not be renewed.
  - e. If the first Named Insured requests a change in the terms or conditions or risks covered by the policy within 60 days of the end of the policy period.
  - f. If we have made a written offer to the first Named Insured, in accordance with the time frames shown in paragraph C.1., to renew the policy under changed terms or conditions or at an increased premium rate, when the increase exceeds 25%.
- If there is an appraisal, we will still retain our right to deny the claim.
- D. The **Concealment, Misrepresentation Or Fraud** Condition is replaced by the following with respect to loss of damage caused by fire:
- We do not provide coverage to the insured who, whether before or after a loss, has committed fraud or intentionally concealed or misrepresented any material fact or circumstance concerning:
- 1. This Coverage Part;
  - 2. The Covered Property;
  - 3. That insured's interest in the Covered Property;  
or
  - 4. A claim under this Coverage Part or Coverage Form.
- E. The **Concealment, Misrepresentation Or Fraud** Condition is replaced by the following with respect to loss of damage caused by a Covered Cause of Loss other than fire:
- This Coverage Part is void if any insured, whether before or after a loss, has committed fraud or intentionally concealed or misrepresented any material fact or circumstance concerning:
- 1. This Coverage Part;
  - 2. The Covered Property;
  - 3. That insured's interest in the Covered Property;  
or
  - 4. A claim under this Coverage Part or Coverage Form.
- F. The **Other Insurance - Property Coverage** Condition is replaced by the following:
- If there is other insurance covering the same loss or damage, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable limit of insurance bears to the limits of insurance of all insurance covering on same basis.
- G. The **Appraisal Property Loss** Condition of the **Standard and Special Property Form** is replaced by the following:
- If we and you disagree on the value of the property or the amount of loss, either may make written

request for an appraisal of the loss. If the request is accepted, each party will select a competent and impartial appraiser. Each party shall notify the other of the appraiser selected within 20 days of the request. The two appraisers will select an umpire. If they cannot agree within 15 days, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

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

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

H. With respect to an "Open Policy", the **Loss Payment Condition** of the **Standard** and **Special Property Form** is amended by the following:

1. Paragraph 5.d.(1).(b). of the **Loss Payment condition** is deleted and replaced by:

We will not pay on a replacement cost basis for any loss or damage until the lost or damaged property is actually repaired or replaced, and then only subject to deduction for depreciation. Prior to such repair or replacement, and in accordance with the terms applicable Loss Payment conditions in this policy, we will pay the actual cash value of the lost or damaged property as described in this endorsement. If the actual cash value does not exhaust the applicable Limit of Insurance, we will then pay the difference between the actual cash value and the replacement cost, provided that the repair or replacement is completed:

- a. Within 12 months after our payment of the actual cash value; or
- b. Within 24 months after our payment of the actual cash value if the loss or damage relates to a state of emergency as described in Section 8558 of the Government Code;

unless we extend the time period for good cause.

The foregoing provisions do not constitute a waiver of our right to deny the claim for any valid reason or to restrict payment in cases of suspected fraud.

2. Actual cash value is determined as follows:

- a. In the event of a total loss to a building or structure, actual cash value is calculated as the Limit of Insurance applicable to that building or structure or the fair market value of the building or structure, which ever is less.
- b. In the event of a partial loss to a building or structure, actual cash value is calculated as shown below, which ever is less:

(1) The amount it would cost to repair, rebuild or replace the property less a fair and reasonable deduction for physical depreciation of the components of the building or structure that are normally subject to repair or replacement during its useful life. Physical depreciation is based upon the condition of the property at the time of the loss;

(2) The limit of Insurance applicable to the property.

- c. In the event of a partial or total loss to Covered Property other than a building or structure, actual cash value is calculated as the lesser of the following:

(1) The amount it would cost to repair or replace the property less a fair and reasonable deduction for physical depreciation, based on the condition of the property at the time of loss; or

(2) The Limit of Insurance applicable to the property.

3. An "Open Policy" is a policy under which the value of Covered Property is not fixed at policy inception, but is determined at the time of loss in accordance with policy provisions on valuation. The term "open policy" does not apply to Covered Property that is subject to an Agreed Value clause or similar clause that establishes an agreed value prior to loss, unless such clause has expired.



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

## UNMANNED AIRCRAFT - LIABILITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS LIABILITY COVERAGE FORM

#### SCHEDULE

<input type="checkbox"/>	<b>Option 1:</b> If an "X" is shown in this box, Bodily Injury and Property Damage coverage for Unmanned Aircraft applies and the Unmanned Aircraft Exclusion in Paragraph <b>A.1.g.(1)</b> of this endorsement does not apply.
<input type="checkbox"/>	<b>Option 2:</b> If an "X" is shown in this box, Personal And Advertising Injury coverage for Unmanned Aircraft applies and the Unmanned Aircraft - Personal And Advertising Injury Exclusion in Paragraph <b>A.2.</b> of this endorsement does not apply.

Except as otherwise stated in this endorsement or the schedule above, the terms and conditions of the policy apply to the insurance stated below.

**A. The following changes are made to Section B.1., EXCLUSIONS:**

1. Paragraph **g., Aircraft, Auto or Watercraft**, is deleted and replaced with the following:

**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.

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 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;

(e) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Section G Liability and Medical Expenses Definitions, Paragraph 15 f. (2) or f. (3) of the definition of "mobile equipment"; or

(f) An aircraft (other than unmanned aircraft) that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

2. The following is added to Section B. **EXCLUSIONS** Paragraph p., **Personal and Advertising Injury**:

**Unmanned Aircraft - Personal and Advertising Injury**

Arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

However, this exclusion does not apply if the only allegation in the claim or "suit" involves an intellectual property right which is limited to:

(a) Infringement, in your "advertisement", of:

(i) Copyright;

(ii) Slogan; or

(iii) Title of any literary or artistic work; or

(b) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

B. The following changes apply to Section G. **LIABILITY AND MEDICAL EXPENSES DEFINITIONS**:

1. The following definition is added:

"Unmanned aircraft" means an aircraft that is not:

a. Designed;

b. Manufactured; or

c. Modified after manufacture

to be controlled directly by a person from within or on the aircraft.





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

## **CYBERFLEX COVERAGE**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

This endorsement modifies coverage under the Business Liability Coverage Form for your web site or internet related activities.

**A. Exclusion 1.p. "Personal and Advertising Injury"**  
(Section **B. - EXCLUSIONS**) is modified as follows:

1. Paragraphs **(4)**, **(5)** and **(7)** are deleted and replaced by the following:

**(4)** Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement" or on "your web site";

**(5)** Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement" or on "your web site";

**(7) (a)** Arising out of any actual or alleged infringement or violation of any intellectual property rights, such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity; or

**(b)** Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made against you or any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

**(1)** Infringement in your "advertisement", of:

**(a)** Copyright;

**(b)** Slogan; or

**(c)** Title of any literary or artistic work; or

**(2)** Copying in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

2. Paragraph **(9)** does not apply.

3. Subparagraphs **(a)**, **(b)** and **(c)** of Paragraph **(12)** do not apply.

**B. Section G. - LIABILITY AND MEDICAL EXPENSES DEFINITIONS** is amended as follows:

1. Paragraph **b.** of definition 1. "advertisement" is deleted and replaced by:

"Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

**b.** The Internet;

2. Paragraphs **f.** and **g.** of the definition of "personal and advertising injury" are deleted and replaced by the following:

"Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

**f.** Copying, in your "advertisement" or on "your web site", a person's or organization's "advertising idea" or style of "advertisement";

**g.** Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement" or on "your web site"; or

3. The following is added to the definition of "personal and advertising injury":

As used in this definition, oral, written or electronic publication includes publication of material in your care, custody or control by someone not authorized to access or distribute that material.

4. The following definition is added:

"Your web site" means a web page or set of interconnected web pages prepared and maintained by you, or by others on your behalf, for the purposes of promoting your goods or services, that is accessible over a computer network.



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## **EQUIPMENT BREAKDOWN DEDUCTIBLE**

This endorsement modifies insurance provided under the following:

### **SPECIAL PROPERTY COVERAGE FORM**

The following deductible applies to direct physical loss or physical damage for which coverage is provided under **Additional Coverage** paragraph **5.c. Equipment Breakdown**:

1. We will not pay for direct physical loss or physical damage in any one occurrence unless the amount of physical loss or physical damage exceeds the Equipment Breakdown Deductible stated in the Declarations. We will then pay the amount of the physical loss or physical damage in excess of the Equipment Breakdown Deductible up to the applicable Limit of Insurance for Covered Property.
2. You must give us notice as soon as possible of any direct physical loss or physical damage, even if the physical loss or physical damage falls entirely within the Equipment Breakdown Deductible.



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

## **LIMITED FUNGI, BACTERIA OR VIRUS COVERAGE**

This endorsement modifies insurance provided under the following:

**SPECIAL PROPERTY COVERAGE FORM  
STANDARD PROPERTY COVERAGE FORM  
PERSONAL PROPERTY OF OTHERS  
COMPUTERS AND MEDIA COVERAGE**

**A. Fungi, Bacteria or Virus Exclusions**

1. Paragraph **A.5.i.(5)** of the Increased Cost of Construction Additional Coverage of the Standard Property Coverage Form is replaced by the following:

**(5)** Under this Additional Coverage, we will not pay for:

**(a)** The enforcement of 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 or dry rot, bacteria or virus; or

**(b)** 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", "fungi", wet or dry rot, bacteria or virus.

2. The following exclusion is added to Paragraph **B.1.** Exclusions of the Standard Property Coverage Form and the Special Property Coverage Form; Paragraph **F.**, Additional Exclusions of Computers and Media, form SS 04 41, and to form SS 04 45, Personal Property of Others:

**i. "Fungi", Wet Rot, Dry Rot, Bacteria And Virus**

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:

**(1)** Presence, growth, proliferation, spread or any activity of "fungi", wet rot, dry rot, bacteria or virus.

**(2)** But if "fungi", wet rot, dry rot, bacteria or virus results in a "specified cause of loss" to Covered Property, we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

**(1)** When "fungi", wet or dry rot, bacteria or virus results from fire or lightning; or

**(2)** To the extent that coverage is provided in the Additional Coverage – Limited Coverage for "Fungi", Wet Rot, Dry Rot, Bacteria and Virus with respect to loss or damage by a cause of loss other than fire or lightning.

This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

- B.** The following Additional Coverage is added to Paragraph **A.4.** of the Standard Property Coverage Form or Paragraph **A.5.** of the Special Property Coverage Form, and applies to the optional coverage form SS 04 41, Computers and Media and SS 04 45, Personal Property of Others and form:

**1. Limited Coverage For "Fungi", Wet Rot, Dry Rot, Bacteria and Virus**

- a. The coverage described in **1.b.** below only applies when the "fungi", wet or dry rot, bacteria or virus is the result of one or more of the following causes 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.

- (1) A "specified cause of loss" other than fire or lightning;
- (2) Equipment Breakdown Accident occurs to Equipment Breakdown Property, if Equipment Breakdown applies to the affected premises.

- b. We will pay for loss or damage by "fungi", wet rot, dry rot, bacteria and virus. As used in this Limited Coverage, the term loss or damage means:

- (1) Direct physical loss or direct physical damage to Covered Property caused by "fungi", wet rot, dry rot, bacteria or virus, including the cost of removal of the "fungi", wet rot, dry rot, bacteria or virus;
- (2) 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, dry rot, bacteria or virus; and
- (3) 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, dry rot, bacteria or virus are present.

- c. Unless a higher Limit of Insurance is shown in the Declarations for Limited "Fungi", Bacteria or Virus Coverage, the coverage described under this Limited Coverage is no more than the Limit of Insurance stated in the Declarations for Building and Business Personal Property, but not greater than \$50,000.

If form SS 04 41, Computers and Media, and form SS 04 45, Personal Property of Others, are made a part of this policy, then the Limits of Insurance for Computers and Media, and Personal Property of Others is included within this coverage limit. This coverage is made applicable to separate "scheduled premises" as described in the Declarations. Regardless of the number of claims, this limit is the most we will pay per "scheduled premises" for the total of all loss or damage arising out of all

- (1) occurrences of "specified causes of loss" (other than fire or lightning); and
- (2) Equipment Breakdown Accident that occurs to Equipment Breakdown Property;

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 or dry rot, bacteria or virus, we will not pay more than the total of \$50,000 unless a higher Limit of Insurance is shown in the Declarations, even if the "fungi", wet or dry rot, bacteria, or virus continues to be present or active, or recurs, in a later policy period.

- d. 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, dry rot, bacteria or virus, 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, dry rot, bacteria or virus, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet or dry rot, bacteria or virus causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

- e. The terms of this Limited Coverage do not increase or reduce the coverage for Water Damage provided under provision **B.1.h., Exclusion – Water Damage** of the Standard Property Coverage Form or Additional Coverage provision **A.5.n., Water Damage, Other Liquid, Powder or Molten Material Damage** of the Special Property Coverage Form.

- f. The following applies only if a Time Element Coverage applies to the "scheduled premises" and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Time Element Coverage.

- (1) If the loss which resulted in "fungi", wet or dry rot, bacteria or virus 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 or dry rot, bacteria or virus, then our payment under the Time Element Coverage is limited to the amount of loss and expense sustained in a period of not more than 30 days unless another number of days is indicated in the Declarations. The days need not be consecutive. If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet or dry rot, bacteria or virus, but remediation of "fungi", wet or dry rot, bacteria or virus prolongs the "period of restoration", we will pay for loss and 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 unless another number of days is indicated in the Declarations. The days need not be consecutive.

#### **C. Fungi Definition**

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.**

## **IDENTITY RECOVERY COVERAGE FOR BUSINESSOWNERS AND EMPLOYEES**

### **IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT**

This endorsement modifies insurance provided under the following:

#### **SPECIAL PROPERTY COVERAGE FORM**

- A.** The following is added to paragraph 5. Additional Coverages (Section A. - Coverage):

#### **IDENTITY RECOVERY COVERAGE**

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an "identity theft" involving the personal identity of an "identity recovery insured" under this policy; and
2. Such "identity theft" is first discovered by the "identity recovery insured" during the policy period for which this Identity Recovery coverage is applicable; and
3. Such "identity theft" is reported to us as soon as practicable but in no event later than 60 days after it is first discovered by the "identity recovery insured."

If all three of the requirements listed above have been met, then we will provide the following to the "identity recovery insured":

#### **1. Case Management Service**

Services of an "identity recovery case manager" as needed to respond to the "identity theft"; and

#### **2. Expense Reimbursement**

Reimbursement of necessary and reasonable "identity recovery expenses" incurred as a direct result of the "identity theft."

This coverage is additional insurance.

- B.** The following additional exclusions are added to Section B. - Exclusions and apply to this coverage:

#### **EXCLUSIONS**

We do not cover loss or expense arising from any of the following:

1. Theft of a professional or business identity.
2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an "insured" who has no knowledge of or involvement in such fraud, dishonesty or criminal act.
3. Loss other than "identity recovery expenses".
4. An "identity theft" that is first discovered by the "identity recovery insured" prior to or after the policy period for which this coverage applies. This exclusion applies whether or not such "identity theft" began or continued during the period of coverage.
5. An "identity theft" that is not reported to us within 60 days after it is first discovered by the "identity recovery insured."
6. An "identity theft" that is not reported in writing to the police.

### C. LIMITS OF INSURANCE

1. Case Management Service is available as needed for any one "identity theft" for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement coverage.
2. Expense Reimbursement coverage is subject to a limit of \$15,000 annual aggregate per "identity recovery insured." Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all "identity thefts" to any one "identity recovery insured" which are first discovered by the "identity recovery insured" during a 12-month period starting with the beginning of the present annual policy period. If an "identity theft" is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such "identity theft" will be subject to the aggregate limit applicable to the policy period when the "identity theft" was first discovered.
  - a. Legal costs as provided under paragraph d. of the definition of "identity recovery expenses" are part of, and not in addition to, the Expense Reimbursement coverage limit.
  - b. Lost Wages and Child and Elder Care Expenses as provided under paragraphs e. and f. of the definition of "identity recovery" are jointly subject to a sublimit of \$250 per day, not to exceed \$5,000 in total. This sublimit is part of, and not in addition to, the Expense Reimbursement coverage limit. Coverage is limited to lost wages and expenses incurred within 12 months after the first discovery of the "identity theft" by the "identity recovery insured".
  - c. Mental Health Counseling as provided under paragraph g. of the definition of "identity recovery expenses" is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement coverage limit. Coverage is limited to counseling that takes place within 12 months after the first discovery of the "identity theft" by the "identity recovery insured".

### D. DEDUCTIBLE

Case Management Service is not subject to a deductible.

Expense Reimbursement coverage is subject to a deductible of \$250. Any one "identity recovery insured" shall be responsible for only one deductible under this Identity Recovery Coverage during any one policy period.

- E. The following additional conditions are added to Section F. - Property General Conditions and apply to this coverage:

### CONDITIONS

#### 1. Assistance and Claims

For assistance, the "identity recovery insured" should call the **Identity Recovery Help Line** at **1-866-989-2905**.

The **Identity Recovery Help Line** can provide the "identity recovery insured" with:

- a. Information and advice for how to respond to a possible "identity theft"; and
- b. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an "identity recovery insured" prior to a determination that a covered "identity theft" has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered "identity theft" has not occurred.

As respects Expense Reimbursement Coverage, the "identity recovery insured" must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

#### 2. Services

The following conditions apply as respects any services provided by us or our designees to any "identity recovery insured" under this endorsement:

- a. Our ability to provide helpful services in the event of an "identity theft" depends on the cooperation, permission and assistance of the "identity recovery insured."
- b. All services may not be available or applicable to all individuals. For example, "identity recovery insureds" who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in United States and Puerto Rico in accordance with local conditions.
- c. We do not warrant or guarantee that our services will end or eliminate all problems associated with an "identity theft" or prevent future "identity thefts."

- F. With respect to the provisions of this endorsement only, the following definitions are added to Section G. - Property Definitions:

**DEFINITIONS**

1. "Identity Recovery Case Manager" means one or more individuals assigned by us to assist an "identity recovery insured" with communications we deem necessary for re-establishing the integrity of the personal identity of the "identity recovery insured." This includes, with the permission and cooperation of the "identity recovery insured," written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

2. "Identity Theft" means the fraudulent use of the social security number or other method of identifying an "identity recovery insured." This includes fraudulently using the personal identity of an "identity recovery insured" to establish credit accounts, secure loans, enter into contracts or commit crimes.

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

3. "Identity Recovery Expenses" means the following when they are reasonable and necessary expenses that are incurred in the United States or Canada as a direct result of an "identity theft":

- a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an "identity theft."
- b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an "identity theft" or amend or rectify records as to your true name or identity as a result of an "identity theft."
- c. Costs for up to twelve (12) credit reports from established credit bureaus dated within 12 months after your knowledge or discovery of an "identity theft."
- d. Legal Costs

Fees and expenses for an attorney approved by us for:

- (1) Defending any civil suit brought against an "identity recovery insured" by a creditor or collection agency or entity acting on behalf of a creditor for non-payment of goods or services or default on a loan as a result of an "identity theft"; and

- (2) Removing any civil judgment wrongfully entered against an "identity recovery insured" as a result of the "identity theft."

e. Lost Wages

Actual lost wages of the "identity recovery insured" for time reasonably and necessarily take away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.

f. Child and Elder Care Expenses

Actual costs for supervision of children or elderly or infirm relatives or dependents of the "identity recovery insured" during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the "identity recovery insured".

g. Mental Health Counseling

Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the "identity recovery insured".

4. "Identity Recovery Insured" means the following:

- a. A full time employee of the entity insured under this policy; or
- b. The owner of the entity insured under this policy who meets any of the following criteria:

- (1) A sole proprietor of the insured entity;
- (2) A partner in the insured entity; or
- (3) An individual having an ownership position of 20% or more of the insured entity.

An "identity recovery insured" must always be an individual person. The entity insured under this policy is not an "identity recovery insured."

All other provisions of this policy apply.





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## **BUILDING LIMIT- AUTOMATIC INCREASE REVISION**

This endorsement modifies insurance provided under the following:

### **SPECIAL PROPERTY COVERAGE FORM STANDARD PROPERTY COVERAGE FORM**

Except as otherwise stated in this endorsement, the terms and conditions of the policy apply to the insurance stated below.

- A.** Paragraph **C.5 Building Limit-Automatic Increase** of the **SPECIAL PROPERTY COVERAGE FORM** or **STANDARD PROPERTY COVERAGE FORM** is deleted.
- B.** The following is added to **Additional Coverages**, paragraph **A.5** of the **SPECIAL PROPERTY COVERAGE FORM** or paragraph **A.4.** of the **STANDARD PROPERTY COVERAGE FORM**:

#### **Building Limit - Automatic Increase**

- a.** If the covered loss or damage to Building property at a "scheduled premises" exceeds the Limit of Insurance stated in the Declarations, the Limit of Insurance available for the covered loss or damage in that occurrence will automatically increase by up to 8%.
- b.** The amount of increase will be:
- (1)** The Limit of Insurance for Buildings that applied on the most recent of the policy inception date, policy anniversary date, or the date of any other policy change amending the Building limit, multiplied by
  - (2)** The 8% annualized percentage of Automatic Increase, expressed as a decimal  
(.08), multiplied by

- (3)** The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance for Buildings, divided by 365.

Example:

The applicable Limit of Insurance for Buildings is \$100,000. The automatic increase percentage is 8%. The number of days since the beginning of the policy period (or last policy change) is 146.

The amount of increase is:

$\$100,000 \times .08 \times 146 \text{ divided by } 365 = \$3,200$



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## **AMENDMENT - DEFINITION OF INSURED CONTRACT**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

Paragraph f. of the definition of "insured contract" in the **Liability And Medical Expenses Definitions** Section is replaced by the following:

- 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. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

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

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) 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 (1) above and supervisory, inspection, architectural or engineering activities.



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

## **FOOD CONTAMINATION COVERAGE**

This endorsement modifies insurance provided under the following:

### **STANDARD PROPERTY COVERAGE FORM SPECIAL PROPERTY COVERAGE FORM**

This coverage applies only when it is indicated in the Declarations. The provisions of this policy apply to the coverage stated in this endorsement, except as indicated below.

This insurance applies only when Business Income and Extra Expense Additional Coverage is included in the policy.

#### **A. COVERAGE**

We will pay the actual loss of Business Income and Extra Expense if your "operations" at any "scheduled premises" are ordered by a government authority to be suspended due to the discovery of or the suspicion of "food contamination".

"Food Contamination" means the incidence of food poisoning to one or more of your patrons that is caused by or results from tainted food you purchased, improperly stored, handled or prepared, or a communicable disease that was transmitted by you or one or more of your employees.

Extra Expense coverage is limited to the following:

1. The cost to clean and sanitize your equipment as required by the government authority;
2. The cost to replace food which is or is suspected of being contaminated; and
3. The cost of necessary medical tests or inoculations for your employees to prevent the spread of identified or suspected communicable diseases to your patrons through the ingestion of your food product.

Coverage begins at the time you were notified by the government authority to suspend your "operations" at a "scheduled premises" and ends with the notification to resume "operations" at that same "scheduled premises" from the same government authority.

#### **B. ADDITIONAL COVERAGE**

We will pay up to \$2,500 for the cost of advertising to regain customers following the notification to resume "operations" at that same "scheduled premises" by the same government authority.

This coverage ends 30 days after the government authority provides you with the notification to resume "operations" at that same "scheduled premises".

#### **C. LIMIT OF INSURANCE**

The most we will pay under this Additional Coverage, regardless of the number of patrons or locations involved in any one order by a governmental authority, is the Limit of Insurance shown in the Declarations for Food Contamination Coverage.

#### **D. EXCLUSIONS**

We will not pay any fines or penalties levied against you by the government authority as the result of the order of suspension due to the discovery of or the suspicion of "food contamination" at your "scheduled premises".



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

## **PERILS SPECIFICALLY EXCEPTED**

As used herein, "Peril" means a cause of physical loss or damage to property. It has this meaning whether or not it is called a "Peril" or a "Cause of Loss" in this policy.

Even if any of the terms of this policy might be construed otherwise, the following Perils, as described in Paragraphs A. and B. below, are **SPECIFICALLY EXCEPTED FROM THIS POLICY. WE DO NOT COVER OR INSURE AGAINST LOSS OR DAMAGE DIRECTLY OR INDIRECTLY CAUSED BY, RESULTING FROM, CONTRIBUTED TO OR AGGRAVATED BY, OR WHICH WOULD NOT HAVE OCCURRED BUT FOR, EITHER OF THESE PERILS:**

**A. ACTS, ERRORS OR OMISSIONS** by you or others in:

1. Planning, zoning, developing, surveying, testing or siting property;
2. Establishing or enforcing any building code, or any standard, ordinance or law about the construction, use or repair of any property or materials, or requiring the tearing down of any property, including the removal of its debris;
3. The design, specifications, workmanship, repair, construction, renovation, remodeling, grading or compaction of all or any part of the following:
  - a. Land or buildings or other structures;
  - b. Roads, water or gas mains, sewers, drainage ditches, levees, dams, or other facilities; or
  - c. Other improvements or changes in or additions to land or other property.
4. The furnishing of work, materials, parts or equipment in connection with the design, specifications, workmanship, repair, construction, renovation, remodeling, grading or compaction of any of the above property or facilities; or
5. The maintenance of any of such property or facilities.

This exception A. applies whether or not the property or facilities described above are:

1. Covered under this policy; or
2. On or away from the covered premises.

This exception A. does not reduce the insurance for loss or damage caused directly by a Covered Peril.

As used in this endorsement:

1. If this policy is written to cover the risk of loss from specifically named causes, "Covered Peril" means any Peril specifically named as covered; or
2. If written to cover the risk of loss without specifying specifically named causes, "Covered Peril" means any Peril not described above and not otherwise excluded or excepted from the causes of loss covered by this policy.

**B. COLLAPSE, "CRACKING" OR "SHIFTING"** of buildings, other structures or facilities, or their parts, if the collapse, "cracking" or "shifting":

1. Occurs during "earth movement," "volcanic eruption" or "flood" conditions or within 72 hours after they cease; and
2. Would not have occurred but for "earth movement," "volcanic eruption" or "flood."

But if loss or damage by a covered Peril ensues at the covered premises, we will pay for that ensuing loss or damage.

This exception B. applies whether or not there are other provisions in this policy relating to collapse, "cracking" or "shifting" of buildings, other structures or facilities, or their parts. Any such provision is revised by this endorsement to include this exception.

But if this policy specifically covers (by endorsement or in any other way) loss or damage caused by one or more of the following Perils:

1. Earthquake;
2. Flood;
3. Volcanic action;
4. Volcanic eruption; or
5. Sinkhole collapse,

this exception B. will not reduce that coverage.

As used in this exception B.:

1. "Cracking" means cracking, separating, shrinking, bulging, or expanding;
2. "Shifting" means shifting, rising, settling, sinking, or lateral or other movement;
3. "Earth movement" means any earth movement, including but not limited to "earthquake," landslide, mudflow, erosion, contraction or expansion, subsidence, any movement of earth resulting from water combining with the ground or soil, and any other "shifting" of earth; all whether or not combined with "flood" or "volcanic eruption." It does not include sinkhole collapse if loss by sinkhole collapse is specifically covered in this policy;
4. "Earthquake" means a shaking or trembling of the earth's crust, caused by underground volcanic or tectonic forces or by breaking or "shifting" of rock beneath the surface of the ground from natural causes. An "Earthquake" includes all related shocks and after shocks;
5. "Volcanic eruption" means the eruption, explosion or effusion of a volcano. It does not include volcanic action if loss by volcanic action is specifically covered in this policy;
6. "Flood" means:
  - a. Flood, surface water, waves, tides, tidal water, tidal waves, high water, and overflow of any body of water, or their spray, all whether driven by wind or not;
  - b. Release of water held by a dam, levy or dike or by a water or flood control device;
  - c. Water that backs up from a sewer or drain; or
  - d. Water under the ground surface pressing on, or flowing, leaking or seeping through:
    - (1) Foundations, walls, floors or paved surfaces;
    - (2) Basements, whether paved or not; or
    - (3) Doors, windows or other openings.



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

## **EXCLUSION - PLAYGROUND FACILITY**

This endorsement modifies insurance provided under the following:

### **BUSINESS LIABILITY COVERAGE FORM**

- A.** This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the:
1. Ownership;
  2. Maintenance;
  3. Operation; or
  4. Use,
- of any "playground facility".
- B.** Additional Definition:
- "Playground facility" means an area designated for recreational activities specifically set aside for children. Such an area is usually equipped with recreational equipment including, but not limited to:
1. Swings;
  2. Slides; and
  3. Merry-go-rounds.



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

## **EXCLUSION - NUCLEAR ENERGY LIABILITY**

**1. This insurance does not apply:**

**a. To any injury or damage:**

**(1)** With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

**(2)** Resulting from the "hazardous properties" of "nuclear material" and with respect to which:

**(a)** Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or

**(b)** The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**b.** Under any Medical Payments or 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.** To any injury or damage resulting from the "hazardous properties" of "nuclear material"; if:

**(1)** The "nuclear material":

**(a)** Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or

**(b)** Has been discharged or dispersed therefrom;

**(2)** The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

**(3)** The injury or damage arises out of the furnishing by any insured of any "technology services" in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; or

**(4)** The injury or 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 **(4)** applies only to "property damage" to such "nuclear facility" and any property thereat.

**2. As used in this exclusion:**

**a.** "Byproduct material", "source material" and "special nuclear material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

**b.** "Computer system and network" means:

**(1)** Leased or owned computer hardware including mobile, networked, and data storage computing equipment;

**(2)** Owned or licensed software;

**(3)** Owned websites;

**(4)** Leased or owned wireless input and output devices; and

**(5)** Electronic backup facilities and data storage repositories employed in conjunction with items 1 through 4 above.

**c.** "Hazardous properties" include radioactive, toxic or explosive properties.

**d.** "Nuclear facility" means:

**(1)** Any "nuclear reactor";

**(2)** Any equipment or device designed or used for:

**(a)** Separating the isotopes of uranium or plutonium;

**(b)** Processing or utilizing "spent fuel"; or

**(c)** Handling, processing or packaging "waste";

**(3)** 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;

**(4)** 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.

- e. "Nuclear material" means "byproduct material", "source material" or "special nuclear material".
- f. "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.
- g. Injury or damage and "property damage" include all forms of radioactive contamination of property.
- h. "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".
- i. "Technology services" means:
  - 1. the following services performed for others:
    - a. Consulting, analysis, design, installation, training, maintenance, support and repair of or on: software, wireless applications, firmware, shareware, networks, systems, hardware, devices or components;

- b. Integration of systems;
- c. Processing of, management of, mining or warehousing of data;
- d. Administration, management, operation or hosting of: another party's systems, technology or computer facilities;
- e. Website development; website hosting;
- f. Internet access services; intranet, extranet or electronic information connectivity services; software application connectivity services;
- g. Manufacture, sale, licensing, distribution, or marketing of: software, wireless applications, firmware, shareware, networks, systems, hardware, devices or components;
- h. Design and development of: code, software or programming;
- i. Providing software application: services, rental or leasing;
- j. Screening, selection, recruitment or placement of candidates for temporary or permanent employment by others as information technology professionals;
- k. "Telecommunication services"; and
- l. "Telecommunication products".

- 2. web-related software and connectivity services performed for others; and
- 3. activities on the "named insured's" "computer system and network".





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

## **EXCLUSION – FUNGI, BACTERIA AND VIRUSES**

This endorsement modifies insurance provided under the following:

**BUSINESS LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM**

This insurance does not apply to:

- 1.** Injury or damage arising out of or related to the presence of, suspected presence of, or exposure to:
  - a.** Fungi, including but not limited to mold, mildew, and yeast;
  - b.** Bacteria;
  - c.** Viruses; or
  - d.** Dust, spores, odors, particulates or byproducts, including but not limited to mycotoxins and endotoxins, resulting from any of the organisms listed in **a.**, **b.**, or **c.** above;from any source whatsoever.
- 2.** Any loss, cost or expense arising out of the testing for, monitoring of, cleaning up of, removal of, containment of, treatment of, detoxification of, neutralization of, remediation of, disposal of, or any other response to or assessment of, the effects of any of the items in **1.a.**, **b.**, **c.** or **d.** above, from any source whatsoever.

However, this exclusion does not apply to "bodily injury" or "property damage" caused by the ingestion of food.



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

## **EXCLUSION - UNMANNED AIRCRAFT (PROPERTY)**

This endorsement modifies insurance provided under the following:

### **SPECIAL PROPERTY COVERAGE FORM**

Except as otherwise stated in this endorsement, the terms and conditions of the policy apply to the insurance stated below.

#### **A. COVERAGE**

Paragraph **A.2., Property Not Covered**, Subparagraph **a.** is deleted and replaced with the following:

- a.** Aircraft (including "unmanned aircraft"), automobiles, motor trucks and other vehicles subject to motor vehicle registration.

#### **C. DEFINITIONS**

The following changes are made to Section **G., PROPERTY DEFINITIONS**:

1. The following definition is added:

"Unmanned aircraft" means an aircraft that is not:

- a.** Designed;
- b.** Manufactured; or
- c.** Modified after manufacture

to be controlled directly by a person from within or on the aircraft and which is owned by you or owned by others but in your care, custody, or control.

"Unmanned aircraft" includes equipment designed for and used exclusively with the "unmanned aircraft", provided such equipment is essential for operation of the "unmanned aircraft" or for executing "unmanned aircraft operations".

2. The following definition is added:

"Unmanned aircraft operations" means your business activities in support of the specific operations listed in the Description of Business section of the Declarations.



**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:

**BUSINESS LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
SPECIAL PROPERTY COVERAGE FORM  
STANDARD PROPERTY COVERAGE FORM  
UMBRELLA LIABILITY PROVISIONS**

### **A. Disclosure Of Federal Share Of Terrorism Losses**

The United States Department of the Treasury will reimburse insurers for a portion of such insured losses, as indicated in the table below that exceeds the applicable insurer deductible:

<b>Calendar Year</b>	<b>Federal Share of Terrorism Losses</b>
<b>2015</b>	<b>85%</b>
<b>2016</b>	<b>84%</b>
<b>2017</b>	<b>83%</b>
<b>2018</b>	<b>82%</b>
<b>2019</b>	<b>81%</b>
<b>2020 or later</b>	<b>80%</b>

However, if aggregate industry insured losses, attributable to "certified acts of terrorism" under the federal Terrorism Risk Insurance Act, as amended (TRIA), 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. The United States government has not charged any premium for their participation in covering terrorism losses.

### **B. Cap On Insurer Liability for Terrorism Losses**

A "certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of federal Terrorism Risk Insurance Act, to be an act of terrorism under TRIA. The criteria contained in TRIA for a "certified act of terrorism" include the following:

1. The act results in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to TRIA; and

2. The act results in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of an United States mission; and
3. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting 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 industry insured losses attributable to "certified acts of terrorism" under TRIA exceed \$100 billion in a calendar year, and we have met, or will meet, our insurer deductible under TRIA, we shall not be liable for the payment of any portion of the amount of such losses that exceed \$100 billion. In such case, your coverage for terrorism losses may be reduced on a pro-rata basis in accordance with procedures established by the Treasury, based on its estimates of aggregate industry losses and our estimate that we will exceed our insurer deductible. In accordance with the Treasury's procedures, amounts paid for losses may be subject to further adjustments based on differences between actual losses and estimates.

### **C. Application Of Exclusions**

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



## U.S. DEPARTMENT OF THE TREASURY, OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

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 the United States. **Please read this Notice carefully.**

The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States. OFAC acts under Presidential national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction. OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals and Blocked Persons" or "SDNs". Their assets are blocked and U.S. persons are generally prohibited from dealing with them. This list can be located on OFAC's web site at – <http://www.treas.gov/ofac>.

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 an SDN, as identified by OFAC, the policy is a blocked contract and all dealings with it must involve 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.



**Named Insured:** THE TACO STAND ORANGE CORP

**Policy Number:** 72 SBA BC2838

**Effective Date:** 03/04/20

**Expiration Date:** 03/04/21

**Company Name:** SENTINEL INSURANCE COMPANY, LIMITED

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.

**EXHIBIT D**



THE HARTFORD  
CAT CLAIM OFFICE  
P.O. BOX 14264  
LEXINGTON KY 40512

April 29, 2020

THE TACO STAND ORANGE CORP DBA THE TACO STAND  
624 BROADWAY STE 301  
SAN DIEGO CA 92101

Re: Insured: THE TACO STAND ORANGE CORP DBA THE TACO STAND  
Claimant: THE TACO STAND ORANGE CORP DBA THE TACO STAND  
Date of Loss: March 16, 2020  
Event Number: CP0018715394  
Claim Number: Y93 F 58865

Dear Michael Roels on behalf of THE TACO STAND ORANGE CORP DBA THE TACO STAND:

We have completed a review of your loss and have determined that since the coronavirus did not cause property damage at your place of business or in the immediate area, this business income loss is not covered. Even if the virus did cause damage, it is excluded from the policy, and the limited coverage available for losses caused by virus does not apply to the facts of your loss.

As we understand the facts, you are suffering from a loss of business income because you, or a business you depend on, have had to close or limit your business to help prevent the spread of COVID-19, the disease caused by the novel coronavirus.

For more details on how we came to this decision, please see the information on the following pages. It lists the relevant portions of your insurance policy and explains how they apply to your situation.

If you believe there are additional facts Hartford should consider, please let us know, and we will reopen your claim.

We know this virus has led to unprecedented circumstances and care very much about the wellbeing of all our customers. For more on possible government support for small business at this time, you might like to visit <https://www.sba.gov/page/coronavirus-covid-19-small-business-guidance-loan-resources>.

If you have any questions, please feel free to contact me at the telephone number listed below.

The foregoing should not be construed as a waiver of any of Hartford's rights and defenses under your policy number, and Hartford specifically reserves its right to modify or supplement this review of coverage based upon any additional information which it may obtain and/or any other grounds which may appear.

If you believe that this claim has been wrongfully denied, in whole or in part, you may have the matter reviewed by the Claims Services Bureau of the California Department of Insurance, 300 South Spring Street, South Tower, Los Angeles, CA 90013, Telephone Number 800-927-4357 or 213-897-8921. TDD Number: 1-800-482-4833.

Sincerely,

*Courtney Homan*

Courtney Homan

ASR

Toll Free Number: (860) 509 - 9164

courtney.homan@thehartford.com

Writing Company Name: Sentinel Insurance Company, Ltd.

CC: PIPELINE INSURANCE GENERAL AGENCY via U.S.Mail

CC: Agent



## COVERAGE DECISION DETAILS

We are basing this determination on the following policy language found within the Special Property Coverage Form (SS 00 07 07 05), made part of your policy, which states, in part, as follows:

### A. COVERAGE

We will pay for direct physical loss of or physical damage to Covered Property at the premises described in the Declarations (also called "scheduled premises"<sup>1</sup>) in this policy) caused by or resulting from a Covered Cause of Loss.

\*\*\*

#### 3. Covered Causes of Loss

RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

- a. Excluded in Section B., **EXCLUSIONS**; or
- b. Limited in Paragraph A.4. Limitations; that follow.

This property policy protects your business personal property and/or building against risks of direct physical loss or damage at your Scheduled Premises. You have not identified any direct physical loss to any property at a scheduled premises.

The Additional Coverages section of the Special Property Coverage Form (SS 00 07 07 05) also provides as follows:

### 5. Additional Coverages

\*\*\*

#### o. Business Income

- (1) 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 physical damage to property at the "scheduled premises"* [emphasis added], including personal property in the open (or in a vehicle) within 1,000 feet of the "scheduled premises", caused by or resulting from a Covered Cause of Loss.
- (2) With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the "scheduled premises" are located, your "scheduled premises" also means:
  - (a) The portion of the building which you rent, lease or occupy; and
  - (b) Any area within the building or on the site at which the "scheduled premises" are located, but only if that area services, or is used to gain access to, the "scheduled premises".
- (3) We will only pay for loss of Business Income that occurs within 12 consecutive months after the date of direct physical loss or physical damage.  
This Additional Coverage is not subject to the Limits of Insurance.  
\*\*\*
- (5) 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 part or all of the "scheduled premises" is rendered untenable as a result of a Covered Cause of Loss if coverage for Business Income applies to the policy.

The Business Income coverage is not provided for your claim because there has been no physical loss or damage caused by or resulting from a Covered Cause of Loss to property at a scheduled premises.

The Additional Coverages section of the Special Property Coverage Form (SS 00 07 07 05) also provides as follows:

#### q. Civil Authority

- (1) This insurance is extended to apply to the actual loss of Business Income you sustain when access to your "scheduled premises" is specifically prohibited by order of a civil authority *as the direct result of a Covered Cause of Loss to property in the immediate area of your "scheduled premises"* [emphasis added].
- (2) The coverage for Business Income will begin 72 hours after the order of a civil authority and coverage will end at the earlier of:
  - (a) When access is permitted to your "scheduled premises"; or
  - (b) 30 consecutive days after the order of the civil authority.

<sup>1</sup>"Scheduled Premises" means any premises listed by location address in the Scheduled Premises section of the Declarations.

We have no information to indicate that a civil authority issued an order as a direct result of a covered cause of loss to property in the immediate area of your scheduled premises; accordingly, this additional coverage is not available for your

claimed loss of business income. If you believe there is an order of a civil authority as the result of a Covered Cause of Loss to property in your immediate area, please immediately send it to my attention for review.

The Additional Coverages section of the Special Property Coverage Form (SS 00 07 07 05) also provides as follows:

**s. Business Income from Dependent Properties**

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

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

\*\*\*

- (4) Dependent Property means property owned, leased or operated by others whom you depend on to:

(a) Deliver materials or services to you or to others for your account. But services do not include:

(i) Water, communication, power services or any other utility services; or

(ii) Any type of web site, or Internet service.

(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 premises.

The dependent property must be located in the coverage territory<sup>[2]</sup> of this policy.

- (5) The coverage period for Business Income under this Additional Coverage:

(a) Begins 72 hours after the time of direct physical loss or physical damage caused by or resulting from a Covered Cause of Loss at the premises of the dependent property; and

(b) Ends on the date when the property at the premises of the dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.

- (6) The Business Income coverage period, as stated in Paragraph (5), does not include any increased period required due to the enforcement of any ordinance or law that:

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

(b) 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."

- (7) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income from Dependent Properties Additional Coverage

To the extent you are making a claim for loss of business income from a dependent property, no direct physical loss or damage caused by or resulting from a Covered Cause of Loss has occurred at a Dependent Property. Accordingly, there is no coverage for your claim under this coverage part.

We note that your policy also contains the following potentially applicable exclusion:

**B. EXCLUSIONS**

\*\*\*

2. We will not pay for physical loss or physical damage caused by or resulting from<sup>[3]</sup>:

\*\*\*

**i. Pollution:** We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants and contaminants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss." But if physical loss or physical damage by the "specified causes of loss" results, we will pay for the resulting physical loss or physical damage caused by the "specified cause of loss."

We note that your policy contains the following the following condition:

**Legal Action Against Us**

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

\*\*\*

- b. The action is brought within 2 years after the date on which the direct physical loss or physical damage occurred.

<sup>2</sup>Coverage for Business Income from Dependent Property would be further denied if it were determined that the dependent property is outside of the coverage territory, which is the United States (including its territories and possessions), Puerto Rico, and Canada.

<sup>3</sup>Your policy may be amended to read "We will not pay for loss or damage caused by or resulting from..."

The policy also contains the following definitions:

## G. PROPERTY DEFINITIONS

\*\*\*

**15. "Pollutants and Contaminants"** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals and waste, or any other material which causes or threatens to cause physical loss, physical damage, impurity to property, unwholesomeness, undesirability, loss of marketability, loss of use of property, or which threatens human health or welfare. Waste includes materials to be recycled, reconditioned or reclaimed.

\*\*\*

**19. "Specified Cause 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.

\*\*\*

**c. Water damage** means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

The coronavirus is understood to be an irritant or contaminant which causes or threatens to cause physical impurity, unwholesomeness and threatens human health or welfare. Further, the virus was not caused by a "Specified Cause of Loss". Accordingly, even if coverage were otherwise available for loss caused by coronavirus, the pollution exclusion could further bar coverage for the loss.

We note that your policy also contains the following potentially applicable exclusion:

## B. EXCLUSIONS

\*\*\*

**2. We will not pay for physical loss or physical damage caused by or resulting from<sup>4</sup>:**

**a. Consequential Losses;** Delay, loss of use or loss of market.

To the extent you are claiming physical loss or physical damage caused by loss of use or loss of market, coverage would be precluded based on the exclusion above.

Section **B. Exclusions** also provides as follows:

**3. We will not pay for loss or damage caused by or resulting from any of the following. But if physical loss or physical damage by a Covered Cause of Loss results, we will pay for that resulting physical 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.

Based on the exclusion cited above, we will not pay for loss or damage caused by or resulting from the decision of a person, group, organization or governmental body.

Lastly, your policy also includes a Limited Fungi, Bacteria or Virus Coverage endorsement (SS 40 93 07 05), which provides as follows:

### A. Fungi, Bacteria or Virus Exclusions:

\*\*\*

**2. The following exclusion is added to Paragraph B.1. Exclusions of the Standard Property Coverage Form and the Special Property Coverage Form...:**

#### **i. "Fungi", Wet Rot, Dry Rot, Bacteria And Virus**

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:

---

<sup>4</sup>Your policy may be amended to read "We will not pay for loss or damage caused by or resulting from..."

(1) Presence, growth, proliferation, spread or any activity of "fungi", wet rot, dry rot, bacteria or virus.

(2) But if "fungi", wet rot, dry rot, bacteria or virus results in a "specified cause of loss" to Covered Property, we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

(1) When "fungi", wet or dry rot, bacteria or virus results from fire or lightning; or

(2) To the extent that coverage is provided in the Additional Coverage – Limited Coverage for "Fungi", Wet Rot, Dry Rot, Bacteria and Virus with respect to loss or damage by a cause of loss other than fire or lightning.

This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

Based on the exclusionary language above, we will not pay for loss or damage caused directly or indirectly by presence, growth, proliferation, spread or any activity of virus unless the virus results in a "specified cause of loss" (see definition cited earlier in this letter). As we understand your loss, the virus has not resulted in a specified cause of loss and there is no coverage for your claim based on the exclusion for virus.

The Limited Fungi, Bacteria or Virus Coverage endorsement (SS 40 93 07 05) also provides as follows:

**B.** The following Additional Coverage is added to Paragraph **A.4.** of the Standard Property Coverage Form or Paragraph **A.5.** of the Special Property Coverage Form, and applies to the optional coverage form SS 04 41, Computers and Media and SS 04 45, Personal Property of Others Form:

**1. Limited Coverage For "Fungi", Wet Rot, Dry Rot, Bacteria and Virus**

**a.** The coverage described in **1.b.** below only applies when the "fungi", wet or dry rot, bacteria or virus is the result of one or more of the following causes 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.

(1) A "specified cause of loss" other than fire or lightning;

(2) Equipment Breakdown Accident occurs to Equipment Breakdown Property, if Equipment Breakdown applies to the affected premises.

**b.** We will pay for loss or damage by "fungi", wet rot, dry rot, bacteria and virus. As used in this Limited Coverage, the term loss or damage means:

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

(2) 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, dry rot, bacteria or virus; and

(3) 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, dry rot, bacteria or virus are present.

**c.** Unless a higher Limit of Insurance is shown in the Declarations for Limited "Fungi", Bacteria or Virus Coverage, the coverage described under this Limited Coverage is No more than the Limit of Insurance stated in the Declarations for Building and Business Personal Property, but not greater than \$50,000.

As we understand your loss, the virus did not result from a specified cause of loss; therefore, there is no coverage for your claim based on the limited coverage for virus.

**EXHIBIT E**



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

## **NOTICE**

**TO: All Admitted and Non-Admitted Insurance Companies, All Licensed Insurance Adjusters and Producers, and Other Licensees and Interested Parties**

**FROM: Insurance Commissioner Ricardo Lara**

**DATE: April 14, 2020**

**RE: Requirement to Accept, Forward, Acknowledge, and Fairly Investigate All Business Interruption Insurance Claims Caused by the COVID-19 Pandemic**

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To help combat the spread of the COVID-19 virus, various federal, state, and local government officials have issued emergency public health orders and “shelter-in-place” directives. The COVID-19 pandemic has severely curtailed activities of policyholders in both personal and commercial lines, causing significant and widespread economic loss in California.

Business Interruption insurance is an optional coverage that may be purchased as part of a comprehensive multi-peril commercial policy, business owners’ policy, or on a stand-alone basis. Many small and large California businesses purchase Business Interruption insurance to protect against the loss of income and other losses caused by an interruption to the normal operations of the business.

The California Department of Insurance (Department) continues to encourage businesses to review their policies, including policy exclusions, coverage limits, and applicable deductibles, and contact their insurance companies to determine what their policies cover as each insurance policy is different and the coverage varies. However, despite the Department’s on-going guidance to businesses statewide during the COVID-19 pandemic, it has received numerous complaints from businesses, public officials, and other stakeholders asserting that certain insurers, agents, brokers, and insurance company representatives are attempting to dissuade policyholders from filing a notice of claim under its Business Interruption insurance coverage, or refusing to open and investigate these claims upon receipt of a notice of claim.

Therefore, Insurance Commissioner Ricardo Lara finds it necessary to issue this Notice to ensure that all agents, brokers, insurance companies, and other licensees accept,

forward, acknowledge, and fairly investigate all business interruption insurance claims submitted by businesses.

Commissioner Lara hereby notifies all agents, brokers, insurance companies, and other Department licensees that they are required to comply with their contractual, statutory, regulatory, and other legal obligations, including but not limited to, the obligations set forth in the California Fair Claims Settlement Practices Regulations (Cal. Code Regs. tit. 10; sections 2695.1 et seq.) (the "Regulations") in connection with all California insurance claims including, but not limited to, Business Interruption insurance claims, event cancellation claims, and other related claims filed by California businesses.

The Regulations require, among other things, that all insurers, insurance agents, brokers, insurance company representatives, and other Department licensees accept any communication from the policyholder or its representative indicating that the policyholder desires to make a claim against a policy that reasonably suggests that a response is expected as a notice of claim. (Regulations, section 2695.5(b).) Upon receipt of a notice of claim, every Department licensee is required to transmit such notice of claim to the insurer immediately. (Regulations, section 2695.5(d).)

Upon receipt of a notice of claim, subject to certain exceptions, every insurer is required to acknowledge the notice of claim immediately, but in no event more than 15 calendar days after receipt of the notice of claim. (Regulations, section 2695.5(e).) If the acknowledgment of a claim is not in writing, a written acknowledgment of the receipt and date of the notice of claim must be made in the claim file of the insurer. (Regulations, section 2695.5(e)(1).) Failure of an insurance agent or claims agent to transmit a notice of claim to the insurer promptly will be imputed to the insurer, except where the subject policy was issued pursuant to the California Automobile Assigned Risk Program. (Regulations, section 2695.5(e)(1).)

Upon receipt of a notice of claim, the insurer is required to provide the policyholder with the necessary forms, instructions, and reasonable assistance, including but not limited to, specifying the information the policyholder must provide in connection with the proof of claim and begin any necessary investigation of the claim. (Regulations, section 2695.5(e)(2).) Thereafter, every insurer is required to conduct and diligently pursue a thorough, fair, and objective investigation of the reported claim, and is prohibited from seeking information not reasonably required for or material to the resolution of a claim dispute before determining whether the claim will be accepted or denied, in whole or in part. (Regulations, section 2695.7(d).)

After conducting a thorough, fair, and objective investigation of the claim, the insurer must accept or deny the claim, in whole or in part, immediately, but in no event more than 40 days after receipt of the proof of claim. The amount of the claim accepted or denied by the insurer must be clearly documented in the claim file unless the claim has been denied in its entirety. (Regulations, section 2695.7(b).)

If the claim is denied in whole or in part, the insurer is required to communicate the denial in writing to the policyholder listing all the legal and factual bases for such denial. (Regulations, section 2695.7(b)(1).) Where the denial of a first party claim is based on a specific statute, applicable law or policy provision, condition, or exclusion, the written denial must include reference to and provide an explanation of the application of the statute, applicable law, or policy provision, condition, or exclusion to the claim. Lastly, every insurer that denies or rejects a third party claim, in whole or in part, or disputes liability or damages must do so in writing. (Regulations, section 2695.7(b)(1).)

Based on the foregoing, every insurer, insurance agent, broker, insurance company representative, and other Department licensees is required to comply with their contractual, statutory, regulatory, and other legal obligations in connection with all California insurance claims, including but not limited to, Business Interruption insurance claims, event cancellation claims, and other related claims filed by California businesses. Additionally, no insurer, insurance agent, broker, insurance company representative, or other Department licensee shall dissuade policyholders from filing a notice of claim under its Business Interruption insurance coverage, or refuse to open and investigate such claims upon receipt of a notice of claim.