

IN THE CIRCUIT COURT OF THE 13TH  
JUDICIAL CIRCUIT IN AND FOR  
HILLSBOROUGH COUNTY, FLORIDA

CASE NO.

TAMPA TACO, LTD., D/B/A ROCCO'S  
TACOS & TEQUILA BAR,

Plaintiff,

v.

CERTAIN INTERESTED UNDERWRITERS  
AT LLOYD'S LONDON SUBSCRIBING  
POLICY NO. W16E31190601,

Defendant.

\_\_\_\_\_ /

### **COMPLAINT**

Plaintiff, Tampa Taco, Ltd., d/b/a Rocco's Tacos & Tequila Bar, ("Rocco's Tacos & Tequila Bar or "Plaintiff") individually, files this action against Defendant, Certain Interested Underwriters at Lloyd's London Subscribing Policy No. W16E31190601 ("Lloyd's" or "Defendant"), and in support states the following:

### **INTRODUCTION**

1. Plaintiff, Tampa Taco, Ltd., is the owner of Rocco's Tacos & Tequila Bar, a restaurant located at 2223 N Westshore Blvd., Suite 203, Tampa, FL 33607, ("the Restaurant").
2. To protect the Restaurant and the income from operation of the Restaurant, Plaintiff purchased a property insurance policy, with policy number W16E31190601 (the "Policy").
3. The Policy was issued by Lloyd's and had an effective date of 10/15/2019, though and including 10/15/2020.

4. The Policy is a bilateral contract: Rocco's Tacos & Tequila Bar agreed to pay monthly premiums to Lloyd's, in exchange for Lloyd's promises to provide coverage for certain losses.

5. Among other types of coverage, the Policy protects Rocco's Tacos & Tequila Bar against the loss of business income due to a suspension of the Restaurant's operations. This type of coverage is usually referred to as "Business Interruption" coverage.

6. The policy also provides "Extra Expense" coverage, under which Defendant promised to pay expenses incurred to minimize the suspension of business.

7. Additionally, the Policy provides "Civil Authority" Coverage, under which Defendant promised to pay for the loss of business income suffered by Rocco's Tacos & Tequila Bar caused by the action of a civil authority prohibiting access to the restaurant.

8. Rocco's Tacos & Tequila Bar duly complied with all of its obligations under the Policy, and paid the required premiums to Defendant.

9. Plaintiff was forced to suspend business operations at the Restaurant, as a result of damage sustained due to the COVID-19 pandemic. Related actions of civil authorities also prohibited access to and occupancy/operation of the Restaurant, as a result of damage sustained due to the COVID-19 pandemic. This suspension, which is partially ongoing, has caused Plaintiff to suffer significant losses and incur significant expenses.

10. Under the policy, Defendant promised to cover these losses and expenses, and is obligated to pay for them. In blatant breach of its contractual obligations, Defendant has failed to pay for these losses and expenses that Plaintiff incurred at no fault of its own.

11. Upon information and relief, Defendant has failed to pay for similar losses and expenses suffered by countless other insureds holding policies that are, in all material respects, identical.

### **THE PARTIES**

12. Plaintiff, Rocco's Tacos & Tequila Bar, is a Florida Restaurant organized to do business, and doing business at the address listed above.

13. Defendant, Lloyd's, is an insurance company authorized to do business, and was doing business, in the State of Florida.

14. At all times material, Defendant engaged in substantial and not isolated business activity on a continuous and systematic basis in the state of Florida, namely by issuing and selling insurance policies in Florida and by contracting to insure properties located in Florida.

15. Under the applicable law and the terms of the Policy, service of process on Defendant may be effectuated by serving their Registered Agent, the Chief Financial Officer of the state of Florida, located at 200 East Gaines Street, Tallahassee Florida 32399.

### **JURISDICTION AND VENUE**

16. This Court has jurisdiction over the claims as the amount in controversy exceeds \$30,000.00, exclusive of interest, costs, and attorney's fees.

17. Venue is proper in this Court because the restaurant business and property at issue are located within the venue of this Court in Hillsborough County, Florida, Plaintiff entered into the subject insurance policy in Hillsborough County, Florida, the subject insurance policy provides insurance to Plaintiff and its property located in Hillsborough County, Florida, and pursuant to the policy, the insured premise is located in Hillsborough County, Florida.

18. This Court has personal jurisdiction over Defendant pursuant to Fla. Stat. § 48.193(1)(a) because Plaintiff's claims arise out of, among other things, Defendant conducting, engaging in, and/or carrying on business in Florida; Defendant breaching a contract in this state by failing to perform acts required by contract to be performed in this state; and Defendant contracting to insure property in Florida, including but not limited to the premises insured under the Policy. Defendant also purposefully availed itself of the opportunity of conducting activities in the state of Florida by marketing its insurance policies and services within the state, and intentionally developing relationships with brokers, agents, and customers within the state to insure property within the state, all of which resulted in the policy at issue in this action.

19. This Court has jurisdiction over this action for declaratory relief pursuant to Chapter 86, Florida Statutes.

20. All conditions precedent to the commencement and prosecution of this action, if any, have been performed, waived, satisfied, or excused. Plaintiff has retained the undersigned counsel and is obligated to pay them a reasonable fee for their services.

## **FACTUAL BACKGROUND**

### **The Policy**

21. Defendant, Lloyd's, issued a property Insurance Policy, bearing policy number W16E31190601. The Policy has an effective period of 10/15/2019, though and including 10/15/2020. A copy of the Policy is attached as Exhibit "A."

22. Rocco's Tacos & Tequila Bar is a restaurant located in Tampa, Florida.

23. Rocco's Tacos & Tequila Bar faithfully paid all Policy premiums to Defendant.

24. At all times material hereto, the Policy was, and is currently, in full force and effect, providing commercial property coverage to the Plaintiff.



25. The Policy provides for coverage for direct physical loss or for damage to covered property.

26. The Policy provides coverage for direct physical loss or damage unless the loss is excluded or limited in the Policy.

27. The Policy does **not** provide any exclusion due to losses to business or property caused by a virus or global pandemic.

28. The Policy does not contain any exclusion which would apply to allow Defendant to deny coverage for losses caused by COVID-19, or any virus for that matter, and related actions taken in response to COVID-19.

29. One type of coverage provided by the Policy is for loss of business income, often called business interruption insurance. This coverage is specifically provided for in a section of the Policy titled “Business Income (and Extra Expense) Coverage Form.”

30. Pursuant to this Form, Defendant promised to pay for “Loss of Business Income” caused by a Covered Cause of Loss. Specifically, Defendant promised to pay for the loss of Business Income sustained due to the necessary “suspension” of the insured’s “operations” during the “period of restoration.”

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".

33. Parts of the Policy, including the “Business Income (and Extra Expense) Coverage Form,” are standardized forms drafted by the Insurance Services Office (ISO). The ISO is a company that drafts standard policy language for use in insurance contracts.

34. In 2006, the ISO drafted a new endorsement, CP 01 40 07 06, acknowledging that

claims for business interruption losses would be filed under existing policy language for losses resulting from the presence of disease-causing agents. Endorsement CP 01 40 07 06, which other insurers have since incorporated in policies, provides that the insurer “will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.” Significantly, Defendant chose to not include this endorsement in Plaintiff’s Policy.

35. In addition to promising to pay for loss of Business Income, under the Policy, Defendant also promised to pay for certain necessary “Extra Expense[s].” Extra Expenses mean expenses that the policyholder incurs to, for example, minimize the suspension of business.

36. The Policy also provides “Civil Authority” coverage. Under this type of coverage, Defendant promised to pay for the loss of Business Income and Extra Expense that the Plaintiff sustained as a result of “action of civil authority that prohibits access to the described premises [Rocco’s Tacos & Tequila Bar].” Plaintiff’s Policy does not contain any exclusion which would apply to allow Defendant to deny coverage for losses caused by COVID-19 and related actions of civil authorities taken in response to COVID-19.

37. This Civil Authority provision is an independent basis for business interruption coverage. That is, it can be triggered even when the standard business interruption coverage is not.

38. Accordingly, because the Policy does not specifically exclude the losses that Plaintiff has suffered, those losses are covered and Defendant wrongfully denied Plaintiff’s claim.

#### **Plaintiff’s Covered Losses**

39. According to the Florida Department of Health, COVID-19 is present in all of Florida’s 67 counties. Hillsborough County, where Tampa, FL is located, has had more than 7,000 confirmed cases of COVID-19, and at least 100 deaths.

40. The presence of COVID-19 and the public health emergency it has created have prompted actions by civil authorities throughout the United States (“Civil Authority Actions”), including but not limited to civil authorities with jurisdiction over Rocco’s Tacos & Tequila Bar such as the City of Tampa, Hillsborough County, and the state of Florida. These Civil Authority Actions have restricted and prohibited access to the insured property.

41. On March 20, 2020, the Governor of Florida issued Executive Order 20-71. This Order, which covers Hillsborough County, and all other Florida Counties, requires all restaurants, bars, pubs, and similar establishments to close on-premises food service.

42. On March 26, 2020, Hillsborough County issued its “Safer-at-Home” Emergency Order. Among other things, this Order required the closure of all non-essential businesses, including restaurants and bars, in compliance with all prior Executive Orders issued by Florida’s Governor. This Emergency Order was expressly issued in response to the propensity of COVID-19 and its disease-causing agent to cause “property or business income loss and damage.”

43. In Florida, violations of an executive order issued by the Governor pursuant to the State Emergency Management Act are second-degree misdemeanors punishable by imprisonment.

44. The presence of COVID-19 caused direct physical loss of and/or damage to the covered premises under the Policy by, among other things, damaging the property, denying access to the property, preventing customers from physically occupying the property, causing the property to be physically uninhabitable by customers, causing its function to be nearly eliminated or destroyed, and/or causing a suspension of business operations on the premises.

45. The Civil Authority Actions prohibiting public access to the covered premises and the surrounding area were issued in response to dangerous physical conditions and damage, caused a suspension of business operations on the covered premises.

46. As a result of the presence of COVID-19, Rocco's Tacos & Tequila Bar has suffered a suspension of business operations, sustained losses of business income, and incurred extra expenses.

47. As a result of the Civil Authority requirements, Rocco's Tacos & Tequila Bar has suffered a suspension of business operations, sustained losses of business income, and incurred extra expenses.

48. These losses and expenses have continued through the date of filing of this action.

49. These losses and expenses are not excluded from coverage under the Policy. And because Plaintiff has complied with its contractual obligations, Plaintiff is entitled to payment for these losses and expenses.

50. Accordingly, Plaintiff provided notice of its losses and expenses to Defendant, as required by the terms and procedures of the Policy.

51. But contrary to the plain language of the Policy, and to Defendant's corresponding promises and contractual obligations, Defendant has refused to pay for Plaintiff's losses and expenses, necessitating the filing of this action.

52. Due to the nature of Plaintiff's Claim submitted to Defendant, time is of the essence. Under the current circumstances, the prompt, orderly, and efficient payment of Plaintiff's Claim under the Policy is required.

53. Plaintiff has engaged the undersigned counsel to represent it in this action and has agreed to pay a reasonable fee for the services rendered. Plaintiff seeks its attorneys' fees and costs pursuant to Fla. Stat. § 627.428.

#### **COUNT I – DECLARATORY JUDGMENT**

54. Plaintiff re-adopts and re-alleges paragraphs 1 through 53 above.

55. Plaintiff seeks declaratory relief under Chapter 86, Florida Statutes.

56. Plaintiff's Policy is an insurance contract under which Defendant was paid premiums in exchange for promises to pay Plaintiff's losses and expenses covered by the Policy.

57. A current dispute exists between Plaintiff and Defendant as to whether the Policy provides coverage for Plaintiff due to recent events including, but not limited to, the COVID-19 pandemic and/or mandatory government closures of Plaintiff's business and operations.

58. COVID-19 caused direct physical loss of and damage to the insured premises, resulting in the suspension of business operations at the premises. The suspension has caused Plaintiff to suffer losses of business income and extra expenses.

59. The suspension and losses satisfied all requirements and triggered business income coverage, extra expense coverage, and/or civil authority coverage under the Policy.

60. Plaintiff has complied with all applicable provisions of the policy, including payment of premiums.

61. Defendant, without justification, disputes that the Policy provides coverage for these losses.

62. The Policy fully and completely provides coverage for Plaintiff's claim.

63. Plaintiff is interested and/or in doubt about its rights under the Policy, therefore, Plaintiff seeks to obtain a declaration of its rights, and Defendant's obligations, under the Policy, by this Court making a determination of a question of construction arising under the Policy.

64. There is a bona fide dispute between the parties and an actual, present, and practical need for a declaration as to whether the Policy provides coverage for Plaintiff's claim.

**WHEREFORE**, Plaintiff, Rocco's Tacos & Tequila Bar, respectfully requests that this Court enter a declaratory judgment declaring that the Policy provides coverage for the losses suffered; award Plaintiff its attorney's fees and costs pursuant to Florida Statutes Section 627.428

and other applicable laws; award costs pursuant to Florida Statutes Section 86.081 and other applicable laws; and award and additional and further relief as the Court deems just, equitable, and proper.

## **COUNT II – BREACH OF CONTRACT**

65. Plaintiff re-adopts and re-alleges paragraphs 1 through 53 above.

66. Plaintiff entered into a valid and enforceable insurance contract with Defendant.

67. Plaintiff gave valuable consideration to Defendant, which was in the form of premium payments in exchange for Defendant's promises to pay Plaintiff's losses and expenses in the event of a loss of business income.

68. Plaintiff suffered losses and incurred expenses as a result of a covered loss under the Policy.

69. Plaintiff made a claim under the Policy, as a result of a covered loss, which was denied by Defendant.

70. Defendant breached the insurance contract by denying Plaintiff's claim for a covered loss under the Policy, which was not subject to any exclusions.

71. Plaintiff complied with its obligations under the insurance contract.

72. Plaintiff has been injured and suffered actual and substantial damages as a result of Defendant's breach of the insurance contract, for which Defendant is liable.

**WHEREFORE**, Plaintiff seeks compensatory damages resulting from Defendant's breach of the Policy; award Plaintiff its attorney's fees and costs pursuant to Florida Statutes Section 627.428 and other applicable laws; and award and additional and further relief as the Court deems just, equitable, and proper.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests that the Court enter judgment in its favor and against Defendant, as follows:

- A. Entering a declaratory judgment on Count I, in favor of Plaintiff as follows:
  - i. Business Income, Civil Authority, and Extra Expense losses and expenses incurred and sustained as a result of COVID-19 and related civil authority actions are insured and covered losses and expenses under Plaintiff's policy; and
  - ii. Defendant Lloyd's is obligated to pay for the full amount of the Business Income, Civil Authority, and Extra Expense losses and expenses sustained and incurred, and to be sustained and incurred, as a result of COVID-19 and related civil authority actions are insured and covered losses and expenses under Plaintiff's Policy;
- B. Entering judgment on Count II, in favor of Plaintiff and awarding damages for breach of contract in an amount to be determined at trial;
- C. An order requiring Defendant to pay both pre- and post-judgment interest on any amounts awarded;
- D. An award of costs and attorneys' fees; and
- E. Such other or further relief as may be appropriate.

## DEMAND FOR JURY TRIAL

The Plaintiff hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

/s/ Steven H. Osber

Steven H. Osber, Esq.

Florida Bar No. 086088

Kyle S. Roberts, Esq.

Florida Bar No. 118401

CONRAD & SCHERER, LLP

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Fort Lauderdale, FL 33301

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[eservice@conradscherer.com](mailto:eservice@conradscherer.com)

*Attorneys for Plaintiff*



FLORIDA POLICYHOLDER NOTICE

**SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE  
NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.**

SURPLUS LINES AGENT: Dawn M. Belin

LIC # A290258

318 South US Hwy One, Ste 206

Jupiter, FL 33477

PROD. AGT. Keith Charlton

Street 10337 N. Military Trail

City Palm Beach Gardens Zip 33410

This insurance is issued pursuant to the Florida  
Surplus Lines Laws. Persons insured by Surplus  
Lines carriers do not have the protection of the  
Florida Insurance Guaranty Act to the extent of  
any right of recovery for the obligation of an  
insolvent unlicensed insurer.

Quarter 4TH 2019

Premium \$135,822.00 Tax \$6,816.10

Agents Countersignature:

*Dawn M. Belin*

Policy Fee:	<u>\$500.00</u>
Inspection Fee:	<u>N/A</u>
FL SL Tax:	<u>\$6,816.10</u>
FSLSO Service Fee:	<u>\$136.32</u>
Hurricane Cat. Fund:	<u>N/A</u>
Citizens Assessment Fee:	<u>N/A</u>
EMPA Surcharge:	<u>\$4.00</u>
Total Payable at Inception:	<u>\$143,278.42</u>



**THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.**

**SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.**



# Lloyd's Certificate

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**This Insurance** is effected with certain Underwriters at Lloyd's, London.

**This Certificate** is issued in accordance with the limited authorization granted to the Correspondent by certain Underwriters at Lloyd's, London whose syndicate numbers and the proportions underwritten by them can be ascertained from the office of the said Correspondent (such Underwriters being hereinafter called "Underwriters") and in consideration of the premium specified herein, Underwriters hereby bind themselves severally or jointly, each for his own part and not one for another, their Executors and Administrators.

**The Assured** is requested to read this Certificate, and if it is not correct, return it immediately to the Correspondent for appropriate alteration. All inquiries regarding this Certificate should be addressed to the following Correspondent:

Beazley USA Services, Inc.  
141 Tremont Street Suite 1200  
Boston, MA 02111  
U.S.A.

## CERTIFICATE PROVISIONS

1. **Signature Required.** This Certificate shall not be valid unless signed by the Correspondent on the attached Declaration Page.
2. **Correspondent Not Insurer.** The Correspondent is not an Insurer hereunder and neither is nor shall be liable for any loss or claim whatsoever. The Insurers hereunder are those Underwriters at Lloyd's, London whose syndicate numbers can be ascertained as hereinbefore set forth. As used in this Certificate "Underwriters" shall be deemed to include incorporated as well as unincorporated persons or entities that are Underwriters at Lloyd's, London.
3. **Cancellation.** If this Certificate provides for cancellation and this Certificate is cancelled after the inception date, earned premium must be paid for the time the insurance has been in force.
4. **Service of Suit.** It is agreed that in the event of the failure of Underwriters to pay any amount claimed to be due hereunder, Underwriters, at the request of the Assured, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing in this Clause constitutes or should be understood to constitute a waiver of Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States. It is further agreed that service of process in such suit may be made upon Messrs Mendes & Mount, 750 Seventh Avenue, New York, New York 10019-6829, U.S.A. and that in any suit instituted against any one of them upon this contract, Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named are authorized and directed to accept service of process on behalf of Underwriters in any such suit and/or upon request of the Assured to give a written undertaking to the Assured that they will enter a general appearance upon Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Assured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above-mentioned as the person to whom the said officer is authorized to mail such process or a true copy thereof.

5. **Assignment.** This Certificate shall not be assigned either in whole or in part without the written consent of the Correspondent endorsed hereon.
6. **Attached Conditions Incorporated.** This Certificate is made and accepted subject to all the provisions, conditions and warranties set forth herein, attached or endorsed, all of which are to be considered as incorporated herein.
7. **It is noted** and agreed that wherever the word "Policy" appears herein it shall be deemed to read "Certificate"
8. **Short Rate Cancellation.** If the attached provisions provide for cancellation, the table below will be used to calculate the short rate proportion of the premium when applicable under the terms of cancellation.

# Short rate Cancellation Table for Term of One Year

Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium	Days Insurance in Force	Per Cent of one year Premium
1	5%	66 - 69	29%	154 - 156	53%	256 - 260	77%
2	6	70 - 73	30	157 - 160	54	261 - 264	78
3 - 4	7	74 - 76	31	161 - 164	55	265 - 269	79
5 - 6	8	77 - 80	32	165 - 167	56	270 - 273 ( 9 mos )	80
7 - 8	9	81 - 83	33	168 - 171	57	274 - 278	81
9 - 10	10	84 - 87	34	172 - 175	58	279 - 282	82
11 - 12	11	88 - 91 ( 3 mos )	35	176 - 178	59	283 - 287	83
13 - 14	12	92 - 94	36	179 - 182 ( 6 mos )	60	288 - 291	84
15 - 16	13	95 - 98	37	183 - 187	61	292 - 296	85
17 - 18	14	99 - 102	38	188 - 191	62	297 - 301	86
19 - 20	15	103 - 105	39	192 - 196	63	302 - 305 ( 10 mos )	87
21 - 22	16	106 - 109	40	197 - 200	64	306 - 310	88
23 - 25	17	110 - 113	41	201 - 205	65	311 - 314	89
26 - 29	18	114 - 116	42	206 - 209	66	315 - 319	90
30 - 32 ( 1 mos )	19	117 - 120	43	210 - 214 ( 7 mos )	67	320 - 323	91
33 - 36	20	121 - 124 ( 4 mos )	44	215 - 218	68	324 - 328	92
37 - 40	21	125 - 127	45	219 - 223	69	329 - 332	93
41 - 43	22	128 - 131	46	224 - 228	70	333 - 337 ( 11 mos )	94
44 - 47	23	132 - 135	47	229 - 232	71	338 - 342	95
48 - 51	24	136 - 138	48	233 - 237	72	343 - 346	96
52 - 54	25	139 - 142	49	238 - 241	73	347 - 351	97
55 - 58	26	143 - 146	50	242 - 246 ( 8 mos )	74	352 - 355	98
59 - 62 ( 2 mos )	27	147 - 149	51	247 - 250	75	356 - 360	99
63 - 65	28	150 - 153 ( 5 mos )	52	251 - 255	76	361 - 365 ( 12 mos )	100

Rules applicable to insurance with terms less than or more than one year:

- A. If insurance has been in force for one year or less, apply the short rate table for annual insurance to the full annual premium determined as for insurance written for a term of one year.
- B. If insurance has been in force for more than one year:
  1. Determine full annual premium as for insurance written for a term of one year.
  2. Deduct such premium from the full insurance premium, and on the remainder calculate the pro rata earned premium on the basis of the ratio of the length of time beyond one year the insurance has been in force to the length of time beyond one year for which the policy was originally written.
  3. Add premium produced in accordance with items (1) and (2) to obtain earned premium during full period insurance has been in force.

9. **Cancellation.** Notwithstanding any cancellation provisions within this Certificate it is hereby noted and agreed that should a minimum earned premium percentage be shown in the declarations of this Certificate, then the Underwriters shall retain as a minimum such percentage of premium stated.
10. **Complaints Procedure..** If you have a complaint with any aspect of your policy with Lloyd's Underwriters: You may contact the broker/agent who arranged your policy for you. Should you be dissatisfied with the outcome of your broker's resolution, please submit your written complaint to [US.Complaints@beazley.com](mailto:US.Complaints@beazley.com) or:

Beazley USA Services Inc.  
30 Batterson Park Road  
Farmington  
CT 06032  
USA

11. **Law and Jurisdiction.** This Insurance shall be subject to the applicable state law to be determined by the court of competent jurisdiction as determined by the provisions of the Service of Suit clause contained herein.
12. **Conformity to statute.** Any terms of this Certificate which may conflict with applicable statutes (or statutes deemed applicable by a court of competent jurisdiction) are amended to conform to the minimum requirements of such statutes.
13. **Conformity.** It is hereby noted and agreed that wherever the words "Assured" and "Insured" appear in this Certificate they shall be deemed to be synonymous.

It is hereby noted and agreed that wherever the words "Underwriters", "Insurers," "Company" appear in this Certificate they shall be deemed to be synonymous

It is hereby noted and agreed that wherever the term "we", "us" and "our" appears herein, same shall be deemed to read "Insurers"

It is hereby noted and agreed that wherever the term "you" or "your" appears herein, same shall be deemed to read "the Insured"

14. **Insurance** is effective with certain **UNDERWRITERS AT LLOYD'S, LONDON**  
percentage: 100%

## LLOYD'S SECURITY SCHEDULE

Syndicate 2623	82%
Syndicate 623	18%

LLOYD'S

One Lime Street London EC3M 7HA



## GENERAL COVER DECLARATIONS PAGE

THE COVERHOLDER	THE PRODUCER
Beazley USA Services, Inc. 141 Tremont Street, Suite 1200 Boston, MA 02111  <i>Please send correspondence to the above address.</i>  Beazley Lloyd's Syndicate 2623-82% Beazley Lloyd's Syndicate 623-18% Unique Market Reference: B6012BUSA19	All Risks, Ltd. - Lake Mary, FL 610 Crescent Executive Ct Ste 312 Lake Mary, FL 32746-2120

POLICY NUMBER: W16E31190601	POLICY PERIOD
Renewal of W16E31180501	<b>From:</b> 15-Oct-2019 <b>To:</b> 15-Oct-2020 <b>at 12:01 A.M. Standard Time at the Insured's Address</b>

INSURED'S NAME AND ADDRESS
Big Time Restaurant Group Corp. (and as per Schedule of Named Insureds) 400 Clematis St., #205 West Palm Beach, FL 33401

PERILS INSURED AGAINST:
Special Form (ISO)

PREMIUM:	
\$135,822	Policy Premium
Declined	Certified Acts of Terrorism Premium
\$0	Inspection Fees
\$135,822.00	<b>Total Premium for above stated Policy Period</b>

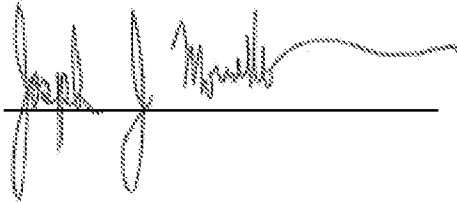
CLAIMS:
In case of loss, please refer notice immediately to: Claims Manager Beazley USA Services Inc. 141 Tremont Street, Suite 1200 Boston, MA 02111 Telephone: 617-239-2600 Fax: 617-239-2659 Email: <a href="mailto:propertyclaims@beazley.com">propertyclaims@beazley.com</a>

Terms and Conditions Applicable: See FS C 423 02 17 Supplemental Dec Page and /or FS C 424 Schedule of Forms as attached.

This contract is subject to US state surplus lines requirements. It is the responsibility of the surplus lines broker to affix a surplus lines notice to the contract document before it is provided to the insured. In the event that the surplus lines notice is not affixed to the contract document the insured should contact the surplus lines broker.

This Declaration, together with Policy jacket, the above policy wording and endorsements, issued to form a part thereof, completes the above numbered policy.

Signed:

A handwritten signature in black ink, appearing to be "John J. Smith", written over a horizontal line.

Date Issued: 23-Oct-2019

## SUPPLEMENTAL DECLARATIONS PAGE

POLICY NO. W16E31190601

POLICY PERIOD 15-Oct-2019

TO 15-Oct-2020

### NAMED INSURED

Big Time Restaurant Group Corp. (and as per Schedule of Named Insureds)  
400 Clematis St., #205  
West Palm Beach, FL 33401

### SCHEDULE OF LOCATIONS

Prem. No./ Bldg. No.	Location	Construction	Occupancy
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☒ As per Schedule on File with the Underwriter

### COVERAGES PROVIDED

Insurance at the Described Premises applies only for Coverages for which a Limit of Insurance is shown

Prem. No./ Bldg. No.	Coverage	Limit of Insurance	Covered Causes of Loss
All/All	Buildings Improvement & Betterments Personal Property Sign Business Income Extra Expense	\$24,639,000 Per Occurrence	Special Form (ISO)

**Total LIMIT OF INSURANCE in any one occurrence for all above coverages combined: \$24,639,000**

Coinsurance	Valuation	Coverages
90 %	Replacement Cost	Buildings Improvement & Betterments Personal Property Sign
1/4	Monthly Limitation	Business Income Extra Expense

### OPTIONAL COVERAGES

Applicable only when entries are made in the Schedule below

Prem. No/ Bldg. No	Agreed Value Expiration Date	Amount	Replacement Cost Building X - including Sign	Personal Property X - including Improvement & Betterments	Including Stock N/A
All/All	N/A	N/A			
<p>*Monthly Limit of Indemnity (Fraction):</p> <p>*Maximum Period of Indemnity (X):</p> <p>*Extended Period of Indemnity (Days):</p>				<p>1/4</p> <p>N/A</p> <p>N/A</p>	<p>* Applies to Business Income Only</p>

**MORTGAGE HOLDERS / LOSS PAYEE**

Prem. No.	Bldg. No.	Mortgage Holder / Loss Payee Name and Mailing Address	Interest Mortgage Holder = MH Loss Payee = LP
002	001	Valley National Bank, ISAOA, ATIMA PO Box 261510 Miami, FL 33126	MH
<input type="checkbox"/> As per Schedule on file with the Underwriter			

**DEDUCTIBLE**

Deductible	Peril(s)
5.00 % Of Values Per Building, Per Occurrence \$25,000 Minimum Per Occurrence Location: 001-003, 005-006/001 Applies to Palm Beach and Broward County Locations only.	Named Storm
2.00 % Of Values Per Building, Per Occurrence \$25,000 Minimum Per Occurrence Location: 004, 008/001 Applies to Orlando and Tampa Locations only.	Named Storm
\$25,000 Per Occurrence All Other Wind	Wind, Wind Driven Rain, Hail
\$2,500 Per Occurrence	All Other Perils

**POLICY FORM CHANGES**

FS C 474: Coverages and Additional Coverages and Extensions are amended as follows: Spoilage increased to \$25,000 per location with a \$2,500 deductible.

FS C 474: Coverages and Additional Coverages and Extensions are amended as follows: Delete all reference to Outdoor Signs.

**FORMS APPLICABLE**

See FS C 424 Schedule of Forms Attached to this Policy

## Schedule of All Forms and Endorsements

**Named Insured:** Big Time Restaurant Group Corp. (and as per Schedule of Named Insureds)

**Policy Number:** W16E31190601

**Effective Date:** 15-Oct-2019

<u>Number</u>	<u>Name</u>
FS C 456 03 14	Florida Surplus Lines Notice Requirement
NMA2868(amended)	Lloyd's Certificate
FS C 422 01 13	General Cover Declarations Page
FS C 423 02 17	Supplemental Declarations Page
FS C 424	Schedule of Forms and Endorsements
FS C 519 10 13	Schedule of Named Insureds
CP 00 10 04 02	Building and Personal Property Coverage Form
CP 10 30 04 02	Causes of Loss - Special Form
IL 00 17 11 98	Common Policy Conditions
CP 00 90 07 88	Commercial Property Conditions
FS C 468 12 10	Limit of Liability and Occurrence Definition Endorsement
FS C 407 04 09	Minimum Earned Premium Clause
CP 00 30 04 02	Business Income (And Extra Expense) Coverage Form
FS C 428 01 14	Named Storm Definition
FS C 197 04 09	Windstorm % Deductible - Scheduled Values
FS C 413 04 09	Hurricane Minimum Earned Premium Endorsement
CP 14 40 10 00	Outdoor Signs
FS C 474 11 11	Property Enhancement Endorsement
CP 12 11 10 00	Burglary or Robbery Safeguards
FS C 405 05 09	Condition of Coverage
FS C 411 04 09	Loss Payee / Lender's Loss Payee Endorsement
CP 01 35 04 89	Protective Safeguards
LMA5019	Asbestos Endorsement
NMA2962	Biological or Chemical Materials Exclusion
NMA2915	Electronic Data Endorsement
LSW1135B	Lloyd's Privacy
LMA5018	Microorganism Exclusion
LMA3100	Sanction Limitation and Exclusion Clause
NMA2340	Seepage & Pollution, Land, Air Water Exclusion & Debris Removal Endorsement

NMA2920

Terrorism Exclusion

LMA5219

TRIA Not Purchased Clause

**SCHEDULE OF NAMED INSURED**

#	Named Insured
001	Big Time Restaurant Group Corp.
002	Boca Taco LLC, dba Rocco's Taco's
003	Fort Taco LTD, dba Rocco's Taco's
004	Garden's Taco LTD, dba Roccos Tacos
005	Orlando Taco LTD, dba Rocco's Taco's
006	1750 Australian Ave, LLC
007	Ristorante Numero Quattordici Ltd dba Louie Bossi's Ristorante
008	Brooklyn Taco, Ltd. dba Rocco's Taco's
009	Tampa Taco, Ltd; dba Rocco's Tacos
010	One Tequila, LLC
011	One Taco Group, LLC
012	Rocco's Taco Holding, LLC
013	El Taco Guapo, LLC
014	1313 East Las Olas Blvd, LLC
015	1313 East Las Olas Blvd Holdings, LLC
016	Lola Las Olas, LLC
017	RMJR 1313 LLC

## BUILDING AND PERSONAL PROPERTY COVERAGE FORM

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

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

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **H. - Definitions**.

### A. Coverage

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

#### 1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in this Section, **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

**a. Building**, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
  - (a) Machinery and
  - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
  - (a) Fire extinguishing equipment;
  - (b) Outdoor furniture;
  - (c) Floor coverings; and
  - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
  - (a) Additions under construction, alterations and repairs to the building or structure;

- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

**b. Your Business Personal Property** located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property - Separation of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
  - a) Made a part of the building or structure you occupy but do not own; and
  - b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property of Others.



**c. Personal Property Of Others** that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

**2. Property Not Covered**

Covered Property does not include:

- a. Accounts, bills, currency, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
  - (1) The lowest basement floor; or
  - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;

n. Electronic data, except as provided under Additional Coverages - Electronic Data. 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. This Paragraph n., does not apply to your "stock" of prepackaged software.

- o. The cost to replace or restore the information on valuable papers and records, including those which exist as electronic data. Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valuable Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as electronic data.
- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:
  - (1) Are licensed for use on public roads; or
  - (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;
- (b) Vehicles or self-propelled machines, other than autos, you hold for sale;
- (c) Rowboats or canoes out of water at the described premises; or
- (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-Owned Detached Trailers.

q. The following property while outside of buildings:

- (1) Grain, hay, straw or other crops;
- (2) Fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

### 3. Covered Causes Of Loss

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

### 4. Additional Coverages

#### a. Debris Removal

- (1) Subject to Paragraphs (3) and (4), we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Extract "pollutants" from land or water; or
  - (b) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
  - (a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.
  - (b) Subject to (a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.
- (4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

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

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

Therefore, if (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

#### (5) Examples

The following examples assume that there is no coinsurance penalty.

##### Example #1

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

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

## Example #2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 30,000
Debris Removal Expense Payable	
Basic Amount	\$ 10,500
Additional Amount	\$ 10,000

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

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense ( $\$79,500 + \$30,000 = \$109,500$ ) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

### b. Preservation Of Property

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

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

### c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for fire department service charges:

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

No Deductible applies to this Additional Coverage.

### d. Pollutant Clean Up And Removal

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

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

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

### e. Increased Cost Of Construction

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

- (3) The ordinance or law referred to in e.(2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises, and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
  - (a) You were required to comply with before the loss, even when the building was undamaged; and
  - (b) You failed to comply with.
- (5) Under this Additional Coverage, we will not pay for:
  - (a) The enforcement of 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 "fungus", wet or dry rot or bacteria; 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", "fungus", wet or dry rot or bacteria.
- (6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is \$10,000 or 5% of the Limit of Insurance applicable to that building, whichever is less. If a damaged building is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for that damaged building, is the lesser of: \$10,000 or 5% times the value of the damaged building as of the time of loss times the applicable coinsurance percentage.

The amount payable under this Additional Coverage is additional insurance.

- (7) With respect to this Additional Coverage:
  - (a) We will not pay for the Increased Cost of Construction:
    - (i) Until the property is actually repaired or replaced, at the same or another premises; and

- (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

- (b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the same premises.

- (c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the new premises.

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

- (9) The costs addressed in the Loss Payment and Valuation Conditions, and the Replacement Cost Optional Coverage, in this Coverage Form, do not include the increased cost attributable to enforcement of an ordinance or law. The amount payable under this Additional Coverage, as stated in e.(6) of this Additional Coverage, is not subject to such limitation.

#### **f. Electronic Data**

- (1) Under this Additional Coverage, electronic data has the meaning described under Property Not Covered - Electronic Data.
- (2) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore electronic data which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that electronic data is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the electronic data was stored, with blank media of substantially identical type.
- (3) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage - Electronic Data, subject to the following:

- (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Electronic Data is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
  - (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Electronic Data includes Collapse as set forth in that form.
  - (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Electronic Data.
  - (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.
- (4) The most we will pay under this Additional Coverage - Electronic Data is \$2,500 for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

## 5. Coverage Extensions

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

If a Coinsurance percentage of 80% or more or, a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

### a. Newly Acquired Or Constructed Property

#### (1) Buildings

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

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

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

#### (2) Your Business Personal Property

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:

- (i) Business personal property, including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;
- (ii) Business personal property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or
- (iii) Business personal property that you newly acquire, located at the described premises.

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

- (b) This Extension does not apply to:

- (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or

- (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

### **(3) Period Of Coverage**

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

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

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

### **b. Personal Effects And Property Of Others**

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

### **c. Valuable Papers And Records (Other Than Electronic Data)**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. But this Extension does not apply to valuable papers and records which exist as electronic data. Electronic data has the meaning described under Property Not Covered - Electronic Data.
- (2) If the Causes Of Loss - Special Form applies, coverage under this Extension is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (3) If the Causes Of Loss - Broad Form applies, coverage under this Extension includes Collapse as set forth in that form.
- (4) Under this Extension, the most we will pay to replace or restore the lost information is \$2,500 at each described premises, unless a higher limit is shown in the Declarations. Such amount is additional insurance. We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

### **d. Property Off-Premises**

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
  - (a) Temporarily at a location you do not own, lease or operate;
  - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
  - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to property:
  - (a) In or on a vehicle; or

- (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.

- (3) The most we will pay for loss or damage under this Extension is \$10,000.

#### **e. Outdoor Property**

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

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

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

#### **f. Non-Owned Detached Trailers**

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
  - (a) The trailer is used in your business;
  - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
  - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
  - (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;

- (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.

- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.

- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

#### **B. Exclusions And Limitations**

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

#### **C. Limits Of Insurance**

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

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

The limits applicable to the Fire Department Service Charge and Pollutant Clean Up and Removal Additional Coverages are in addition to the Limits of Insurance.

Payments under the Preservation of Property Additional Coverage will not increase the applicable Limit of Insurance.

#### **D. Deductible**

In any one occurrence of loss or damage (hereinafter referred to as loss), we will first reduce the amount of loss if required by the Coinsurance Condition or the Agreed Value Optional Coverage. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss, and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. But the Deductible will be applied only once per occurrence.

**Example No. 1:**

(This example assumes there is no coinsurance penalty.)

Deductible:	\$	250
Limit of Insurance - Bldg. 1:	\$	60,000
Limit of Insurance - Bldg. 2:	\$	80,000
Loss to Bldg. 1:	\$	60,100
Loss to Bldg. 2:	\$	90,000

The amount of loss to Bldg. 1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Bldg. 1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Bldg. 1:

\$ 60,100
-   250
<hr/>
\$ 59,850 Loss Payable - Bldg. 1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Bldg. 2. Loss payable for Bldg. 2 is the Limit of Insurance of \$80,000.

Total amount of loss payable: \$59,850 + 80,000 = \$139,850

**Example No. 2:**

(This example, too, assumes there is no coinsurance penalty.)

The Deductible and Limits of Insurance are the same as those in Example No. 1.

Loss to Bldg. 1: \$ 70,000
(exceeds Limit of Insurance plus Deductible)
Loss to Bldg. 2: \$ 90,000
(exceeds Limit of Insurance plus Deductible)
Loss Payable - Bldg. 1: \$60,000
(Limit of Insurance)
Loss Payable - Bldg. 2: \$80,000
(Limit of Insurance)
Total amount of loss payable:
<div style="text-align: right;">\$140,000</div>

**E. Loss Conditions**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Abandonment**

There can be no abandonment of any property to us.

**2. Appraisal**

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

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

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

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

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

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.



Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.

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

#### **4. Loss Payment**

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
  - (1) Pay the value of lost or damaged property;
  - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to b. below;
  - (3) Take all or any part of the property at an agreed or appraised value; or
  - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to b. below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.

- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.

- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
  - (1) We have reached agreement with you on the amount of loss; or
  - (2) An appraisal award has been made.

#### **5. Recovered Property**

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then 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 Limit of Insurance.

#### **6. Vacancy**

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

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in (1)(a) and (1)(b) below:
  - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
  - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
    - (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 loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
  - (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;
  - (c) Building glass breakage;
  - (d) Water damage;
  - (e) Theft; or
  - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in **b.(1)(a)** through **b.(1)(f)** above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

**7. Valuation**

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in **b.**, **c.**, **d.** and **e.** below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property. However, the following property will be valued at the actual cash value even when attached to the building:

  - (1) Awnings or floor coverings;
  - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
  - (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.

- d. Glass at the cost of replacement with safety glazing material if required by law.

- e. Tenant's Improvements and Betterments at:

- (1) Actual cash value of the lost or damaged property if you make repairs promptly.
- (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
  - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
  - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.

- (3) Nothing if others pay for repairs or replacement.

**F. Additional Conditions**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

**1. Coinsurance**

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

  - (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
  - (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);

(3) Multiple the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and

(4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

**Example No. 1 (Underinsurance):**

When: The value of the property is \$ 250,000  
The Coinsurance percentage for it is 80%  
The Limit of Insurance for it is \$ 100,000  
The Deductible is \$ 250  
The amount of loss is \$ 40,000

Step (1):  $\$250,000 \times 80\% = \$200,000$   
(the minimum amount of insurance to meet your Coinsurance requirements)

Step (2):  $\$100,000 / \$200,000 = .50$

Step (3):  $\$40,000 \times .50 = \$20,000$

Step (4):  $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

**Example No. 2 (Adequate Insurance):**

When: The value of the property is \$ 250,000  
The Coinsurance percentage for it is 80%  
The Limit of Insurance for it is \$ 200,000  
The Deductible is \$ 250  
The amount of loss is \$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ( $\$250,000 \times 80\%$ ). Therefore, the Limit of Insurance in this Example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

**Example No. 3:**

When: The value of property is:  
Bldg. at Location No. 1 \$ 75,000  
Bldg. at Location No. 2 \$ 100,000  
Personal Property at Location No. 2 \$ 75,000  
\$ 250,000

The Coinsurance percentage for it is 90%

The limit of Insurance for Buildings and Personal Property at Location Nos. 1 and 2 is \$ 180,000  
The Deductible is The amount of loss is:  
Bldg. at Location No. 2 \$ 30,000  
Personal Property at Location No. 2 \$ 20,000  
\$ 50,000

Step (1):  $\$250,000 \times 90\% = \$225,000$   
(the minimum amount of insurance to meet your Coinsurance requirements and to avoid the penalty shown below)

Step (2):  $\$180,000 / \$225,000 = .80$

Step (3):  $\$50,000 \times .80 = \$40,000$

Step (4):  $\$40,000 - \$1,000 = \$39,000$

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

**2. Mortgageholders**

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

- (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

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

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

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

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

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

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

- g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

## G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

### 1. Agreed Value

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.

- c. The terms of this Optional Coverage apply only to loss or damage that occurs:

- (1) On or after the effective date of this Optional Coverage; and  
(2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

### 2. Inflation Guard

- a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
- (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
- (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times
- (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

#### Example:

If:	The applicable Limit of Insurance is	\$	100,000
	The annual percentage increase is		8%
	The number of days since the beginning of the policy year (or last policy change) is		146
	The amount of increase is $\$100,000 \times .08 \times 146$		
	$/ 365 =$	\$	3,200

### 3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Loss Condition, Valuation, of this Coverage Form.
- b. This Optional Coverage does not apply to:
- (1) Personal property of others;
- (2) Contents of a residence;

- (3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
- (4) "Stock", unless the Including "Stock" option is shown in the Declarations.

Under the terms of this Replacement Cost Optional Coverage, tenants' improvements and betterments are not considered to be the personal property of others.

- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.
- d. We will not pay on a replacement cost basis for any loss or damage:
  - (1) Until the lost or damaged property is actually repaired or replaced; and
  - (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

With respect to tenants' improvements and betterments, the following also apply:

- (3) If the conditions in d.(1) and d.(2) above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Condition of this Coverage Form; and
- (4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.
- e. We will not pay more for loss or damage on a replacement cost basis than the least of (1), (2) or (3), subject to f. below:
  - (1) The Limit of Insurance applicable to the lost or damaged property;
  - (2) The cost to replace the lost or damaged property with other property:
    - (a) Of comparable material and quality; and
    - (a) Used for the same purpose; or
  - (3) The amount actually spent that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost described in e.(2) above is limited to the cost which would have been incurred if the building had been rebuilt at the original premises.

- f. The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

#### 4. Extension Of Replacement Cost To Personal Property Of Others

- a. If the Replacement Cost Optional Coverage is shown as applicable in the Declarations, then this Extension may also be shown as applicable. If the Declarations show this Extension as applicable, then Paragraph 3.b.(1) of the Replacement Cost Optional Coverage is deleted and all other provisions of the Replacement Cost Optional Coverage apply to replacement cost on personal property of others.
- b. With respect to replacement cost on the personal property of others, the following limitation applies:

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

#### H. Definitions

- 1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 2. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 3. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

## CAUSES OF LOSS - SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section F. - Definitions

### A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means Risks Of Direct Physical Loss unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations; that follow.

### B. Exclusions

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

#### a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (1) An ordinance or law that is enforced even if the property has not been damaged; or
- (2) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

#### b. Earth Movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

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

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

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

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

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

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

#### c. Governmental Action

Seizure or destruction of property by order of governmental authority.

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

#### **d. Nuclear Hazard**

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

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

#### **e. Utility Services**

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

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

This exclusion does not apply to the Business Income coverage or to Extra Expense coverage. Instead, the Special Exclusion in Paragraph **B.4.a.(1)** applies to these coverages.

#### **f. War And Military Action**

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

#### **g. Water**

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; 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 Water, as described in **g.(1)** through **g.(4)** above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

#### **h. "Fungus", Wet Rot, Dry Rot And Bacteria**

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

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

This exclusion does not apply:

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

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

2. We will not pay for loss or damage caused by or resulting from any of the following:
  - a. Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires.

But if artificially generated electrical current results in fire, we will pay for the loss or damage caused by that fire.
  - b. Delay, loss of use or loss of market.
  - c. Smoke, vapor or gas from agricultural smudging or industrial operations.
  - d. (1) Wear and tear;  
(2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;  
(3) Smog;  
(4) Settling, cracking, shrinking or expansion;  
(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.

(7) The following causes of loss to personal property:

- (a) Dampness or dryness of atmosphere;
- (b) Changes in or extremes of temperature; or
- (c) Marring or scratching.

But if an excluded cause of loss that is listed in 2.d.(1) through (7) results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
  - (1) You do your best to maintain heat in the building or structure; or
  - (2) You drain the equipment and shut off the supply if the heat is not maintained.
- h. Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
  - (1) Acting alone or in collusion with others; or

(2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.

- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j. Rain, snow, ice or sleet to personal property in the open.
- k. Collapse, except as provided below in the Additional Coverage for Collapse. But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.
- l. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion, l., does not apply to damage to glass caused by chemicals applied to the glass.

- m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.
3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. But if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.
- a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.
  - b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.



c. Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
  - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
  - (3) Materials used in repair, construction, renovation or remodeling; or
  - (4) Maintenance;
- of part or all of any property on or off the described premises.

**4. Special Exclusions**

The following provisions apply only to the specified Coverage Forms.

**a. Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form**

We will not pay for:

- (1) Any loss caused directly or indirectly by the failure of power or other utility service supplied to the described premises, however caused, if the failure occurs outside of a covered building. Failure includes lack of sufficient capacity and reduction in supply.  
But if the failure of power or other utility service results in a Covered Cause of Loss, we will pay for the loss resulting from that Covered Cause of Loss.
- (2) Any loss caused by or resulting from:
  - (a) Damage or destruction of "finished stock"; or
  - (b) The time required to reproduce "finished stock".This exclusion does not apply to Extra Expense.
- (3) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.
- (4) Any increase of loss caused by or resulting from:
  - (a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

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

- (5) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

- (6) Any other consequential loss.

**b. Leasehold Interest Coverage Form**

- (1) Paragraph B.1.a. Ordinance Or Law, does not apply to insurance under this Coverage Form.
- (2) We will not pay for any loss caused by:
  - (a) Your cancelling the lease;
  - (b) The suspension, lapse or cancellation of any license; or
  - (c) Any other consequential loss.

**c. Legal Liability Coverage Form**

- (1) The following exclusions do not apply to insurance under this Coverage Form:
  - (a) Paragraph B.1.a., Ordinance Or Law;
  - (b) Paragraph B.1.c., Governmental Action;
  - (c) Paragraph B.1.d., Nuclear Hazard;
  - (d) Paragraph B.1.e., Utility Services; and
  - (e) Paragraph B.1.f., War And Military Action.

- (2) The following additional exclusions apply to insurance under this Coverage Form:

**(a) Contractual Liability**

We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement. But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

- (i) Your assumption of liability was executed prior to the accident; and
- (ii) The building is Covered Property under this Coverage Form.

**(b) Nuclear Hazard**

We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

**C. Limitations**

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.
  - a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
  - b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.

- c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or
- (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

- d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft.

However, this limitation does not apply to:

- (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or
- (2) Business Income coverage or Extra Expense coverage.

- e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

- f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

- a. Animals, and then only if they are killed or their destruction is made necessary.

- b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:

(1) Glass; or

(2) Containers of property held for sale.

- c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

- (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
  - (2) To Business Income coverage or to Extra Expense coverage.
3. The special limit shown for each category, **a.** through **d.**, is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:
- a.** \$2,500 for furs, fur garments and garments trimmed with fur.
  - b.** \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
  - c.** \$2,500 for patterns, dies, molds and forms.
  - d.** \$250 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, **C.3.**, does not apply to Business Income coverage or to Extra Expense coverage.

4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:
- a.** Results in discharge of any substance from an automatic fire protection system; or
  - b.** Is directly caused by freezing.

However, this limitation does not apply to Business Income coverage or to Extra Expense coverage.

#### **D. Additional Coverage - Collapse**

The term Covered Cause of Loss includes the Additional Coverage - Collapse as described and limited in **D.1.** through **D.5.** below.

**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 or part of 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 damage to Covered Property, caused by collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if the collapse is caused by one or more of the following:**

- a.** The "specified causes of loss" or breakage of building glass, all only as insured against in this Coverage Part;
- b.** Decay that is hidden from view, unless the presence of such decay is 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;

- 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. However, if the collapse occurs after construction, remodeling or renovation is complete and is caused in part by a cause of loss listed in 2.a. through 2.e., we will pay for the loss or damage even if use of defective material or methods, in construction, remodeling or renovation, contributes to the collapse.

The criteria set forth in 1.a. through 1.d. do not limit the coverage otherwise provided under this Causes of Loss Form for the causes of loss listed in 2.a., 2.d. and 2.e.

- 3. With respect to the following property:
  - a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
  - b. Awnings, gutters and downspouts;
  - c. Yard fixtures;
  - d. Outdoor swimming pools;
  - e. Fences;
  - f. Piers, wharves and docks;
  - g. Beach or diving platforms or appurtenances;
  - h. Retaining walls; and
  - i. Walks, roadways and other paved surfaces;if the collapse is caused by a cause of loss listed in 2.b. through 2.f., we will pay for loss or damage to that property only if:
  - a. Such loss or damage is a direct result of the collapse of a building insured under this Coverage Form; and
  - b. The property is Covered Property under this Coverage Form.
- 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 2.a. through 2.f. above;
  - b. The personal property which collapses is inside a building; and
  - c. The property which collapses is not of a kind listed in 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 and/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 Coverage Part.

#### **E. Additional Coverage - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria**

- 1. The coverage described in E.2. and E.6. only applies when the "fungus", wet or dry rot or bacteria 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.
  - a. A "specified cause of loss" other than fire or lightning; or
  - b. Flood, if the Flood Coverage Endorsement applies to the affected premises.
- 2. We will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
  - a. Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
  - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
  - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.
- 3. The coverage described under E.2. of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) and Flood 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 "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.

4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria, 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 "fungus", wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage - Collapse.
6. The following, **6.a.** or **6.b.**, applies only if Business Income and/or Extra Expense coverage applies to the described premises and only if the "suspension" of "operations" satisfies all terms and conditions of the applicable Business Income and/or Extra Expense coverage form.
- a. If the loss which resulted in "fungus", wet or dry rot or bacteria does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungus", wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- b. If a covered "suspension" of "operations" was caused by loss or damage other than "fungus", wet or dry rot or bacteria but re-mediation of "fungus", wet or dry rot or bacteria prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

## **F. Additional Coverage Extensions**

### **1. Property In Transit**

This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:
- (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
- (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the road bed.
- (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.
- c. The most we will pay for loss or damage under this Extension is \$5,000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

### **2. Water Damage, Other Liquids, Powder Or Molten Material Damage**

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material 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. This Coverage Extension does not increase the Limit of Insurance.

### **3. Glass**

- a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.

- b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

This Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

#### **G. Definitions**

- 1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
- 2. "Specified Causes of Loss" means the following: Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.
  - a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
    - (1) The cost of filling sinkholes; or
    - (2) Sinking or collapse of land into man-made underground cavities.
  - b. Falling objects does not include loss or damage to:
    - (1) Personal property in the open; or
    - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
  - c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

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

- b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe or healthful; or
  - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

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

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

## COMMERCIAL PROPERTY CONDITIONS

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

### A. CONCEALMENT, MISREPRESENTATION OR FRAUD

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

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

### B. CONTROL OF PROPERTY

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

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

### C. INSURANCE UNDER TWO OR MORE COVERAGES

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

### D. LEGAL ACTION AGAINST US

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

1. There has been full compliance with all of the terms of this Coverage Part; and
2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

### E. LIBERALIZATION

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

### F. NO BENEFIT TO BAILEE

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

### G. OTHER INSURANCE

1. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.
2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

### H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

1. We cover loss or damage commencing:
  - a. During the policy period shown in the Declarations; and
  - b. Within the coverage territory.
2. The coverage territory is:
  - a. The United States of America (including its territories and possessions);
  - b. Puerto Rico; and
  - c. Canada.



#### **I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything 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 Covered Income.
2. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:
  - a. Someone insured by this insurance;
  - b. A business firm:
    - (1) Owned or controlled by you; or
    - (2) That owns or controls you; or
  - c. Your tenant.

This will not restrict your insurance.

**This endorsement is subject to all terms and conditions of the Policy to which it attaches.**

## **LIMIT OF LIABILITY CLAUSE**

It is hereby understood and agreed that the following Special Terms and Conditions apply to this policy:

- 1) The Limit of Liability or Amount of Insurance shown on the face of this policy is a Limit or Amount per occurrence. Notwithstanding anything to the contrary contained herein, in no event shall the Liability of this company exceed this limit or Amount in one occurrence, irrespective of the number of Locations involved.
- 2) The premium for this policy is based upon the Statement of Values on file with the company, or attached to this policy. In the event of loss hereunder, and subject to any Co-Insurance provisions if stated within this Policy, liability of the company shall be limited to the least of the following:
  - A. The actual adjustment amount of loss, less applicable deductible(s)
  - B. The total stated value for the property involved, as shown on the latest Statement of Values on file with the company, less applicable deductible(s).
  - C. The Limit of Liability or Amount of Insurance shown on the face of this policy or endorsed onto this policy.

This Policy shall not cover for more than any aggregate amount separately stated in respect of specified causes.

### **OCCURRENCE DEFINITION:**

The term occurrence wherever used in this Policy means the sum of all individual losses or series of individual losses resulting from or arising out of and directly occasioned by any one insured event.

## **MINIMUM EARNED PREMIUM CLAUSE**

Notwithstanding anything to the contrary contained herein it is agreed that in the event of cancellation of this Policy by the Insured a minimum premium of 35 % shall become earned except where the conditions of the Hurricane Minimum Earned Premium Endorsement attach hereto then the earned premium shall be the greater of the two amounts.

Failure of the Assured to make timely payment of premium shall be considered a request by the Insured for the Underwriters to cancel. In the event of such cancellation by the Underwriters, for non-payment of premium the minimum premium shall be due and payable; provided however, such non-payment cancellation shall be rescinded if the Insured remits the full premium within 10 days of receiving it.

In the event of any other cancellation of the Underwriters, the earned premium shall be computed pro-rata, not subject to the minimum premium.

## BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

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

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

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G. – Definitions**.

### A. Coverage

#### 1. Business Income

Business Income means the:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described and limited below for one or more of the following options for which a Limit of Insurance is shown in the Declarations:

- a. Business Income including "Rental Value".
- b. Business Income other than "Rental Value".
- c. "Rental Value".

If option **a.** above is selected, the term Business Income will include "Rental Value". If option **c.** above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- a. The portion of the building which you rent, lease or occupy; and
- b. Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

#### 2. Extra Expense

- a. Extra Expense coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.
- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

### **3.. Covered Causes Of Loss, Exclusions And Limitations**

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

### **4. Additional Limitation – Interruption Of Computer Operations**

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage – Interruption Of Computer Operations.
- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage – Interruption Of Computer Operations.
- c. 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.

### **5. Additional Coverages a.**

#### **Civil Authority**

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises due to direct physical loss of or damage to property, other than at the described premises, caused by or resulting from any Covered Cause of Loss.

The coverage for Business Income will begin 72 hours after the time of that action and will apply for a period of up to three consecutive weeks after coverage begins.

The coverage for Extra Expense will begin immediately after the time of that action and will end:

- (1) 3 consecutive weeks after the time of that action; or
  - (2) When your Business Income coverage ends;
- whichever is later.

### **b. Alterations And New Buildings**

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 100 feet of the described premises and:
  - (a) Used in the construction, alterations or additions; or
  - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

### **c. Extended Business Income**

- (1) Business Income Other Than "Rental Value"

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

- (a) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
  - (i) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or

- (ii) 30 consecutive days after the date determined in (1)(a) above.

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

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

**(2) "Rental Value"**

If the necessary "suspension" of your "operations" produces a "Rental Value" loss payable under this policy, we will pay for the actual loss of "Rental Value" you incur during the period that:

- (a) Begins on the date property is actually repaired, rebuilt or replaced and tenantability is restored; and
- (b) Ends on the earlier of:
  - (i) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "Rental Value" that would have existed if no direct physical loss or damage had occurred; or
  - (ii) 30 consecutive days after the date determined in (2)(a) above.

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

Loss of "Rental Value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

**d. Interruption Of Computer Operations**

- (1) Under this Additional Coverage, electronic data has the meaning described under Additional Limitation – Interruption Of Computer Operations.

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

- (3) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

- (a) If the Causes Of Loss – Special Form applies, coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (b) If the Causes Of Loss – Broad Form applies, coverage under this Additional Coverage – Interruption Of Computer Operations includes Collapse as set forth in that form.
- (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage – Interruption Of Computer Operations.
- (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.

- (4) The most we will pay under this Additional Coverage – Interruption of Computer Operations is \$2,500 for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.
- (5) This Additional Coverage – Interruption in Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (4) above has not been exhausted.

## **6. Coverage Extension**

If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

### **Newly Acquired Locations**

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions.
- b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
  - (1) This policy expires;
  - (2) 30 days expire after you acquire or begin to construct the property; or
  - (3) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property.

This Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

## **B. Limits Of Insurance**

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

The limit applicable to the Coverage Extension is in addition to the Limit of Insurance.

Payments under the following coverages will not increase the applicable Limit of Insurance:

1. Alterations and New Buildings;
2. Civil Authority;
3. Extra Expense; or
4. Extended Business Income.

## **C. Loss Conditions**

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

### **1. Appraisal**

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser.

The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense or amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

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

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

### **2. Duties In The Event Of Loss**

- a. You must see that the following are done in the event of loss:
  - (1) Notify the police if a law may have been broken.
  - (2) Give us prompt notice of the direct physical loss or damage. Include a description of the property involved.
  - (3) As soon as possible, give us a description of how, when, and where the direct physical loss or damage occurred.

(4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.

(5) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

(6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.

(7) Cooperate with us in the investigation or settlement of the claim.

(8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.

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

### 3. Loss Determination

a. The amount of Business Income loss will be determined based on:

(1) The Net Income of the business before the direct physical loss or damage occurred;

(2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;

(3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and

(4) Other relevant sources of information, including:

(a) Your financial records and accounting procedures;

(b) Bills, invoices and other vouchers; and

(c) Deeds, liens or contracts.

b. The amount of Extra Expense will be determined based on:

(1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:

(a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and

(b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and

(2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

### c. Resumption Of Operations

We will reduce the amount of your:

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

(2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.



#### 4. Loss Payment

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:

- a. We have reached agreement with you on the amount of loss; or
- b. An appraisal award has been made.

#### D. Additional Condition

##### Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies in addition to the Common Policy Conditions and the Commercial Property Conditions.

We will not pay the full amount of any Business Income loss if the Limit of Insurance for Business Income is less than:

- a. The Coinsurance percentage shown for Business Income in the Declarations; times
- b. The sum of:
  - (1) The Net Income (Net Profit or Loss before income taxes), and
  - (2) Operating expenses, including payroll expenses,

that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

Instead, we will determine the most we will pay using the following steps:

1. Multiply the Net Income and operating expense for the 12 months following the inception, or last previous anniversary date, of this policy by the Coinsurance percentage;
2. Divide the Limit of Insurance for the described premises by the figure determined in Step 1.; and
3. Multiply the total amount of loss by the figure determined in Step 2.

We will pay the amount determined in Step 3. or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In determining operating expenses for the purpose of applying the Coinsurance condition, the following expenses, if applicable, shall be deducted from the total of all operating expenses:

1. Prepaid freight – outgoing;
2. Returns and allowances;
3. Discounts;

4. Bad debts;
5. Collection expenses;
6. Cost of raw stock and factory supplies consumed (including transportation charges);
7. Cost of merchandise sold (including transportation charges);
8. Cost of other supplies consumed (including transportation charges);
9. Cost of services purchased from outsiders (not employees) to resell, that do not continue under contract;
10. Power, heat and refrigeration expenses that do not continue under contract (if Form CP 15 11 is attached);
11. All ordinary payroll expenses or the amount of payroll expense excluded (if Form CP 15 10 is attached); and
12. Special deductions for mining properties (royalties unless specifically included in coverage; actual depletion commonly known as unit or cost depletion – not percentage depletion; welfare and retirement fund charges based on tonnage; hired trucks).

#### Example No. 1 (Underinsurance):

When:	The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been	\$ 400,000
	The Coinsurance percentage is	50%
	The Limit of Insurance is \$	150,000
	The amount of loss is \$	80,000

Step 1:  $\$400,000 \times 50\% = \$200,000$

(the minimum amount of insurance to meet your Coinsurance requirements)

Step 2:  $\$150,000 \div \$200,000 = .75$

Step 3:  $\$80,000 \times .75 = \$60,000$

We will pay no more than \$60,000. The remaining \$20,000 is not covered.

## Example No. 2 (Adequate Insurance):

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been \$ 400,000  
The Coinsurance percentage is 50%  
The Limit of Insurance is \$ 200,000  
The amount of loss is \$ 80,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 (\$400,000 x 50%). Therefore, the Limit of Insurance in this Example is adequate and no penalty applies. We will pay no more than \$80,000 (amount of loss).

This condition does not apply to Extra Expense coverage.

## E. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

### 1. Maximum Period Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:
  - (1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or
  - (2) The Limit of Insurance shown in the Declarations.

### 2. Monthly Limit Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.
- b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:
  - (1) The Limit of Insurance, multiplied by
  - (2) The fraction shown in the Declarations for this Optional Coverage.

## Example:

When: The Limit of Insurance is \$ 120,000  
The fraction shown in the Declarations for this Optional Coverage is 1/4  
The most we will pay for loss in each period of 30 consecutive days is:  
 $\$120,000 \times 1/4 = \$30,000$   
If, in this example, the actual amount of loss is:  
Days 1-30 \$ 40,000  
Days 31-60 20,000  
Days 61-90 30,000  
\$ 90,000  
  
We will pay:  
Days 1-30 \$ 30,000  
Days 31-60 20,000  
Days 61-90 30,000  
\$ 80,000

The remaining \$10,000 is not covered.

## 3. Business Income Agreed Value

### a. To activate this Optional Coverage:

- (1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":
    - (a) During the 12 months prior to the date of the Work Sheet; and
    - (b) Estimated for the 12 months immediately following the inception of this Optional Coverage.
  - (2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:
    - (a) The Coinsurance percentage shown in the Declarations; multiplied by
    - (b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.
- b. The Additional Condition, Coinsurance, is suspended until:
- (1) 12 months after the effective date of this Optional Coverage; or



**6. "Suspension" means:**

- a.** The slowdown or cessation of your business activities; or
- b.** That a part or all of the described premises is rendered untenable, if coverage for Business Income including "Rental Value" or "Rental Value" applies.

**Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is understood and agreed the following definition applies to this Policy:**

## **Named Storm Definition**

Named Storm is defined as a storm that:

1. Has been assigned a named by the National Hurricane Center; and
2. Includes the 72 hours immediately following the downgrading of a Named Storm, as declared by the National Hurricane Center;

Named Storm Cause of Loss also includes loss resulting from:

1. Rain or wind driven rain which enters the insured building or structure through an opening created by the force of a Named Storm;
2. One or more tornadoes that are a result of actions or effects of a Named Storm; and
3. Any object, material or debris that is carried, propelled or in any manner moved by a Named Storm.

This endorsement is subject to all terms and conditions of the Policy to which it attaches.

## **WINDSTORM PERCENTAGE DEDUCTIBLE**

### **Scheduled Values Listed on the Declaration Page or on File with the Company.**

The following Deductible will apply as respects covered loss or damage caused directly or indirectly by wind, hail, wind driven rain, collapse due to wind and any other wind related peril. The deductible applies to each occurrence of wind, hail, wind driven rain, collapse due to wind and any other wind related peril.

#### SCHEDULE OF DEDUCTIBLES

\*See Below of the total scheduled insured values of the item(s)  
insured that has sustained loss or damage

\$25,000 Minimum per occurrence

\*5% of Values Per Building Applies to Named  
Storm only in respects to Palm Beach and Broward County  
locations only; 2% of Values Per Building Applies to Orlando and  
Tampa locations only.

The sum we will subtract from each separate item insured will be a percentage of the item's value or the minimum dollar deductible amount, if shown above, whichever is greater. If a covered item is not included on the schedule of values, the percentage deductible will apply to the value of those items at the time and place of loss subject to the minimum per occurrence amount, if shown above. The applicable percentage is shown in the above Schedule of Deductibles. The windstorm percentage deductible indicated above shall apply to each separate item insured and as listed below.

The percentage deductible applies separately to:

- a. Each building;
- b. Personal Property;
- c. Personal Property in the open;
- d. Business Income/Extra Expense and/or Rental Value;

When property is covered under the Coverage Extension for Newly Acquired or Constructed Property: In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to the percentage, shown above, of the scheduled value(s) of the property that has sustained loss or damage.

We will not pay for loss or damage until the amount of loss or damage exceeds the applicable Deductible. We will then pay the amount of loss or damage in excess of that Deductible, up to the applicable Limit of Insurance, after any reduction required by the Coinsurance Condition, if applicable, to this Policy

#### **CALCULATION OF THE PERCENTAGE:**

In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to the percentage, shown above, of the value(s) of the property that has sustained loss or damage.

#### **EXAMPLES OF DEDUCTIBLE APPLICATION:**

##### **BUILDING**

The scheduled value of the building is \$1,000,000 and the windstorm percentage deductible is 2%.  
 $\$1,000,000 \times 2\% = \$20,000$  deductible

##### **PERSONAL PROPERTY**

The scheduled value of the personal property is \$500,000 and the windstorm percentage deductible is 2%

$\$500,000 \times 2\% = \$10,000$  deductible

#### BUSINESS INCOME, EXTRA EXPENSE, RENTAL VALUE

Business Income, Extra Expense:

The schedule value of Business Income/Extra Expense is \$600,000 and the windstorm percentage deductible is 2%

$\$600,000 \times 2\% = \$12,000$  deductible

Rental Value:

The schedule value of Rental Value is \$500,000 and scheduled deductible is 2%.

$\$500,000 \times 2\% = \$10,000$

## HURRICANE MINIMUM EARNED PREMIUM ENDORSEMENT

The following terms and conditions will apply to this policy:

1. If you cancel this policy, remove a location or reduce the amount of insurance on a location that is within 100 miles of the Atlantic Ocean and/ or the Gulf of Mexico and/or the Hawaii Islands, and coverage existed any time during the period of June 1st to November 30th, the amount of premium we will return will be the Unearned Premium for the location. The Unearned Premium is the annual premium for the policy (or for the location removed or coverage reduced, as applicable) multiplied by the Unearned Factor noted below. The location premium is the 100% annual rate multiplied by the location value as scheduled in the most current Statement Values on file with the Company.

### 1 year Policy

Days Policy in Force	Unearned Factor
1-180	20%
181-210	15%
211-240	10%
241-270	7.5%
271-300	5%
301-330	2.5%
331-365	0%

2. If a Location that is within 100 miles of the Atlantic Ocean and/ or the Gulf of Mexico and/ or the Hawaii Islands is added during the term of the policy and coverage exists at any time during the period of June 1st to November 30th, the rate will be calculated as 100% of the annual rate less the Unearned Premium Factor as calculated in No. 1 above the number of days remaining in the policy term.
3. The provisions of this endorsement replace any short rate provisions stipulated in this policy for all locations that are within 100 miles of the Atlantic Ocean and/ or the Gulf of Mexico and/ or the Hawaiian Islands and coverage existed any time during the period of June 1st to November 30th.
4. Nothing herein will act to provide coverage outside the automatic acquisition clause, if any, that is located elsewhere in the policy.

**All other terms and conditions remain unchanged.**



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

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CONDOMINIUM ASSOCIATION COVERAGE FORM  
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM  
STANDARD PROPERTY POLICY**SCHEDULE\*****Construction  
Of Sign**

<b>Prem. No./</b>						
<b>Bldg. No</b>	<b>Entirely Metal</b>	<b>Other</b>	<b>Limit Of Insurance</b>	<b>Causes Of Loss Form Applicable</b>	<b>Coinsurance Percentage</b>	<b>Additional Premium</b>
001/001		X	\$8,000	Special Form	90%	Included
002/001		X	\$25,000	Special Form	90%	Included
003/001		X	\$20,000	Special Form	90%	Included
004/001		X	\$8,000	Special Form	90%	Included
006/001		X	\$25,000	Special Form	90%	Included
007/001		X	\$54,000	Special Form	90%	Included
008/001		X	\$100,000	Special Form	90%	Included

\*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations

With respect to outside signs described in the Schedule:

- A.** "Signs (other than signs attached to buildings)" is deleted from **Property Not Covered**.
- B.** In the Limits Of Insurance section, the provision which pertains to signs attached to buildings does not apply. The limit applicable to each sign is shown in the Schedule.

- C.** Outside signs are subject to all applicable provisions of the Causes Of Loss Form indicated in the Schedule. In addition, we will not pay for loss or damage caused by or resulting from any of the following:

- 1.Dampness or dryness of atmosphere;
- 2.Changes in or extremes of temperature;
- 3.Marring or scratching; or
- 4.Rain, snow, ice or sleet.

However, if the sign is attached to the building and is covered under the Causes Of Loss – Special Form, then Exclusions **C.1.** through **C.4.** do not apply.

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

## **PROPERTY ENHANCEMENT FORM**

This endorsement modifies insurance provided under the following:

**BUILDING AND PERSONAL PROPERTY COVERAGE FORM  
CAUSES OF LOSS-SPECIAL FORM**

### **SCHEDULE**

<b>Coverages</b>	<b>Additional Amount</b>	<b>Deductible</b>
Fire Department Service Charge	\$25,000	As shown on declaration page
Outdoor Property	\$15,000	As shown on declaration page
Personal Effects	\$7,500	As shown on declaration page
Property Off Premises	\$25,000	As shown on declaration page
Property in Transit	\$15,000	As shown on declaration page
Valuable Papers and Records	\$25,000	As shown on declaration page

<b>Additional Coverages and Extensions</b>	<b>Limit of Insurance</b>	<b>Deductible</b>
Accounts Receivable	\$25,000	\$1,000
Fine Arts	\$25,000	\$1,000
Money and Securities	\$10,000	\$1,000
Outdoor Signs	\$10,000	\$1,000
Spoilage	\$10,000	\$1,000

ALL LIMITS/SUB LIMITS STATED IN THIS ENDORSEMENT ARE PART OF AND NOT IN ADDITION TO THE LIMIT OF LIABILITY STATED ON THE DECLARATION PAGE.

The provisions of the Building and Personal Property Coverage Form and the Causes of Loss – Special Form apply except as otherwise provided in this endorsement. This endorsement applies only if the Building and Personal Property Coverage Form and the Causes of Loss – Special Form are included in this policy. All numbers and letters used to designate paragraphs in this endorsement are specific to this endorsement only. They do not reference paragraphs in the Commercial Property Coverage Part, except as otherwise provided.

This endorsement is applicable only to those premises described in the Declarations where the Causes of Loss – Special Form applies.

#### **A. Coverages-Additional Amounts**

With respect to the coverages listed below, all terms, conditions, exclusions and restrictions apply, except as otherwise provided in this endorsement.

1. We will pay an additional amount of \$25,000 for covered charges under **Fire Department Service Charge** coverage.
2. We will pay an additional amount of \$7,500 for loss or damage under **Personal Effects and Property of Others** for personal effects owned by you, your partners or member, your managers or your employees.

3. We will pay an additional amount of \$25,000 for loss or damage under **Property Off-Premises**.
4. **Outdoor Property** is amended as follows:
  - a. We will pay an additional amount of \$15,000 for loss under this Extension, but not more than \$1,000 for any one tree, shrub or plant.
  - b. The reference to signs is removed.
5. We will pay an additional amount of \$25,000 under **Valuable Papers and Records (Other Than Electronic Data)** for loss or damage to valuable papers and records.

B. The below Coverages are added to **Additional Coverages** in the **Coverage** Section.

#### 1. Fine Arts

- a. We will pay for direct physical loss of or damage to Fine Arts articles that are your property or property of others in your care custody and control and while such fine arts are kept inside the premises described in the declarations.
- b. The term Fine Arts wherever used in the Policy means painting etchings, pictures, tapestries, rare or art glass, art glass windows, valuable rugs, statuary, sculptures, antique jewelry, bric-a-brac, porcelains, and similar property of rarity, historical value or artistic merit excluding automobiles, coins, stamps, furs, jewelry, precious stones, precious metals, watercraft, aircraft, money securities.
- c. The most we will pay for loss in any one occurrence under this Additional Coverage is \$25,000. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

Adjustment of the physical loss amount under this Policy will be computed as of the date of loss at the location of the loss and for no more than the interest of the Insured subject to the following:

The lesser of:

1. The actual cash value of that property;
  2. The reasonable and necessary cost to repair or restore such property to the condition that existed on the date of loss;
  3. The cost of replacing that property with substantially identical property.
- d. In case of loss to any part of a pair or set, we may:
    1. Repair or replace any part to restore the pair or set to its value before the loss; or
    2. Pay the difference between the value of the pair or set before and after the loss.
  - e. It is a condition of this extension of coverage that you agree that all Fine Arts will be packed and unpacked by competent packers.

#### 2. Money and Securities

- a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, at the described premises, or in transit between any of these places.
- b. We will pay only for loss of "money" and "securities" resulting directly from:
  1. Theft, meaning any act of stealing;
  2. Disappearance; or

3. Destruction.

c. We will not pay for loss:

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

d. The most we will pay under this Additional coverage for loss in any one "occurrence" is \$10,000.

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

f. To the extent that coverage for "money" and "securities" is provided under this Additional Coverage, the reference to money and securities is deleted from provision 2 a. of **Property Not Covered** in the **Coverage** Section of the Building and Personal Property Coverage form.

**3. Outdoor Signs**

a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:

1. Owned by you; or
2. Owned by others but in your care, custody or control.

b. The most we will pay under this Additional Coverage for loss or damage in any one occurrence is \$10,000.

c. The provisions of this Additional Coverage supersede all other outdoor signs coverage references in the Building and Personal Property Coverage Form.

**4. Spoilage**

a. If this policy covers Your Business Personal Property; this coverage extension extends that insurance to apply to "perishable stock" at the described premises owned by you or by others that is in your care, custody and control but only for the following Covered Causes of Loss:

1. Breakdown or Contamination, meaning:

- (i) Change in temperature or humidity resulting from mechanical breakdown or failure of refrigerating, cooling or humidity control apparatus or equipment, only while such equipment or apparatus is at the described premises:

And

- (ii) Contamination by the refrigerant.

2. Power Outage, meaning change in temperature or humidity resulting from complete or partial interruption of electrical power, either on or off the described premises, due to conditions beyond your control.

The above Causes of Loss listed under (1) and (2) above apply to this Spoilage Coverage Extension only.

b. The following additional exclusions are added and apply to this Spoilage Coverage Extension:  
We will not pay for loss or damaged caused by or resulting from:

1. The disconnection of any refrigerating, cooling or humidity control system from the source of power.
  2. The deactivation of electrical power caused by the manipulation of any switch or other device used to control the flow of electrical power of current.
  3. The inability of an Electrical Utility Company or other power source to provide sufficient power due to:
    - (i) Lack of fuel; or
    - (ii) Governmental order.
  4. The inability of a power source at the described premises to provide sufficient power due to lack of generating capacity to meet demand.
  5. Breaking of any glass that is a permanent part of any refrigerating cooling or humidity control unit.
  6. Property located: (i) On buildings; (ii) in the open; or (iii) In vehicles.
- c. The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000.
- d. **REFRIGERATION MAINTENANCE AGREEMENTS**  
 You must maintain a refrigeration maintenance or service agreement. If you terminate this and do not notify us, the insurance provided by this Coverage Extension will be automatically suspended at the involved location.

**C.** The below coverages are added to **Coverage Extensions** in the **Coverage** Section.

**1 Accounts Receivable**

- a. The insurance that applies to your Business Personal Property is extended to accounts receivable. We will pay:
1. All amounts due from your customers that you are unable to collect;
  2. Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
  3. Collection expenses in excess of your normal collection expenses that are made necessary by the loss or damage; and
  4. Other reasonable expenses that you incur to reestablish your records of accounts receivable;
- That result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.
- b. The most we will pay under this Extension for loss or damage in any one occurrence is \$25,000.
- c. To the extent that coverage for accounts receivable is provided under this Additional Coverage, the reference to accounts is deleted from provision 2 a. of **Property Not Covered** in the **Coverage** Section of the Building and Personal Property Coverage form.

**2. Changes To The Causes Of Loss-Special Form**

**A.** The following additional exclusions apply to the **Accounts Receivable Extension** only:

We will not pay for:

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

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

2. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.
3. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

**B. The Property in Transit Additional Coverage Extension** is amended as follows:

We will pay an additional amount of \$15,000 under this Extension for loss or damage to your personal property.

**3. Definitions**

For the purpose of this endorsement, the following definitions are added:

**A. "Employee":**

1. "Employee", as respects the coverage provided under Section I of this endorsement for Money and Securities only, means:
  - a. Any natural person:
    - (1) While in your service and for the first 30 days after termination of service,
    - (2) Who you compensate directly by salary, wages or commissions; and
    - (3) Who you have the right to direct and control while performing services for you; or
  - b. Any natural person who is furnished temporarily by you:
    - (1) To substitute for a permanent "employee" as defined in Paragraph 1. above, who is on leave;  
or
    - (2) To meet seasonal or short-term work load conditions;While that person is subject to your direction and control and performing services for you.
2. "Employee" does not mean any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph 1.a.

**B. "Money" means:**

1. Currency, coins and bank notes in current use and having a face value; and
2. Travelers checks, register checks and money orders held for sale to the public.

**C. As respects the coverage provided under Section I of this endorsement for Money And Securities only, "occurrence" means all loss caused by one or more persons and involving a single act or series of related acts.**

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

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

2. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include "money".



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

## **BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS**

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

### **SCHEDULE\***

Premises No.	Building No.	Protective Safeguards Symbols Applicable
001-008	001	BR-1
Describe any "BR-4":		
*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.		

**A.** The following is added to the **Commercial Property** Conditions:

### **BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS**

1. As a condition of this insurance, you are required to maintain the protective devices and/or services listed in the Schedule above.
2. The protective safeguard(s) to which this endorsement applies are identified by the following symbols:
  - a. "BR-1" Automatic Burglary Alarm, protecting the entire building, that signals to:
    - (1) An outside central station; or
    - (2) A police station.
  - b. "BR-2" Automatic Burglary Alarm, protecting the entire building, that has a loud sounding gong or siren on the outside of the building.

c. "BR-3" Security Service, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.

d. "BR-4" The protective safeguard described in the Schedule.

**B.** The following is added to the **Exclusions** section of the Causes Of Loss – Special Form:

### **BURGLARY AND ROBBERY PROTECTIVE SAFEGUARDS**

We will not pay for loss or damage caused by or resulting from theft if, prior to the theft, you:

1. Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
2. Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

**CONDITION OF COVERAGE ENDORSEMENT**

Notwithstanding anything contained herein the following conditions of coverage are to apply to physical loss or damage caused directly or indirectly to Covered Property as a result of the causes of loss stated below and applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss:

Condition:	Cause(s) of Loss:	Building(s):
Automatic Extinguishing System with automatic fuel shutoff device for commercial cooking surfaces on semi-annual cleaning contract per NFPA-96	Fire, Smoke and Explosion	All/All

We will not pay for loss or damage caused by or resulting from covered cause of loss if, prior to loss, the Insured:

1. Knew of any suspension or impairment of such protection and failed to notify the insurance company of that fact; or
2. Failed to maintain scheduled property, as required above.

Failure to comply with the condition of coverage shall suspend coverage, for the causes of loss specified above, under this policy, at the building(s) which are not in compliance, until such time as the building(s) meets the required conditions of coverage stated above.

All other terms and conditions remain unchanged.

## LOSS PAYEE/LENDER'S LOSS PAYEE ENDORSEMENT

In consideration of the premium charged and subject to the terms, exclusions, limits and conditions of the policy to which this endorsement is attached and to the provisions contained within this endorsement, it is agreed that the following additional conditions are added to this policy.

### A. Loss Payee(s)

The provisions contained within this item A. only apply to property where the additional interest is specified as that of Loss Payee in item C. below. As respects insured property in which both the Insured and the Loss Payee specified in item C. below have an insurable interest, in the event of physical loss or damage covered by this policy the company will:

1. adjust losses with the Insured; and
2. pay any claim for loss or damage as covered by this policy jointly to the Insured and the specified Loss Payee, as their interest may appear.

### B. Lenders Loss Payee(s)

The provisions contained within this item B. only apply to property where the additional interest is specified as that of Lender's Loss Payee in item C. below. Each Lender's Loss Payee so specified is a creditor, including a mortgage holder or trustee, whose interest in insured property is established by such written instruments as warehouse receipts, contracts for deed, bills of lading, financing statements, mortgages, deeds of trust or security arrangements.

In the event of loss or damage to such insured property in which the Insured and the specified Lender's Loss Payee have an insurable interest, the following provisions apply:

1. the company will pay any claim for loss or damage as covered by this policy to each Lender's Loss Payee in their order of precedence, as their interests may appear;
2. the Lenders Loss Payee has the right to receive such loss payment even if the Lender's Loss Payee has started foreclosure or similar action on the insured property;
3. if the company denies the Insured's claim because of the Insured's acts or because the Insured has failed to comply with the terms of this policy, the Lender's Loss Payee will still have the right to receive loss payment if the Lender's Loss Payee:
  - a. pays any premium due under this policy at the company's request, if the Insured has failed to do so;
  - b. submits a signed, sworn proof of loss within sixty (60) days after receiving notice from the company of the Insured's failure to do; and
  - c. has notified the company of any change in ownership, occupancy or substantial change in risk known to the Lender's Loss Payee;
4. If the company pays the Lender's Loss Payee for any loss or damage to insured property covered under this policy and denies payment to the Insured because of the Insured's acts or because the Insured has failed to comply with the terms of this policy:

- a. the Lender's Loss Payee's rights will be transferred to the company to the extent of the amount the company pays;
- b. the Lender's Loss Payee's rights to recover the full amount of the Lender's Loss Payee's claim will not be impaired; and
- c. at the company's option, the company may pay to the Lender's Loss Payee the whole principal on the debt plus any accrued interest; in this event, the Insured will pay the Insured's remaining debt to the company.

If the company cancels this policy, the company will give written notice to the Lender's Loss Payee at least ten (10) days before the effective date of cancellation if the company cancels for non-payment of premium, or thirty (30) days before the effective date of cancellation if the company cancels for any other reason.

**C. Schedule of Loss Payees/Lender's Loss Payees**

Location #	Bldg. #	Additional Interest	Loss Payee (name, address, loan number)	Lender's Loss Payee (indicated by X below)
All	All	Personal Property	TD Bank, N.A. ISAOA, ATIMA Collateral Department/Insurance Section 2069 Springdale Road Cherry Hill, NJ 08003	X
002	001	Personal Property	Valley National Bank, ISAOA, ATIMA PO Box 261510 Miami, FL 33126	

**Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, or limitations of the policy to which this endorsement is attached other than as above stated.**

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

## PROTECTIVE SAFEGUARDS

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

SCHEDULE *		
Prem. No.	Bldg. No.	Protective Safeguards Symbols Applicable
002, 004-005, 007-008	001	P-1

**Describe any "P-9:"**

1. The following is added to the Commercial Property Conditions:

### PROTECTIVE SAFEGUARDS

- a. As a condition of this insurance, you are required to maintain the protective devices or services listed in the Schedule above.

- b. The protective safeguards to which this endorsement applies are identified by the following symbols:

**"P-1" Automatic Sprinkler System**, including related supervisory services.

Automatic Sprinkler System means:

- (1) Any automatic fire protective or extinguishing system, including connected:  
(a) Sprinklers and discharge nozzles;

(b) Ducts, pipes, valves and fittings;

(c) Tanks, their component parts and supports; and

(d) Pumps and private fire protection mains.

- (2) When supplied from an automatic fire protective system:

(a) Non-automatic fire protective systems; and

(b) Hydrants, standpipes and outlets.

**"P-2" Automatic Fire Alarm**, protecting the entire building, that is:

(1) Connected to a central station; or

(2) Reporting to a public or private fire alarm station.

\*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

**"P-3" Security Service**, with a recording system or watch clock, making hourly rounds covering the entire building, when the premises are not in actual operation.

**"P-4" Service Contract** with a privately owned fire department providing fire protection service to the described premises.

**"P-9"** The protective system described in the Schedule.

2. The following is added to the EXCLUSIONS section of:

**CAUSES OF LOSS – BASIC FORM  
CAUSES OF LOSS – BROAD FORM  
CAUSES OF LOSS – SPECIAL FORM  
MORTGAGE HOLDERS' ERRORS  
AND OMISSIONS COVERAGE FORM  
STANDARD PROPERTY POLICY**

We will not pay for loss or damage caused by or resulting from fire if, prior to the fire, you:

- (1) Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
- (2) Failed to maintain any protective safeguard listed in the Schedule above, and over which you had control, in complete working order.

If part of an Automatic Sprinkler System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to us will not be necessary if you can restore full protection within 48 hours.

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is understood and agreed the following applies to this Policy:

## ASBESTOS ENDORSEMENT

Form approved by Lloyd's Market Association

A This Policy only insures asbestos physically incorporated in an insured building or structure, and then only that part of the asbestos which has been physically damaged during the period of insurance by one of these Listed Perils:

fire; explosion; lightning; windstorm; hail; direct impact of vehicle, aircraft or vessel; riot or civil commotion, vandalism or malicious mischief; or accidental discharge of fire protective equipment.

This coverage is subject to each of the following specific limitations:

1. The said building or structure must be insured under this Policy for damage by that Listed Peril.
2. The Listed Peril must be the immediate, sole cause of the damage of the asbestos.
3. The Assured must report to Underwriters the existence and cost of the damage as soon as practicable after the Listed Peril first damaged the asbestos. However, this Policy does not insure any such damage first reported to the Underwriters more than 12 (twelve) months after the expiration, or termination, of the period of insurance.
4. Insurance under this Policy in respect of asbestos shall not include any sum relating to:
  - (i) any faults in the design, manufacture or installation of the asbestos;
  - (ii) asbestos not physically damaged by the Listed Peril including any governmental or regulatory authority direction or request of whatsoever nature relating to undamaged asbestos.

B. Except as set forth in the foregoing Section A, this Policy does not insure asbestos or any sum relating thereto.

**Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is understood and agreed the following applies to this Policy:**

## **BIOLOGICAL OR CHEMICAL MATERIALS EXCLUSION**

It is agreed that this Insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.



## ELECTRONIC DATA ENDORSEMENT B

### 1. Electronic Data Exclusion

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:-

- a) This Policy does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

COMPUTER VIRUS means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. COMPUTER VIRUS includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

- b) However, in the event that a peril listed below results from any of the matters described in paragraph a) above, this Policy, subject to all its terms, conditions and exclusions, will cover physical damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

Listed Perils

Fire  
Explosion

### 2. Electronic Data Processing Media Valuation

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:-

Should electronic data processing media insured by this Policy suffer physical loss or damage insured by this Policy, then the basis of valuation shall be the cost of the blank media plus the costs of copying the ELECTRONIC DATA from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such ELECTRONIC DATA to the Assured or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

## **LLOYD'S PRIVACY POLICY STATEMENT UNDERWRITERS AT LLOYD'S, LONDON**

The Certain Underwriters at Lloyd's, London want you to know how we protect the confidentiality of your non-public personal information. We want you to know how and why we use and disclose the information that we have about you. The following describes our policies and practices for securing the privacy of our current and former customers.

### **INFORMATION WE COLLECT**

The non-public personal information that we collect about you includes, but is not limited to:

- Information contained in applications or other forms that you submit to us, such as name, address, and social security number
- Information about your transactions with our affiliates or other third-parties, such as balances and payment history
- Information we receive from a consumer-reporting agency, such as credit-worthiness or credit history

### **INFORMATION WE DISCLOSE**

We disclose the information that we have when it is necessary to provide our products and services. We may also disclose information when the law requires or permits us to do so.

### **CONFIDENTIALITY AND SECURITY**

Only our employees and others who need the information to service your account have access to your personal information. We have measures in place to secure our paper files and computer systems.

### **RIGHT TO ACCESS OR CORRECT YOUR PERSONAL INFORMATION**

**You have a right to request access to or correction of your personal information that is in our possession.**

### **CONTACTING US**

If you have any questions about this privacy notice or would like to learn more about how we protect your privacy, please contact the agent or broker who handled this insurance. We can provide a more detailed statement of our privacy practices upon request.

**Notwithstanding any provision to the contrary within this Policy or any endorsement thereto, it is understood and agreed the following applies to this Policy:**

## **MICROORGANISM EXCLUSION (ABSOLUTE)**

Form approved by Lloyd's Market Association

This Policy does not insure any loss, damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:

mold, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health.

This Exclusion applies regardless whether there is (i) any physical loss or damage to insured property; (ii) any insured peril or cause, whether or not contributing concurrently or in any sequence; (iii) any loss of use, occupancy, or functionality; or (iv) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

This Exclusion replaces and supersedes any provision in the Policy that provides insurance, in whole or in part, for these matters.

**Sanction Limitation and Exclusion Clause**

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

LMA3100  
15 September 2010

## U.S.A. & CANADA

### LAND, WATER AND AIR EXCLUSION

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure land (including but not limited to land on which the insured property is located), water or air, howsoever and wherever occurring, or any interest or right therein.

### SEEPAGE AND/OR POLLUTION AND/OR CONTAMINATION EXCLUSION

Notwithstanding any provision to the contrary within the Policy of which this Endorsement forms part (or within any other Endorsement which forms part of this Policy), this Policy does not insure:

- (a) any loss, damage, cost or expense, or
- (b) any increase in insured loss, damage, cost or expense, or
- (c) any loss, damage, cost, expense, fine or penalty, which is incurred, sustained or imposed by order, direction, instruction or request of, or by any agreement with, any court, government agency or any public, civil or military authority, or threat thereof, (and whether or not as a result of public or private litigation),

which arises from any kind of seepage or any kind of pollution and/or contamination, or threat thereof, whether or not caused by or resulting from a peril insured, or from steps or measures taken in connection with the avoidance, prevention, abatement, mitigation, remediation, clean-up or removal of such seepage or pollution and/or contamination or threat thereof.

The term "any kind of seepage or any kind of pollution and/or contamination" as used in this Endorsement includes (but is not limited to):

- (a) seepage of, or pollution and/or contamination by, anything, including but not limited to, any material designated as a "hazardous substance" by the United States Environmental Protection Agency or as a "hazardous material" by the United States Department of Transportation, or defined as a "toxic substance" by the Canadian Environmental Protection Act for the purposes of Part II of that Act, or any substance designated or defined as toxic, dangerous, hazardous or deleterious to persons or the environment under any other Federal, State, Provincial, Municipal or other law, ordinance or regulation; and
- (b) the presence, existence, or release of anything which endangers or threatens to endanger the health, safety or welfare of persons or the environment.

## DEBRIS REMOVAL ENDORSEMENT

THIS ENDORSEMENT CONTAINS PROVISIONS WHICH MAY LIMIT OR PREVENT RECOVERY UNDER THIS POLICY FOR LOSS WHERE COSTS OR EXPENSES FOR DEBRIS REMOVAL ARE INCURRED.

Nothing contained in this Endorsement shall override any Seepage and/or Pollution and/or Contamination Exclusion or any Radioactive Contamination Exclusion or any other Exclusion applicable to this Policy.

Any provision within this Policy (or within any other Endorsement which forms part of this Policy) which insures debris removal is cancelled and replaced by the following:

1. In the event of direct physical damage to or destruction of property, for which Underwriters hereon agree to pay, or which but for the application of a deductible or underlying amount they would agree to pay (hereinafter referred to as "Damage or Destruction"), this Policy also insures, within the Sum Insured, subject to the limitations and method of calculation below, and to all the other terms and conditions of the Policy, costs or expenses;
  - a) which are reasonably and necessarily incurred by the Assured in the removal, from the premises of the Assured at which the Damage or Destruction occurred, of debris which results from the Damage or Destruction; and
  - b) of which the Assured becomes aware and advises the amount thereof to Underwriters hereon within one year of the commencement of such Damage or Destruction.
2. In calculating the amount, if any, payable under this Policy for loss where costs or expenses for removal of debris are incurred by the Assured (subject to the limitations in paragraph 1 above):
  - a) the maximum amount of such costs or expenses that can be included in the method of calculation set out in (b) below shall be the greater of US\$25,000 (twenty-five thousand dollars) or 10% (ten percent) of the amount of the Damage or Destruction from which such costs or expenses result; and
  - b) the amount of such costs or expenses as limited in (a) above shall be added to:
    - i) the amount of the Damage or Destruction; and
    - ii) all other amounts of loss, which arise as a result of the same occurrence, and for which Underwriters hereon also agree to pay, or which but for the application of a deductible or underlying amount they would agree to pay; and

the resulting sum shall be the amount to which any deductible or underlying amount to which this Policy is subject and the limit (or applicable sub-limit) of this Policy, shall be applied.

## **TERRORISM EXCLUSION ENDORSEMENT**

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto it is agreed that this insurance excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this endorsement an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This endorsement also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Underwriters allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Assured.

In the event any portion of this endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

## **U.S. Terrorism Risk Insurance Act of 2002 as amended Not Purchased Clause**

*This Clause is issued in accordance with the terms and conditions of the "U.S. Terrorism Risk Insurance Act of 2002" as amended as summarized in the disclosure notice.*

It is hereby noted that the Underwriters have made available coverage for "insured losses" directly resulting from an "act of terrorism" as defined in the "U.S. Terrorism Risk Insurance Act of 2002", as amended ("TRIA") and the Insured has declined or not confirmed to purchase this coverage.

This Insurance therefore affords no coverage for losses directly resulting from any "act of terrorism" as defined in TRIA except to the extent, if any, otherwise provided by this policy.

All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged and apply in full force and effect to the coverage provided by this Insurance.

LMA5219

12 January 2015