

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK


**HARLEYSVILLE WORCESTER  
INSURANCE COMPANY,**

**Plaintiff,**

v.

**DENESHWAR GIRDHARI, and  
DHANMATTI LALDHARRY,**

**Defendants.**

**BLOCK, J.**  **FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ OCT 17 2011 ★

Civil Action No:

**REYES, M.J.** BROOKLYN OFFICE

**SUMMONS ISSUED**

**PLAINTIFF'S DECLARATORY JUDGMENT COMPLAINT**

Plaintiff, Harleysville Worcester Insurance Company ("Harleysville"), by and through its undersigned counsel, alleges as follows:

1. Plaintiff, Harleysville is incorporated in the Commonwealth of Massachusetts and has its principal place of business at 120 Front Street, Worcester, Massachusetts 01608-1408.
2. Upon information and belief, Defendant Deneshwar Girdhari is a citizen and resident of the State of New York, residing at 181-16 93rd Avenue, Jamaica, New York 11423.
3. Upon information and belief, Defendant Dhanmatti Laldharry was, at all relevant times, the wife of Defendant Deneshwar Girdhari and is a citizen and resident of the State of New York, residing at 181-16 93rd Avenue, Jamaica, New York 11423.
4. Defendants Deneshwar Girdhari and Dhanmatti Laldharry (hereinafter collectively referred to as "the Defendants") own a three-story mixed use building located at 2033-2035 Broadway, Schenectady, New York 12306.

## JURISDICTION & VENUE

5. This is an action for declaratory judgment pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 and 28 U.S.C. § 2202, and F.R.C.P. 57, for the purpose of determining a question of actual controversy between the parties under a policy of insurance as hereinafter more fully appears.

6. This Court has jurisdiction under 28 U.S.C. § 1332 because the citizenship of the parties is diverse and the amount in controversy exceeds \$75,000.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

## POLICY

8. Plaintiff Harleystville issued a "Deluxe Business Owners Policy" to Defendants, bearing policy number BO 5J3382 (the "Policy"), the subject of which is the premises located at 2033-2035 Broadway, Schenectady, New York 12306 (the "subject property"). The Policy was issued for the period effective from August 22, 2009, through August 22, 2010. A true and correct copy of the Policy is attached hereto and made part hereof as Exhibit "A".

9. The Policy states the following in pertinent part:

### **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.*

\* \* \*

### **3. Covered Cause of Loss**

#### ***RISKS OF DIRECT PHYSICAL LOSS unless the loss is:***

- a. Excluded in Section B., Exclusions; or*
- b. Limited in Paragraph A4. Limitations; that follow.*

\*\*\*

**E. PROPERTY LOSS CONDITIONS**

**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 by a Covered Cause of Loss. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses for emergency and temporary repairs, for consideration in the settlement of the claim. This will not increase the Limit of Insurance.*

\*\*\*

- (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.*

\*\*\*

- (8) *Cooperate with us in the investigation and 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 book and records. In the event of an examination, an insured's answers must be signed.*

\*\*\*

**B. EXCLUSIONS**

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

\*\*\*

- f. *Dishonesty: Dishonest or criminal act by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:*

- (1) *Acting alone or in collusion with others; or*  
(2) *Whether or not occurring during the hours of employment.*

*This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.*

\*\*\*

**NEW YORK CHANGES – FRAUD**

*This endorsement modifies insurance provided under the following:*

**BUSINESSOWNERS POLICY**

*The CONCEALMENT, MISREPRESENTATION OR FRAUD Condition is replaced by the following:*

**FRAUD**

*We do not provide coverage for any insured ("insured") who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss ("loss") or damage for which coverage is sought under this policy.*

*However, with respect to insurance provided under the COMMERCIAL AUTO COVERAGE PART, we will provide coverage to such "insured" for damages sustained by any person who has not made fraudulent statements or engaged in fraudulent conduct if such damages are otherwise covered under the policy.*

\*\*\*

## HISTORY OF THE CONTROVERSY

10. On or about November 1, 2009, a fire occurred at the subject premises.
11. As a result of said loss, Defendants placed Harleysville on notice of a claim on or about November 2, 2009.
12. Subsequent to being placed on notice of the loss, Harleysville undertook an investigation of the fire subject to a reservation of rights. See Exhibit "B", letter from Steven LaPierre, dated November 5, 2009.
13. Through its post-loss investigation, Harleysville has determined that the November 1, 2009 fire was incendiary, with separate and multiple points of origin in the second-floor apartment of the subject property.
14. Samples taken from the second-floor apartment confirmed the presence of ignitable liquid - specifically, gasoline - in the areas of origin.
15. Upon the fire department's arrival, the building was secured.
16. As part of its post-loss investigation, Harleysville interviewed Defendant Deneshwar Girdhari regarding his financial condition.
17. On or about November 16, 2009, Defendant Girdhari submitted to a recorded interview with Harleysville's representative Peter Irzyk, and stated that he had no outstanding liens or judgments, his credit card debt totaled between seven thousand dollars (\$7,000.00) and eight thousand dollars (\$8,000.00), and no lawsuits had been filed against him.
18. Defendants were asked to provide documents concerning their personal and business finances, and to give sworn testimony. See Exhibit "C", letter from Robert Runyon, III, dated February 16, 2010.

19. Defendants failed to provide much of the documentation requested in advance of their examinations under oath, including but not limited to utility records.

20. On or about June 25, 2010, Defendant Girdhari was examined under oath and initially testified that he was not experiencing any financial problems prior to the date of the fire.

21. Based on its investigation, including but not limited to the examination under oath of Defendant Lladharry, subsequent document requests and additional examinations under oath of Defendants, Harleysville discovered that Defendants were experiencing significant financial distress in the year leading up to the fire.

22. Harleysville learned that Defendants stopped making mortgage payments on their principal residence in March of 2010, and entered into a debt consolidation program in April of 2009 due to their inability to meet their financial obligations in a timely manner.

23. Additionally, Harleysville learned that prior to the fire, Defendants had been served with a lawsuit due to non-payment on a Chase credit card account exceeding eighteen thousand (\$18,000.00) dollars, were delinquent in property taxes to the City of Schenectady, and had accrued over eleven thousand (\$11,000.00) in past-due electric bills for the subject property.

24. At their examinations under oath on June 25, 2010 and October 29, 2010, Defendants testified that they were made aware of the fire when a tenant of the building, Tony Francis, contacted Defendant Girdhari on his cellular phone.

25. Harleysville discovered that Defendants' representations were false, and Defendant Girdhari placed an outgoing call to a third party in the area of the subject property at 7:09 a.m. prior to receiving any calls notifying of the fire.

26. One or both of the Defendants voluntarily and/or intentionally authorized, procured, assisted or conspired with others to cause the November 1, 2009 fire at the subject property.

27. Throughout the investigation of the claim, Harleysville has learned of numerous acts by the Defendants which constitute fraudulent conduct designed to defraud Harleysville including, but not limited to, misrepresenting and concealing Defendants' financial condition at the time of the loss, and misrepresenting communication with third parties at times relevant to when the fire occurred.

**COUNT I**  
**Declaratory Relief**

28. Harleysville repeats and realleges the allegations set forth in paragraphs 1 through 27 hereof as if more fully set forth herein.

29. Defendants intentionally concealed and/or misrepresented material facts and circumstances surrounding the fire loss and the claim presented, including, but not limited to, the cause and origin of the fire, the circumstances surrounding the loss, Defendants' financial condition prior to the fire and related matters, as stated above.

30. Defendants knew or should have known that their intentional concealment and/or misrepresentation of material facts would be to the detriment of Harleysville, and were made in bad faith.

31. Defendants and/or their authorized representatives and/or persons to whom the property was entrusted, acting on behalf of Defendants materially breached the contractual duties owed Harleysville under the Policy by engaging in fraudulent conduct as stated above.

32. The Policy provides that the Defendants must cooperate with Harleysville in the investigation of the claim. See Exhibit "A" (Policy, E. *Property Loss Conditions, 3. Duties in the Event of Loss or Damage*).

33. The false, misleading and incomplete statements made by Defendants as set forth above, demonstrate a refusal to cooperate with Harleysville's investigation of the claim.

34. Harleysville's ability to complete its investigation of the claim was delayed impeded and prejudiced by the Defendants' refusal to cooperate.

35. There exists an actual case or controversy of justiciable nature between Harleysville and the Defendants concerning the rights and obligations of each party under the Policy.

36. Harleysville has complied with all conditions precedent under the Policy and has reserved all rights and defenses under the Policy and applicable law.

37. Harleysville has also sustained damage as a result of the Defendants' intentional destruction of the property, fraud, and breach of the Policy conditions in that Harleysville has incurred substantial expenses for responding to, investigating, adjusting and evaluating the Defendants' claim. Harleysville has also incurred, and will continue to incur substantial expense for attorneys' fees.

38. By reason thereof, Harleysville is entitled to a declaration that coverage is not afforded to the loss arising from the fire at the subject building as a result of the Defendants' material breach of the terms and conditions of the Policy.

**COUNT II**  
**Breach of Contract**

39. Harleysville repeats and realleges the allegations set forth in paragraphs 1 through 38 hereof as if more fully set forth herein.



40. Defendants' conduct as alleged above constitutes a breach of the Defendants' contractual duties owed to Harleysville under the Policy.

41. As a direct result of said breach of contract, Defendants are liable for all consequential and compensatory damages incurred by Harleysville, including but not limited to all attorneys' fees and costs.

42. Harleysville has satisfied all of its obligations and responsibilities under the applicable contract of insurance, and has complied with all conditions precedent to assert this breach of contract.

**COUNT III**  
**Breach of Duty of Good Faith**

43. Harleysville repeats and realleges the allegations set forth in paragraphs 1 through 42 hereof as if more fully set forth herein.

44. As parties to the relevant policy of insurance, Defendants have an absolute duty of good faith and fair dealing.

45. Defendants acted in bad faith towards Harleysville by engaging in the aforementioned conduct.

**COUNT IV**  
**Common Law Fraud**

46. Harleysville repeats and realleges the allegations set forth in paragraphs 1 through 45 hereof as if more fully set forth herein.

47. The aforesaid conduct of the Defendants constitutes fraud and deceit, in that the Defendants, with the intent to deceive and defraud Harleysville, intentionally and knowingly misrepresented and concealed material information from Harleysville regarding:

- a. the November 1, 2009 fire loss at the subject property;

b. the true extent of the Defendants' financial difficulties prior to the claimed fire loss; and

c. the events that occurred on or around the time the fire loss occurred.

48. Harleystville justifiably relied upon the representations of Defendants in their submission of the claim for loss concerning the subject property, and the damages sustained and reasonably relied upon the information and facts submitted by the Defendants concerning the circumstances surrounding the alleged claim of loss to Harleystville's detriment.

49. As a further proximate result of Defendants' conduct, Harleystville has sustained additional costs, expenses, and fees, and has expended an exorbitant amount of time in investigating Defendants' claim and now litigating this matter.

50. Defendants' conduct was willful, wanton, and outrageous warranting an award of punitive damages.

**WHEREFORE**, Plaintiff Harleystville seeks:

(a) For Count I – Declaratory Relief, judgment in its favor, and the Declarations by this Court that Harleystville has no duty to provide coverage and no obligations to Defendants or any other party as a result of the November 1, 2009 fire, pursuant to the terms and conditions of the Policy;

(b) For Count II – Breach of Contract, judgment in its favor and against Defendants for compensatory and consequential damages as well as interest, costs of suit and attorneys' fees and any other damages that this Court deems appropriate.

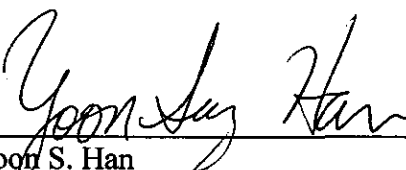
(c) For Count III – Breach of Duty of Good Faith, Harleystville demands judgment in its favor and against Harleystville for compensatory, consequential and punitive damages as well

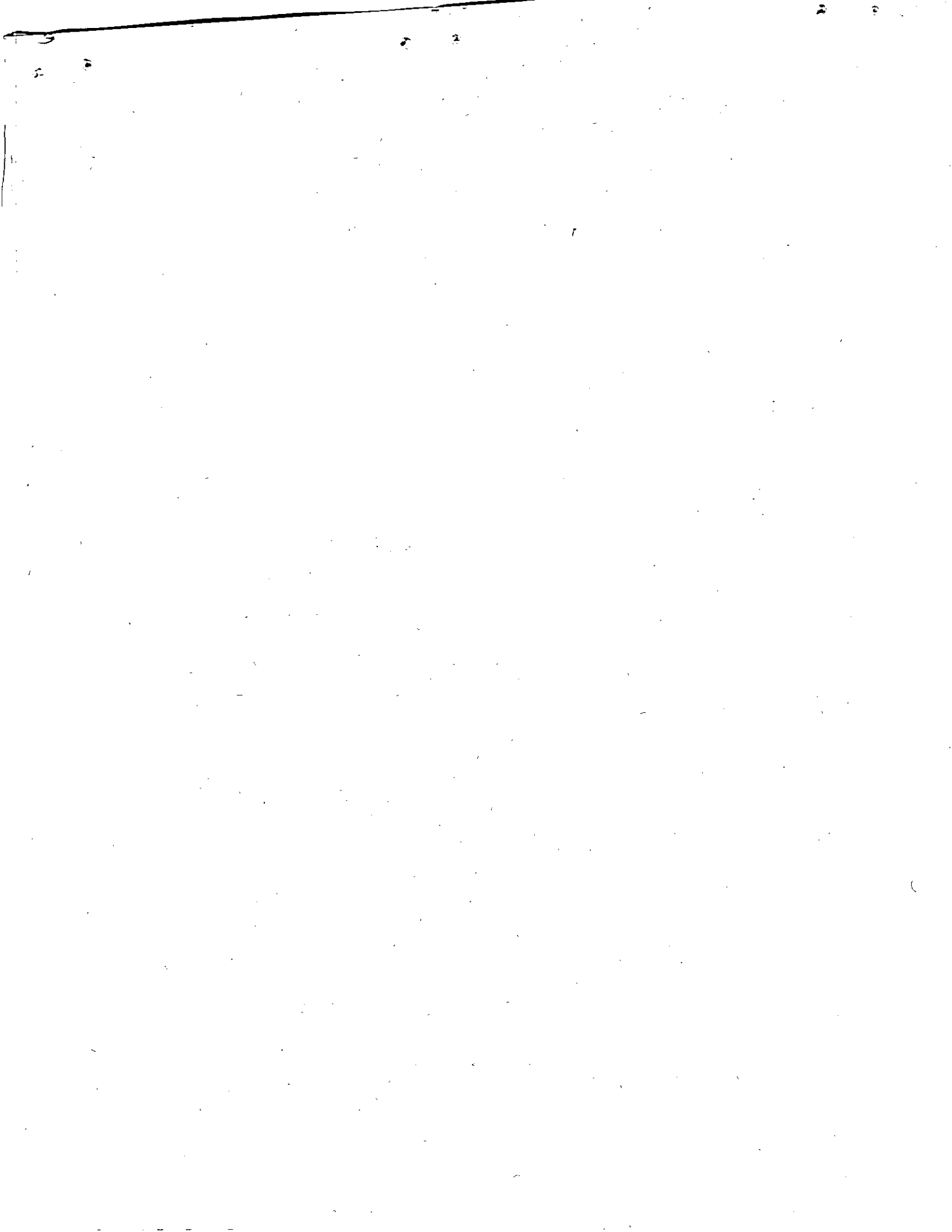
as interest, costs of suit and attorneys' fees and any other damages this Honorable Court deems appropriate.

(d) For Count IV – Common Law Fraud, Harleysville requests this Honorable Court grant judgment in its favor, and against Defendants and seeks compensatory damages, consequential and other punitive damages as well as interest, costs of suit, cost of investigation, and attorneys' fees in amount in excess of \$75,000.00 and any other damages which this Court deems appropriate.

Dated: New York, New York  
October 17, 2011

**NELSON LEVINE de LUCA & HORST, LLC**

By:   
\_\_\_\_\_  
Yoon S. Han  
One Battery Park Plaza, 32<sup>nd</sup> Floor  
New York, New York 10004  
(212) 233-0130  
(212) 233-0172 (facsimile)  
*Counsel for Plaintiff,*  
*Harleysville Worcester Insurance Company*



- Harleysville Mutual Insurance Company
- Harleysville Insurance Company of Ohio\*
- Harleysville-Atlantic Insurance Company
- Harleysville Insurance Company of New Jersey
- Harleysville Preferred Insurance Company\*
- Harleysville Lake States Insurance Company\*
- Harleysville Insurance Company\*
- Harleysville Insurance Company of New York\*
- Harleysville Pennland Insurance Company\*
- Harleysville Worcester Insurance Company\*

## LETTER OF CERTIFICATION

March 2, 2010

Steven LaPierre  
Northeast Claims Service Center

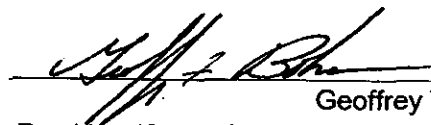
This is to certify that to the best of my knowledge and belief the attached is a true and correct copy of:

BO 5J3382, all policy terms from 8/22/09 to 8/22/10,

insofar as it relates to the insurance afforded hereunder at the following location:

181-16 - 93 Ave, Jamaica, Queens, NY, 11423, to the Named Insured: Deneshwar Girdhari & Dhanmatti  
Laldharry,

on the date of loss 11/1/09, and purchased in New York.



Geoffrey T. Bohanan  
Vice President/CL Underwriting Regional Manager

\*These companies changed their name effective July 1, 2001: Harleysville Insurance Company of Ohio f/k/a Great Oaks Insurance Company; Harleysville Preferred Insurance Company f/k/a Huron Insurance Company; Harleysville Lake States Insurance Company f/k/a Lake States Insurance Company; Harleysville Insurance Company f/k/a

Minnesota Fire and Casualty Company; Harleysville Insurance Company of New York f/k/a New York Casualty Insurance Company; Harleysville Pennland Insurance Company f/k/a Pennland Insurance Company; and Harleysville Worcester Insurance Company f/k/a Worcester Insurance Company.

\*\*Penn Mutual obligations have been assumed by Harleysville Mutual Insurance Company.

Harleysville Worcester Insurance Company  
120 Front Street, Suite 500  
Worcester, MA 01608-1408  
www.harleysvillegroup.com

**DELUXE  
BUSINESS OWNERS POLICY  
BO 5J3382**



Named Insured:

**DENESHWAR GIRDHARI &  
DHANMATTI LALDHARRY  
181 16 93 AVE  
JAMAICA NY 11423**

**Account 5J3382  
Policy Term 08/22/09 to 08/22/10  
12:01 A.M. Standard Time  
Issue Date 06/16/09  
Reason for Issue Renewal Certificate**

For assistance please contact  
**CBS COVERAGE GROUP INC**  
at 1-866-825-7248

**(Agent Code 74-3653)**

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**Form Of Business: Individual  
Business Description: Apartment**

Total Annual Policy Premium:	\$1,857.00
Total Policy Premium:	\$1,857.00
New York Fire Insurance Fee:	\$10.67
Total Amount Due:	\$1,867.67

The amount shown above is the total amount due. This premium is due as indicated on the premium invoice. Failure to remit when due can result in the cancellation of your policy. If you request cancellation, there is a minimum premium retention for this policy of \$75.

Renewal offer is contingent upon payment of prior policy term.

Insurance is afforded only with respect to the coverages listed. The limit of our liability shall be as stated herein subject to all terms of the policy. For specific provisions and coverage definitions applicable to the following schedules, refer to the appropriate attached form or endorsement. A schedule of forms and endorsements made part of this policy can be found at the end of this declarations.

Harleysville Worcester Insurance Company  
 120 Front Street, Suite 500  
 Worcester, MA 01608-1408  
 www.harleysvillegroup.com

**DELUXE  
 BUSINESS OWNERS POLICY  
 BO 5J3382**



Policy Term 08/22/09 to 08/22/10  
 12:01 A.M. Standard Time  
 Issue Date 06/16/09  
 Agent Code 74-3653

**DENESHWAR GIRDHARI &**

**SCHEDULE OF LOCATIONS/PREMISES**

Loc No	Location Description
001	2035 Broadway Schenectady NY 12306

**SCHEDULE OF COVERAGES**

**Section I: Property Coverages Section I Deductible: \$2,500**

Loc 001 Bldg 001	Limit of Insurance
Construction: Frame	
Terr: 002 Protection: 04 Occupied By: Tenant(s)	
Occupancy: Grocery Store	
Class: 65140 - Apartment Buildings - 3 or 4 Families	
Building	\$333,000
Business Income and Extra Expense	Refer to policy text
Accounts Receivable	\$25,000
Money and Securities	Inside the Premises \$25,000 Outside the Premises \$25,000

**Section II: Business Liability**

Business Liability and Medical Expenses	
Each Occurrence	\$1,000,000
General Aggregate	
(Other than Products-Completed Operations)	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000
Fire Legal Liability	Each Occurrence \$100,000
Medical Expenses	Each Person \$10,000

**FORMS AND ENDORSEMENTS**

		Loc/ State Bldg
PJ0003	0205 Policy Jacket	
*BOW7165	0109 New York Changes	
BOW7264	0693 Two or More Policies Issued By Us	
B07281	0701 Add-vantage Business Owners Coverage Extension Endorsement	
B07312	0795 New York Changes - Fraud	
BP0515	0108 Disclosure Pursuant To Terrorism Risk Insurance Act	
PT0620	0193 Deluxe Business Owners Policy	
B07395	1001 Equipment Breakdown Coverage Endorsement	
B07411	0201 Civil Authority Amendment Endorsement	
B07433	0802 Nuclear Hazard Exclusion Amendment	
BP0523	0108 Cap On Losses From Certified Acts Of Terrorism	
IL7142	1198 Exclusion of Certain Computer-Related Losses	
B07233	0193 Employment - Related Practices Exclusion	
B07282	0194 New York Changes - Premium Audit	
B07291	0694 New York Changes-Transfer of Duties When a Limit	



Harleysville Worcester Insurance Company  
120 Front Street, Suite 500  
Worcester, MA 01608-1408  
www.harleysvillegroup.com

**DELUXE  
BUSINESS OWNERS POLICY  
BO 5J3382**



**Policy Term** 08/22/09 to 08/22/10  
12:01 A.M. Standard Time  
**Issue Date** 06/16/09  
**Agent Code** 74-3653

**DENESHWAR GIRDHARI &**

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B07417	0901	of Insurance is Used Up
B07418	1004	Exclusion - Asbestos, Silica or Talc Amendment of Personal Injury and Advertising Injury Coverage
B07443	0103	War Liability Exclusion
CG7149	0795	Lead Liability Exclusion--New York

**IMPORTANT INFORMATION**  
The following material contains information about your policy.  
Please read carefully.

ST7115	0887	Premium Audit Notice
ST7481	0405	Real Estate Management "Best Practices"
ST7555	1104	Important Notice To Policyholders
Z887	1299	Direct Claims Reporting Saves You Time and Money!

\* Indicates a new or replacement form. Retain listed forms not replaced.

**Renewal Insuring Agreement:** In consideration of payment of the premium specified on the renewal declarations, this policy is renewed for the period stated. The renewal is subject to all terms, conditions, forms and endorsements attached to the policy or to this renewal declarations.

Harleysville  
Worcester  
Insurance  
Company

  
**Harleysville**<sup>™</sup>  
120 Front Street, Suite 500  
Worcester, Massachusetts 01608

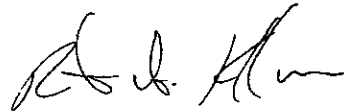
This policy jacket with the policy provisions, declarations or information page, and endorsements, if any, completes this policy.

We will provide insurance described in this policy in return for the premium and compliance with all applicable policy provisions.

In Witness Whereof, the Company has caused this policy to be executed and attested.



*Dennis Otmaskin*  
Dennis Otmaskin  
President



*Robert A. Kauffman*  
Robert A. Kauffman  
Secretary

This endorsement modifies insurance provided by the following:

**BUSINESS OWNERS POLICY  
CONTRACTORS BUSINESS OWNERS POLICY  
DELUXE GARAGE OWNERS POLICY**

**BOW-7165  
(Ed. 1-09)**

**NEW YORK CHANGES**

The provisions of Paragraphs A., B., C. and D. apply unless Paragraph E. applies.

A. Paragraphs 1., 2., 3. and 5. of the CANCELLATION Common Policy Condition are replaced by the following:

1. The first Named Insured shown in the Declarations may cancel this entire policy by mailing or delivering to us advance written notice of cancellation.

2. CANCELLATION OF POLICIES IN EFFECT

a. 60 DAYS OR LESS

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

(1) 30 days before the effective date of cancellation if we cancel for any reason not included in paragraph (2) below.

(2) 15 days before the effective date of cancellation if we cancel for any of the following reasons:

(a) Nonpayment of premium. If we cancel for this reason, our notice of cancellation will inform the first Named Insured of the amount due;

(b) Conviction of a crime arising out of acts increasing the hazard insured against;

(c) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim;

(d) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against and which occurred subsequent to inception of the current policy period;

(e) Material physical change in the

property insured, occurring after issuance or last annual renewal anniversary date of the policy, which results in the property becoming uninsurable in accordance with our objective, uniformly applied underwriting standards in effect at the time the policy was issued or last renewed; or material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;

(f) Required pursuant to a determination by the Superintendent that the continuation of our present premium volume would jeopardize our solvency or be hazardous to the interest of our policyholders, our creditors or the public.

(g) A determination by the Superintendent that the continuation of the policy would violate, or would place us in violation of, any provision of the Insurance Code; or

(h) Where we have reason to believe, in good faith and with sufficient cause, that there is a probable risk of danger that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. If we cancel for this reason, you may make a written request to the Insurance Department, within 10 days of receipt of this notice, to review our cancellation decision. Also, we will simultaneously send a copy of this cancellation notice to the Insurance Department.

**b. FOR MORE THAN 60 DAYS**

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy we issued, we may cancel only for any of the reasons listed in paragraph a.(2) above, provided

(1) We will mail the first Named Insured written notice at least 15 days before the effective date of cancellation; and

(2) If we cancel for nonpayment of premium, our notice of cancellation informs the first Named Insured of the amount due.

3. We will mail or deliver our notice, including the reason for cancellation, to the first Named Insured at the address shown in the policy and the authorized agent or broker.

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.

However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

**B. The following is added to the CANCELLATION Common Policy Condition:**

7. If one of the reasons for cancellation in paragraph A.2.a.(2) or F.2.b.(2) exists, we may cancel this entire policy, even if the reason for cancellation pertains only to a new coverage or endorsement initially effective subsequent to the original issuance of this policy.

**C. The following Conditions are added:**

**1. NONRENEWAL**

If we decide not to renew this policy we will send notice as provided in Paragraph C.3. below.

**2. CONDITIONAL RENEWAL**

If we condition renewal of this policy upon:

a. Change of limits;

b. Change in type of coverage;

c. Reduction of coverage;

d. Increased deductible;

e. Addition of exclusion; or

f. Increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added; or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;

we will send notice as provided in paragraph C.3. below.

**3. NOTICES OF NONRENEWAL AND CONDITIONAL RENEWAL**

a. If we decide not to renew this policy or to conditionally renew this policy as provided in paragraphs C.1 and C.2. above, we will mail or deliver written notice to the first Named Insured shown in the Declarations at least 60 but not more than 120 days before:

(1) The expiration date; or

(2) The anniversary date if this is a continuous policy.

b. Notice will be mailed or delivered to the first Named Insured at the address shown in the policy and the authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.

c. Notice will include the specific reason(s) for nonrenewal or conditional renewal, including the amount of any premium increase for conditional renewal and description of any other changes.

d. If we violate any of the provisions of paragraphs C.3.a., b. or c. above by sending the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice:

(1) Coverage will remain in effect at the same terms and conditions of this policy at the lower of the current rates or the prior period's rates until 60 days after such notice is mailed or delivered, unless the first Named Insured, during this 60 day period, has replaced the coverage or elects to cancel.

(2) On or after the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy for another policy period, at the lower of the current rates or the prior period's rates, unless the

first Named Insured during this additional policy period, has replaced the coverage or elects to cancel.

e. If you elect to renew on the basis of a late conditional renewal notice, the terms, conditions and rates set forth in such notice shall apply;

(1) Upon expiration of the 60 day period; or

(2) Notwithstanding the provisions in Paragraphs d.(1) and d.(2), as of the renewal date of the policy if we send the first Named Insured the conditional renewal notice at least 30 days prior to the expiration or anniversary date of the policy.

f. We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.

D. The following provisions apply to the BUSINESS OWNERS LIABILITY COVERAGE FORM:

1. The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with paragraph C.3.d. above.

2. The last sentence of LIMITS OF INSURANCE does not apply when the policy period is extended because we sent the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice.

E. If this policy covers buildings or structures containing 1 to 4 dwelling units, the provisions of Paragraphs F., G., and H. of this endorsement apply.

F. Paragraph 2. of the CANCELLATION Common Policy Condition is replaced by the following:

2. Procedure and Reasons for Cancellation

a. We may cancel this entire policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

(1) 15 days before the effective date of cancellation if we cancel for non-payment of premium; provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due; or

(2) 30 days before the effective date of cancellation if we cancel for any other reason.

b. But if this policy:

(1) Has been in effect for more than 60 days; or

(2) Is a renewal of a policy we issued:

we may cancel this policy only for one or more of the following reasons:

(a) Nonpayment of premium provided however, that a notice of cancellation on this ground shall inform the insured of the amount due;

(b) Conviction of a crime arising out of acts increasing the risk of loss;

(c) Discovery of fraud or material misrepresentation in obtaining the policy or in making a claim;

(d) Discovery of willful or reckless acts or omissions increasing the risk of loss;

(e) Physical changes in the covered property that make that property uninsurable in accordance with our objective and uniformly applied underwriting standards in effect when we:

(i) Issued the policy, or

(ii) Last voluntarily renewed the policy;

(f) The Superintendent of Insurance's determination that continuing the policy would violate Chapter 28 of the Insurance Law; or

(g) Required pursuant to a determination by the Superintendent of Insurance that the continuation of our present premium volume would be hazardous to the interests of our policyholders, our creditors or the public.

#### G. CONDITIONAL CONTINUATION

Instead of canceling this policy, we may continue it on the condition that:

1. The policy limits be changed; or

2. Any coverage not required by law be eliminated.

If this policy is conditionally continued, we will mail or deliver to the first Named Insured written notice at least 20 days before the effective date of the change or elimination. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

#### H. NONRENEWAL

If, as allowed by the laws of New York State, we:

1. Do not renew this policy; or
2. Condition policy renewal upon:
  - a. Change of limits; or
  - b. Elimination of coverage;

we will mail or deliver written notice of nonrenewal or conditional renewal:

- (1) At least 45 days; but
- (2) Not more than 60 days;

before the expiration date of the policy. We will mail or deliver our notice to the first Named Insured's last known mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

- I. The last subparagraph in paragraph 3. of the PREMIUMS Common Policy Condition is replaced by the following:

Our forms then in effect will apply. If you do not pay the continuation premiums, this policy will be canceled in accordance with the cancellation procedures for nonpayment of premium as amended in paragraph A. above.

- J. The "Loading or Unloading" LIABILITY AND MEDICAL EXPENSES DEFINITION in the Business Owners Liability Coverage Form does not apply.

- K. If this policy covers the interest of the owner of any of the following types of buildings or structures:

- (1) Residential (except 1 or 2 family buildings or structures);
- (2) Commercial; or
- (3) Industrial;

the following provision is added:

Before payment to you for loss or damage to the above buildings or structures caused by or resulting from fire, we will:

BOW-7165 (Ed. 1-09)

1. Deduct from your payment the claim of any tax district that issues a certificate of lien in accordance with the Insurance Law; and
2. Pay directly to the tax district the amount of the claim.

When we pay that claim, we will have no obligation to pay the amount of that claim to you. Our payment of that claim within 30 days of our receipt of the certificate of lien will be a conclusive presumption that the claim was valid and properly paid.

- L. When the property is subject to the Anti-Arson Application in accordance with New York Insurance Department Regulation No. 96, the following provisions are added:

If you fail to return the completed, signed and affirmed anti-arson application to us:

1. Or our broker or agent within 45 days of the effective date of a new policy, we will cancel the entire policy by giving 20 days written notice to you and to the mortgage holder shown in the Declarations.
2. Before the expiration date of any policy, we will cancel the policy by giving written notice to you and to the mortgage holder shown in the Declarations at least 15 days before the effective date of cancellation.

If the notice in L.1. or L.2. above is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

The cancellation provisions set forth in L.1. and L.2. above supersede any contrary provisions in this policy including this endorsement.

- M. The following is added to:

1. The Duties In The Event of Loss or Damage PROPERTY LOSS CONDITION in the Business Owners Property Coverage Form; and
2. The Duties In The Event of Occurrence, Claim or Suit LIABILITY AND MEDICAL EXPENSES GENERAL CONDITION in the Business Owners Liability Coverage Form:

- a. Notice given by or on your behalf; or
- b. Written notice by or on behalf of any claimant;

to any of our agents in New York State, which adequately identifies you, will be the same as notice to us.

- N. Paragraphs F.2.f. and F.2.g. of the MORTGAGE HOLDERS Property General Condition are replaced by the following:

**f. CANCELLATION**

- (1) If we cancel this policy, we will give written notice to the mortgage holder at least:
  - (a) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
  - (b) 30 days before the effective date of cancellation if we cancel for any other reason.
- (2) If you cancel this policy, we will give written notice to the mortgage holder. With respect to the mortgage holder's interest only, cancellation will become effective on the later of:
  - (a) The effective date of cancellation of the insured's coverage; or
  - (b) 10 days after we give notice to the mortgage holder.

**g. NONRENEWAL**

- (1) If we elect not to renew this policy, we will give written notice to the mortgage holder at least 10 days before the expiration date of this policy.
- (2) If you elect not to renew this policy, we will give written notice to the mortgage holder. With respect to the mortgage holder's interest only, nonrenewal will become effective on the later of:
  - (a) The expiration date of the policy; or
  - (b) 10 days after we give notice to the mortgage holder.

**O. The Legal Action Against Us Condition of LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS in the Businessowners Liability Coverage Form is replaced by the following:**

**4. Legal Action Against Us**

- 1. Except as noted in Paragraph 2, no person or organization has a right under this policy:
  - a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
  - b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and a release of liability signed by us, the insured and the claimant of the claimant's legal representative.

- 2. With respect to "bodily injury" claims, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after we deny coverage or do not admit liability, we or an insured:

- (a) Brings an action to declare the rights of the parties under the policy; and
- (b) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

**P. The following provision is added and supersedes any provision to the contrary:**

Failure to give notice to us as required under this policy shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

**Q. The following is added to Paragraph E. Property Loss Conditions:**

**10. Estimation of Claims**

Upon request, we will furnish you or your representative with a written estimate of damages to real property, specifying all deductions, provided such an estimate has been prepared by us or has been prepared on our behalf for our own purposes. This estimate will be provided within thirty days after your request or its preparation, whichever is later.



This endorsement modifies insurance provided under the following:

**BUSINESS OWNERS POLICY  
CONTRACTORS BUSINESS OWNERS POLICY**

**BOW-7264  
(Ed. 6-93)**

## **TWO OR MORE POLICIES ISSUED BY US**

The following is added to Section III - Conditions:

### **Two or More Policies Issued By Us:**

If this policy and any other policy issued to you by us or any company affiliated with us apply to the same occurrence, personal injury or advertising injury, the maximum Limit of Insurance under all the policies shall not exceed the highest applicable Limit of Insurance under any one policy. This condition does not apply to any policy issued by us or an affiliated company specifically to apply as excess insurance over this policy.

This endorsement must be attached to a Change Endorsement when issued after the policy is written.

This endorsement modifies insurance provided by the following:

**BUSINESS OWNERS POLICY**

**BO-7281  
(Ed. 7-01)**

**ADD-VANTAGE  
BUSINESS OWNERS COVERAGE EXTENSION ENDORSEMENT**

For an additional premium, this endorsement modifies coverage under the following:

Basic Business Owners Policy  
Deluxe Business Owners Policy

**Section I – Property Coverages**

**A. Coverage Extensions**

1. The limits for the following Coverage Extensions are increased as noted. All other conditions remain in effect.

**Personal Property Off-Premises \$25,000**

**Property of Others \$10,000**

**Valuable Papers and Records – Cost of Research \$25,000**

2. The following provision is added to the Coverage Extensions section of A. Coverages:

**Claim Data**

You may extend the insurance that applies to Covered Property to apply to the expense you incur in preparing claim data when we require it. This includes the cost of taking inventories, making appraisals and preparing other documentation to show the extent of loss.

The most we will pay for preparation of claim data under this Coverage Extension is \$5,000. We will not pay for any expenses billed by and payable to public or private insurance adjusters.

**B. Additional Coverage**

The following **Additional Coverages** are amended or made a part of this policy.

**1. Glass Coverage**

Exterior and Interior Glass Coverage is included in this endorsement as an additional coverage. For terms and conditions of coverage, refer to Section I Optional Coverages items G.2. and G.3.

Glass coverage included in this endorsement applies to exterior and interior glass on all floors.

**2. Employee Dishonesty Coverage**

a. Employee Dishonesty Coverage is included in this endorsement as an additional coverage. For terms and conditions of coverage refer to Section I Optional Coverages item G.4.

b. (1) If any "employee benefit plan(s)" is insured jointly with any other entity under this policy, you or the Plan Administrator must select a Limit of Insurance for the Employee Dishonesty Coverage that is sufficient to provide an amount of insurance for each Plan that is at least equal to that required if each Plan were separately insured.

(2) If the first Named Insured is an entity other than a Plan, any payment we make to that Insured for loss sustained by any Plan will be held by that Insured for the use and benefit of the Plan(s) sustaining the loss.

(3) If two or more Plans are insured under this insurance, any payment we make for loss:

- (a) Sustained by two or more Plans; or
- (b) Of commingled funds or other property of two or more Plans;

that arises out of one occurrence, is to be shared by each Plan sustaining loss in the proportion that the amount of insurance required for each such Plan under ERISA provisions bears to the total of those amounts.

(4) "Employee benefit plan(s)" means any welfare or pension benefit plan shown in the Declarations that is subject to the Employee Retirement Income Security Act of 1974 (ERISA).

c. The most we will pay for loss or damage in any one occurrence is \$25,000, or the limit of insurance for Employee Dishonesty shown in the Declarations, whichever is larger.

### 3. Fire Protection Equipment

We will pay the cost of recharging your fire extinguishing systems or replacing the fire extinguishers or fire extinguishing systems, whichever is less, resulting from the discharge of the fire extinguishing agent. We will also pay the cost to clean up and remove the fire extinguishing agent.

The discharge must:

1. Be caused by a Covered Cause of Loss;
2. Result from the intended operation of the fire protection equipment to prevent or control a Covered Cause of Loss;
3. Be accidental; or
4. Result from a malfunction of the fire protection equipment.

We will not pay for loss or damage:

1. If you fail to use reasonable care to maintain the fire protection equipment in proper operating condition; or
2. Caused by discharge at the time of servicing, refilling or testing of the fire protection equipment.

The most we will pay for loss or damage in any one occurrence is \$10,000. No deductible applies to this coverage.

### 4. Lock Replacement Coverage

a. We will pay for repair or replacement of door locks and window locks damaged as a result of a burglary at the insured premises.

This coverage does not apply to:

- (1) Damage caused by or at the direction of an insured;
- (2) Any fraudulent or criminal acts committed by an insured;
- (3) Damage to any part of a burglar alarm system; or
- (4) Damage resulting from an occurrence not reported to police within 24 hours of discovery by you, your partner(s) or your employee(s).

b. The most we will pay is \$1,500. No deductible applies to this coverage.

### 5. Credit Card, Forgery and Counterfeit Money

This coverage applies only to transactions occurring with respect to conduct of the business named in the Declarations page of this policy.

a. We will pay up to \$10,000 for:

- (1) Your legal obligation to pay because of the theft of or unauthorized use of credit cards issued to or registered to you and used in your business.
- (2) Loss caused by forgery or alteration of any check or negotiable instrument.
- (3) Loss caused through acceptance in good faith of counterfeit United States or Canadian paper currency.

b. We do not cover use of a credit card:

- (1) By a resident of your household;
- (2) By an employee of your business;
- (3) By a person who has been entrusted with the card;
- (4) If you have not complied with all terms and conditions under which the card is issued.

Any loss resulting from a series of acts committed by any one person or in which any one person is concerned or implicated is considered to be one loss.

We do not cover loss arising out of the personal use of credit cards or dishonesty of the named insured, partners or employees.

No deductible applies to this coverage.

c. Defense:

- (1) We may investigate and settle any claim or suit that we decide is appropriate. Our duty to defend a claim or suit ends when the amount we pay for the loss equals our limit of liability.
- (2) If a suit is brought against an insured for liability under the Credit Card coverage we will provide a defense at our expense by counsel of our choice.
- (3) We have the option to defend at our expense an insured or an insured's bank against any suit for the enforcement of payment under the Forgery Coverage.

## 6. Preservation of Property

Additional Coverage **Preservation of Property** is deleted in its entirety and replaced by the following:

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

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

## 7. Fire Department Service Charge

Additional Coverage **Fire Department Service Charge** is deleted in its entirety and replaced by the following:

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$5,000 or your liability for fire department service charges:

- a. Assumed by contract or agreement prior to loss; or
- b. Required by local ordinance.

## 8. Signs

We will pay for direct physical loss of or damage to outdoor signs as provided in Section I Optional Coverages item G.1. No deductible applies to this coverage.

9. The following Additional Coverage provisions apply only to the DELUXE BUSINESS OWNERS POLICY:

### a. Sewer Backup

Paragraph A.5.f. is replaced by the following:

We will pay for loss caused by the backup of water from a sewer or drain. The most we will pay under this additional coverage is \$10,000 in any one occurrence.

### b. Spoilage

Paragraph A.5.n. is replaced by the following:

- (1) We will pay for loss or damage to "perishable stock" caused by mechanical breakdown or mechanical failure of refrigerating, cooling or humidity control apparatus or equipment. This coverage also applies to loss or damage to "perishable stock" that results from contamination by the refrigerant.

(2) We will pay for loss or damage to "perishable stock" caused by partial or complete interruption of electrical power. The interruption may originate on or off the described premises, providing the interruption is due to conditions beyond your control.

(3) We will not pay for loss or damage caused by or resulting from the breaking of any glass that is a permanent part of any refrigerating, cooling or humidity control unit.

(4) The spoilage coverage provided under this endorsement does not apply if such coverage is also provided by the Equipment Breakdown Coverage Endorsement.

The most we will pay under this additional coverage is \$10,000 in any one occurrence.

## 10. Ordinance or Law Coverage

### a. Coverage

#### (1) Coverage A – Coverage For Loss to the Undamaged Portion of the Building

If a Covered Cause of Loss occurs to covered Building property, we will pay for loss to the undamaged portion of the building caused by enforcement of any ordinance or law that:

(a) Requires the demolition of parts of the same property not damaged by a Covered Cause of Loss;

(b) Regulates the construction or repair of buildings, or establishes zoning or land use requirements at the described premises; and

(c) Is in force at the time of loss.

Coverage A is included within the Limit of Insurance applicable to the Covered Building property shown in the Declarations. This is not additional insurance.

#### (2) Coverage B – Demolition Cost Coverage

If a Covered Cause of Loss occurs to covered Building property, we will pay the cost to demolish and clear the site of undamaged parts of the property caused by enforcement of building, zoning or land use ordinance or law. The most we will pay under Coverage B is \$15,000.

The COINSURANCE Additional Condition does not apply to Demolition Cost Coverage

#### (3) Coverage C – Increased Cost of Construction Coverage

If a Covered Cause of Loss occurs to covered Building property, we will pay for the increased cost to repair, rebuild or construct the property caused by enforcement of building, zoning or land use ordinance or law. If the property is repaired or rebuilt, it must be intended for similar occupancy as the current property, unless otherwise required by zoning or land use ordinance or law.

However, we will not pay for the increased cost of construction if the building is not repaired or replaced.

The COINSURANCE Additional Condition does not apply to Increased Cost of Construction. The most we will pay under Coverage C is \$15,000.

b. We will not pay under this coverage for the costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants."

**c. Under Coverage A – Coverage for Loss to the Undamaged Portion of the Building:**

**(1)** If the Replacement Cost Coverage applies and the property is repaired or replaced on the same or another premises, we will not pay more for loss or damage to Covered Property, including loss caused by enforcement of an ordinance or law, than the lesser of:

**(a)** The amount you actually spend to repair, rebuild or reconstruct the building, but not for more than the amount it would cost to restore the building on the same premises and to the same height, floor area, style and comparable quality of the original property insured; or

**(b)** The Limit of Insurance applicable to the covered Building property.

**(2)(a)** If Replacement Cost Coverage applies and the property is not repaired or replaced; or

**(b)** If Replacement Cost Coverage does not apply:

we will not pay more for loss or damage to Covered Property, including loss caused by enforcement of an ordinance or law, than the lesser of:

**(1)** The actual cash value of the building at the time of loss; or

**(2)** The Limit of Insurance applicable to the covered Building property.

**d. We will not pay more under Coverage B – Demolition Cost Coverage than the lesser of the following:**

**(1)** The amount you actually spend to demolish and clear the site of the described premises; or

**(2)** The applicable Demolition Cost Limit of Insurance shown above.

**e. (1) We will not pay Under Coverage C – Increased Cost of Construction Coverage:**

**(a)** Until the property is actually repaired or replaced, at the same or another premises; and

**(b)** 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.

**(2)** If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay under Coverage C is the lesser of:

**(a)** The increased cost of construction at the same premises; or

**(b)** The applicable Increased Cost of Construction Limit of Insurance shown above.

**(3)** If the ordinance or law requires relocation to another premises, the most we will pay under Coverage C is the lesser of:

**(a)** The increased cost of construction at the new premises; or

**(b)** The applicable Increased Cost of Construction Limit of Insurance shown above.

**f. The terms of Ordinance or Law Coverage apply separately to each building to which this endorsement applies.**

## 11. CompuPak Coverage

Insurance is provided only for those coverages for which a Limit of Insurance is shown in the Schedule.

### Schedule:

Locations	Property Covered	Limits of Insurance
All	"Hardware"	\$10,000
	"Data" and "Media"	\$ 5,000

**Deductible:** The basic policy deductible is shown in the Declarations. The specific causes of loss deductible is \$1,000.

### a. Coverage

We will pay for "loss" to Covered Property from any of the Covered Causes of Loss.

**(1) Covered Property**, as used under CompuPak coverage, means "hardware"

- (a) Owned by you;
- (b) Leased or rented by you;
- (c) Similar property of others in your care, custody, and control and for which you are legally responsible.

Subject to the Limit of Insurance shown above.

### (2) Property Not Covered

Covered Property does not include:

- (a) Property sent by mail unless registered;
- (b) Your stock held for sale;
- (c) Property while waterborne;
- (d) Property while you lease or rent to others while it is away from your premises.

### (3) Covered Causes of Loss

We will pay for direct physical "loss" to Covered Property unless the "loss" is excluded in Section B. - EXCLUSIONS.

### (4) Additional Coverages

#### (a) Data and Media

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

The most we will pay for "data" and "media" is the limit shown above in the CompuPak Coverage Schedule. This coverage is considered additional insurance.

#### (b) Debris Removal

We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss. This Additional Coverage does not increase the Limits of Insurance provisions of the policy.

#### (c) Preservation of Property

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

- (1) While it is being moved or while temporarily stored in another location; and
- (2) Only if the "loss" occurs within 30 days after the property is first moved, and does not extend past the expiration of the policy.

This Additional Coverage does not increase the Limits of Insurance provisions of this policy.

**(5) Coverage Extensions**

In addition to the Limits of Insurance, you may extend the insurance provided by CompuPak coverage to the following:

**(a) Additional Acquired Property**

If during the policy period you acquire additional property of a type already covered by CompuPak coverage, we will cover such property for up to 60 days, or until the expiration of the policy, whichever comes first.

You must report such property within 60 days from the date acquired and pay additional premium due. However, this policy shall not cover such additional property if you do not report it to us within 60 days from the date of acquisition.

The most we will pay for all such property will be \$2,500.

**(b) Additional Acquired Premises**

If during the policy period you acquire additional "premises," we will cover property of the type already covered by CompuPak coverage at such premises for up to 60 days, or until the expiration of the policy, whichever comes first.

You must report such premises within 60 days from the date acquired and pay any additional premium due. However, this policy shall not cover such additional premises if you do not report it to us within 60 days from the date of acquisition.

The most we will pay for "loss" under this extension will be \$2,500.

**(c) Property in Transit and at Temporary Locations**

CompuPak coverage is extended to insure covered property while the covered property is in transit between points in the coverage territory and/or while at a location that is not specifically named in the Declarations.

Unless a specific Limit of Insurance is shown in the Declarations, the most we will pay for "loss" under this extension is \$10,000.

**(d) Automatic Extinguishing System Recharge**

We will reimburse you for expenses you actually incur in recharging an automatic extinguishing system used exclusively to protect covered "hardware". The most we will pay under this extension is \$10,000 at each location where "hardware" is covered as shown in the Schedule. The deductible does not apply to this coverage extension.

**(e) Duplicate Data**

We will pay for your "loss" to duplicate or back up "data" and "media" which you store at a separate location. A separate location is defined as a location at least 100 feet away from your "premises." The most we will pay under this extension is \$1,250.

**b. Exclusions**

**(1)** We will not pay for a "loss" caused directly or indirectly by any of the following. Such "loss" is excluded regardless of any other cause or event, including your negligence or the negligence of any third party, that contributes concurrently or in any sequence to the "loss".



**(a) Building Ordinance**

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.

**(b) Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under CompuPak coverage.

**(c) Nuclear Hazard**

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

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

**(d) 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.

**(2)** We will not pay for "loss" caused by any of the following:

- (a)** Delay, loss of use, loss of market or any other consequential loss.

**(b)(1)** Wear and tear;

**(2)** Rust, corrosion, mold or fungus, wet or dry rot, decay;

**(3)** Deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;

**(c)** Dishonest or criminal acts by you, any of your partners, 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 a carrier for hire.

This exclusion does not apply to intentional acts of destruction by your employees, but under no circumstances is theft by an employee covered.

**(d)** Any financial loss resulting from computer fraud committed by any person.

**(3)** We will not pay for any Extra Expense you incur caused by or resulting from any of the following:

**(a)** Programming errors or incorrectly instructing the machine;

**(b)** Interference at the described premises by strikers or other persons with rebuilding, repairing or replacing the property or with the resumption or continuation of business.

**(c)** Suspension, lapse or cancellation of any lease, license, contract or order.

**c. Limits of Insurance**

**(1)** The most we will pay for "loss" in any one occurrence is the applicable Limit of Insurance shown.

**(2)** The limits applicable to the Coverage Extensions are in addition to the Limits of Insurance.

#### **d. Deductible**

We will not pay for "loss" in any one occurrence until the amount of loss or damage exceeds the applicable deductible shown in the Declarations. We will then pay the amount of "loss" in excess of the applicable deductible, up to the applicable Limit of Insurance.

If two or more deductibles apply for one occurrence, the largest deductible will apply.

##### **(1) Basic Policy Deductible**

The Basic Policy Deductible shown in the Declarations applies to "loss" from all Covered Causes of Loss except those specified in the Specific Causes of Loss Deductible below.

##### **(2) Specific Causes of Loss Deductible**

The Specific Causes of Loss Deductible shown in the CompuPak Coverage Schedule applies to "loss" caused by the following Causes of Loss:

- (a) Mechanical breakdown;
- (b) Faulty construction or error in design;
- (c) Short circuit, or other electrical disturbance other than lighting;
- (d) Damage caused by actual work upon the property; or
- (e) Electrical or magnetic injury. Disturbance or erasure of electronic recording tapes or disks.

#### **e. Additional Conditions**

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

##### **(1) Valuation**

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

##### **(a) "Hardware"**

- (1) The most we will pay for a "loss" is the least of the following amounts:
  - (a) the cost to repair or replace the "hardware" with new "hardware" of equal performance, capacity or function;
  - (b) the amount actually spent to repair or replace the "hardware";
  - (c) the Limit of Insurance shown for "hardware" in the Schedule.
- (2) If you do not repair or replace this "hardware" within a reasonable time following "loss," the most we will pay will be the least of the following:
  - (a) actual cash value at the time of loss;
  - (b) cost it would have taken to repair the damaged "hardware"; or
  - (c) the Limit of Insurance applicable to "hardware."

##### **(b) "Data" and "Media"**

The value of the "data" and "media" will be the actual cost of reproduction or replacing it.

If the "data" is not to be reproduced or replaced, we will not pay more than the cost of the blank value of the "media."

But in no case will we pay more than the Limit of Insurance for "data" and "media" as shown in the CompuPak Coverage Schedule.

##### **(2) Coverage Territory**

We cover property wherever located within:

- (a) The United States of America (including its territories and possessions);
- (b) Puerto Rico; and
- (c) Canada.

**f. Definitions**

(1) "Data" means facts, concepts or instructions converted to a form usable in your data processing operations, including Computer Programs.

Data does not include:

(a)Accounts, bills, currency, deeds, evidences of debt, notes, securities, valuable papers, records or other documents except as they may be converted to data processing form, and then only in that form.

(b)Facts, concepts or instructions which cannot be replaced with others of like kind or quality.

(c)"Media."

(2)"Hardware" means a network of machine components capable of accepting information or converted material, processing it according to a plan or program, and producing the desired results, including telephone systems and electrical panels.

(3)"Loss" means accidental loss or damage.

(4)"Media" means materials on which "Data" is recorded, such as magnetic tapes, discs, drums, cells, paper tapes and cards, or other storage devices.

(5)"Premises" means that interior portion of the building at the address shown in the Declarations that you occupy for your business.

**C. PROPERTY LOSS CONDITIONS**

Provision 6.d.(3)b. Property of Others is deleted.

**D. BUSINESS PERSONAL PROPERTY COVERAGE**

Section 1 – Property Coverage item A.1.b.(2) is amended to read as follows:

(2)Property of others that is in your care, custody or control, plus the cost of labor, materials or services furnished or arranged by you on personal property of others; and

**Section II – Business Owners Liability Coverage**

A. The last paragraph of B.1. Exclusions-- Applicable to Business Liability Coverage is replaced by the following:

However, exclusions c., d., e., g., h., k., l., m., n. and o. do not apply to damage to premises rented to you. In addition, exclusions f. and i. do not apply to damage by fire or explosion to premises rented to you.

**B. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**

Paragraphs D.3. and D.4.a. are replaced by the following:

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to premises rented to you is the Fire Legal Liability limit shown in the Declarations.

4. a. General Aggregate Limit (Other than Products – Completed Operations

The most we will pay for all injury or damage including medical expenses arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit. This limitation does not apply to "property damage" to premises rented to you.

**C. INCIDENTAL MEDICAL MALPRACTICE LIABILITY**

Section II – Business Owners Liability Coverage Exclusion B.r. is amended to include the following exception:

This exclusion does not apply to "bodily injury" arising out of the rendering, or failure to render medical or paramedical services to persons by any nurse, emergency medical technician or paramedic who is employed by you to provide such service. However, Incidental Medical Malpractice Liability does not apply if you are engaged in the business or occupation of providing any professional health service or treatment.

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

## **NEW YORK CHANGES - FRAUD**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS POLICY**

The CONCEALMENT, MISREPRESENTATION OR FRAUD Condition is replaced by the following:

### **FRAUD**

We do not provide coverage for any insured ("insured") who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss ("loss") or damage for which coverage is sought under this policy.

However, with respect to insurance provided under the COMMERCIAL AUTO COVERAGE PART, we will provide coverage to such "insured" for damages sustained by any person who has not made fraudulent statements or engaged in fraudulent conduct if such damages are otherwise covered under the policy.

**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

## DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

### SCHEDULE

**Terrorism Premium (Certified Acts)    \$ 0**

**Additional information, if any, concerning the terrorism premium:**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

#### A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

#### B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

#### C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

# DELUXE BUSINESS OWNERS POLICY

## Section I - Property Coverage

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 - PROPERTY DEFINITIONS.

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### A. COVERAGE

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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 policy, means the following types of property for which a Limit of Insurance is shown in the Declarations:

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

- (1) Garages and storage buildings;
- (2) Completed additions;
- (3) Permanently installed: (a) fixtures; (b) machinery; and (c) equipment;
- (4) Your personal property in apartments or rooms furnished by you as landlord;
- (5) Outdoor fixtures;
- (6) Personal Property owned by you that is used to maintain or service the buildings or structures or the premises, including:
  - (a) Fire extinguishing equipment;
  - (b) Outdoor furniture;
  - (c) Floor coverings; and
  - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (7) If not covered by other insurance:
  - (a) Additions under construction, alterations and repairs to the buildings or structures;
  - (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. **Business Personal Property** located in or on the buildings at the described premises or in the open (or in a vehicle) within 100 feet of the described premises, including:

- (1) Property you own that is used in your business;
- (2) Property of others that is in your care, custody or control; but this property is not covered for more than the amount for which you are legally liable, plus the cost of labor, materials or services furnished or arranged by you on personal property of others; and
- (3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions.
  - (a) Made a part of the building or structure you occupy but do not own; and
  - (b) You acquired or made at your expense but cannot legally remove.

#### 2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motor trucks and other vehicles subject to motor vehicle registration;
- b. Bullion, "money" or "securities";
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns;
- e. Trees, shrubs or plants except as provided in the Outdoor Property Coverage Extension;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Animals, unless owned by others and boarded by you or if owned by you only as stock while inside of buildings. The most we will pay for loss or damage for covered animals is \$2,500, but not more than \$250 for any one animal.

### 3. Covered Causes of Loss

#### RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

- a. Excluded in Section B., Exclusions; or
- b. Limited in Paragraph A4., Limitations; that follow.

### 4. Limitations

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

- (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- (2) Hot water boilers or other water heating equipment caused by or resulting from a condition or event inside such boilers or equipment, other than an explosion.
- (3) Property that is missing, but there is no physical evidence to show what happened to it, such as shortage disclosed on taking inventory. This limitation does not apply to the Optional Coverage for Money and Securities.
- (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

- b. With respect to glass (other than glass building blocks) that is part of the interior or exterior of a building or structure, or part of an outdoor sign, we will not pay more than \$500 for the total of all loss or damage in any one occurrence. Subject to the \$500 limit on all loss or damage, we will not pay more than \$100 for each plate, pane, multiple plate insulating unit, radiant or solar heating panel, jalousie, louver or shutter.

This Limitation does not apply to loss or damage by the "specified causes of loss," except vandalism.

- c. We will not pay for loss of or damage to fragile articles such as glassware, statuary, marbles, chinaware or porcelains, if broken, unless caused by the "specified causes of loss" or building glass breakage. This restriction does not apply to:

- (1) Glass that is part of the interior or exterior of a building or structure;
- (2) Containers of property held for sale; or
- (3) Photographic or scientific instrument lenses.

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

- (1) \$2,500 for furs, fur garments and garments trimmed with fur.
- (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- (3) \$2,500 for patterns, dies, molds and forms.

### 5. Additional Coverages

#### a. Debris Removal

- (1) We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered

Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days or the earlier of:

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

(2) The most we will pay under this Additional Coverage is 25% of:

- (a) The amount we pay for the direct loss or damage; plus
- (b) The deductible in this policy applicable to that loss or damage.

But this limitation does not apply to any additional debris removal limit provided in paragraph (4) below.

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

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

(4) If:

- (a) The sum of loss or damage and debris removal expense exceeds the Limit of Insurance; or
- (b) The debris removal expense exceeds the amount payable under the 25% Debris Removal coverage limitation in paragraph 5 a. (2) above;

We will pay up to an additional \$5,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

**b. Preservation of Property**

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

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 10 days after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for your liability for fire department service charges:

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

**d. Collapse**

We will pay for loss or damage caused by or resulting from risks of direct physical loss involving collapse of a building or any part of a building caused only by one or more of the following:

- (1) The "specified causes of loss" or breakage of building glass, all only as insured against in this policy;
- (2) Hidden decay;
- (3) Hidden insect or vermin damage;
- (4) Weight of people or personal property;
- (5) Weight of rain that collects on a roof;
- (6) Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of construction, remodeling or renovation.

We will not pay for loss of or damage to the following types of property, if otherwise covered in this policy, under items (2), (3), (4), (5) and (6) unless the loss or damage is a direct result of the collapse of a building:

awnings; gutters and downspouts; yard fixtures; outdoor swimming pools; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

Collapse does not include settling, cracking, shrinkage, bulging or expansion.

**e. Water Damage**

If loss or damage caused by or resulting from a covered water 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 steam escapes.



We will not pay the cost of repairing or replacing the system or appliance itself; but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in sprinkler leakage; or
- (2) Is directly caused by freezing.

**f. Sewer Back Up**

We will pay for loss caused by the back up of water from a sewer or drain. The most we will pay under this additional coverage is \$2,500 in any one occurrence.

**g. Business Income**

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

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

Business Income means the:

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

**h. Extended Business Income**

We will pay for the actual loss of Business Income you incur during the period that:

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

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.

**i. Extra Expense**

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

Extra Expense means expense incurred:

- (1) To avoid or minimize the suspension of business and to continue "operations":
  - (a) At the described premises; or
  - (b) At replacement premises or at temporary locations, including:
    - (i) Relocation expenses; and
    - (ii) Costs to equip and operate the replacement or temporary locations.
- (2) To minimize the suspension of business if you cannot continue "operations."
- (3) (a) To repair or replace any property; or  
(b) To research, replace or restore the lost information on damaged valuable papers and records; to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage g. Business Income.

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

**j. 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. This coverage will apply for a period of up to two consecutive weeks from the date of that action.

#### **k. 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 earlier of:

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

The most we will pay for each location under this additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy. This limit is in addition to the Limits of Insurance.

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

(1) We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution or within your living quarters or the living quarters of your partners or any employee having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:

- (a) Theft, meaning any act of stealing;
- (b) Disappearance; or
- (c) Destruction.

(2) In addition to the Limitations and Exclusions applicable to property coverage, we will not pay for loss:

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

(3) The most we will pay for loss in any one occurrence is:

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

(4) All loss:

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

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

#### **m. Damage to Rented Buildings**

We will pay your expense to repair damage caused by criminal acts of others to the building rented by you.

The most we will pay under this additional coverage is \$1,000 in any one occurrence.

#### **n. Mechanical Breakdown - Spoilage**

(1) We will pay for loss or damage to "perishable stock" caused by mechanical breakdown or mechanical failure of refrigerating, cooling or humidity control apparatus or equipment. This coverage also applies to loss or damage to "perishable stock" that results from contamination by the refrigerant.

Mechanical breakdown and mechanical failure do not mean power interruption, regardless of how or where the interruption is caused and whether or not the interruption is complete or partial.

(2) We will not pay for loss or damage caused by or resulting from the breaking of any glass that is a permanent part of any refrigerating, cooling or humidity control unit.

(3) The most we will pay under this additional coverage is \$2,500 in any one occurrence.

#### **6. Coverage Extensions**

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

**a. Newly Acquired or Constructed Property**

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

- (a) Your new buildings while being built on the 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 25% of the Limit of Insurance for Building shown in the Declarations, but not more than \$500,000 at each building.

(2) You may extend the insurance that applies to Your Business Personal Property to apply to that property at any location you acquire other than at fairs or exhibitions.

The most we will pay for loss or damage under this Extension is 25% of the Limit of Insurance for Your Business Personal Property shown in the Declarations, but not more than \$250,000 at each building.

(3) Insurance under this Extension for each newly acquired or constructed property will end when any of the following first occurs:

- (a) This policy expires;
- (b) 60 days expire after you acquire or begin to construct the property; or
- (c) You report values to us.

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

**b. Personal Property Off Premises**

You may extend the insurance that applies to Business Personal Property to apply to covered Business Personal Property, other than "money" and "securities," while it is in course of transit or temporarily at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

**c. Property of Others**

You may extend the insurance that applies to Your Business Personal Property to apply to direct damage to 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.

**d. Outdoor Property**

You may extend the insurance provided by this policy to apply to your trees, shrubs and plants, including debris removal expense.

The most we will pay for loss or damage under this Extension is \$5,000, but not more than \$500 for any one tree, shrub or plant.

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

You may extend the insurance that applies to Business Personal Property to apply to your costs to research, replace or restore the lost information on lost or damaged valuable papers and records, including those which exist on electronic or magnetic media, for which duplicates do not exist. The most we will pay under this Extension is \$5,000 at each described premises.

**f. Accounts Receivable**

(1) We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to re-establish your records of accounts receivable; that result from direct physical loss or damage by any covered causes of to your records of accounts receivable.

(2) Exclusions

- (a) Section B., Exclusions, of Section I - Property Coverage does not apply to this Accounts Receivable Coverage, except for:
- (i) Paragraph B.1.c., Governmental Action;
  - (ii) Paragraph B.1.d., Nuclear Hazard;
  - (iii) Paragraph B.1.f., War and Military Action;
- (b) We will not pay for loss or damage caused by or resulting from any of the following:
- (i) Dishonest acts by you, anyone else with an interest in the property, or your or their employees or authorized representatives, or anyone entrusted with the property, whether or not acting alone or in collusion with other persons or occurring during the hours of employment.  
But this exclusion does not apply to a carrier for hire.
  - (ii) 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.
  - (iii) Bookkeeping, accounting or billing errors or omissions.
  - (iv) Electrical or magnetic injury, disturbance or erasure of electronic recordings.  
But we will pay for direct loss or damage caused by lightning.
  - (v) Voluntary parting with any property by you or anyone entrusted with the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
  - (vi) Unauthorized instructions to transfer property to any person or to any place.
- (c) We will not pay for loss or damage that requires any audit of records or any inventory computation to prove its factual existence.
- (d) We will not pay for loss or damage caused by or resulting from any of the following. But if loss or damage by a Covered Cause of Loss results, we will pay for that resulting loss or damage.
- (i) Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1.a., 1.b., or 1.c. above to produce the loss or damage.
  - (ii) Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
  - (iii) Faulty, inadequate or defective:
    - a. Planning, zoning, development, surveying, siting;
    - b. Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
    - c. Materials used in repair, construction, renovation or remodeling; or
    - d. Maintenance;of part or all of any property on or off the described premises.

(3) Preservation of Records

If you give us written notice within 10 days of removal of your records of accounts receivable because of imminent danger of loss or damage, we will pay for loss or damage while they are:

- (a) At a safe place away from the described premises;
- (b) Being taken to and returned from that place.

This Coverage Extension is included within the Limit of Insurance applicable to the premises from which the Covered Property is removed.

- (4) The most we will pay for loss or damage in any one occurrence is the Limit of Insurance for Accounts Receivable shown in the Declarations.  
For Accounts Receivable not at any premises described in this policy, the most we will pay is \$2,500.

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**B. EXCLUSIONS**

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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.

**b. Earth Movement**

(1) Any earth movement (other than sinkhole collapse), such as an earthquake, landslide, mine subsidence or earth sinking, rising or shifting. But if loss or damage by fire or explosion results, we will pay for that resulting loss or damage.

(2) Volcanic eruption, explosion or effusion. But if loss or damage by fire, building glass breakage or volcanic action results, we will pay for that resulting loss or damage.

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 of or damage to Covered Property.

**c. Governmental Action**

Seizure or destruction of property by order of governmental authority.

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

**d. Nuclear Hazard**

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

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

**e. Power Failure**

The failure of power or other utility service supplied to the described premises, however caused, if the failure occurs away from the described premises.

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

**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) Mudslides or mudflow;

(3) Water that backs up from a sewer or drain; or

(4) Water under the ground surface pressing on, or flowing or seeping through:

(a) Foundations, walls, floors or paved surfaces;

(b) Basements, whether paved or not; or

(c) Doors, windows or other openings.

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

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

a. **Electrical Apparatus:** Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires.

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

b. **Consequential Losses:** Delay, loss of use or loss of market.

c. **Smoke, Vapor, Gas:** Smoke, vapor or gas from agricultural smudging or industrial operations.

d. **Steam Apparatus:** Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control.

But if loss or damage by fire or combustion explosion results, we will pay for that resulting loss or damage. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

e. **Frozen Plumbing:** Water 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 water supply if the heat is not maintained.

f. **Dishonesty:** Dishonest or criminal act by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others; or
- (2) Whether or not occurring during the hours of employment.

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

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

h. **Exposed Property:** Rain, snow, ice or sleet to personal property in the open.

i. **Collapse:** Collapse, except as provided in the Additional Coverage for Collapse. But if loss or damage by a Covered Cause of Loss results at the described premises, we will pay for that resulting loss or damage.

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

k. **Other Types of Loss:**

- (1) Wear and tear;
- (2) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown including rupture or bursting caused by centrifugal force; or
- (7) The following causes of loss to personal property:
  - (a) Dampness or dryness of atmosphere;
  - (b) Changes in or extremes of temperature; or
  - (c) Marring or scratching.

But if loss or damage by the "specified causes of loss" or building glass breakage results, we will pay for that resulting loss or damage.

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

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

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

c. **Negligent Work:** Faulty, inadequate or defective:

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

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

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

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

- (1) Delay in rebuilding, repairing or replacing the property or resuming "operations," due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
- (2) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations," we will cover such loss that affects your Business Income during the "period of restoration."

b. Any other consequential loss.

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**C. LIMITS OF INSURANCE**

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

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

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

a. The Limit of Insurance for Business Personal Property will automatically increase by 25% to provide for seasonal variations.

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

- (1) The 12 months immediately preceding the date the loss or damage occurs; or
- (2) The period of time you have been in business as of the date the loss or damage occurs.

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**D. DEDUCTIBLES**

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

2. No deductible applies to the following Additional Coverages:

- a. Fire Department Service Charge;
- b. Business Income;
- c. Extra Expense;
- d. Accounts Receivable;
- e. Money and Securities; and
- f. Valuable Papers.

3. No deductible applies to the following Optional Coverages:

- a. Outdoor Signs;
- b. Exterior Glass;
- c. Interior Glass; and
- d. Employee Dishonesty.

## E. PROPERTY LOSS CONDITIONS

### 1. Abandonment

There can be no abandonment of any property to us.

### 2. Appraisal

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

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

If we submit to 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 by a Covered Cause of Loss. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses for emergency and temporary repairs, for consideration in the settlement of the claim. This will not increase the Limit of Insurance.
- (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 settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

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

### 4. Legal Action Against Us

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

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

### 5. Limitation - Electronic Media and Records

We will not pay for any loss of Business Income caused by direct physical loss of or damage to Electronic Media and Records after the longer of:

- a. 60 consecutive days from the date of direct physical loss or damage; or
- b. The period, beginning with the date of direct physical loss or damage, necessary to repair, rebuild or replace with reasonable speed and similar quality, other property at the described premises, due to loss or damage caused by the same occurrence.

Electronic Media and Records are:

- (1) Electronic data processing, recording or storage media such as films, tapes, discs, drums or cells;
- (2) Data stored on such media; or



- (3) Programming records used for electronic data processing or electronically controlled equipment.

**Example No. 1:**

A Covered Cause of Loss damages a computer on June 1. It takes until September 1 to replace the computer, and until October 1 to restore the data that was lost when the damage occurred. We will only pay for the Business Income loss sustained during the period June 1 - September 1. Loss during the period September 2 - October 1 is not covered.

**Example No. 2:**

A Covered Cause of Loss results in the loss of data processing programming records on August 1.

The records are replaced on October 15. We will only pay for the Business Income loss sustained during the period August 1 - September 29 (60 consecutive days). Loss during the period September 30 - October 15 is not covered.

## **6. Loss Payment**

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

a. We will not pay you more than your financial interest in the Covered Property.

b. We will either:

(1) Pay the value of lost or damaged property, as described in paragraph d. below;

(2) Pay the cost of repairing or replacing the lost or damaged property, plus any reduction in value of repaired items;

(3) Take all or any part of the property at an agreed or appraised value; or

(4) Repair, rebuild or replace the property with other property of like kind and quality.

c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.

d. We will determine the value of Covered Property as follows:

(1) At replacement cost (without deduction for depreciation), except as provided in (2) through (7) below.

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

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

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

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

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

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

i. Of comparable material and quality; and

ii. Used for the same purpose; or

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

(2) If the "Actual Cash Value" option applies, as shown in the Declarations, paragraph 6 d. (1) above does not apply. Instead, we will determine the value of covered property at actual cash value.

(3) The following property at actual cash value:

(a) Used or second-hand merchandise held in storage or for sale;

(b) Property of others; leased property valued at replacement cost if actual cash value option does not apply.

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

(d) Manuscripts;

(e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac.

(4) Glass at the cost of replacement with safety glazing material if required by law.

(5) Tenant's Improvements and Betterments at:

- (a) Replacement cost if you make repairs promptly.
- (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
  - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
  - (ii) Divide the amount determined in (i) above by the number of days from the installation of improvements to the expiration of the lease.
 If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
- (c) Nothing if others pay for repairs or replacement.
- (6) Valuable Papers and Records, including those which exist on electronic or magnetic media (other than prepackaged software programs), at the cost of:
  - (a) Blank materials for reproducing the records; and
  - (b) Labor to transcribe or copy the records.
- (7) Applicable only to Accounts Receivable
  - (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage, the following method will be used:
    - (i) Determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
    - (ii) Adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
  - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
    - (i) The amount of the accounts for which there is no loss or damage;
    - (ii) The amount of the accounts that you are able to re-establish or collect;
    - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
    - (iv) All unearned interest and service charges.
- (8) "Money" at its face value
- (9) "Securities" at their value at the close of business on the day the loss is discovered.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owner's 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:
  - (1) You have complied with all of the terms of this policy; and
  - (2) (a) We have reached agreement with you on the amount of loss; or
  - (b) An appraisal award has been made.

#### 7. Recovered Property

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

#### 8. Resumption of Operations

We will reduce the amount of your:

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

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

#### 9. Vacancy

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

a. Not pay for any loss or damage caused by:

- (1) Vandalism; or
- (2) Sprinkler leakage, unless you have protected the system against freezing;
- (3) Building glass breakage;
- (4) Water damage;
- (5) Theft; or
- (6) Attempted theft.

b. Reduce the amount we would otherwise pay for the loss or damage by 15%.

Buildings under construction are not considered vacant.

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### F. PROPERTY GENERAL CONDITIONS

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#### 1. Control of Property

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

If you violate a condition of this policy, we will not pay for loss or damage at the involved location. But your coverage will continue for other locations at which the violation does not apply.

#### 2. Mortgage Holders

a. The term "mortgage holder" includes trustee.

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

c. The mortgage holder has the right to receive loss payment even if the mortgage holder has started foreclosure or similar action on the building or structure.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgage holder will have the right to receive loss payment if the mortgage holder:

- (1) Pays any premium due under this policy at our request if you have failed to do so;
- (2) Submits a signed, sworn 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 mortgage holder.

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

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

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

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

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

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

g. If we do not renew this policy, we will give written notice to the mortgage holder at least 10 days before the expiration date of this policy.

### 3. No Benefit to Bailee

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

### 4. Policy Period, Coverage Territory

Under this form:

#### a. We cover loss or damage commencing:

- (1) During the policy period shown in the Declarations; and
- (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.

#### b. The coverage territory is:

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

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## G. OPTIONAL COVERAGES

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

### 1. Outdoor Signs

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

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

#### b. Paragraph A.3., Covered Cause of Loss, and Section B., Exclusions, do not apply to this Optional Coverage except for:

- (1) Paragraph B.1.c., Governmental Action;
- (2) Paragraph B.1.d., Nuclear Hazard; and
- (3) Paragraph B.1.f., War and Military Action.

#### c. We will not pay for loss or damage caused by or resulting from:

- (1) Wear and tear;
- (2) Hidden or latent defect;
- (3) Rust;
- (4) Corrosion; or
- (5) Mechanical breakdown.

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

#### e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

### 2. Exterior Glass

#### a. We will pay for direct physical loss of or damage to glass that is part of the exterior of a covered building or structure at the described premises, including lettering and ornamentation, provided the glass is:

- (1) On the basement or ground floor level of the building or structure, unless the Declarations show that this Optional Coverage is applicable to exterior glass on all floors; and
- (2) Owned by you, or owned by others but in your care, custody or control.

#### b. We will also pay for necessary:

- (1) Expenses incurred to put up temporary plates or board up openings;
- (2) Repair or replacement of encasing frames; and
- (3) Expenses incurred to remove or replace obstructions.

#### c. Paragraph A.3., Covered Causes of Loss, and Section B., Exclusions, do not apply to this Optional Coverage, except for:

- (1) Paragraph B.1.c., Governmental Action;

- (2) Paragraph B.1.d., Nuclear Hazard; and
- (3) Paragraph B.1.f., War and Military Action.

d. We will not pay for loss or damage caused by or resulting from:

- (1) Wear and tear;
- (2) Hidden or latent defect;
- (3) Corrosion; or
- (4) Rust.

e. This Optional Coverage supersedes all limitations in this policy that apply to exterior glass.

### 3. Interior Glass

a. We will pay for direct physical loss of or damage to items of glass that are permanently affixed to the interior walls, floors or ceilings of a covered building or structure at the described premises, provided each item is:

- (1) Described in the Declarations as covered under this Optional Coverage; and
- (2) Located in the basement or ground floor level of the building or structure, unless the Declarations show that this Optional Coverage is applicable to interior glass at all floors; and
- (3) Owned by you, or owned by others but in your care, custody or control.

b. We will also pay for necessary:

- (1) Expenses incurred to put up temporary plates or board up openings;
- (2) Repair or replacement of encasing frames; and
- (3) Expenses incurred to remove or replace obstructions.

c. Paragraph A.3., Covered Causes of Loss, and Section B., Exclusions, do not apply to this Optional Coverage, except for:

- (1) Paragraph B.1.c., Governmental Action;
- (2) Paragraph B.1.d., Nuclear Hazard; and
- (3) Paragraph B.1.f., War and Military Action.

d. We will not pay for loss or damage caused by or resulting from:

- (1) Wear and tear;
- (2) Hidden or latent defect;
- (3) Corrosion; or
- (4) Rust.

e. With respect to this Optional Coverage, all limitations elsewhere in this policy that apply to interior glass are eliminated.

### 4. Employee Dishonesty

a. We will pay for direct loss of or damage to Business Personal Property, including "money" and "securities," resulting from dishonest acts committed by any of your employees acting alone or in collusion with persons (except you or your partner) with the manifest intent to:

- (1) Cause you to sustain loss or damage; and also
- (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
  - (a) Any employee; or
  - (b) Any other person or organization.

b. We will not pay for loss or damage:

- (1) Resulting from any dishonest or criminal act that you or any of your partners commit whether acting alone or in collusion with other persons.
- (2) The only proof of which as to its existence or amount is:
  - (a) An inventory computation; or
  - (b) A profit and loss computation.

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

d. All loss or damage:

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

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

f. This Optional Coverage does not apply to any employee immediately upon discovery by:

- (1) You; or
- (2) Any of your partners, officers or directors not in collusion with the employee; of any dishonest act committed by that employee before or after being hired by you.

g. We will pay only covered loss or damage discovered no later than one year from the end of the Policy Period.

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

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

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

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

**5. Building Limit - Automatic Increase**

a. The Limit of Insurance for Buildings will automatically increase by the annual percentage shown in the Declarations.

b. The amount of increase will be:

- (1) The Building limit that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Building limit, 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 Building limit, divided by 365.

Example:

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

The amount of increase is

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

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**H. PROPERTY DEFINITIONS**

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1. "Money" means:

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

2. "Operations" means your business activities occurring at the described premises.

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

- a. Begins with the date of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the described premises; and

b. Ends on the date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality.

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

- (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or access the effects of "pollutants."

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

4. **"Perishable Stock"** means property:

- a. Maintained under controlled temperature or humidity conditions for preservation; and
- b. Susceptible to loss or damage if the controlled temperature or humidity conditions change.

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

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

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

7. **"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 similar rock formations. It does not include the cost of filling sinkholes.

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 or cracking of any part of a system or appliance containing water or steam.

8. **"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.

## Section II - Business Owners Liability Coverage

Words and phrases that appear in quotation marks have special meaning. Refer to SECTION F - LIABILITY AND MEDICAL EXPENSES DEFINITIONS.

### A. COVERAGE

1. **Business Liability.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies. No other obligations or liability to pay sums or perform acts or services is covered unless explicitly provided under **COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS.**

a. This insurance applies only:

(1) To "bodily injury" or "property damage":

(a) That occurs during the policy period; and

(b) That is caused by an "occurrence." The "occurrence" must take place in the "coverage territory."

(2) To "personal injury" caused by an offense:

(a) Committed in the "coverage territory" during the policy period; and

(b) Arising out of the conduct of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you.

(3) to "advertising injury" caused by an offense committed:

(a) In the "coverage territory" during the policy period; and

(b) In the course of advertising your goods, products or services.

b. We will have the right and duty to defend any "suit" seeking those damages. But:

(1) The amount we will pay for damages is limited as described in Section D - Liability and Medical Expenses Limits of Insurance;

(2) We may investigate and settle any claim or "suit" at our discretion; and

(3) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

d. "Property damage" that is loss of use of tangible property that is not physically injured will be deemed to occur at the time of the "occurrence" that caused it.

e. **Coverage Extension - Supplementary Payments**

In addition to the Limit of Insurance, we will pay, with respect to any claim or "suit" we defend:

(1) All expenses we incur.

(2) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work.

(5) All costs taxed against the insured in the "suit."

(6) Prejudgment interest awarded against the insured on that part of the judgement we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgement that accrues after entry of the judgement and before we have paid, offered to pay, or deposited in court the part of the judgement that is within our Limit of Insurance.



## 2. Medical Expenses

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
- (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;  
provided that:
    - (a) The accident takes place in the "coverage territory" and during the policy period;
    - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
    - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the Limit of Insurance. We will pay reasonable expenses for:
- (1) First aid at the time of an accident;
  - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
  - (3) Necessary ambulance, hospital, professional nursing and funeral services.

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## B. EXCLUSIONS

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1. **Applicable to Business Liability Coverage** - This insurance does not apply to:
- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
  - b. "Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
    - (1) Assumed in a contract or agreement that is an "insured contract"; or
    - (2) That the insured would have in the absence of the contract or agreement.
  - c. "Bodily injury" or "property damage" for which any insured may be held liable by reason of:
    - (1) Causing or contributing to the intoxication of any persons;
    - (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
    - (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.
  - d. Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.
  - e. "Bodily injury" to:
    - (1) An employee of the insured arising out of and in the course of employment by the insured; or
    - (2) The spouse, child, parent, brother or sister of that employee as a consequence of (1) above.This exclusion applies:
    - (a) Whether the insured may be liable as an employer or in any other capacity; and
    - (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.This exclusion does not apply to liability assumed by the insured under an "insured contract."
  - f. (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:
    - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;
    - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
    - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible;  
or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations:

(i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or

(ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraphs (a) and (d) (i) do not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

(2) Any loss, cost or expense arising out of any:

(a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

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.

g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to other of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is;

(a) Less than 26 feet long; and

(b) Not being used to carry persons or property for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of the operation of any of the following equipment:

(a) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(b) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. "Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. "Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

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

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change order, designs or specifications.

(3) Supervisory, inspection or engineering services;

(4) Any cosmetic or tonsorial service or treatment;

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

(6) Ear piercing services; and

(7) Services in the practice of pharmacy; but this exclusion does not apply to an insured whose operations include those of a retail druggist or drugstore.

k. "Property damage" to:

(1) Property you own, rent or occupy;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in your care, custody or control;

(5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

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

m. "Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. "Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of a sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. "Personal injury" or "advertising injury":

(1) Arising out of oral or written publication or material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of the willful violation of penal statute or ordinance committed by or with the consent of the insured; or

(4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

q. "Advertising injury" arising out of:

(1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;

(2) The failure of goods, products or services to conform with advertised quality or performance;

(3) The wrong description of the price of goods, products or services; or

(4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

r. "Bodily injury" due to rendering or failure to render, any professional service by an insured whose operations include those of:

- (1) Medical, surgical, dental, x-ray, or nursing service or treatments;
- (2) Any health service or treatment.

Exclusions c., d., e., f., g., h., i., k., l., m., n., and o. do not apply to damage by fire or explosion to premises rented to you. A separate Limit of Insurance applies to this coverage as described in Section D., Liability and Medical Expenses Limits of Insurance.

**2. Applicable to Medical Expenses Coverage - We will not pay expenses for "bodily injury":**

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an employee of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard."
- g. Excluded under Business Liability Coverage.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

**3. Applicable to both Business Liability Coverage and Medical Coverage - Nuclear Energy Liability Exclusion.**

This insurance does not apply:

a. Under Business Liability Coverage, to "bodily injury" or "property damage":

(1) With respects to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:

(a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or

(b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:

(1) the "nuclear material":

(a) Is at any "nuclear facility"; owned by, or operated by or on behalf of, an insured; or

(b) Has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported, or disposed of by or on behalf of an insured; or

(3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

As used in this exclusion:

"by-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"hazardous properties" include radioactive; toxic or explosive properties;

"nuclear facility" means:

- c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:
- a. "Bodily injury" to a co-employee of the person driving the equipment; or
  - b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.
- No person or organization is an insured with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

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#### **D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**

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- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits."
- 2. The most we will pay for the sum of all damages because of all:
  - a. "Bodily injury," "property damage" and medical expenses arising out of any one "occurrence"; and
  - b. "Personal injury" and "advertising injury" sustained by any one person or organization;

is the Business Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.
- 3. The most we will pay under Business Liability Coverage for damages because of "property damage" to premises rented to you arising out of any one fire or explosion is the Fire Legal Liability limit shown in the Declarations.
- 4. **Aggregate Limits**
  - a. **General Aggregate Limit (Other than Products-Completed Operations)**

The most we will pay for all injury or damage including medical expenses arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit. This limitation does not apply to "property damage" to premises rented to you arising out of fire or explosion.
  - b. **Products-Completed Operations Aggregate Limit**

The most we will pay for injury or damage under the "products-completed operations hazard" arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit.

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

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#### **E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**

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

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

## 2. Duties in the Event of Occurrence, Claim or Suit

- a. You must see to it that we are notified promptly of an "occurrence" that may result in a claim. Notice should include:
  - (1) How, when and where the "occurrence" took place; and
  - (2) The names and addresses of any injured persons and witnesses.
- b. If a claim is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the claim or "suit."
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

## 3. Financial Responsibility Laws

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

## 4. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgement against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

## 5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claims is made or "suit" is brought.

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## F. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

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1. "Advertising Injury" means injury arising out of one or more of the following offenses:
  - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - b. Oral or written publication of material that violates a person's right of privacy;
  - c. Misappropriation of advertising ideas or style of doing business; or
  - d. Infringement of copyright, title or slogan.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

3. **"Bodily Injury"** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. **"Coverage Territory"** means:
- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
  - c. All parts of the world if:
    - (1) The injury or damage arises out of:
      - (a) Goods or products made or sold by you in the territory described in a. above; or
      - (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and
    - (2) The insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in a. above or in a settlement we agree to.
5. **"Impaired Property"** means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;
    - if such property can be restored to use by:
      - (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
      - (2) Your fulfilling the terms of the contract or agreement.
6. **"Insured Contract"** means:
- a. A lease of premises;
  - b. A sidetrack agreement;
  - c. An easement or license agreement in connection with vehicle or pedestrian private railroad crossing at grade;
  - d. Any other easement agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - e. An indemnification of a municipality as required by ordinance, except in connection with work for a municipality;
  - f. An elevator maintenance agreement; or
  - g. That part of any other contract or agreement pertaining to your business under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization, if the contract or agreement is made prior to the "bodily injury" or "property damage." Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- An "insured" contract" does not include that part of any contract or agreement:
- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
    - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
    - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of injury or damage.
  - (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in (a) above and supervisory, inspection or engineering services; or
  - (3) That indemnifies any person or organization for damage by fire or explosion to premises rented or loaned to you.
7. **"Loading or Unloading,"** means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

- b. While it is in or on aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered; but "loading or unloading": does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."
8. **"Mobile Equipment"** means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
    - (1) Power cranes, shovels, loaders, diggers or drills; or
    - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing;
    - (c) Street cleaning;
    - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
9. **"Occurrence"** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
10. **"Personal Injury,"** means injury other than "bodily injury," arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
  - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
  - e. Oral or written publication of material that violates a person's right of privacy.
11. a. **"Products - Completed Operations Hazard"** includes all "bodily injury" and "property damage" arising out of "your product" or "your work" except:
- (1) Products that are still in your physical possession; or
  - (2) Work that has not yet been completed or abandoned.

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

- b. "Your work" will be deemed completed at the earliest of the following times:
  - (1) When all of the work called for in your contract has been completed.
  - (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.



(3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

c. This hazard does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the "loading or unloading" of it; or

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

12. "Property Damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property; or

b. Loss of use of tangible property that is not physically injured.

13. "Suit" means a civil proceeding in which damages because of "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes an arbitration proceeding alleging such damages to which you must submit or submit with our consent.

14. "Your Product" means:

a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(1) You;

(2) Others trading under your name; or

(3) A person or organization whose business or assets you have acquired; and

b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. and b. above.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

15. "Your Work" means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in a. or b. above.

### Section III - Business Owners Common Policy Conditions

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

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#### A. CANCELLATION

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1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 5 days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy.
    - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
      - (a) Seasonal unoccupancy; or
      - (b) Buildings in the course of construction, renovation or addition.  
Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.
    - (2) After damage by a covered cause of loss, permanent repairs to the building:
      - (a) Have not started, and
      - (b) Have not been contracted for,  
within 30 days of initial payment of loss.
    - (3) The building has:
      - (a) An outstanding order to vacate;
      - (b) An outstanding demolition order; or
      - (c) Been declared unsafe by governmental authority.
    - (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
    - (5) Failure to:
      - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
      - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
  - b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
  - c. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is 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.

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#### B. CHANGES

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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 endorsements issued by us and made a part of this policy.

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### C. CONCEALMENT, MISREPRESENTATION OR FRAUD

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

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

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### D. EXAMINATION OF YOUR BOOKS AND RECORDS

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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.

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### E. INSPECTIONS AND SURVEYS

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We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a. Are safe or healthful; or
- b. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

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### F. INSURANCE UNDER TWO OR MORE COVERAGES

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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.

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### G. LIBERALIZATION

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

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### H. OTHER INSURANCE

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1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.
2. Business Liability Coverage is excess over any other insurance that insures for direct physical loss or damage.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so; but we will be entitled to the insured's rights against all those other insurers.

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## I. PREMIUMS

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1. The first Named Insured shown in the Declarations:
  - a. Is responsible for the payment of all premiums; and
  - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.
3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:
  - a. Paid to us prior to the anniversary date; and
  - b. Determined in accordance with paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.
4. Undeclared exposures or changes in your business operations, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

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## J. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

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1. Applicable to Business Owners Property coverage:

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

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
  - (1) Someone insured by this insurance;
  - (2) A business firm;
    - (a) Owned or controlled by you; or
    - (b) That owns or controls you; or
  - (3) Your tenant.

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

This will not restrict your insurance.

2. Applicable to Business Owners Liability coverage:

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

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## K. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

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

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

This endorsement modifies insurance provided under the following:

**DELUXE BUSINESS OWNERS POLICY  
BASIC BUSINESS OWNERS POLICY  
GARAGE BUSINESS OWNERS PROPERTY FORM  
CONTRACTORS BUSINESS OWNERS POLICY**

**BO-7395  
(Ed. 10-01)**

## **EQUIPMENT BREAKDOWN COVERAGE ENDORSEMENT**

The following is added to ADDITIONAL COVERAGES:

### **Additional Covered Cause of Loss – Equipment Breakdown**

**(1)** We will pay for loss caused by or resulting from an "accident" to "covered equipment". As used in this Additional Coverage, an "accident" means direct physical loss as follows:

- (a)** mechanical breakdown, including rupture or bursting caused by centrifugal force;
- (b)** artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
- (c)** explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
- (d)** loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
- (e)** loss or damage to hot water boilers or other water heating equipment caused by or resulting from a condition or event inside such boilers or equipment.

**(2)** The following coverages also apply to loss caused by or resulting from an "accident" to "covered equipment". These coverages do not provide additional amounts of insurance.

#### **(a) Expediting Expenses**

With respect to your damaged Covered Property, we will pay, up to \$100,000 unless otherwise shown in the Schedule, the reasonable extra cost to:

- (i)** make temporary repairs; and
- (ii)** expedite permanent repairs or permanent replacement.

#### **(b) Hazardous Substances**

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance". This includes the additional expenses to clean up or dispose of such property.

Additional costs mean those beyond what would have been required had no "hazardous substance" been involved.

The most we will pay for loss or damage under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, and loss under Perishable Goods coverage, is \$100,000 unless otherwise shown in the Schedule.

#### **(c) Perishable Goods**

- (i)** We will pay for your loss of "perishable goods" due to spoilage.
- (ii)** We will also pay for your loss of "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia.
- (iii)** We will also pay any necessary expenses you incur to reduce the amount of loss under this coverage. We will pay for such expenses to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

(iv) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident", less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.

The most we will pay for loss or damage under this coverage is \$100,000 unless otherwise shown in the Schedule.

#### **(d) Computer Equipment**

We will pay for loss or damage caused by or resulting from an "accident" to "computer equipment".

The most we will pay for loss or damage under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$100,000 unless otherwise shown in the Schedule.

Computers used primarily to control or operate "covered equipment" are not subject to this limit.

#### **(e) Data Restoration**

We will pay for your cost to research, replace and restore data, including programs and operating systems, that is lost or corrupted due to an "accident". The most we will pay for loss or damage under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$100,000 unless otherwise shown in the Schedule.

#### **(f) CFC Refrigerants**

We will pay for the additional cost to repair or replace Covered Property because of the use or presence of a refrigerant containing CFC (chlorofluorocarbon) substances. This means the additional expense to do the least expensive of the following:

- (i) Repair the damaged property and replace any lost CFC refrigerant;
- (ii) Repair the damaged property, retrofit the system to accept a non-CFC refrigerant and charge the system with a non-CFC refrigerant; or
- (iii) Replace the system with one using a non-CFC refrigerant.

Additional costs mean those beyond what would have been required had no CFC refrigerant been involved.

The most we will pay for loss or damage under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, and loss under Perishable Goods coverage, is \$100,000 unless otherwise shown in the Schedule.

#### **(g) Demolition and Increased Cost of Construction**

If an "accident" to "covered equipment" damages a building that is Covered Property; and the loss is increased by enforcement of any ordinance or law in force at the time of the "accident" that regulates the construction or repair of buildings, or establishes zoning or land use requirements, we will pay up to \$100,000 unless otherwise shown in the Schedule, for the following additional costs to comply with such ordinance or law:

- (i) your actual expenditures for the cost to demolish and clear the site of undamaged parts.
- (ii) your actual expenditures for increased costs to repair, rebuild or construct the building. If the building is repaired or rebuilt, it must be intended for similar use or occupancy as the current building, unless otherwise required by zoning or land use ordinance or law.
- (iii) your loss as described under Business Income/Extra Expense caused by loss covered in (i) or (ii) above, if Business Income/Extra Expense are shown as covered.

We will not pay for:

- (i) Any fine;
- (ii) Any liability to a third party;
- (iii) Any increase in loss due to a "hazardous substance"; or
- (iv) Increased construction costs until the building is actually repaired or replaced.

**(h) Service Interruption**

The insurance provided for Business Income, Extra Expense and Perishable Goods is extended to apply to loss caused by or resulting from an "accident" to equipment that is owned by a utility, landlord, or other supplier with whom you have a contract to provide you with any of the following services: electrical power, communications, waste disposal, air conditioning, refrigeration, heating, gas, air, water or steam.

**(3) Conditions**

**(a) Suspension**

When any "covered equipment" is found to be in, or exposed to a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment". We can do this by mailing or delivering a written notice of suspension to your address as shown in the Declarations, or at the address where the equipment is located. Once suspended in this way, your insurance can be reinstated only by an endorsement. If we suspend your insurance, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

**(b) Jurisdictional Inspections**

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf.

**(c) Environmental, Safety and Efficiency Improvements**

If "covered equipment" requires replacement due to an "accident", we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to repair or replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

**(4) Special Deductible**

The deductible in the Declarations applies unless a special deductible is shown in the Schedule. If a special deductible is shown, the following applies:

(a) Unless otherwise shown in the Schedule, the Property Damage Coverages Deductibles apply to all loss or damage covered by this endorsement, with the exception of those coverages subject to the Business Income and Extra Expense Coverages Deductibles. If deductibles vary by type of "covered equipment" and more than one type of equipment is involved in any "one accident", the highest deductibles will apply.

Unless more specifically indicated in the Schedule, the Business Income and Extra Expense Deductibles apply to Business Income and Extra Expense and Service Interruption.

**(b) Application of Deductibles**

**(i) Dollar Deductibles**

We will not pay for loss or damage resulting from any "one accident" until the amount of loss or damage exceeds the applicable Deductible shown in the Schedule. We will then pay the amount of loss or damage in excess of the applicable Deductible, up to the applicable Limit of Insurance.

**(ii) Time Deductible**

If a time deductible is shown in the Schedule, we will not be liable for any loss occurring during the specified number of days immediately following the "accident". If a time deductible is expressed in days, each day shall mean twenty-four consecutive hours.

**(iii) Multiple of Average Daily Value (ADV)**

If a deductible is expressed as a number times ADV, that amount will be calculated as follows:

The ADV (Average Daily Value) will be the Business Income (as defined in any Business Income coverage that is part of this policy) that would have been earned had no "accident" occurred during the period of interruption of business divided by the number of working days in that period. No reduction shall be made for the Business Income not being earned, or in the number of working days, because of the "accident" or any other scheduled or unscheduled shutdowns during the period of interruption. The ADV applies to all locations included in the valuation of the loss.

The number indicated in the Schedule shall be multiplied by the ADV as determined above. The result shall be used as the applicable deductible.

**(iv) Percentage of Loss Deductibles**

If a deductible is expressed as a percentage of loss, we will not be liable for the indicated percentage of the gross amount of loss or damage (prior to any applicable deductible) insured under the applicable coverage. If the dollar amount of such percentage is less than the indicated minimum deductible, the minimum deductible will be the applicable deductible.

**(5) DEFINITIONS**

**(a)** "Boilers and Vessels" means:

- (i)** Any boiler, including attached steam, condensate and feedwater piping; and

- (ii)** Any fired or unfired pressure vessel subject to vacuum or internal pressure other than the static pressure of its contents.

This term does not appear elsewhere in this endorsement, but may appear in the Schedule.

- (b)** "Computer equipment" means Covered Property that is electronic computer or other data processing equipment, including "media" and peripherals used in conjunction with such equipment.

- (c)** "Covered equipment", unless otherwise specified in the Schedule, means Covered Property built to operate under vacuum or pressure, other than weight of contents, or used for the generation, transmission or utilization of energy.

"Covered equipment" does not mean:

- (i)** structure, foundation, cabinet, compartment or air supported structure or building;
- (ii)** insulating or refractory material;
- (iii)** sewer piping, underground vessels or piping, or piping forming a part of a sprinkler system;
- (iv)** water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
- (v)** vehicle, aircraft, floating vessel or any equipment mounted on such vehicle, aircraft or floating vessel. However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power supplier will not be considered a vehicle, aircraft or floating vessel;
- (vi)** dragline, excavation or construction equipment; or
- (vii)** equipment manufactured by you for sale.

- (d)** "Hazardous substance" means any substance other than ammonia that has been declared to be hazardous to health by a governmental agency.



(e) "Media" means all forms of electronic, magnetic and optical tapes and discs for use in any electronic computer or electronic data processing equipment.

(f) "One Accident" means: If an initial "accident" causes other "accidents", all will be considered "one accident". All "accidents" that are the result of the same event will be considered "one accident".

(g) "Perishable Goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

(h) "Production Machinery" means any machine or apparatus that processes or produces a product intended for eventual sale. However, "production machinery" does not mean any fired or unfired pressure vessel other than a cylinder containing a movable plunger or piston.

This term does not appear elsewhere in this endorsement, but may appear in the Schedule.

## (6) Exclusions

(a) All exclusions and limitations apply except:

(i) The Electrical Apparatus, Steam Apparatus and Mechanical Breakdown exclusions; and

(ii) In the Deluxe Business Owners Policy, the Contractor's Business Owners Policy and the Garage Business Owners Property Coverage Form, Limitations A.4.a.(1) and A.4.a.(2).

(b) The exclusions are modified as follows:

(i) The following is added to Exclusion B.1.g.:

However, if electrical "covered equipment" requires drying out because of the above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

(ii) As respects this endorsement only, the last paragraph of the Other Types of Losses or Maintenance Types of Loss exclusion, whichever applies, in the Deluxe Business Owners Policy, the Contractor's Business Owners Policy and the Garage Business Owners Property Coverage Form, is deleted and replaced by the following:

But if loss or damage by an "accident" results, we will pay for that resulting loss or damage.

(iii) The following is added to Exclusion B.2. of the Basic Business Owners Policy:

Depletion, deterioration, corrosion, erosion, wear and tear, or other gradually developing conditions. But if loss or damage from an "accident" results, we will pay for that resulting loss or damage.

(c) We will not pay under this endorsement for loss or damage caused by or resulting from:

(i) your failure to use all reasonable means to protect the "perishable goods" from damage following an "accident";

(ii) any defect, virus, loss of data or other situation within "media". But if loss or damage from an "accident" results, we will pay for that resulting loss or damage; or

(iii) any of the following tests:

a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel; or

an insulation breakdown test of any type of electrical equipment.

(d) With respect to Service Interruption coverage and Perishable Goods coverage, we will also not pay for loss or damage caused by or resulting from: fire; lightning; windstorm or hail; explosion (except for steam or centrifugal explosion); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; falling objects; weight of snow, ice or sleet; freezing or collapse.

The most we will pay for loss or damage under this endorsement is the applicable Limit of Insurance shown in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

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This endorsement modifies insurance provided by the following:

**CONTRACTORS BUSINESS OWNERS POLICY – Section I – Optional Coverages**  
**BUSINESS OWNERS POLICY – Section I – Additional Coverages**  
**GARAGE BUSINESS OWNERS PROPERTY FORM – Section I – Additional Coverages**

**BO-7411**  
**(Ed. 2-01)**

## **CIVIL AUTHORITY AMENDMENT ENDORSEMENT**

The **Civil Authority** provisions contained in this policy are replaced by the following:

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 necessary Extra Expense will begin immediately after the time of that action and ends:

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

whichever is later.

This endorsement modifies insurance provided under the following:

**DELUXE BUSINESS OWNERS POLICY  
GARAGE BUSINESS OWNERS PROPERTY FORM  
CONTRACTOR'S BUSINESS OWNERS POLICY**

**BO-7433  
(Ed. 8-02)**

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

**NUCLEAR HAZARD EXCLUSION AMENDMENT**

The Nuclear Hazard Exclusion under Section I B. 1. d. is replaced by the following:

**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.

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

## **CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

- A. The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

#### **CAP ON CERTIFIED TERRORISM LOSSES**

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

- B. The following provision is added to Businessowners Standard Property Coverage Form BP 00 01, Businessowners Special Property Coverage Form BP 00 02 or Section I – Property of Businessowners Coverage Form BP 00 03:

#### **APPLICATION OF OTHER EXCLUSIONS**

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

This endorsement applies to all coverages provided by the following including any forms or endorsements attached thereto:

**BUSINESS OWNERS POLICY  
CONTRACTORS BUSINESS OWNERS POLICY  
DELUXE GARAGE OWNERS POLICY**

IL-7142  
(Ed. 11-98)

**EXCLUSION OF CERTAIN COMPUTER-RELATED LOSSES**

I. The following exclusion applies to SECTION I - Property Coverage:

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

1. The failure, malfunction, inability or inadequacy of:

a. Any of the following, whether belonging to any insured or to others:

- (1) Computer hardware, including microprocessors;
- (2) Computer application software;
- (3) Computer operating systems and related software;
- (4) Computer networks;
- (5) Microprocessors (computer chips) not part of any computer system;
- (6) Telecommunications equipment; or
- (7) Any other computerized or electronic equipment or components; or

b. Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph I.A.1.a. of this endorsement;

which is in any way related to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

2. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph I.A.1. of this endorsement.

B. If your policy includes the following coverages and an excluded loss ("loss") as described in Paragraph I.A. of this endorsement results in a:

1. Covered Cause of Loss as defined under your Systems Breakdown Endorsement, we will pay only for the loss ("loss") or damage caused by such Covered Cause of Loss;

2. Covered Cause of Loss as defined under your Basic Business Owners Policy, we will pay only for the loss ("loss") or damage caused by such Covered Cause of Loss;

3. "Specified Cause of Loss" as defined, or in elevator collision resulting from mechanical breakdown, under your Deluxe Business Owners Policy, Contractors Business Owners Policy or Deluxe Garage Owners Policy, we will pay only for the loss ("loss") or damage caused by such "Specified Cause of Loss" or elevator collision;

we will pay for resulting or ensuing loss ("loss") under Paragraph I.B. of this endorsement only if the resulting or ensuing loss ("loss") is physical damage to tangible property.

C. We will not pay for repair, replacement or modification of any items in Paragraphs I.A.1.a. and I.A.1.b. of this endorsement to correct any deficiencies or change any features.

II. This endorsement applies to all coverages provided by this policy including all forms and endorsements attached thereto.

This endorsement modifies insurance provided by the following:

**BUSINESS OWNERS POLICY  
CONTRACTORS BUSINESS OWNERS POLICY**

**BO-7233  
(Ed. 1-93)**

**EMPLOYMENT - RELATED PRACTICES EXCLUSION**

The following exclusion is added to Section B. EXCLUSIONS of the Business Owners Liability Coverage Form:

This insurance does not apply to "bodily injury" or "personal injury" arising out of any:

- a. Refusal to employ;
- b. Termination of employment;
- c. Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions; or

- d. Consequential "bodily injury" or "personal injury" as a result of a. through c. above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or to repay someone else who must pay damages because of the injury.

This endorsement must be attached to a Change Endorsement when issued after the policy is written.

This endorsement modifies insurance provided under:

**SECTION III - BUSINESS OWNERS COMMON POLICY CONDITIONS**

**BO-7282  
(Ed. 1-94)**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES - PREMIUM AUDIT**

**A. PREMIUM AUDIT Condition J. is added:**

J. Premium shown as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. An audit to determine the final premium due or to be refunded will be completed within 180 days after the expiration date of the policy and may not be waived. Audit

premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

B. Except as provided in paragraph A. above, the EXAMINATION OF YOUR BOOKS AND RECORDS Common Policy Condition D. continues to apply.

This endorsement modifies insurance provided under the following:

**BUSINESS OWNERS POLICY**

**BO-7291  
(Ed. 6-94)**

**NEW YORK CHANGES - TRANSFER OF  
DUTIES WHEN A LIMIT OF INSURANCE IS USED UP**

The following Condition is added to Section II - BUSINESS LIABILITY CONDITIONS (Section E):

**Transfer of Duties When a Limit of Insurance Is Used Up.**

a. If we conclude that, based on "occurrences," offenses, claims or "suits" which have been reported to us and to which this insurance may apply, the:

- (1) General Aggregate Limit (other than the Products/Completed Operations Aggregate Limit);
- (2) Products/Completed Operations Aggregate Limit;
- (3) Personal and Advertising Injury Limit;
- (4) Each Occurrence Limit; or
- (5) Fire Damage Limit

is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

b. When a limit of insurance described in paragraph a. above has actually been used up in the payments of judgments or settlements:

- (1) We will notify the first Named Insured, in writing, as soon as practicable, that:
  - (a) Such a limit has actually been used up; and
  - (b) Our duty to defend "suits" seeking damages subject to that limit has also ended.

- (2) We will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and "suits" seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and "suits."

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or "suit" seeking damages that would have been subject to that limit, had it not been used up, if the claim or "suit" is reported to us after that limit of insurance has been used up.

- (3) The first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.

c. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with paragraph b.(2) above.

The duty of the first Named Insured to reimburse us will begin on:

- (1) The date on which the applicable limit of insurance is used up, if we sent notice in accordance with paragraph a. above; or
- (2) The date on which we sent notice in accordance with paragraph b.(1) above, if we did not send notice in accordance with paragraph a. above.

d. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.



This endorsement modifies insurance provided by the following:

**BUSINESS OWNERS POLICY**

**BO-7417  
(Ed. 9-01)**

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

**EXCLUSION – ASBESTOS, SILICA OR TALC**

This insurance does not apply to "bodily injury," "property damage," "advertising injury," or "personal injury" arising out of "asbestos," "silica" or "talc".

We shall have no obligation under this insurance:

- 1) to investigate, settle or defend any claim or "suit" against any insured alleging actual or threatened injury or damage of any nature or kind to persons or property which arises out of or would not have occurred but for the "asbestos hazard", the "silica hazard" or the "talc hazard"; or
- 2) to pay, contribute to or indemnify another for any damages, judgments, settlements, loss, costs or expenses, including any obligation to share with or repay any person, organization, or entity, that may be awarded or incurred by reason of any such claim or "suit" or any injury or damage, or in complying with any action authorized by law and relating to such injury or damage; or
- 3) to pay, contribute to or indemnify another for any costs or expenses associated, in any way, with the abatement, mitigation, remediation, containment, detoxification, neutralization, monitoring, removal, disposal or any obligation to investigate or assess the presence or effects of "asbestos", "silica" or "talc".

As used in this exclusion:

"Asbestos hazard" means:

- (a) an actual exposure or threat of exposure to the harmful properties of "asbestos"; or
- (b) the presence of "asbestos" in any place, whether or not within a building or structure; or
- (c) asbestosis or any other diseases associated with the harmful effects of "asbestos".

"Asbestos" means the mineral in any form, including but not limited to fibers or dust.

"Silica hazard" means:

- (a) an actual exposure or threat of exposure to the harmful properties of "silica"; or
- (b) the presence of "silica" in any place, whether or not within a building or structure; or
- (c) silicosis or any other diseases associated with the harmful effects of "silica".

"Silica" means the group of minerals called silicates (including but not limited to silica or crystalline silica) in any form, including but not limited to fibers or dust.

"Talc hazard" means:

- (a) an actual exposure or threat of exposure to the harmful properties of "talc"; or
- (b) the presence of "talc" in any place, whether or not within a building or structure; or
- (c) pneumoconiosis, talcosis, fibrotic pneumoconiosis, or any other diseases associated with the harmful effects of "talc".

"Talc" means Magnesium Silicate Hydroxide, a mineral that is part of the silicate group, and in some forms also known as soapstone, and includes the mineral in any form, including but not limited to fibers or dust.

This endorsement modifies insurance provided by the following:

**BUSINESS OWNERS POLICY**

**BO-7418  
(Ed. 10-04)**

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

**AMENDMENT OF PERSONAL INJURY AND ADVERTISING INJURY COVERAGE**

Under Section II, Business Owners Liability Coverage, exclusion p. is replaced by the following:

**B. Exclusions**

p. "Personal injury" or "advertising injury":

- (1) Arising out of oral or written publications of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publications of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of penal statute or ordinance committed by or with the consent of the insured;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.
- (5) "Personal injury" or "advertising injury" arising out of unsolicited faxes, telephone calls or emails and other similar acts and practices which are subject to and prohibited by any state or federal law, rule or regulation governing the abuses associated with unsolicited faxes, telephone calls or emails and other similar acts and practices including but not limited to:
  - a. the Federal Telephone Consumer Protection Act;
  - b. the Federal Telemarketing and Consumer Fraud and Prevention Act;
  - c. the Federal Controlling the Assault of Non-Solicited Pornography and Marketing Act ("CAN-SPAM Act");
  - d. federal and state do-not-call laws, rules, registries and regulations;
  - e. federal and state securities laws;
  - f. any similar state or federal statute or any amendment to any of the above; and
  - g. any rule or regulation promulgated by the Federal Communication Commission; Federal Trade Commission; Federal Securities and Exchange Commission or other Federal or State agency pursuant to any of the above laws.
- (6) Committed by an insured whose business is:
  - a. Advertising, broadcasting, publishing or telecasting;
  - b. Designing or determining content of web-sites for others; or
  - c. An Internet search, access, content or service provider.

However, this exclusion does not apply to paragraphs 10.a., b. and c. of "personal injury" under paragraph F. Liability And Medical Expenses Definitions.

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

- (7) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control.
- (8) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

**"Advertisement"** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
  - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purpose of attracting customers or supporters is considered an advertisement.
- (9) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

Under paragraph F. Liability And Medical Expenses Definition, definitions 1, 4, 10 and 12 are replaced by the following:

**F. Liability And Medical Expenses Definitions**

1. **"Advertising Injury"** means injury arising out of one or more of the following offenses:
  - a. Oral, written, televised or videotaped publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - b. Oral, written, televised or videotaped publication, in any manner, of material that violates a person's right of privacy;
  - c. Misappropriation of advertising ideas or style of doing business; or
  - d. Infringement of copyright, title or slogan.
4. **"Coverage Territory"** means:
  - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in paragraph a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in paragraph a. above;
    - (2) The activities of a person whose home is in the territory described in paragraph a. above, but is away for a short time on your business; or
    - (3) "Personal injury" and "Advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in paragraph a. above or in a settlement we agree to.
10. **"Personal Injury"** means injury other than "bodily injury", arising out of one or more of the following offenses:
  - a. False arrest, detention or imprisonment;
  - b. Malicious prosecution or abuse of process;
  - c. Wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies;
  - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or

- e. Oral or written publication, in any manner, of material that violates a person's right of privacy.
- f. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

(1) Not done intentionally or at the direction of:

- (a) The insured; or
- (b) Any executive officer, director, stockholder, partner or member of the insured; and

(2) Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.

12. **"Property Damage"** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property; or
- b. Loss of use of tangible property that is not physically injured.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
BUSINESS OWNERS POLICY  
CONTRACTORS BUSINESS OWNERS POLICY

CG-7149  
(Ed. 7-95)

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

**LEAD LIABILITY EXCLUSION -- NEW YORK**

This exclusion applies to any owned locations containing habitational units constructed prior to 1980, which have a significant potential lead loss exposure and have not undergone lead abatement procedures.

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal injury" arising out of or caused by the actual or alleged:

- (a) exposure to or existence of lead, paint containing lead, or any other material or substance containing lead; or
- (b) manufacture, distribution, sale, resale, rebranding, installation, repair, removal, encapsulation, abatement, replacement or handling of lead, paint containing lead, or any other material or substance containing lead

whether or not the lead is or was at any time airborne as a particle contained in a product ingested, inhaled, transmitted in any fashion, or found in any form whatsoever;

(2) Any legal obligation of any insured for indemnification or contribution due to damages arising out of "bodily injury," "property damage" or "personal injury" caused by lead, paint containing lead, or any other substance or material containing lead;

(3) Any loss, cost, expense or damages, whether direct or consequential, arising out of any:

- (a) request, demand or order that any insured or others test for, monitor, clean up, remove, abate, contain, treat, or neutralize lead, paint containing lead, or any other substance or material containing lead, or in any way respond to, or assess the effects of lead; or
- (b) claim or suit relating to, testing for, monitoring, cleaning up, removing, abating, containing, treating, or neutralizing lead, paint containing lead, or any other substance or material containing lead or in any way responding to or assessing the effects of lead.

## PREMIUM AUDIT NOTICE

The following information is intended to explain the premium base on policies written "Subject to Audit."

An accurate Premium Audit is a benefit to you and your business. We recommend the person(s) in charge of keeping your financial records (e.g. Payroll; Gross Sales; Total Cost) be aware of insurance auditor needs. Records that are accurate and properly maintained allow us to complete the audit and to apply, when applicable, certain premium saving rules.

### WHO WILL MAKE THE AUDIT?

A Premium Auditor will contact you for an appointment if our rules require a physical audit. If the necessary information can be obtained without a physical audit, we will send you the necessary forms for you to complete.

### WHAT RECORDS WILL BE NEEDED?

The Premium Auditor will examine and audit all of your records that relate to your policy. The records needed will vary depending upon the type of coverage you have. In most cases, the auditor will be able to obtain the necessary audit data from two or more of the following records:

- Payroll Journals with monthly/quarterly totals
- Quarterly Tax Reports
- General Ledgers
- Individual Earning Cards with monthly/quarterly totals
- Certificates of Insurance for sub-contractors
- Vehicle descriptions (include purchase date and date sold)

In the course of the audit, the Auditor may ask some questions about your records and personally observe the various aspects of your business operations. This will assist the Auditor in properly classifying your operations and employees.

### HOW SHOULD YOUR RECORDS BE KEPT:

**Payroll:** Many of the premiums for your insurance are based on payroll which is defined as total remuneration. Remuneration includes:

Wages	Vacation Pay
Commissions	Sick Pay
Bonuses	Payment for Piece Work
Overtime Pay	Other \$ Substitutes
Holiday Pay	

**Overtime:** The amount paid in excess of straight time pay can be deducted if the excess can be verified by your records. Your records must show overtime separately by employee and totalled monthly and quarterly. THIS IS NOT APPLICABLE IN PA (WC-GL) or DE (WC).

**Division of Payroll:** Division of an individual employee's payroll to more than one classification is not allowed. Exception: For construction or erection operations, the payroll of an employee may be allocated to each type of work performed if proper records are kept. Payroll cannot be divided between construction and office or sales classifications.

**Gross Sales:** Another premium base for insurance is gross sales. Sales information must be kept separately for each location with monthly and quarterly totals by the type of product sold.

**\*\*\* IMPORTANT \*\*\***

**Subcontractors:** Most state Workers Compensation laws will hold you responsible for injuries sustained by an employee of an uninsured subcontractor. You may also be responsible for the legal liability of your subcontractors. To protect yourself, be sure to secure a **CERTIFICATE OF INSURANCE** from each subcontractor for Workers Compensation and General Liability coverage. These certificates must be available to the auditor at time of audit.

If no evidence of insurance is available or if liability insurance is inadequate, the subcontractor's payroll must be added to your premium base. If a person is claimed to be a subcontractor, but they do not have their own employees and their duties closely resemble those of an employee of yours, that person may be considered an employee for audit purposes. "Adequate insurance" means the subcontractor carries liability insurance with coverages equal to yours and limits of liability which are (1) the same as or greater than your limits or (2) \$500,000 CSL (\$500,000 BI/\$250,000 PD Split Limits) for the period of time work was performed for you. Any limit less than the above will be considered inadequate and a payroll charge will be included on your audi

**We recommend you bring any questions concerning your insurance to the attention of your Agent.**

**As a property owner, there are many things you do to manage your chances of loss. You have taken the first important step by purchasing liability insurance to secure your business. Here are some additional steps you should take to improve your risk management strategy.**

**News Flash:** New York Labor Law poses significant exposures to law suits for property owners! This exposure arises from the hiring of contractors to work on your property without protective wording in your work orders/contracts.

Contact your agent for tools & information to help manage your risk!

**A. If you hire contractors or repair persons to work on your property we require that you:**

- » Verify that the contractor has workers compensation coverage and a general liability policy with limits equal to \$500,000 or more.
- » Obtain written confirmation that your contractor has named you as an additional insured on his or her general liability policy before the contractor begins the work.
- » Utilize written contracts or work orders when contracting for any work or repairs to your property including "hold harmless" and "indemnity" agreements in your favor. This requires the contractor to be responsible and pay for any accidents or losses resulting from the contractor's negligence. If you fail to include hold harmless and indemnity agreements you may be liable for injuries sustained by anyone injured on your property as a result of the actions of the contractor, even if you did nothing wrong. Your agent or attorney can provide you with wording that can protect you.
- » Hire only licensed, qualified and competent contractors. Make sure the people hired hold the required licenses to do the work. Ask for and follow-up on the contractor's references.

**B. If you have tenants:**

- » Require each to maintain liability coverage (tenant's homeowners or commercial general liability insurance) so your tenant has the means to reimburse you for any damage caused by him or her.
- » Have your attorney include an indemnity agreement in the lease with your tenant which is consistent with the laws of your state. To the extent permitted by law, the indemnity agreement would shift the responsibility for liability claims to your tenant. In some states, these agreements are only enforceable if the agreement limits your recovery to the extent of your tenant's valid insurance coverage. For this reason, it is important to obtain a certificate of insurance from your tenant(s) on a regular basis, e.g. annually.

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**Remember to report all claims as soon as possible!  
Just contact our claims hotline at 800.892.8877**



- » Include a "waiver of subrogation" clause in your rental agreements so if your tenant suffers a loss, neither the tenant nor his or her insurer has a right of subrogation against you.
- » Require all prospective tenants to complete an application including references and prior places of residence. Try to determine whether the tenant has moved frequently and if so, why, and check the tenant's references.
- » Obtain permission to and order a credit report on all prospective tenants. Poor credit history may translate into the inability to pay rent on time.
- » Require a security deposit.

### **C. Regularly inspect your property.**

- » This is one of the best (and cheapest!) risk management techniques.
- » Look for hazards that might result in slip and fall liability. Many of these hazards can be easily repaired, e.g. repairing torn carpeting and replacing interior & exterior light bulbs, repairing or replacing broken or worn stair and handrails, repairing cracked or uneven walking surfaces, parking areas and entrances.
- » Make adequate arrangements for snow and ice removal with qualified contractor (refer to item A of this document). Inspect for ice build up on sidewalks and parking areas. Consider keeping a log and record the date, time and place where you have cleared snow and treated surfaces.
- » Make sure your tenants properly dispose of boxes and other trash.
- » Look for and remedy any sign of excessive moisture or leaking water to avoid claims arising from exposure to mold.
- » Other important considerations for safety and fire protection
  - All residential units should have hard-wired smoke alarms in each unit.
  - Hard-wired smoke alarms should be installed in all common hallways.
  - UL approved carbon monoxide detectors should be installed in all habitational property (Local Law 7/2004 applies in New York City).
  - Emergency lighting should be installed in all common hallways/meeting rooms.
  - Exit signs (self-illuminated) should be located above all passages/doorways leading to the outside.
  - Emergency exit diagrams should be posted in all public buildings on each floor.
  - Portable fire extinguishers should be serviced annually.
  - Electrical systems should be inspected and serviced by a licensed electrician.
  - Avoid overloading electrical circuits (particularly in older structures).
  - Discourage the use of electric or kerosene space heaters.
  - If the building is sprinklered, have it inspected/serviced at least every other year.

**We encourage you to discuss these strategies with your Harleysville insurance agent.**

**Many causes of accidents can be managed with tools and information that's currently available from your agent or company loss control representative!**

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**Remember to report all claims as soon as possible!  
Just contact our claims hotline at 800.892.8877**

## IMPORTANT NOTICE TO POLICYHOLDERS

### Do you have enough insurance on your building?

If your commercial building were damaged or worse, destroyed, would your insurance limit be sufficient to fully repair or rebuild the structure?

When you consider the ever rising costs of labor, construction materials and supplies, the impact of overall inflation, and the value of any improvements you've made to your property, it's quite possible your level of coverage is no longer adequate.

### It is *your* responsibility to insure to value.

While Harleysville's insurance products offer comprehensive protection for business owners, if your property is insured at less than 100 percent of its replacement cost (or, where applicable, actual cash value), you assume the risk of not being fully insured if you have a loss.

To make certain your building coverage limits are - *and remain* - adequate, we strongly encourage you to review your coverage with your agent. You also should consider obtaining an appraisal or an estimate from a contractor annually, or as needed.

We appreciate the opportunity to insure your property, and look forward to continuing our partnership with your business and your independent Harleysville Insurance agent to protect your interests *fully*.

**Note:** In the event of a claim, Harleysville Insurance reserves all of its rights under the policy to make its own independent determination of replacement cost or actual cash value in applying the co-insurance provisions of the policy.



Harleysville Insurance  
355 Maple Avenue  
Harleysville, PA 19438-2297  
www.harleysvillegroup.com

## **New Reporting Options: Direct Claims Reporting Saves You Time 1-800-892-8877**

**Call us to report a claim 24 hours a day – 7 days a week**

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While we hope you never suffer a loss, you can rest assured that your claim will get immediate and professional attention. With our 24-hour service, you can file your claims directly with us any time, including after normal business hours and holidays.

Whether your loss involves your home, your vehicle, your personal belongings, your boat, your business or glass breakage, just call 1-800-892-8877 to report the claim. Our courteous, professional staff will start all the necessary paperwork as soon as you call. We will ask you for essential information to help determine the extent of your loss, and within minutes, we can assign a claim number to your loss and advise you on the handling process.

### **Direct reporting benefits you directly**

#### **24-hour service**

To make it easy for you to report your loss promptly, we're available every day of the year – day and night.

#### **Immediate, personal assistance**

With direct reporting, you will be immediately connected to a knowledgeable person who understands your situation.

#### **You save time**

When you phone in your claim, there's no need to complete a written report. We'll handle the paperwork for you.

#### **Your satisfaction guaranteed**

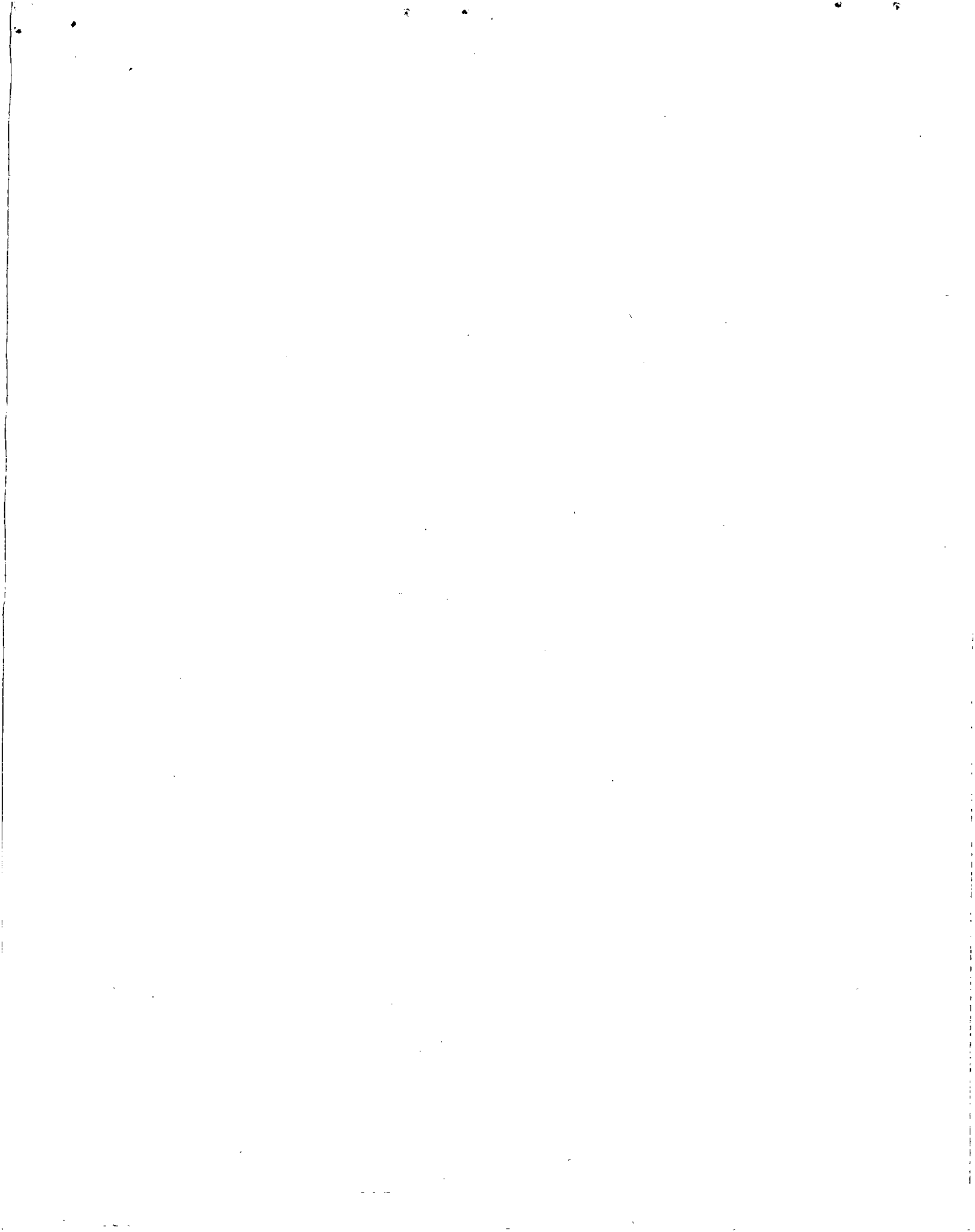
If your vehicle has been damaged, we can offer your participation in our Preferred Repair Program. If you choose one of the quality repair shops offered, you won't have to wait for an appraiser's inspection or for your check. Repairs are fully guaranteed and we pay for the repairs directly, but only after you tell us you're completely satisfied.

If your home or business has been damaged, we can offer you participation in our Approved Contractor Program. Not only will the quality contractor promptly prepare an estimate of damages for your review, but, at your option, will perform the repairs for the amount agreed upon in the estimate. These repairs are fully guaranteed for a period of one year.

Harleysville-Atlantic Insurance Company  
Harleysville-Garden State Insurance Company  
Harleysville Insurance Company  
Harleysville Insurance Company of New Jersey

Harleysville Insurance Company of New York  
Harleysville Insurance Company of Ohio  
Harleysville Lake States Insurance Company  
Harleysville Life Insurance Company

Harleysville Mutual Insurance Company  
Harleysville Pennland Insurance Company  
Harleysville Preferred Insurance Company  
Harleysville Worcester Insurance Company





Harleysville Insurance  
Property Damage  
PO Box 225  
Harleysville, PA 19438-0225  
www.harleysvillegroup.com

Tel 866-791-9765  
Fax 978-466-7530

November 5, 2009

Deneshwar Girdhari  
Dhanmatti Laldharry  
181 16 93 Avenue  
Jamaica, NY 11423

RE:

Claim #: H0 877789  
Insured: Deneshwar Girdhari & Dhanmatti Laldharry  
Policy #: BO 5J3382  
Date of Loss: 11/1/09  
Type of Loss: Fire  
Location: 2035 Broadway Schenectady, NY

Dear Insured,

The Harleysville Worcester Insurance Company is investigating the facts and circumstances of the above captioned loss that occurred at your property on or above November 1, 2009.

In conducting this investigation, we expressly reserve all rights, conditions and defenses found in policy # BO 5J3382, issued to Deneshwar Girdhari & Dhanmatti Laldharry. While we do not intend to waive compliance with any of the terms and conditions of the policy, we do not waive any of our rights or admit any obligations under said policy.

We are making this reservation of rights pending completion of our investigation relative to the cause of the loss.

Please be advised that nothing done by the Harleysville Worcester Insurance Company or anyone acting in its behalf during the investigation of your claim shall be construed as an admission of liability by the Harleysville Worcester Insurance Company. We reserve the right to amend this Reservation of Rights as our investigation warrants.

You may, if you so desire, consult with your own personal attorney but you must do so at your own expense.

This action is being taken until a determination on coverage can be made. We will make a decision on coverage upon completion of our investigation. Please do not hesitate to contact the undersigned should you have any questions or comments.

Sincerely,

Steven LaPierre  
General Adjuster

***State law requires us to include the following statement – Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.***





**NELSON • LEVINE • de LUCA & HORST**

A LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

Robert M. Runyon  
Direct: 215.358.5181  
rrunyon@nldhlaw.com

PHILADELPHIA CHERRY HILL COLUMBUS NEWARK NEW YORK DENVER LONDON

www.nldhlaw.com

518 Township Line Road  
Suite 300  
Blue Bell, PA 19422  
Phone: 215.358.5100  
Fax: 215.358.5101

February 16, 2010

**REGULAR & CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Deneshwar Girdhari and Dhanmatti Laldharry  
181-16 93<sup>rd</sup> Avenue  
Jamaica, New York 11423

**Re:**           **Insured:**       **Deneshwar Girdhari and Dhanmatti Laldharry**  
**My Client:**   **Harleysville Worcester Insurance Company**  
**Claim #:**       **HO-877789**  
**Policy #:**       **BO-5J3382**  
**Date of Loss:** **11/1/2009**  
**Location:**     **2035 Broadway, Schenectady, NY 12306**

Dear Mr. Girdhari and Ms. Laldharry:

Please be advised that this firm has been retained to represent the interests of Harleysville Worcester Insurance Company ("Harleysville") in connection with Harleysville's continuing investigation and evaluation of the November 1, 2009 fire which took place at 2035 Broadway, Schenectady, New York 12306. Harleysville's investigation and evaluation is continuing at the present time due to, among other things, its need to ascertain the cause of the fire, as well as obtain other facts and circumstances regarding this claim. Nothing done by Harleysville, or by anyone on Harleysville's behalf, should be interpreted by you or anyone on your behalf as a waiver or relinquishment of any of the rights, terms and conditions stated in the policy of insurance issued by Harleysville to you. To the contrary, Harleysville is continuing this investigation under a full and complete reservation of all of the rights, terms and conditions stated in the policy, as well as under the law.

As part of its ongoing investigation, Harleysville wishes to obtain the information and documentation requested in its letter of January 8, 2010, a copy of which is attached. In the event that you provide a complete list of the sources of pertinent documents and records, Harleysville is willing to assist you in the gathering of this information and documentation through the use of Authorizations. Once these documents are received, Harleysville is requesting that you submit to Examinations Under Oath.



The requirement to produce documents and submit to Examinations Under Oath is set forth in your policy of insurance. I direct your attention to **Deluxe Business Owners Policy, policy form PT-0620 Edition 1-93**, which provides in pertinent part, as follows:

**E. PROPERTY LOSS CONDITIONS**

**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 by a Covered Cause of Loss. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses for emergency and temporary repairs, for consideration in the settlement of the claim. This will not increase the Limit of Insurance.**

\*\*\*

- (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.**

\*\*\*

- (8) Cooperate with us in the investigation and 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**

Deneshwar Girdhari and Dhanmatti Laldharry  
February 16, 2010  
Page 3

*records. In the event of an examination, an insured's answers must be signed.*

Harleysville may have additional requests as this investigation proceeds, and will timely notify you of their need for any information and documentation additional to that previously produced by you.

The Examinations Under Oath will be conducted by Robert M. Runyon, III, Esquire, or another member of the firm, at our New York City office, located at the following address:

**Nelson Levine de Luca & Horst  
120 Broadway, Suite 955  
New York, NY 10271**

I would like to schedule tentative dates for the Examinations; however, the Examinations will not occur until our receipt and review of documents and information responsive to Harleysville's prior requests.

Upon receipt of this letter, kindly contact me to discuss information and documentation responsive to the January 8, 2010 requests, and a time-frame for production of those materials.

Waiving none, but instead reserving to Harleysville Insurance all rights under the applicable policy of insurance and under the law, I remain,

Very truly yours,

  
NELSON LEVINE de LUCA & HORST, LLC

Robert M. Runyon, III

RMR/bjk  
Enclosure

cc: Harleysville Worcester Insurance Company



Harleysville Insurance  
Property Damage  
PO Box 225  
Harleysville, PA 19438-0225  
www.harleysvillegroup.com

Tel 866-791-9765  
Fax 978-466-7530

January 8, 2010

Deneshwar Girdhari and Dhanmatti Laldharry  
181-16 93<sup>rd</sup> Avenue  
Jamaica, New York 11423

**REGULAR & CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**Re:**           **Insured:**       **Deneshwar Girdhari and Dhanmatti Laldharry**  
                  **Claim #:**       **NO-877789**  
                  **Policy #:**      **BO-5J3382**  
                  **Date of Loss:**   **11/1/2009**  
                  **Location:**     **2035 Broadway, Schenectady, NY 12306**

Dear Mr. Girdhari and Mrs. Laldharry:

This shall serve as a follow up to our November 5, 2009 correspondence, in which we provided notification that Harleysville Worcester Insurance Company ("Harleysville Worcester") had immediately commenced an investigation of the reported November 1, 2009 fire loss to the insured premises, a three-story mixed use building located at 2033-2035 Broadway, Schenectady, New York 12306, under a reservation of rights.

Harleysville Worcester's investigation into the claim is ongoing due to, among other things, the need to evaluate additional information concerning the reported loss, including but not limited to the cause of the fire, documentation supporting the loss, and the scope and valuation of the claimed damage. As such, this reservation of rights is continuing, and nothing done by Harleysville Worcester or its representatives is intended to waive or relinquish those rights.

Please refer to the **Deluxe Business Owners Policy**, policy form **PT-0620 Edition 1-93**, which provides in pertinent part, as follows:

**E.    PROPERTY LOSS CONDITIONS**

**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 by a Covered Cause of Loss. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses for emergency and temporary repairs, for consideration in the settlement of the claim. This will not increase the Limit of Insurance.*

\*\*\*

- (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.*

\*\*\*

- (8) *Cooperate with us in the investigation and 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 book and records. In the event of an examination, an insured's answers must be signed.*

The preceding policy language is not meant to reflect each and every duty, policy provision or exclusion that may be applicable to your claim.

As part of our ongoing investigation and evaluation of this claim, we are requesting that you, your family members, and anyone acting on your behalf preserve all information pertaining to the facts of this claim. If you, your family members, or anyone acting on your behalf believes, has reason to believe, or suspects that information relevant and material to the facts of this claim has already been destroyed, damaged, or lost, or is scheduled to be destroyed or damaged in the future, we ask that you immediately advise Harleysville Worcester of such prior or scheduled activity, and refrain from taking any scheduled measures until advised otherwise by Harleysville Worcester.

Harleysville Worcester acknowledges receipt of authorizations permitting us to obtain copies of your financial information, as well as copies of EZ Pass and Sprint telephone records; however, we require additional information and documentation to assist us in our ongoing investigation. This additional documentation and information is set out in detail within the list identified as Addendum #1, which is attached to this letter. We ask that you arrange for this information and documentation to be provided to us as soon as possible. Alternatively, if the information requested in the Addendum is in the possession of a third party, please identify all of the sources of information so that Harleysville may obtain the documents independently through use of the authorizations you previously signed. With respect to your tax returns, we have enclosed two authorizations, United States Internal Revenue Service Form 4506 and New York State Tax Department Form DTF 505 that will permit us to obtain these documents directly from the federal and state revenue agencies. Should you be willing to permit us to obtain these tax records on your behalf, please execute and return these forms to us as soon as possible.

Please note that in addition to the requests contained within this correspondence and requests previously made, Harleystville Worcester may have, during is investigation and evaluation of the claim, requests for additional information and additional documentation, as well as a request for all individuals identified as insureds on the subject policy to submit to an Examination Under Oath. Harleystville Worcester will timely advise you of all additional requests as its investigation continues.

The foregoing is not intended to limit Harleystville Worcester Insurance Company's rights under the subject insurance policy. This includes, but is not necessarily limited to, the above quoted policy language. This company specifically reserves its rights to rely upon each and every term and provision of the policy and to disclaim liability and/or deny coverage for any reasons which may exist or which may hereafter appear and come to this company's attention. Nothing said in this letter, any other correspondence, or any acts on the part of this company or any communications (verbal or in writing) is intended to constitute a waiver or estoppel of Harleystville Worcester Insurance Company's rights in any manner.

Thank you for your anticipated cooperation. If you have any questions, please do not hesitate to contact me.

Waiving none, but instead reserving to Harleystville Worcester Insurance Company, all rights under the applicable policy of insurance and under the law, I remain,

Sincerely,

**HARLEYSVILLE WORCESTER  
INSURANCE COMPANY**

Steven LaPierre  
General Adjuster

Enclosure

cc: Christopher Kieper  
World Claim  
3512 Rosendale Road  
Albany, NY 12309

## ADDENDUM #1

To the extent such information has not already been provided to Harleystville Worcester, kindly provide complete copies of the following:

1. All documents pertaining to the purchase of the 2033-2035 Broadway, Schenectady, New York premises (the "property") including, but not limited to, deeds, agreement(s) of sale, inspection reports, appraisals, photographs, site plans, financing and loan documents.
2. All documents relating to other properties that the insureds own or have an interest in, including but not limited to deeds, agreement(s) of sale, financing and/or loan documents.
3. All reports received from, prepared by or filed with state and/or local law enforcement and other government agencies regarding theft, vandalism, trespassing or fire at the property, from the date of purchase through the present time.
4. Files maintained by the insureds relating to the property, including but not limited to, those files and documents relating to:
  - a. Property maintenance;
  - b. Real estate management, sales or rental;
  - c. Utility bills and payment thereof (such as heating, electric, telephone bills, trash removal);
  - d. Tax bills and payment thereof.
5. Documents relating to maintenance services at the property, including the names, addresses and telephone numbers of individuals and companies that performed landscaping, snow removal and trash hauling service at the property from the date of purchase to the present.
6. Names, addresses and telephone numbers of all realtors, agents, brokers, and real estate companies that listed or showed the property for rental or sale, from the date of purchase to the present.
7. Any and all handbooks, guidelines, instructions, memorandum, manuals or checklists concerning security procedures and protocols at the property.
8. The names, last known addresses and telephone numbers of all past and present tenants of the property.
9. Lease agreements between the insureds and all past and present tenants of the property.
10. The names, addresses and telephone numbers of all individuals with copies of keys to the property, including but not limited to the first floor grocery store and the apartments located on the remaining floors of the building.
11. All documents relating to permits for construction, renovation, remodeling, building or alterations to the property, from the date of purchase to the present.

12. All documents relating to the removal of any inventory, materials and equipment stored at the property prior to the date and time of the fire that is the subject of this claim.
13. All documents evidencing the amount, quantity, type, description and value of the inventory, materials and/or equipment that the insureds believe was damaged or destroyed as a result of the incident, including but not limited to, inventory lists, computer records, photos, purchase orders, invoices, and receipts.
14. Federal, State and local income tax returns for the insureds for 2006, 2007 and 2008, including all schedules and exhibits.
15. All documents evidencing individuals or entities besides the insureds with ownership or other interest in the property.
16. All documents pertaining to rental payments received from all past and present tenants of the property from the date of purchase to present.
17. All documents pertaining to the financing of the purchase of the property, including but not limited to, loan documents, mortgage agreements, and lines of credit.
18. All documents pertaining to the property being listed for sale, including but not limited to the listing agreement, inspection reports, appraisals, surveys, photographs and site plans.
19. Detailed description of any security systems, burglar alarm systems or fire alarm systems which were installed at the property from the date of purchase to present, whether functioning at the time of the loss or not, including but not limited to, purchase agreements, monthly invoices, maintenance records, complete central station opening and closing reports for the twelve (12) months prior to and including the date of loss, and manufacturers' information/brochures.
20. All violations that the property received from any local, city, county, state and/or any other governmental authority from the date of purchase to present.
21. All applications made for loans, mortgages or lines of credit in the last five (5) years on property that the insureds own or possess an interest in.
22. All documents regarding other insurance on the property before, at or after the date of loss.